



office of the
independent
adjudicator

WHAT HAPPENS

NEXT

A GUIDE TO THE

OIA'S PROCESS



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Effective from January 2019

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Introduction

The Office of the Independent Adjudicator for Higher Education (OIA) provides an independent transparent Scheme to review student complaints against individual higher education providers.

The OIA was designated as the operator of the Student Complaints Scheme in England and Wales under section 13 of the Higher Education Act 2004 with effect from 1 January 2005. The Consumer Rights Act 2015 and the Higher Education and Research Act 2017 have since extended the range of higher education providers that are required to participate in the Scheme.

We are not a court and our outcomes may differ from those determined by a court. We are a review body and will not normally investigate matters afresh. We look at whether the provider has followed its procedures and applied its regulations, and whether its final decision was reasonable in the circumstances. Our review process is set out in the Rules of our Scheme. The relevant Rules are explained in the annex to this leaflet. We are entirely impartial and independent of both the student and the provider and base our decision on the evidence provided.

For ease of reference, we use the terms “higher education provider” and “provider” throughout this leaflet. You can [search for a provider](#) on our membership pages and further information about the Scheme can be found on [our website](#).

Our review process

Our review process is set out in the [Rules of the our Scheme](#). The relevant Rules are explained in the annex to this leaflet.

What happens when we receive your Complaint Form?

Once we have received your form, it is loaded on to our database. We check that you have completed the form correctly and included the details we need. You should let us know if you require an adjustment to the way we communicate with you due to a specific accessibility or disability need.

We acknowledge receipt of your complaint and ask for any information we need. We copy the acknowledgement to your higher education provider.

We decide whether the complaint is one we can look at under our Scheme Rules.

If we decide that we can't look at your complaint, we will write to you and the provider and tell you why not. If you think we have made an error or misunderstood your complaint, you can ask us to reconsider our decision by writing to us within 14 days of the decision. A different reviewer will reconsider the decision and tell you and your provider the outcome.

For more information about eligibility and what we can and can't look at under our Rules, please see the [Can you complain to us?](#) page on our website. You can also read the [Guidance on our Rules](#).

If we decide that we can look at your complaint, it is allocated to a case-handler.

What happens when your case is allocated to a case-handler?

The case-handler will read through all the documentation you have provided. They will determine how urgent it is, whether we have enough information, and the best way to handle it. Depending on the circumstances the case-handler might:

- Try to settle or mediate the complaint
- Ask the provider for its comments on the complaint
- Ask you or the provider for more information
- Issue a Complaint Outcome giving our decision on the complaint
- Contact you to discuss your complaint and whether your desired outcome is achievable
- Send you information to comment on.

The case-handler will write to you setting out what they have done regarding your complaint and explaining their reasons.

You don't need to do anything unless we contact you . However, you must let us know if you:

- **Move house or change address or contact details**
Please inform us of any change in email address, postal address or telephone number. If we are unable to contact you because your details have changed we may need to terminate our review of your complaint.
- **Start legal proceedings**
You must tell us immediately if you start legal proceedings. We will discontinue the review unless the proceedings are put on hold (by being formally "stayed", or adjourned). If you decide to put the legal proceedings on hold you will need to send us evidence of this before we can resume reviewing your case.

Sending information to the provider

We will send a copy of your OIA Complaint Form to the provider and we may ask it to comment on the complaint or send us further information.

What happens when the provider sends information to us about your complaint?

We will send you any information and comments we receive from the provider. This is your opportunity to respond to what the provider has told us. You should read through all this information.

If you wish to comment on the provider's documents and the information it has supplied, you must normally do so in writing so that we can share your comments with the provider. If you are unable to make written comments we will discuss with you other options for presenting your comments. We send everything you send to us to the provider.

You should:

- Comment on any specific points the provider has made or any documents that it has provided that you disagree with or which you believe are inaccurate.
- Send any documents that you have not already provided and say how they support the points you have made and the complaints you have asked us to consider.
- Tell us if any relevant documents are missing.

You don't have to comment on the provider's information but you should tell your case-handler that you have received the documents and don't wish to add anything further. We will give you a deadline to come back to us, either with comments or to say that you don't wish to add anything further.

What should you do if you can't respond by the deadline the case-handler has given you?

You should contact your case-handler as soon as possible and before the deadline giving the reason why you require an extension. We may ask for evidence to support your request. The case-handler will consider extension requests on a case-by-case basis. If you are given a number of extensions this may delay our review. We publish guidelines on deadline extensions on our [website](#).

Our decision

When can we make a decision about your complaint?

Once we have all the relevant information, the case-handler will write to you and the higher education provider to say that the file is complete. We will normally complete our review within 90 days of receiving all the information we need. If we consider that the complaint is highly complex then this may take longer. The annex to this leaflet gives examples of complaints that are “highly complex”.

Each complaint is individual. However, it is not always possible to provide a quick fix solution and some eligible complaints may take six months or longer to conclude if the information needed takes a long time to collect or if the case is highly complex.

What decisions do we make?

We will normally consider whether the provider properly applied its regulations and followed its procedures, and whether or not any decision made by the provider was reasonable in all the circumstances.

We decide whether a complaint is Justified, Partly Justified or Not Justified.

Where we decide that a complaint is Justified or Partly Justified we can make Recommendations to the provider. For example, we may require the provider to review or change its procedures or regulations; review or change the way it handles appeals and/or complaints; make a financial award; or reconsider the appeal/complaint. In these cases we will ask you and the provider to comment on the practicality of the Recommendations set out in the Complaint Outcome before they are finalised.

If we decide that your complaint is Not Justified we may make Suggestions to the provider on ways it might amend its procedures.

For more information about our Recommendations, please read the [Putting things right](#) page on our website or read our leaflet “[Putting things right](#)”.

Closing the complaint

We close the complaint when we issue the Complaint Outcome or, if we have made Recommendations, when those Recommendations are finalised. The complaint will also be closed if the complaint is settled or withdrawn before the end of the review process. A student may withdraw his or her complaint at any time.

Do you have to accept our decision?

Students do not have to accept our decisions or any Recommendations we make.

We may reopen our review if we decide that there is good reason to do so. We will only do this if new evidence is submitted to us which could not have been obtained at an earlier stage, or we find that there is an error in the Complaint Outcome which would make a difference to our decision. Please see the annex for further details.

Providers normally comply with our Recommendations by making an offer “in full and final settlement of the complaint”. This means that, if you accept the offer, you would not be able to take court proceedings against the provider about the same issues. Making a complaint to us does not prevent you from bringing legal proceedings against the higher education provider if you are dissatisfied with the outcome of our review. We cannot advise you as to any alternative action you may be able to take.

How does we know if the provider has complied with our Recommendation?

Where we recommend that a provider makes an offer to the student we will usually ask the provider to send us a copy of the offer letter so that we can check it, and to let us know whether the student accepts the offer. Where we recommend that the provider reviews or changes its procedures we will usually ask the provider to report back to us within a specified time.

Our website and MyOIA

Our website contains a range of features including recent decisions by us. You can also access [MyOIA](#) via our website. Students and providers can use MyOIA to track the progress of a complaint and to update their contact details. Providers will be given MyOIA login details which will enable them to track all of the complaints that we have received from their students.

What if you are dissatisfied with the way your complaint has been handled?

Whatever the outcome of your case, we hope that you will be satisfied with the level of service we provide. However, if you have any concerns, please refer to our website for [further information](#).

Annex

Our review process and our Scheme Rules

Rules 4-8 set out the process for deciding whether a complaint is one that we can review. We will give reasons for our decision.

Under Rule 10.6, the student or the may ask us to reconsider our decision that we can or can't review the complaint (or parts of it) by writing to us within 14 days of the decision. A different reviewer will reconsider the decision and tell the student and the provider the outcome.

Review procedures

Rules 9-16 set out the normal process for reviewing the complaint.

Rule 10 allows the reviewer to gather enough information to make a decision about whether the complaint can be reviewed.

We have three weeks to make this decision. Rule 10.5 states that the three week period will run from the date of receipt of the Complaint Form, or the further information requested to enable the reviewer to make a decision about whether the complaint can be reviewed.

Rules 11 and 12 set out the general principles underpinning our review and information gathering processes:

11. The review

- 11.1. When we have decided that the complaint is one which we can review, we will decide how to conduct the review and whether we need any more information.
- 11.2. We will review the complaint by looking at the documents which the student and the provider have sent us. We will only hold a hearing or have a face-to-face meeting with the student and/or the provider if we consider it is necessary to do so.
- 11.3. Where appropriate, we may at any time look for a way to settle the complaint which both the student and the provider agree to. This may include referring the complaint to a mediator if the student and the provider agree. The student and the provider will be given time to consider the proposed settlement before deciding whether to accept it.

12. Gathering information for a review

- 12.1. When we have decided that a complaint is one which we can review we will always:
 - 12.1.1. Give the provider the opportunity to comment on the Complaint Form and any accompanying documents;
 - 12.1.2. Give the student the opportunity to respond to the provider's comments on the

complaint.

- 12.2. We may ask the student and/or the provider to answer specific questions and/or provide additional information or documents.
- 12.3. We will normally give the student and the provider the opportunity to comment on information received during the review where it is relevant to our decision.
- 12.4. The student and the provider must respond to any requests for information we make during our review.
- 12.5. When we ask the student or the provider for information or comments we will set a deadline for the response. The deadline will normally be 14 or 28 days but it may be shorter or longer depending on what we are asking for. We may grant an extension to the deadline where we consider it is appropriate to do so.
- 12.6. If the provider doesn't provide information requested during the course of our review, or doesn't provide it within the time limits set, the Independent Adjudicator may report it to the Board, and may publicise it in the Annual Report and/or by other means.
- 12.7. We will tell the student and the provider when we have received all of the information relevant to the complaint.

Once we have all the information relevant to the complaint, we will write to the student and the provider to tell them that the complaint file is complete (Rule 12.7). Unless we consider that the complaint is "highly complex", we must issue the Complaint Outcome within 90 days of our decision that the complaint file is complete (Rule 13.2).

The following factors might lead us to conclude that a complaint is highly complex:

- The number of documents is unusually large and/or the documents are unusually detailed.
- Multiple complaints have been raised or the complaint covers a number of complaints and/or appeals to the provider.
- We decide that it is appropriate to hold a hearing.
- We decide that it is appropriate to refer a complaint for mediation.
- The complaint is linked to another case and must be held up pending the outcome of that case.
- We are awaiting the outcome of a judicial review which will affect its decision on the central issues raised in the complaint.
- The specific circumstances of the case will affect the way in which we review the complaint so that it may take longer than normal.

Where we decide that the complaint is highly complex, we will write to the student and the provider to tell them how long we believe it is likely to take to review the complaint.

Recommendations and suggestions

Rule 14 sets out information about our Recommendations and suggestions. We may make

Recommendations where we conclude that a complaint is Justified or Partly Justified.

Where we intend to make Recommendations we will write to the student and the provider setting out the proposed Recommendations, giving them the opportunity to comment on them, before we finalise them (Rule 14.5).

We may make suggestions that a provider should do something, or amend its procedures or regulations, when a complaint is Not Justified.

Completion of the review process

Rule 15 explains when the review process is completed:

- 15.1. The review process is completed:
 - 15.1.1. When we decide that we cannot look at a complaint under Rule 10.5 or that decision is confirmed following a reconsideration under Rule 10.6;
 - 15.1.2. When we decide to terminate a complaint under Rule 16.1, or that decision is confirmed following a reconsideration under 16.3;
 - 15.1.3. When the student and the provider confirm their agreement to a settlement;
 - 15.1.4. When the Complaint Outcome is issued under Rule 13.1 if no Recommendations are made; or
 - 15.1.5. When we tell the student and the provider that our Recommendations are confirmed or set out revised Recommendations under Rule 14.6. However, we may reopen a review under Rule 15.2 where it is satisfied that there is good reason to do so. The Guidance Note on our Rules provides guidance on the circumstances in which we might reopen a review.


The student may withdraw his or her complaint at any time (Rule 16.4).



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