



Quarterly Update 1 July 2017 – 30 September 2017

Executive Summary

On 1 July 2017, the VET Student Loans Ombudsman function was established within the Office of the Commonwealth Ombudsman (the Office). The role of the Office is to investigate complaints about the new VET Student Loans program and the former VET FEE-HELP scheme. The Office also provides advice and training on best practice complaint handling and will lead the development of a code of practice in collaboration with industry.

This update outlines the Office's initial observations in relation to complaints received for the period 1 July 2017 to 30 September 2017 (the reporting period). In preparation for the new VET Student Loans function, the Office consulted with agencies that had already received VET FEE-HELP related complaints. This engagement revealed that many complainants were unsure which agencies could assist them and often contacted multiple agencies.

The Office has established referral mechanisms with a number of Government agencies including the Department of Education and Training (DET), the Australian Skills Quality Authority (ASQA) and the Australian Taxation Office (ATO) to clarify avenues for complaints and reduce duplication.

The Office has seen a decrease in the number of complaints received over the reporting period, however the majority of complaints are still being assessed. This means that the data in this report may not be representative of issues that will be identified by the Office in future reports after a greater number of investigations have been finalised.

Overview of complaints received by the Office from 1 July 2017 to 30 September 2017

The total number of VET Student Loans related complaints received by the Office during the reporting period was 2,917. This total includes 261 legacy complaints received from the DET (captured in the August 2017 data in Graph 1).

The Office has observed a decrease in the number of new complaints received over the reporting period. In the first eight (8) weeks of operation, the Office received an average of 275 complaints per week, whereas in the last four (4) weeks of the reporting period, this had reduced by almost 50 per cent to 137 complaints per week.

The commencement of the VET Student Loan function coincided with the start of the 2016-17 taxation lodgment period. The Office anticipates that there will likely be another spike in complaints in the 2017-18 taxation period. See *Graph 1: Complaints received from 1 July 2016 to 30 September 2017, over page.*



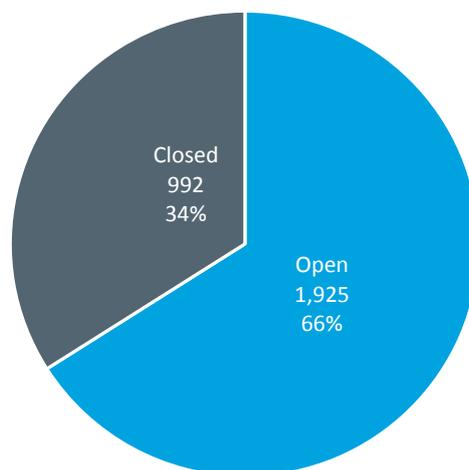
Over the reporting period, the Office received a number of complaints with themes consistent with those identified by the Australian National Audit Office's *Administration of the VET FEE-HELP Scheme report* and DET's *Redesigning VET FEE-HELP Discussion Paper 2016*. These themes relate to the enrolment behavior of providers and their brokers and include:

- **Unknown debts**—complainants have reported that they have VET FEE-HELP debts for courses they do not recall signing up for. Typically these people have been informed of their VET FEE-HELP debt when:
 - a VET FEE-HELP debt appears on their student loan account,
 - a compulsory repayment has been raised by the ATO when their income reaches the compulsory repayment threshold, and/or
 - they have contacted the ATO to dispute or object to one of the above.
- **Unsolicited approaches**—complainants have reported they were enrolled in courses as a result of unsolicited approaches such as doorknocking, cold-calling, or being approached in public spaces (such as shopping centres and outside Centrelink offices).
- **Use of inducements**—complainants have reported they were offered inducements (including cash, laptops and tablet devices) by providers or their brokers to enrol in a VET FEE-HELP course.
- **Misinformation about the nature of VET FEE-HELP loan assistance**—complainants have reported that providers and their brokers did not explain that they were signing up to a loan, or were incorrectly told that they were enrolling in a 'free course'.
- **Lack of academic capability or provider support**—complainants have reported that they were signed up to courses they did not have the academic capability to complete or the training provider offered inadequate support during their studies.

Complaints closed between 1 July 2017 and 30 September 2017

Where matters can be more appropriately addressed by another agency or where a more appropriate avenue of redress is available, the Office can exercise its discretion not to investigate a complaint. Following an assessment, the Office finalised nearly 1000 complaints (34 per cent) during the reporting period without having to commence an investigation. The majority of these complaints were closed as the complainant had not attempted to resolve their complaint with their provider in the first instance. Other complaints were closed due to ongoing legal proceedings by the Australian Competition and Consumer Commission (ACCC) and DET or because complainants could seek redress through the tuition assurance process. These complainants were advised that they could contact the Office again if they were dissatisfied with the outcome of their provider's complaint handling process.

**Graph 2: Total complaints received — open and closed
1 July 2017 to 30 September 2017**



Outcomes for complaints closed between 1 July 2017 and 30 September 2017

VET Student Loans related complaints are allocated to a team of investigation officers dedicated to the function. These officers assess the complaints to determine if an investigation should be undertaken. As a result of the large number of complaints received, particularly in the first two (2) months of operation, 1,771 are still being assessed to determine if an investigation should be undertaken.

Complainants have been advised that it may take the Office six (6) weeks to assess their complaint. In the interim, the Office has requested that complainants gather a range of information to assist the Office to assess their complaint. Regular updates are provided to complainants on the status of their complaint.

During the reporting period, the Office progressed 157 cases to the investigation stage. The number of complaints moving from assessment to investigation will continue to increase. As this occurs, the Office anticipates that it will report on a broader range of outcomes for closed complaints.

The outcomes for closed complaints during the reporting period include:

- **Investigation declined/ referred to the provider**—the majority of closed complaints were in circumstances where the complainant had not given the (open) provider the opportunity to resolve

their complaint in the first instance. Complainants were invited to return to the Office if dissatisfied with the outcome of their provider's internal complaint handling process.

- **Investigation declined/not warranted in the circumstances**—a number of complaints were not investigated and subsequently closed due to:
 - **Ongoing legal proceedings:** DET and the ACCC have taken legal action in the Federal Court of Australia (the Court) against four (4) providers (Unique International College Pty Ltd, Cornerstone Investment (Aust) Pty Ltd, the Australian Institute of Professional Education Pty Ltd and Phoenix Institute of Australia Pty Ltd). Orders are being sought for the providers to cancel the debts of students who were enrolled within a specific period and repay the Commonwealth. The Office has received a number of complaints from students who were enrolled with these providers during the period being considered by the Court. The Office has closely monitored these actions and has decided not to investigate complaints from students affected by these proceedings while the associated providers are before the Court.
 - **Tuition assurance:** When a VET FEE-HELP or VET Student Loans provider closes or ceases to offer courses, eligible students can apply to a Tuition Assurance Operator to complete their course at a second provider or for a refund of their tuition fees. The Office will generally not investigate a complaint if the complainant has the option of applying for redress through the tuition assurance process.

Key issues identified by the Office for complaints closed between 1 July 2017 and 30 September 2017

Analysis of the Office's closed complaints data has identified the following complaint issues:

- **Unknown debts**—the majority of closed complaints have been in relation to unknown debts. That is, people who were unaware they had incurred a VET FEE-HELP debt until their income reached the compulsory repayment threshold and were notified by the ATO. In cases where the provider is still operating, the Office directs the complainant to utilise the provider's internal complaint handling mechanism in the first instance. In other cases, complaints were closed as the debts were incurred with one of the four providers involved in the ongoing ACCC and DET legal proceedings. In other cases, the Office assesses whether an investigation should be undertaken and many of these cases are still being assessed.
- **Out of jurisdiction**—a number of complaints have been closed as they relate to matters outside the Office's legislative remit.
- **Debt cancellation requests including special circumstances**—these closed complaints relate to requests that complainants have made to have their debts cancelled, including requests for special circumstances. In these cases, the Office closed these complaints because there was a structured review pathway available to complainants. It directed complainants to request reviews of these decisions directly with providers or with the Administrative Appeals Tribunal.
- **Pre-census withdrawals not actioned by provider**—the census date is the last day a student can withdraw from a course without incurring a debt. These closed complaints relate to people who have attempted to withdraw prior to the census date, but this request was not actioned by the provider. The Office typically closed these complaints without requiring investigation, as it was appropriate that the complainant try to resolve their complaint through the provider's internal complaint handling mechanism in the first instance.
- **Course cancellation due to a provider closure**—these closed complaints relate to course cancellations due to a provider closure. In these cases, the Office was able to refer complainants to the appropriate tuition assurance operator to seek course or tuition assurance.

Complaints transferred by the VSLO to another authority from 1 July 2017 to 30 September 2017

Under s20ZQ of the *Ombudsman Act 1976*, the Office must refer a complaint to another body if it could be more effectively dealt with by that body. The Office referred eight (8) complaints to other bodies under s20ZQ.

Complaints received by state and territory

The Office received complaints from individuals residing in each state and territory in Australia as outlined in Table 1. Complainants did not provide details of their address in 291 (10 per cent) of complaints.

Table 1: Complaints received from 1 July 2017 to 30 September 2017 by state /territory

| QLD | VIC | WA | SA |
|-----|-----|-----|-----|
| 749 | 523 | 235 | 184 |
| 26% | 18% | 8% | 6% |
| ACT | TAS | NT | NSW |
| 52 | 48 | 43 | 792 |
| 2% | 2% | 1% | 27% |

Publications and submissions

The Office made a submission to the DET's review of the *National Vocational Education and Training Regulator Act 2011* on 18 August 2017.

Looking ahead

Where appropriate, the Office will pursue remedies for complainants. A range of possible remedies are available for complainants where there is a provider still in operation. These include the provider:

- changing a decision as a result of our investigation,
- expediting an action,
- giving a better explanation regarding its decisions and actions,
- changing its policy or practices, and/ or
- waiving all or part of a complainant's debt.

The Office is committed to ongoing collaboration, particularly with those agencies whose assistance may be needed to give effect to remedies for people who have experienced unconscionable conduct to ensure that complainants, where appropriate, have access to suitable remedies.