

Quarterly Update 4: 1 April–30 June 2018

Executive Summary

This is the fourth quarterly update for the Office of the Commonwealth Ombudsman's (the Office) VET Student Loans Ombudsman function (the function). This update covers the period 1 April to 30 June 2018. The function was established on 1 July 2017 to investigate complaints about the former VET FEE-HELP scheme and the current VET Student Loans program.

This update:

- provides statistical data on complaints received, complaints closed and open complaints
- describes progress made to date in progressing complaints
- provides an outlook for 2018–19.

In quarter four, we continued our shift from initial screening and preliminary assessment of complaints to commencing in-depth assessments and investigations. During this quarter we received 1,432 complaints, closed 641 complaints, commenced 38 investigations and finalised nine investigations.

We received increased funding in the 2018–19 Australian Government Budget which allowed us to engage more dispute resolution officers dedicated to the function from 1 July 2018. We will use the additional resourcing to handle the large volume of highly complex complaints we have received.

In the function's first year of operation, 1 July 2017 to 30 June 2018, we received 6,405 complaints from students disputing their debts or other issues with their VET loan scheme provider. Of these, we closed 3,060 in 2017–18 and 3,345 remained open as at 1 July 2018. The top issues raised in these complaints are detailed on [page six](#) of this update.

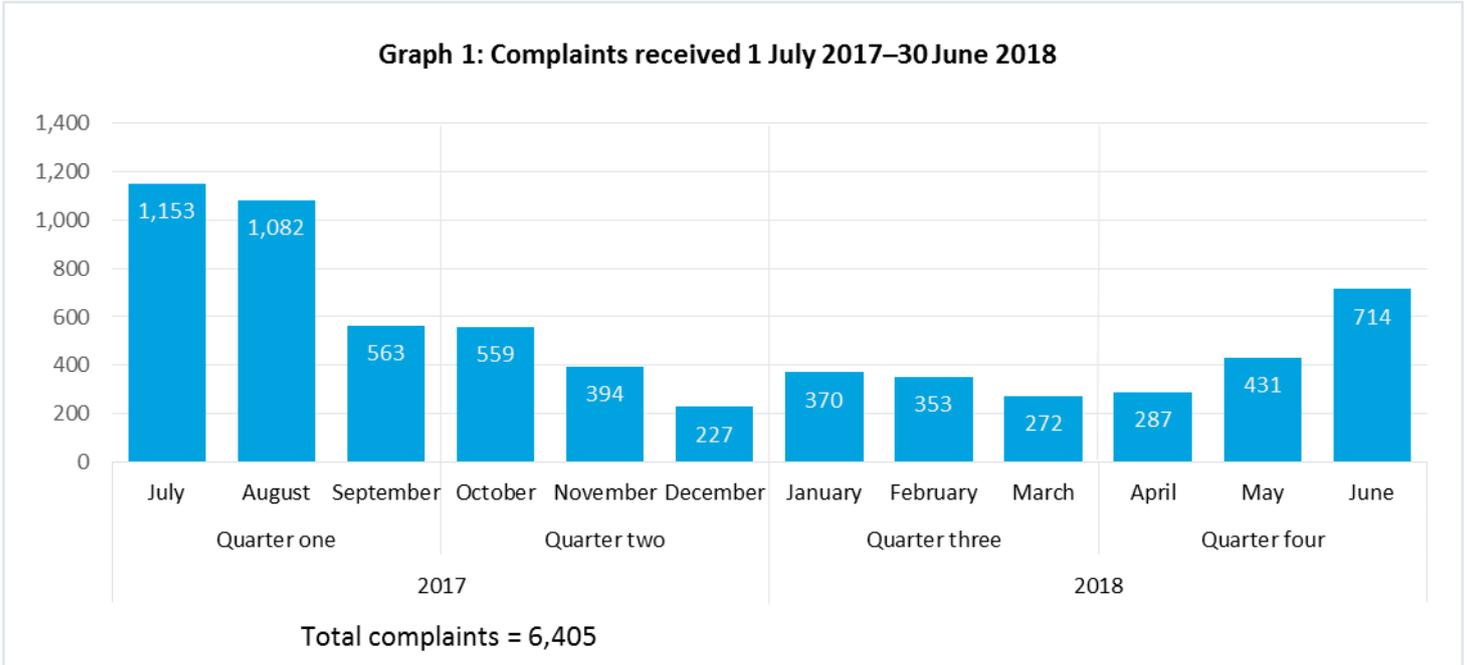
The Australian Government has announced new legislation that, if passed, will allow the Secretary of the Department of Education and Training (DET) to cancel VET FEE-HELP debts that were incurred inappropriately. We will work with DET on which complaints made to us will be eligible for consideration by the Secretary under the new legislation and how the process will operate. More information on the proposed legislation can be found at education.gov.au/vet-fee-help-reforms.

Approaches received and approaches closed

Complaints received and closed

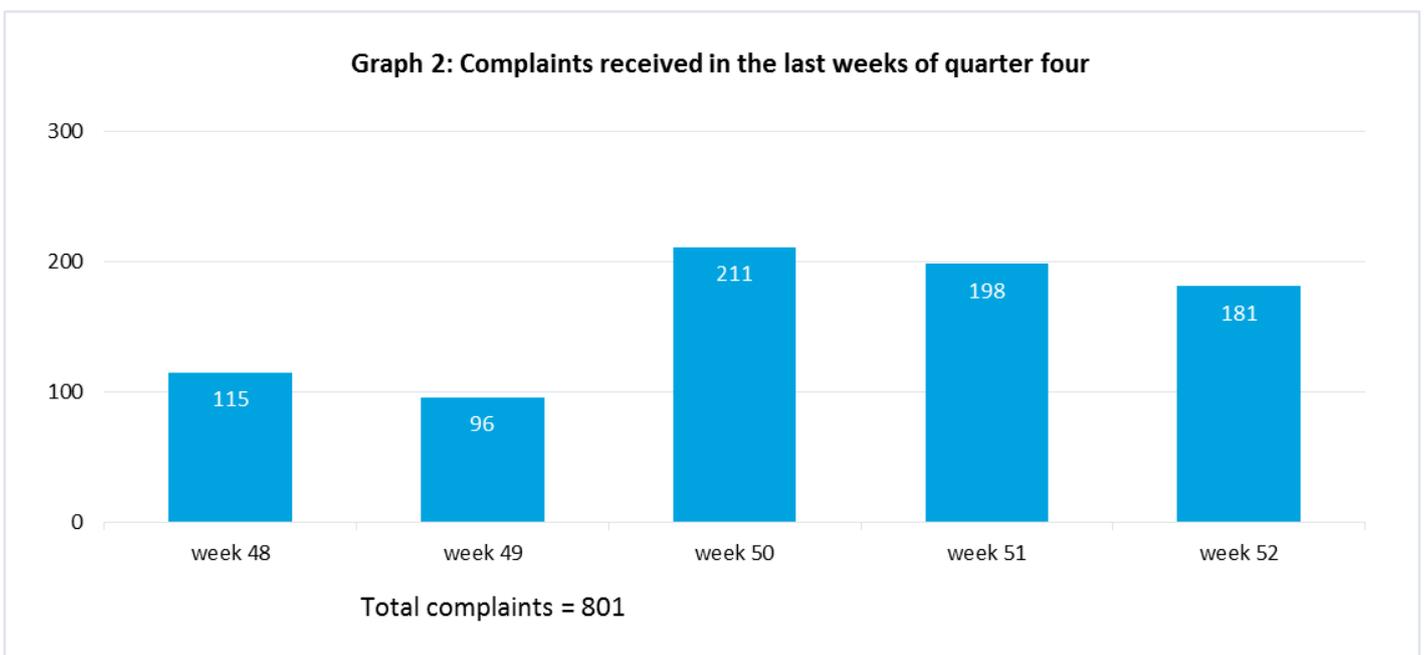
We received 1,432 VET loan assistance related complaints during quarter four. This is 44 per cent more than the 995 complaints received in quarter three.

Graph 1: Complaints received 1 July 2017–30 June 2018

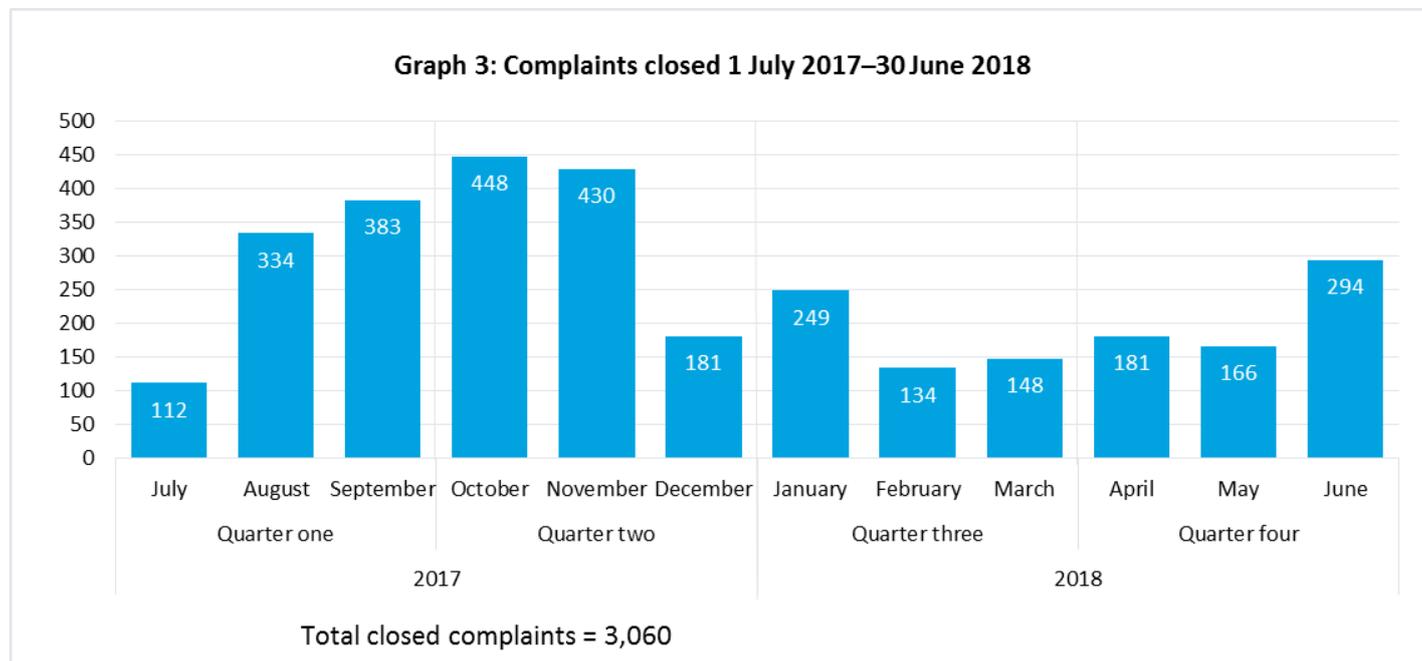


In previous updates, we predicted an increase in the volume of complaints from July to October each year, when tax returns are due. In quarter four, we observed an earlier than anticipated increase in complaints. As shown in Graph 2, we received 211, 198 and 181 complaints respectively during the last three weeks of quarter four. Many complainants advised that they called us after receiving an email from the Australian Taxation Office (ATO) about their obligation to make student loan repayments.

Graph 2: Complaints received in the last weeks of quarter four



We closed 641 VET loan assistance related complaints during quarter four. This compares with 531 closed in quarter three—an increase of 21 per cent.



In quarters one and two, we focussed on processing complaints where an external remedy pathway was available to the complainant, such as when a person could complain to their provider or if the complaint was currently part of legal action taken by the Australian Competition and Consumer Commission (ACCC) and the DET. We typically close these complaints at the assessment category. Descriptions of the complaint categories we use are detailed on [page five](#).

In quarters three and four, we dedicated more resources to commencing investigations into complaints about available providers, where the complainant had attempted to resolve the complaint in the first instance. Investigations we undertook are discussed on [page 10](#).

The changing priorities of our work, due to increased incoming complaint numbers late in quarter four 2017–18 and early in quarter one 2018–19, are discussed in more detail on [page 13](#).

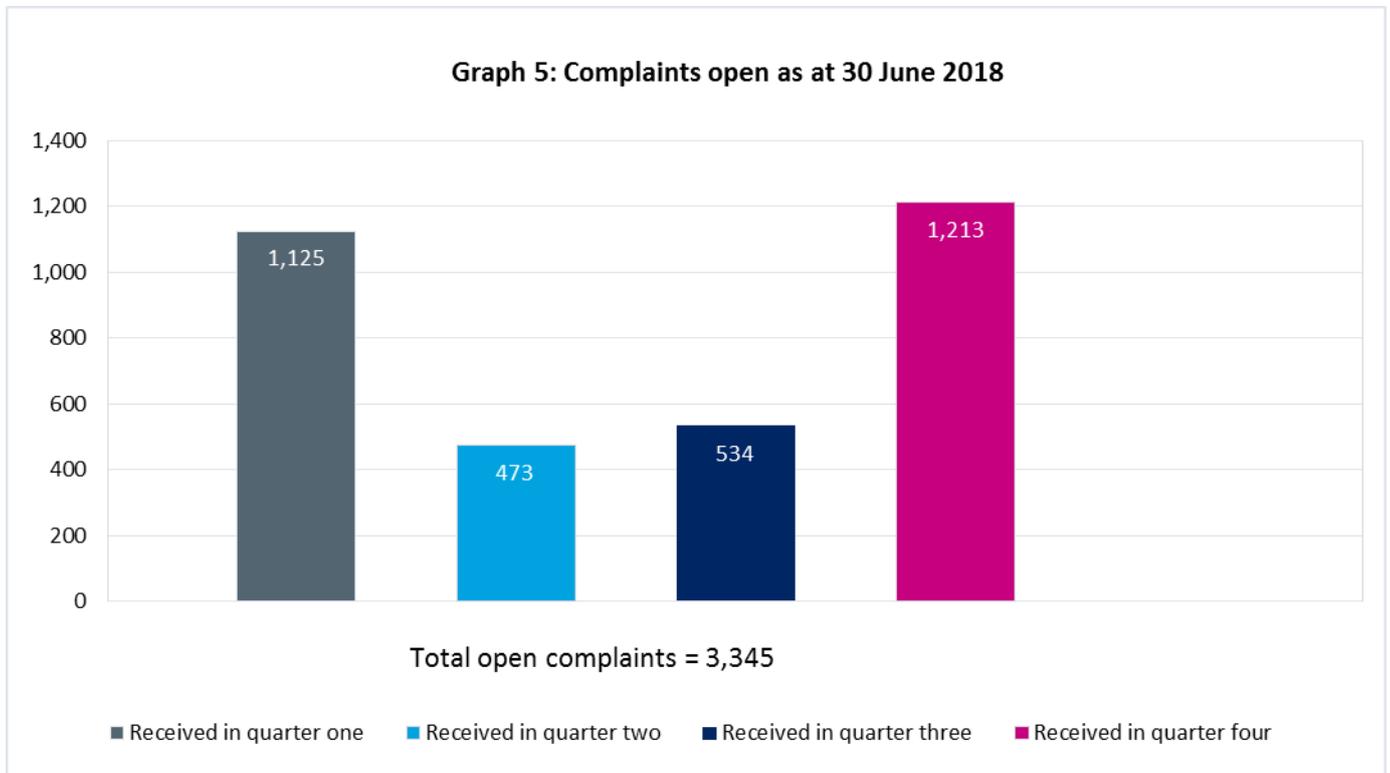
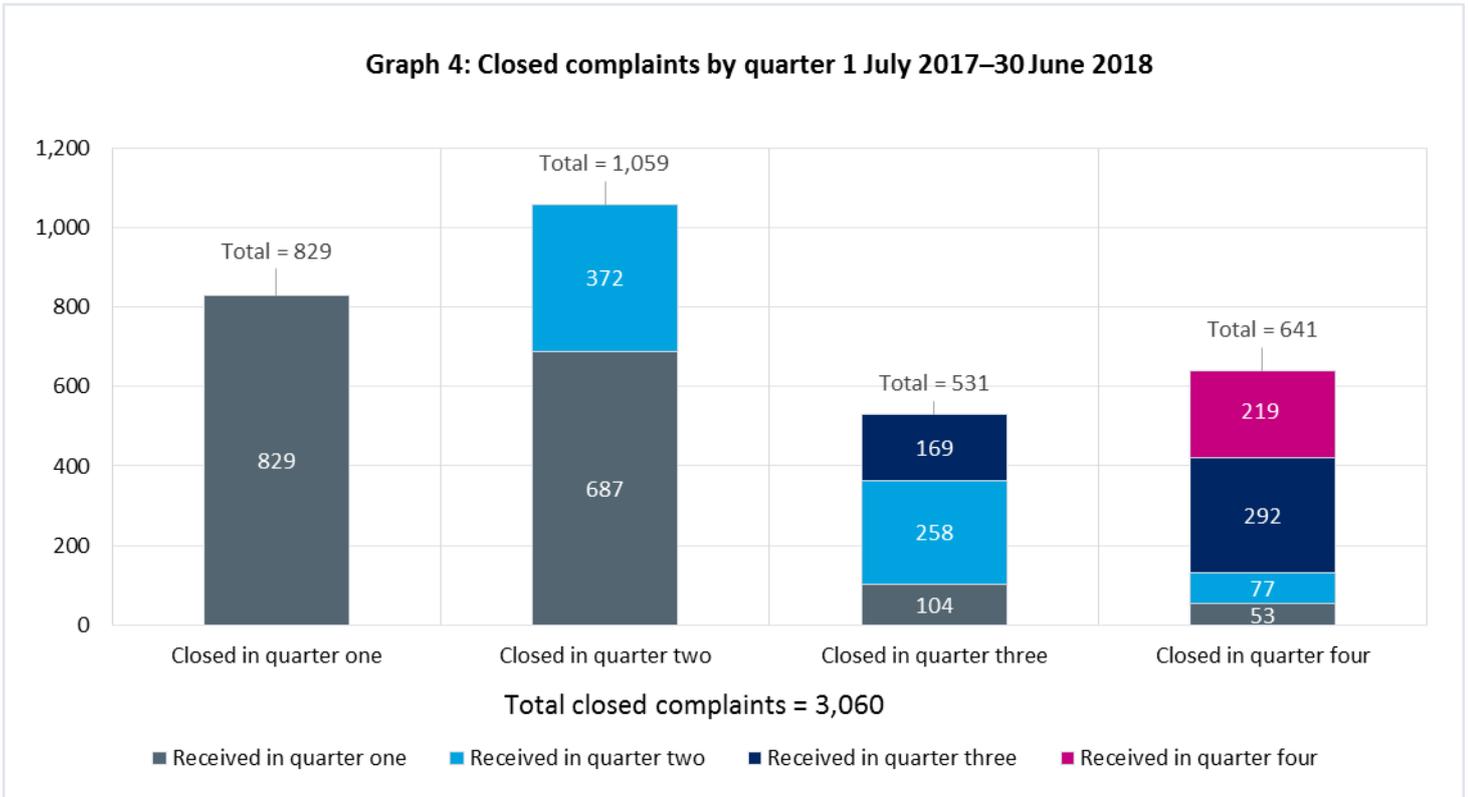
Closed and open complaints by the quarter received and quarter closed

The Office closes complaints if:

- The complainant can be directed to an external remedy pathway either with the provider or another oversight agency, particularly where there is a reasonable prospect of the complainant securing a positive outcome.
- The Office decides not to investigate further because:
 - the action was open to a provider
 - the complaint is currently part of legal action undertaken by the ACCC and the DET
 - the complainant is referred to a tuition assurance operator to seek redress, or
 - the provider has agreed to re-credit the complainant's student loan.
- The complaint is withdrawn or is not within our jurisdiction.

Closed complaint outcomes, which are discussed on [page seven](#), give an indication of the proportion of complaints that may be dealt with through other mechanisms.

Graph 4 and Graph 5 show complaints open and closed by the quarter in which they were received.



A total of 2,132 complaints received in quarters one, two and three remained open at the end of quarter four due to the complexity of handling complaints where the provider is unavailable. The work we are undertaking to progress these complaints is discussed further on [page 11](#).

Complaints closed and open by category

We use a category system for complaints. Below is an explanation of each category:

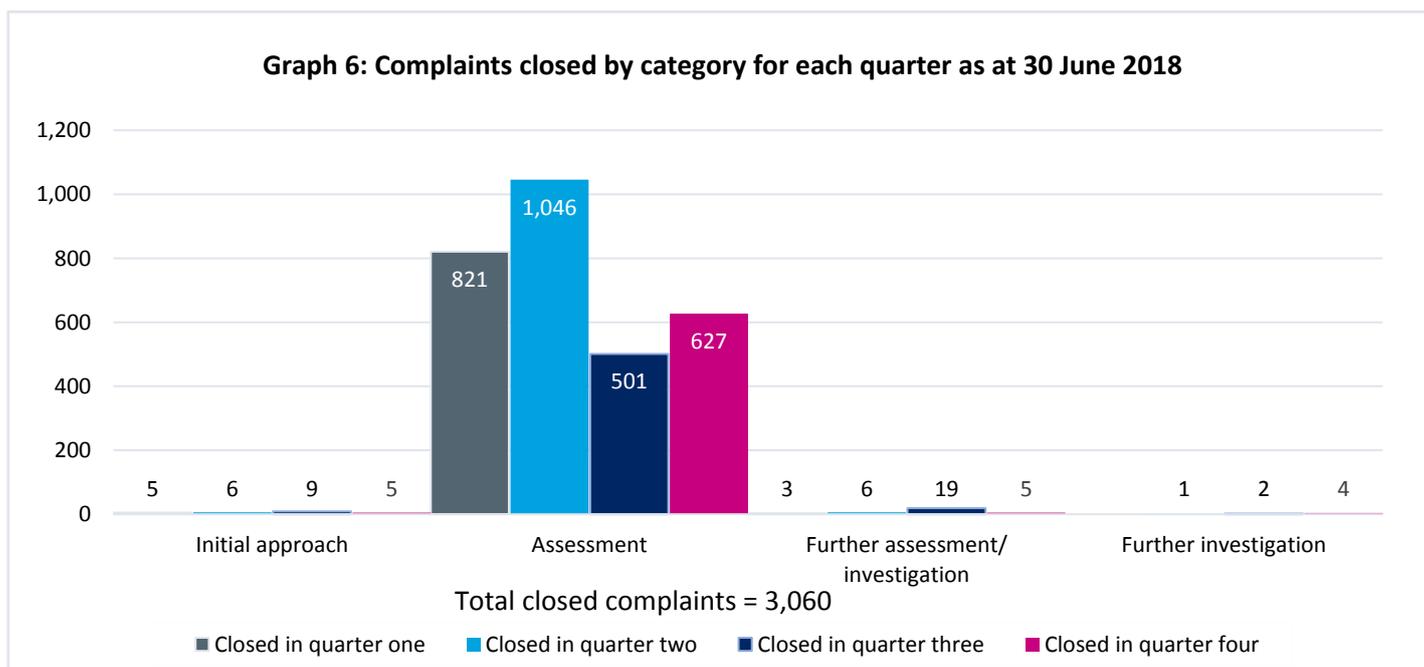
Initial approach: matters generally involving a single telephone call which can be resolved without lengthy assessment or investigation.

Assessment: complaints requiring further consideration that can be resolved without investigation. This includes when we advise complainants to lodge their complaint with the provider in the first instance.

Investigation/further assessment: complaints are escalated to this category when more in-depth assessment is required for unavailable providers and for investigations where a provider is available.

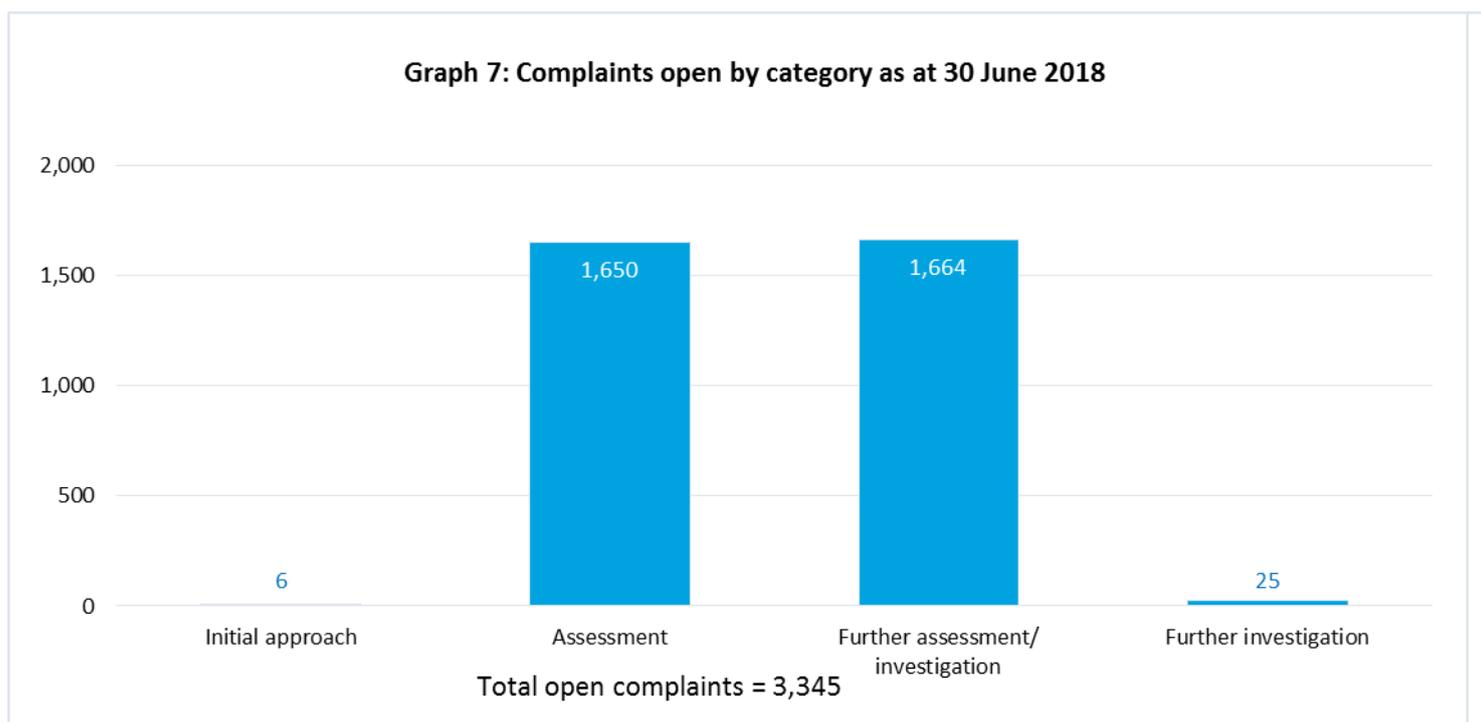
Further investigation: complaints are escalated to this category when they require further investigation, involve sensitive or highly complex matters, or involve multiple contacts with the provider.

Graph 6 shows complaints closed by category during each quarter and Graph 7 shows open complaints by category at the end of quarter four.



At the end of quarter four 1,664 complaints were open at the investigation/further assessment category. This compares with 1,216 complaints that were open at this category at the end of quarter three—a 37 per cent increase. This is a reflection of the work we did in quarters three and four to progress relevant complaints for in-depth assessment and investigation.

Graph 7: Complaints open by category as at 30 June 2018

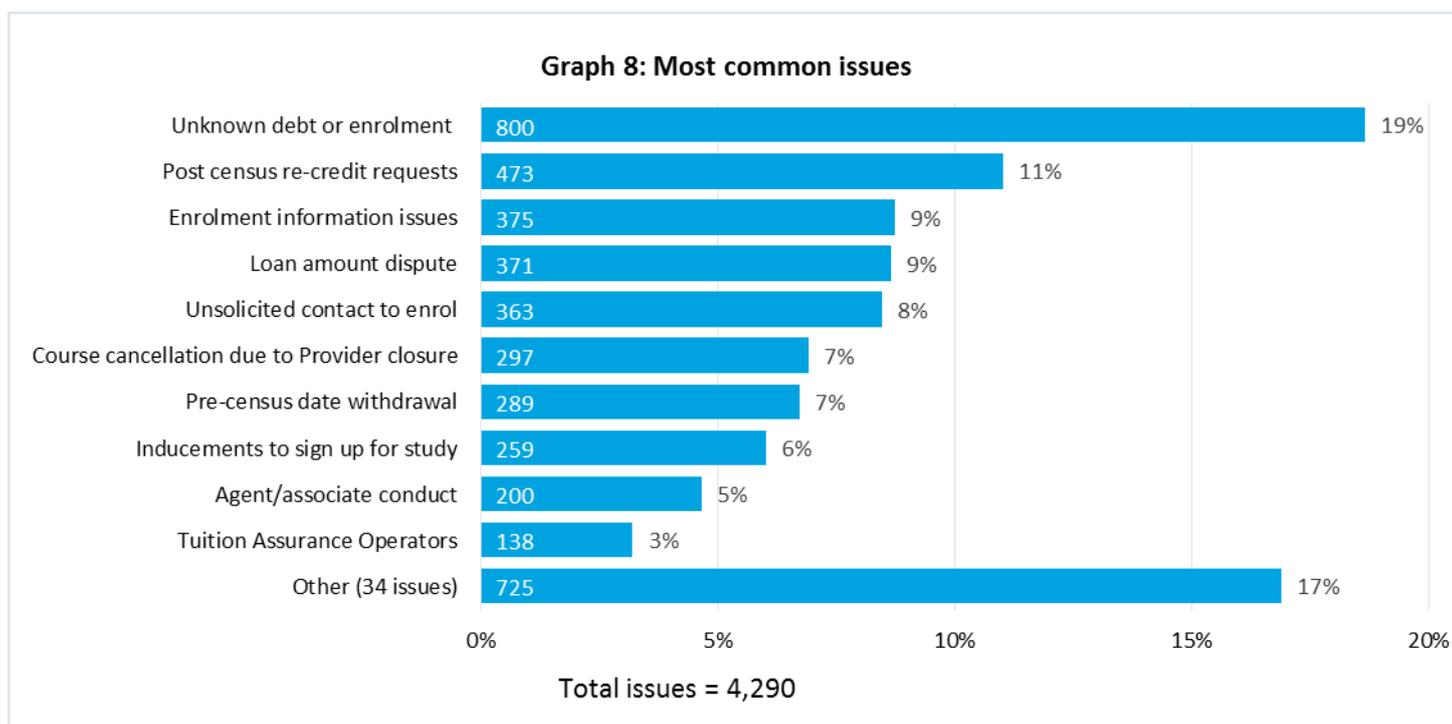


Issues identified by complainants

We record issues as complainants present them. As Graph 6 shows, as at 30 June 2018, we had closed 3,020 complaints at the initial approach and assessment categories, without needing to investigate these complaints. When we do not investigate complaints, issues are recorded as complainants report them and we do not verify them.

Graph 8 shows the most common issues for all closed complaints as at 30 June 2018. Complaints can include multiple issues, therefore there are more issues (4,290) than total complaints closed (3,060).

Graph 8: Most common issues



Descriptions of the 10 most common issues are detailed below.

Issue	Description
Unknown debt or enrolment	Complaints about VET loan assistance debts where the complainant does not recall signing up for a course or was not aware there was a student loan associated with the course.
Post-census re-credit requests	Complaints about withdrawal after the census date where a student has enquired about or applied for a re-credit of their VET student loan, including in special circumstances. (The census date is the last day a student can withdraw from a course without incurring a cost.)
Enrolment information issues	Complaints about inaccurate, incomplete or unclear information a provider or broker gave a prospective student about eligibility for VET FEE-HELP or VET Student Loans, fees for the course or the amount of the loan prior to enrolment.
Loan amount dispute	Complaints about the provider's calculation of the loan amount or advice from the provider relating to the loan amount.
Unsolicited contact to sign up	Complaints about cold-calling, approaching a person in a shopping centre or public space.
Course cancellation due to provider closure	Complaints about a course cancellation due to the provider closing.
Pre-census date withdrawal	Complaints about the provider's handling of a pre-census date withdrawal request.
Inducements to sign up for study	Complaints about providers or brokers offering a prospective student something of value such as a laptop, tablet or money in exchange for enrolling in a course and taking out a loan.
Agent/associate conduct	Complaints about a broker or agent and their conduct when enrolling the student in a course.
Tuition Assurance Operators	Complaints about the actions or inactions of tuition assurance operators.

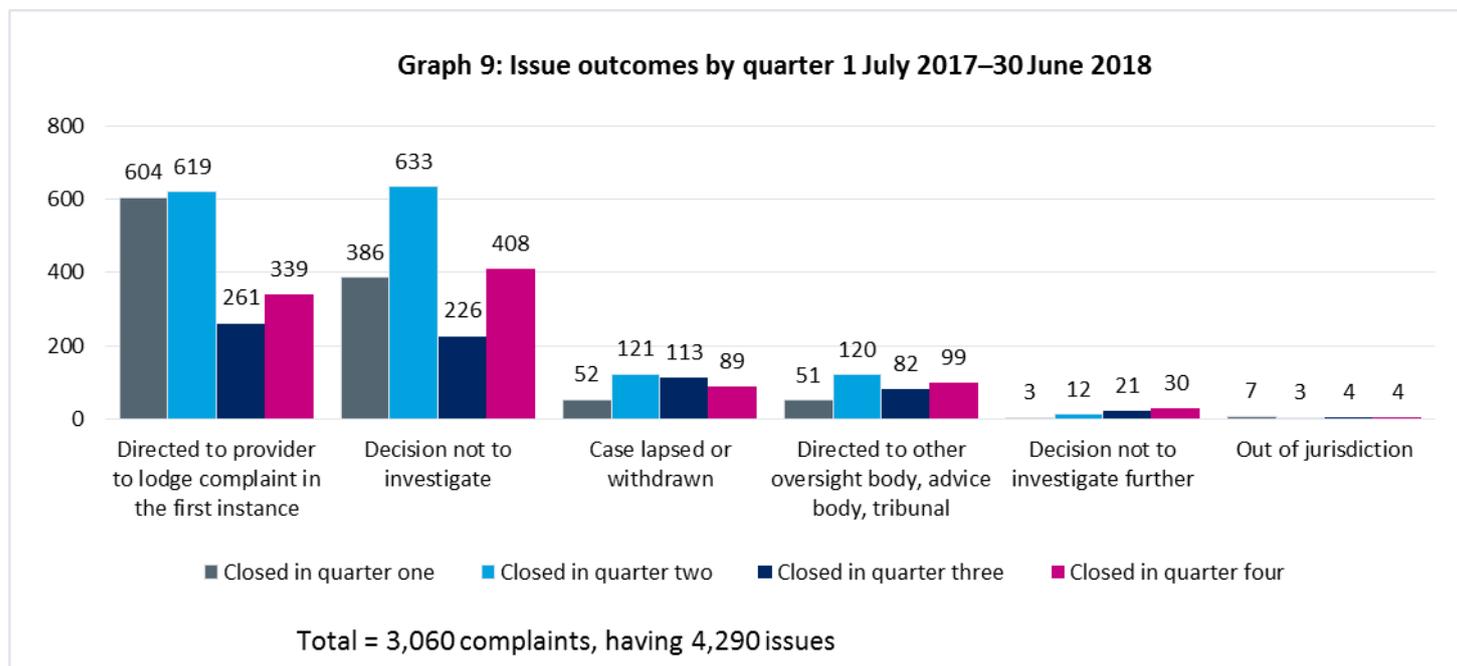
Outcome for closed complaints

Graph 9 includes data for all complaints closed in the 2017–18 financial year and shows the top six complaint outcomes. This graph shows that the top two outcomes for each quarter were 'directed to provider to lodge complaint in the first instance' and 'decision not to investigate'.

As indicated in Graph 9, we closed 1,823 complaints because complainants had not exhausted their provider's internal grievance procedure, or internal re-credit review steps. We consider that providers are best placed to handle complaints in the first instance for the following reasons:

- providers have access to student information which may result in a more timely outcome
- providers should be aware of students' academic progress and any specific student circumstances, and
- in order to be a registered training organisation, providers are required to have a complaints process and it is important that this process be exhausted before we investigate.

If a complainant comes back to us because they are dissatisfied with the outcome given by their provider, we will re-open their complaint and assess whether the matter should be investigated.



A description of the top six complaint outcomes as shown in Graph 9 is below. In 2017–18, we also had 16 full or partial re-credits actioned by providers as a result of our further assessment and investigation processes.

Complaint outcome	Description
Directed to provider to lodge complaint in the first instance	The complainant has not yet followed the provider’s complaint handling or grievance procedures.
Decision not to investigate	Investigation was not warranted in all the circumstances and therefore no investigation was commenced. This includes when: <ul style="list-style-type: none"> • an action was reasonably open to a provider to take • the complaint is currently part of legal action undertaken by the ACCC and the DET • a complainant is referred to a tuition assurance operator to seek redress, or • a provider has agreed to re-credit a complainant’s student loan. This also includes when the complainant is not sufficiently connected to the complaint, such as when a person calls on behalf of another person without their knowledge or consent.
Decision not to investigate further	After commencing an investigation or further assessment of a complaint, we decided that further investigation was not warranted for any reason, including if the provider had provided an appropriate remedy.

Out of jurisdiction	Complaints about a matter which the Office has no legal power under the Act to investigate. We typically provide referrals to the relevant oversight body in these instances.
Case lapsed or withdrawn	The complainant cannot be contacted, does not respond to requests for information or does not wish to pursue their complaint.
Directed to other oversight body, advice body or tribunal	The complaint would be better dealt with through an external avenue such as the DET, the Administrative Appeals Tribunal or the complainant was referred to an advice or advocacy body.

In quarter four, we closed 251 complaints (that included 408 issues) at the initial approach and assessment categories with an outcome of ‘decision not to investigate’.

The table below outlines the reasons we declined to investigate each issue:

Reason to close under ‘decision not to investigate’	Description	Number of issues
Action is being considered by Court	The Office decided not to investigate because the provider is subject to legal action, such as instances where the complaint is currently part of legal action undertaken by the ACCC and the DET.	209
Complainant was referred to the tuition assurance operator	The Office declined to investigate as the complainant had an avenue of redress with a tuition assurance operator.	62
Action was reasonably open to the provider to take	The Office decided not to investigate because it determined, on the information available, that the provider acted in a way that was both reasonable and open to it.	59
Decision was reasonably open to the provider to make	The Office decided not to investigate after assessing the information available that the provider made a decision that was reasonable and open to it under the relevant legislation.	29
Other	Instances where one of the above reasons do not apply, for example when the Office referred complainants to the DET to obtain details of their VET loan assistance debts.	25
Provider provided an appropriate remedy	The provider gave a remedy for the complainant without the need for the Office to investigate.	23
Insufficient interest	The complainant was not sufficiently connected to the complaint, for example a person calls on behalf of	1

	their neighbour without the neighbour's permission.	
Total		408

Investigations

We included a description of our investigation process in the [quarter three update](#).

As of 30 June 2018, the Office had sent 188 notices under s 8 of the Act to providers or liquidators/administrators. Of these, 38 notices were sent in quarter four. In the function's first year of operation, we finalised 44 investigations. Of these, nine were finalised in quarter four.

Our investigations had the below outcomes.

Investigation outcome	Description of outcome	Number of finalised complaint investigations
No remedy required	The investigation did not result in a re-credit or other remedy for the complainant. Typically, in these cases, we have found that we are satisfied with the provider's explanation of its actions and decided not to investigate further.	18
Debt waived or reduced	The investigation resulted in a provider re-crediting a person's VET loan assistance debt, either in part or in full.	16
Other non-financial remedy	There was no re-credit made as a result of the investigation, but another remedy was offered by the provider such as extending a student's study period without charge or issuing a student's completion certificate.	4
Provider undertook to reconsider matter	As a result of our investigation, the provider agreed to reconsider the decision and/or action, for example, to conduct a fresh review of the complaint.	3
Better explanation by provider	Where we secure a better explanation from a provider about its decisions or actions, through our investigation.	2
Action expedited	The investigation resulted in the provider expediting a delayed action, for example, the processing of an application.	1
Total		44

Evidence update

As highlighted in previous quarterly updates, the lack of evidence for complaints about unavailable providers has been challenging for us. Through a procurement process in quarter four, we obtained access to over 400,000 records relating to the enrolments of students at a large unavailable provider. In 2018–19, we will use these records to assess and investigate complaints received about this provider and in our assessment of systemic issues.

We will continue to work with other government agencies to obtain information to assist in our further assessments and investigations of complaints. We expect to be able to progress more investigations in future quarters with access to alternative data sources.

Preliminary Inquiries

We can make preliminary inquiries of a provider in order to establish jurisdiction and to decide whether to investigate a complaint under s 7A of the Act.

In April 2018, the Office reintroduced the practice of making preliminary inquiries as an alternative to conducting more resource-intensive investigations into complaints. We have found that the use of preliminary inquiries has been an efficient and effective way of clarifying simple matters with providers. Through preliminary inquiries we ask providers to:

- advise if a complaint/internal appeal has been made or finalised, and what the outcome of that process was or when will the student receive a response
- provide a copy of the outcome of a complaint or internal appeal (such as a decision letter)
- provide a copy of a superseded or current policy documents that are not publicly available
- advise if it took action following a warm transfer¹ from our Office
- provide enrolment information or proof of engagement in a course
- confirm its preferred point of contact.

We request that providers respond to preliminary inquiries within five working days and to investigation questions within 28 days. In quarter four, we made four preliminary inquiries of providers. We expect that this number will increase in 2018–19.

Australian Competition and Consumer Commission cases

The ACCC and the DET have taken legal action in the Federal Court of Australia (the Court) against four 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 in relation to the enrolment practices of these providers. Orders sought include that the providers cancel the debts of students enrolled within specific periods and repay the money to the Commonwealth.

We decided not to investigate complaints about enrolment practices from students who were enrolled with these providers during the periods being considered by the Court. Subject to the decision of the Court, these actions may result in loans being re-credited, however complainants are invited to return to us if their complaint is not resolved through the Court action.

As at 30 June 2018 the Office had received 677 complaints relating to the enrolment practices of the four providers subject to the ACCC and the DET legal action.

¹ A warm transfer refers to instances when we give the provider the complainant's contact details and summary of their complaint so the provider can directly contact the complainant and handle the complaint.

Process to defer debts with the Australian Taxation Office

We have an arrangement with the ATO where complainants' compulsory student repayments can be deferred if there is sufficient evidence of provider misconduct. The complainant is made aware that the deferment is temporary, the debt remains and indexation continues to accrue unless the debt is re-credited or otherwise cancelled.

As at 30 June 2018, the Office had referred 1,844 complainants to the ATO for deferment of their loan repayments for the 2016–17 financial year. In July 2018, we contacted all complainants that were eligible for a rollover of existing deferments for the new financial year and provided instructions on how to do this.

Complaints relating to the VET Student Loans program

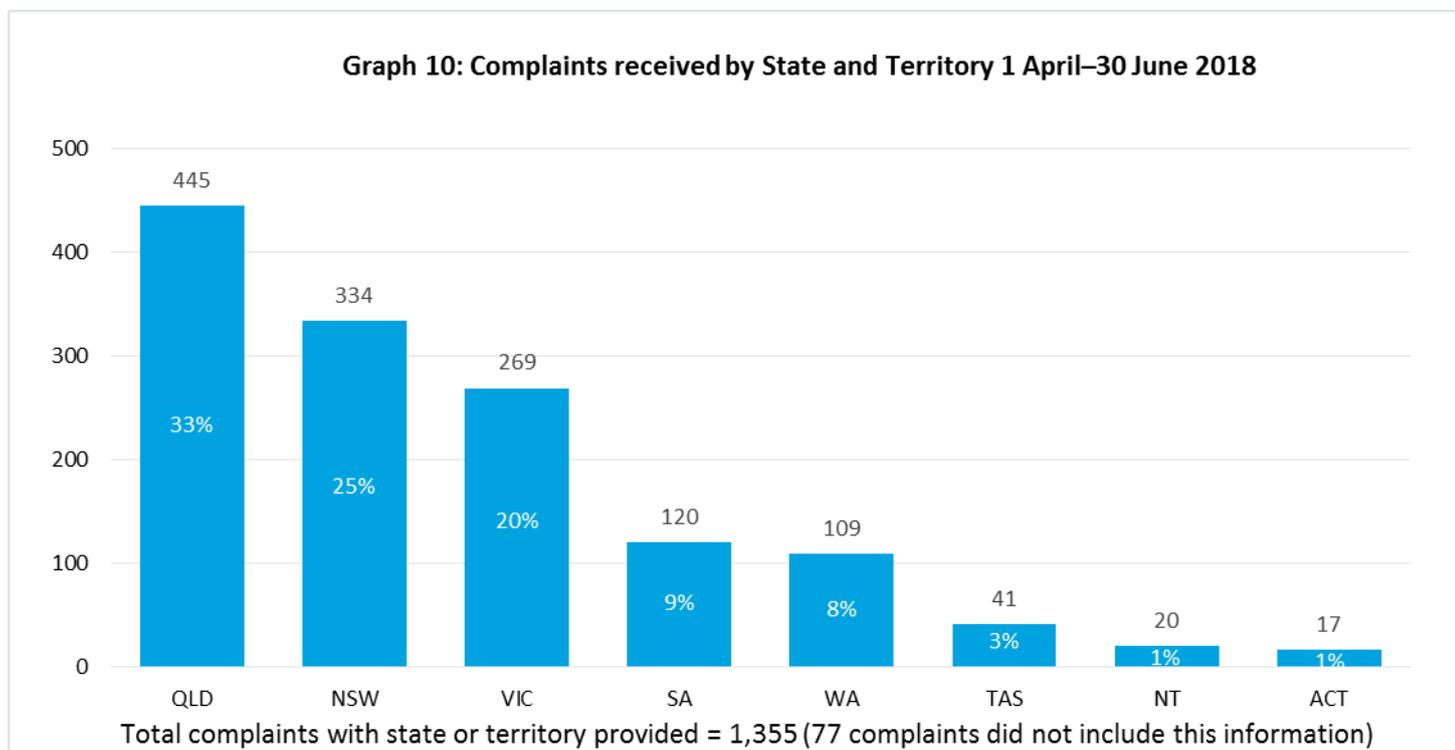
As at 30 June 2018, we had received 78 complaints relating to the VET Student Loans program. The most common issues identified through these complaints are the loan amount including loan caps, complainants' applications for VET loan assistance, and course quality and cancellation.

Following initial analysis of our VET Student Loans program complaints, it appears that students do not understand the importance of the census date for their course and the requirement to pay tuition fees that fall outside of the loan cap of their course. This is despite providers giving students information on both topics. We will discuss these issues with providers through our stakeholder engagement in 2018–19 which is discussed further below.

As at 30 June 2018, 55 VET Student Loans program complaints were closed at the assessment category, 20 remained open at the assessment category and three complaints were escalated to the investigation/further assessment category. The three complaints relate to the conduct of unavailable providers. We will seek alternative sources of information to attempt to resolve these complaints. We provide regular updates to these complainants and do not consider that any delay in obtaining information will pose further risk to them or other students as the providers no longer operate.

Complaints received by state and territory

During quarter four, we received complaints from people in each state and territory in Australia as outlined in Graph 10.



Stakeholder Engagement

In June 2018, we presented two sessions at the DET's Higher Education Loan Program (HELP) workshops. We gained valuable insight into how best to support providers and will use this information to inform our best practice complaint-handling education sessions. We will commence delivery of a program of training sessions to VET Student Loans program providers in 2018–19.

Outlook

In previous quarterly updates, we predicted that we would receive an increase in complaints from July to October each year when tax returns are due. We received a larger increase in complaints than expected with 1,772 complaints received in July 2018 compared to 1,153 in July 2017.

Due to this influx of complaints, we will again focus on processing complaints where there is an external pathway available to the complainant. This is similar to the approach we took in quarters one and two 2017–18.

In 2018–19 we expect to use the data obtained through the procurement of student records to assist in our assessment of complaints received about unavailable providers. We also expect to procure student data from other unavailable providers in 2018–19.

We received an additional \$1 million in the 2018–19 Australian Government Budget to support the increased workload of the function. This has allowed us to engage additional dispute resolution officers to handle currently open complaints and the increased number of complex complaints we expect to receive in 2018–19.

From 1 July 2018, the compulsory repayment threshold for income contingent student loans was reduced from \$55,874 to \$51,957. This may have influenced the increased number of complaints we received from 1 July 2018. It is likely that the reduction in the compulsory repayment threshold from 1 July 2019 to \$45,881 will lead to a further increase in complaints, as more students with debts they are unaware of will be captured in compulsory repayments.² This legislation passed Parliament in August 2018 and will affect complainants in the 2019–20 financial year.

More information is available at ombudsman.gov.au.

² [Higher Education Support Legislation Amendment \(Student Loan Sustainability\) Bill 2018](#).

The data in this update was extracted on 16 July 2018. This update provides data for the period 1 July 2017 to 30 June 2018, the same period that will be reported in the Office's 2017–18 Annual Report which will be released in October 2018 and had an extract date of 3 July 2018. Due to different extract dates, there may be minor differences in the data presented in this update compared to the annual report.