

**Office of the Independent Adjudicator:
GuildHE response to Pathway 3 Consultation
December 2011**

Introductory Note: This response is submitted on behalf of GuildHE, one of the two formal representative bodies for Higher Education in the UK. It is a Company Limited by Guarantee and a Charity. It was founded in 1967 as the Standing Conference of Principals, registered as a company in 1992 and became GuildHE in 2006. GuildHE has 34 members/associate members. These include publicly funded higher education providers, a smaller number of private providers of higher education plus some further education colleges offering higher education programmes. The full list of members is at: <http://www.guildhe.ac.uk/en/members-list/>

We are pleased to have this opportunity to comment in response to the consultation. However, we have grouped comments under each of the headings rather than responding separately to each question in turn. We would welcome the opportunity to discuss or to provide more information if that would be helpful

1. Alternative Dispute Resolution

Questions:

1a. Please describe your experience and view of the nature and extent of existing campus ombudsman services provided by or through universities and students' unions in England and Wales.

1b. Should each university provide access to a campus ombudsman to resolve complaints at an early stage?

1c. How should these campus ombudsmen be appointed?

1d. The OIA welcomes offers from universities/students' unions prepared to participate in a pilot scheme in which a small number of universities/students' unions sharing the same metropolitan area or region join together to appoint for a limited period, a part-time, independent office-holder, whose role is to assist in the provision of early dispute resolution between students and universities in advance of complaints being taken to a formal stage. Would your institution be prepared to join such a pilot?

1e. Is there value in the creation of regional networks for campus ombudsmen, organised and supported by the OIA, to promote good practice?

1f. Please describe your experience and view of the nature and extent of existing mediation services provided by or through universities and students' unions in England and Wales.

1g. What is the most effective way of delivering authoritative and accessible mediation services on campus?

Comments:

GuildHE member institutions have been broadly supportive of approaches to Alternative Dispute Resolution (ADR), noting the advantages that such approaches can bring for both students and institutions in terms of early resolution of complaints. Whatever approach is adopted it would be important to ensure there is confidence in the system from all parties concerned.

For smaller institutions there can sometimes be difficulties in identifying appropriate individuals who can be seen to be independent and to have had no prior involvement in the issues raised by the complainant. In these circumstances collaborative arrangements between a number of institutions could prove advantageous provided agreements were in place to ensure consistency and clarity of approach. However costs will also be important as will be the need to avoid building in an extra layer of bureaucracy that extends the process without adding value.

We note that the OIA is inviting expressions of interest from HEIs and SUs in participating in a pilot scheme for a limited period for the appointment of an office holder to have a role in ADR in a number of HEIs. The original suggestion is that such an appointment might cover a range of HEIs in a metropolitan area or region. While we are not in a position to put forward firm proposals at this stage, we would be interested in the possibility of assisting in the establishment of a pilot on a different basis – possibly covering some of the GuildHE member institutions with specialist interests or operating on a similar scale. We would be glad to discuss further if that might be of interest.

We feel our member institutions are better placed to comment on their experience of the different forms of ADR so are offering no comments on the different approaches outlined in the document.

2. A Standard Framework of Complaints Handling Procedures

2a. Should universities adopt standards around the handling of complaints and appeals and keep students up to date on handling progress?

2b. If so, what standards should be specified besides timescales which are discussed in section 3 below?

2c. Should this framework be set by the OIA?

Comments:

We agree in principle that a standard framework for handling complaints could be useful and could help to support good practice in those institutions which handle complaints less frequently. We assume the aim would be to promote consistency of approach while not making the process unduly complex. However, we note that this is a potentially crowded field, given the QAA's responsibilities for the relevant section(s) of the UK Quality Code and the Causes for Concern processes and the uncertainties around what might be involved in HEFCE's new role as student champion. We feel that the OIA's experience would be very helpful in developing a framework for handling complaints but hope that it may be possible to steer a path through the different processes and procedures avoiding duplication or blurring of boundaries. We would expect any such framework to be advisory rather than mandatory.

3. Time Targets

3a. Should universities set time targets for resolution of cases and/or provide information to students on the average time taken?

3b. Do you agree there is merit in the OIA intervening in exceptional cases where these targets are not met?

Comments:

In discussion with our member institutions, it appears that most already have identified time limits for handling of complaints and would expect to communicate these to students. We would not see this as problematic therefore provided there is due recognition of the extent to which complaints vary in complexity. We would expect the focus to be on transparency for students.

Our understanding is that the OIA can already take up cases which appear to be unduly prolonged so again would not see it as problematic recognising that it would only apply in exceptional cases.

4. Kite-marks

4a. Should the OIA develop a kite-mark system for the accreditation of university complaints processes?

Comments:

We have strong reservations about any proposal for the development of a kite mark or similar approach. We would expect all HE providers to want to adopt good practice in the handling of complaints and we are not clear to what extent a kite mark scheme would add value. We note the suggestion that it would be offered on a 'costs-recovery optional basis' and would have concerns about the potential costs to institutions given the inevitable pressures to participate in such a scheme were it to be set up.

We feel it is more important to establish clear expectations and consistency of practice in ensuring students understand their rights of access to the OIA scheme wherever they choose to study. Kite-marking of some institutions and not others might add to the confusion rather than helping in resolving it.

5. Funding model

5a. The OIA is developing its core financial model to take account of the new 'level playing field' between public and private providers as set out in the recent White Paper. Do you agree that a model combining both a core subscription and a case-fee element is the best option?

Comments:

We recognise the complexities around the current funding model and the need for changes in the future.

As noted in the consultation document, the HE White Paper set out the expectation that participation in the OIA Scheme will be mandatory for all HE providers accessing funding through the student finance package. GuildHE is very supportive of the principle of 'the level playing field'. We believe it important that students drawing down student loans should have the same rights and entitlements in terms of access to information and the scope to pursue complaints wherever they choose to study.

We are also supportive in principle of a financial model combining both a core subscription to the OIA and a case fee element.

However, we would welcome the opportunity to discuss further what might be involved in practice in moving towards such a model.

In particular we note,

- i) The OIA has drawn attention in the consultation document to the possibility that HEIs with a larger proportion of students from a 'widening participation' background may have to deal with more complaints than those whose students are drawn from a more traditional academic background. In addition, as regularly shown in the OIA annual report, some kinds of courses, for example those which involve 'fitness to practice' issues, appear to generate a higher level of complaints. HEIs with particular strengths in those areas may therefore have a higher level of complaints referred to the OIA however good their internal procedures and practices.

- ii) A separate issue arises in respect of the arrangements for part-time and full time students. We understand the reasoning that underpins the OIA's decision to base the banding for institutional subscriptions on students by head count rather than by FTE. However, institutions with higher numbers of part-time students will be paying subscription rates that are disproportionately higher in relation to income. We would be interested to know how far this has been explored in relation to the number of complaints coming forward from students studying on a part-time basis.
- iii) The distinction between 'qualifying' and 'non-qualifying' institutions by its nature creates gaps and anomalies. Our understanding is, for example, that students on further education programmes studying in 'qualifying' HEIs can access the OIA in the same way as other students at the institution. This will affect particularly the specialist art and design institutions where it is common practice for students to undertake a foundation year at further education level before going on to study at degree level. On the other hand, students on HE programmes at FECs will have a right of appeal to the OIA but only in respect of those areas which fall within the remit of the awarding body (assuming that body is a qualifying institution). So access there will relate to the level of study rather than the kind of institution. We note that the OIA is exploring the issues that arise when FECs acquire foundation or other degree awarding powers. It is clearly appropriate that students on programmes where the degree is awarded by the FEC should be able to take complaints to the OIA if necessary. However, it is not clear whether this could potentially create a number of different levels of access to the OIA depending on the route followed by the student to achieving their award?
- iv) For private providers likewise there appears to be at present a mix of entitlements and access to the OIA both among those with taught degree awarding powers (some of which have chosen to subscribe to the OIA on a voluntary basis and some of which remain outside the Scheme) and among those delivering HE programmes which lead to the award of a qualifying institution.

Our concern is that this potentially confusing picture makes it difficult to deliver a clear message to students in terms of their rights and entitlements. We would anticipate therefore that in revisiting the funding model the OIA will wish to ensure transparency as far as possible in establishing student access to the Scheme as well as providing for equity between the different sorts of HE provider.

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