

**OIA's response to the student numbers consultation: Applying Student Number Controls to Alternative Providers with Designated Courses.
January 2013.**

This response follows our response to the Higher Education White Paper and the technical consultation.

Introduction

1. The Office of the Independent Adjudicator (OIA) is the independent body for reviewing student complaints. The OIA Scheme was designated under the Higher Education Act 2004 and ran as a voluntary Scheme from March 2004. It began operating under statute in January 2005. Qualifying Institutions under the Act currently include all Higher Education Institutions in England and Wales; each is required to join the OIA Scheme. The mandates of the OIA derive from legislation, Judicial Review, and the OIA Scheme Rules. The OIA is a not-for-profit company limited by guarantee and a Registered Charity, under the supervision of the Charity Commission. OIA appointments are made in accordance with Nolan rules of fair and open competition.
2. The number of complaints received by the OIA has increased each year since 2005.
3. Respondents to the White Paper, Students at the Heart of the System, and related technical consultation were positive about the OIA:

"There was praise for the OIA and its endeavours, experience and expertise, underpinning a clear consensus that keeping the OIA as the sole adjudicator would help to ensure independence and objectivity in adjudications, consistency in awards and enable the OIA to identify any trends that could indicate systemic issues." (Government response to consultations on Students at the Heart of the System, and A new fit for purpose regulatory system for the higher education sector, June 2012, page 39)

Response to student numbers' consultation

4. The designation criteria provide an opportunity to realise some of the intentions set out in the White Paper: Students at the Heart of the System. That White Paper was unequivocal in its commitment to the independence of the OIA:

"We will protect the independence of the Office of the Independent Adjudicator (OIA) so students continue to have recourse to a formal independent mechanism for unresolved complaints". (Students at the Heart of the System. Executive Summary, paragraph 12)

The White Paper also gave a commitment that:

"We will ensure that all higher education institutions receiving public funding support, whether funding from HEFCE or funding for their students from the Student Loans Company, are members of the OIA's Scheme." (paragraph 3:23)

In its response to the White Paper the OIA welcomed this statement on the grounds that it created a 'level playing field' between public and private institutions.

5. The Coalition Government has reiterated its desire to ensure a 'level playing field' in its introduction to the current consultation:

"Over time we wish to create a more level playing field of regulation between similar providers."

6. The OIA accepts that the consultation is at a high level and will be followed by detailed guidance early in 2013. We are also confident that the Government remains supportive of the OIA. Nevertheless we believe it would be helpful to clarify that the position described in the White Paper, that *"all higher education institutions receiving public funding support..... are members of the OIA's Scheme"* remains unchanged. The designation criteria provide a means to achieve this, without as we understand it the need for primary legislation. The current consultation is ambiguous in stating that the Government is *"encouraging alternative providers..... to consider joining the Office of the Independent Adjudicator's Voluntary Scheme to ensure that unresolved student complaints are independently reviewed."*
7. The need for effective complaints handling is an important factor in safeguarding the quality and reputation of the student experience. Happily, the vast majority of students never have any need to bring a complaint, but the system needs to be accessible to those who do have bad experiences or feel that they have been let down by their institution. Part of the success of the OIA Scheme is that it provides a single, consistent, independent point of 'last resort' adjudication for students in higher education in England and Wales. We believe that students should have recourse to the same, well-established and well-respected system, irrespective of where they are studying.
8. The OIA has embraced its role in promoting systemic improvements in early resolution and complaints handling, drawing on the experience both of cases

received and of expertise within institutions. A number of early resolution pilots running in the first half of 2013 will inform the creation of a Good Practice Framework for institutions. The inclusion in the Scheme of all providers receiving public money will help ensure that future developments reflect the whole of the sector.

9. The Government is rightly concerned to minimise unnecessary regulatory burden on institutions. The OIA has welcomed the move towards a risk-based approach to regulation. We are members of the Regulatory Partnership Group, are working with the QAA on developing the Complaints chapter of the UK Quality Code, and have recently signed a memorandum of understanding with the QAA, to promote sharing of information. The OIA Scheme provides a simpler and more cost-effective alternative to the courts in reviewing complaints.
10. Changes to the OIA fees structure will go some considerable way to helping ensure that the system takes account of the size and specialist nature of provision. Our revised fee structure, now being implemented, will help to promote a level playing field. By 2014 all subscribers, irrespective of whether they are 'Qualifying Institutions' under the 2004 Act, will be treated alike and will pay on the basis of a core fee related to student numbers and a smaller case-related element.

Conclusion

11. The OIA starts from a position that students of UK higher education should have recourse to a consistent independent complaints handler of last resort. The designation criteria for alternative providers create a straightforward means of ensuring that the Government's initial ambition, that "*all higher education institutions receiving public funding support..... are members of the OIA's Scheme*" is realised.

Office of the Independent Adjudicator for Higher Education
15 January 2013