

What is a higher education course for the purposes of access to the Office of the Independent Adjudicator's (OIA) complaints process?

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The background

Section 11 of the Higher Education Act 2004 defines those providers, known as "qualifying institutions", which are required to be members of the OIA Scheme. At the outset, only universities and some other "higher education institutions" were required to be members.

The legislation has subsequently been amended to extend membership of the OIA Scheme to a wider range of providers, including those:

- providing courses designated for student support funding;
- providers on the Office for Students Register; and
- providers who provide higher education courses leading to the grant of an award by another OIA member.

This means that many further education colleges, alternative providers and providers of school-centred initial teacher training that have been designated to receive student support funding, as well as providers in a sub-contractual relationship with a university, are also now members of the OIA Scheme in respect of their higher education provision.

What complaints can the OIA look at?

The OIA can look at complaints from anyone who is or was a student registered at a higher education provider, or anyone who is or was studying for one of the higher education provider's awards, if the provider is a member of the OIA Scheme.

So, whilst students at some providers can complain to the OIA no matter what course they were studying on, students studying at other providers can only complain to the OIA if they are or were on a higher education (HE) course.

The definition of HE under the OIA's current Rules (April 2018) is quite broad. Any courses equivalent to Level 4 or higher of the Framework for Higher Education Qualifications (FHEQ) will normally be HE for OIA purposes. This includes some professional courses at Level 4 and above. The OIA reminder highlights that sometimes these qualifications are offered at different Levels, e.g. 2-4, and some providers may group qualifications offered at multiple levels under their further education (FE) or adult education provision.

The significance of this is that all students studying at Level 4 or above need to be properly signposted to the OIA and Completion of Procedures Letters issued in line with the OIA published guidance. Information about the OIA Scheme should also be included within the procedures that HE students have access to.

The OIA identifies trainees and apprentices as two, perhaps unexpected, examples of what the OIA Scheme can cover. The OIA gives as examples:

- A trainee teacher at a School Centred Initial Teacher Training (SCITT) provider can complain to the OIA about matters for which the SCITT is responsible and, if they are studying for a Postgraduate Certificate of Education (PGCE) or Masters-level credits, they may also be able to complain about the higher education provider which awards the PGCE or credits.
- An apprentice if the apprenticeship involves a higher education qualification which is delivered, awarded or assessed by a higher education provider, in which case the apprentice can complain to the OIA about what the higher education provider has done.

Mitigating the risk of non-compliance with the OIA Scheme

Those providers who only provide HE courses as defined above will already have the necessary processes in place for compliance with the OIA Scheme.

Those providers who provide a mix of courses should audit their provision to ensure that they have identified all courses that may fall within the OIA Scheme, and that they take steps to ensure that they have the necessary processes in place. They should also build into course design and validation processes a standard question as to whether the proposed course would fall within the remit of the OIA and have in place a process to follow to ensure that compliance with the OIA Scheme follows through.

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