

Quarterly Update: 1 January–31 March 2021

Executive Summary

This is the third quarterly update for the 2020–21 financial year for the Office of the Commonwealth Ombudsman’s (the Office’s) Overseas Students Ombudsman function.

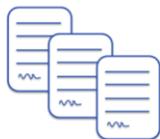
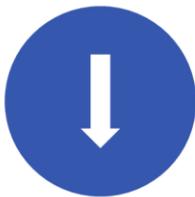
In its Overseas Students Ombudsman role, the Office can investigate actions taken by education providers in connection to intending, current or former student visa holders. The Office provides education providers with advice and training about best practice complaint handling as well as reports on trends and systemic issues arising from complaints.

The 1 January–31 March 2021 quarterly update:

- provides statistical data on complaints we received and finalised, and key issues raised by international students
- compares complaint data against previous quarters
- outlines the action we took to finalise complaints we received.

Quarterly update at a glance

31% decrease in complaints received this quarter compared with same time last year



Fee and refund disputes continue as the most significant complaint issues (38%)

Our view on complaint issues investigated and finalised:

57%

provider met responsibilities

32%

provider did not meet responsibilities

11%

no view required

This quarter we finalised

232

complaints including

53

investigations

Complaints arising from COVID-19 pandemic

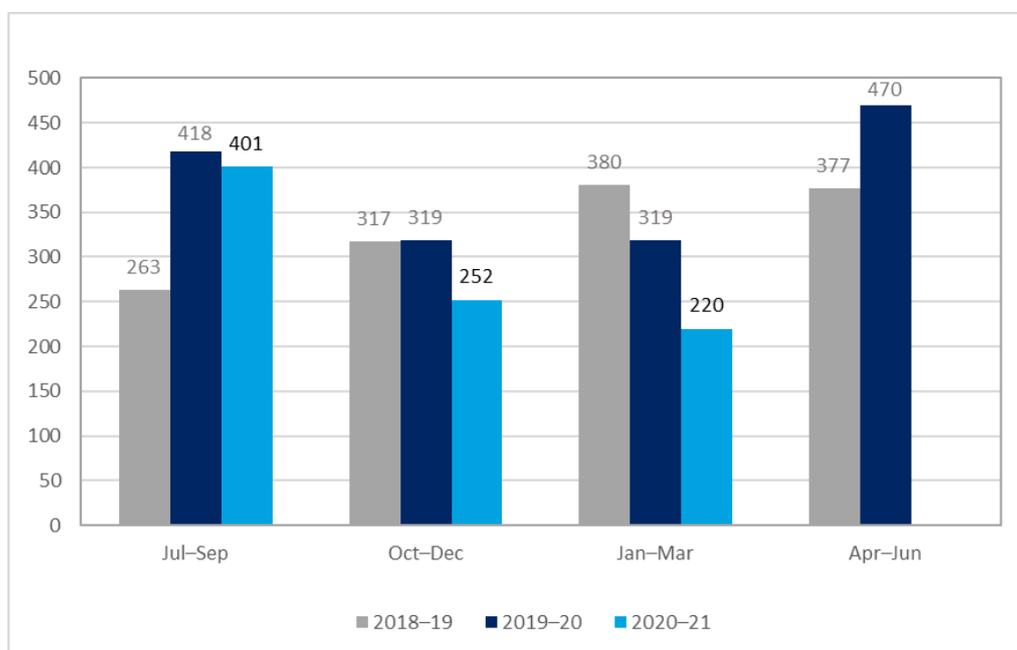
The Office continues to receive complaints from international students about providers' actions or decisions in response to the COVID-19 pandemic. During the 1 January–31 March 2021 quarter, we received 26 complaints from students impacted by mode of study changes, financial hardship, or border closures as a result of the pandemic.

Most commonly, students sought refunds for pre-paid course fees (46 per cent) and support to continue studying despite financial and logistical difficulties (19 per cent).

Complaints and enquiries received

During the 1 January–31 March 2021 quarter, we received 220 complaints and enquiries from international students enrolled with private registered education providers (see **Figure 1**). This is a 31 per cent decrease compared to the same period last year. This downward trend was not unexpected given the decreased number of international students currently in Australia due to the pandemic.

Figure 1—Complaints and enquiries received 2018–19, 2019–20 and 2020–21

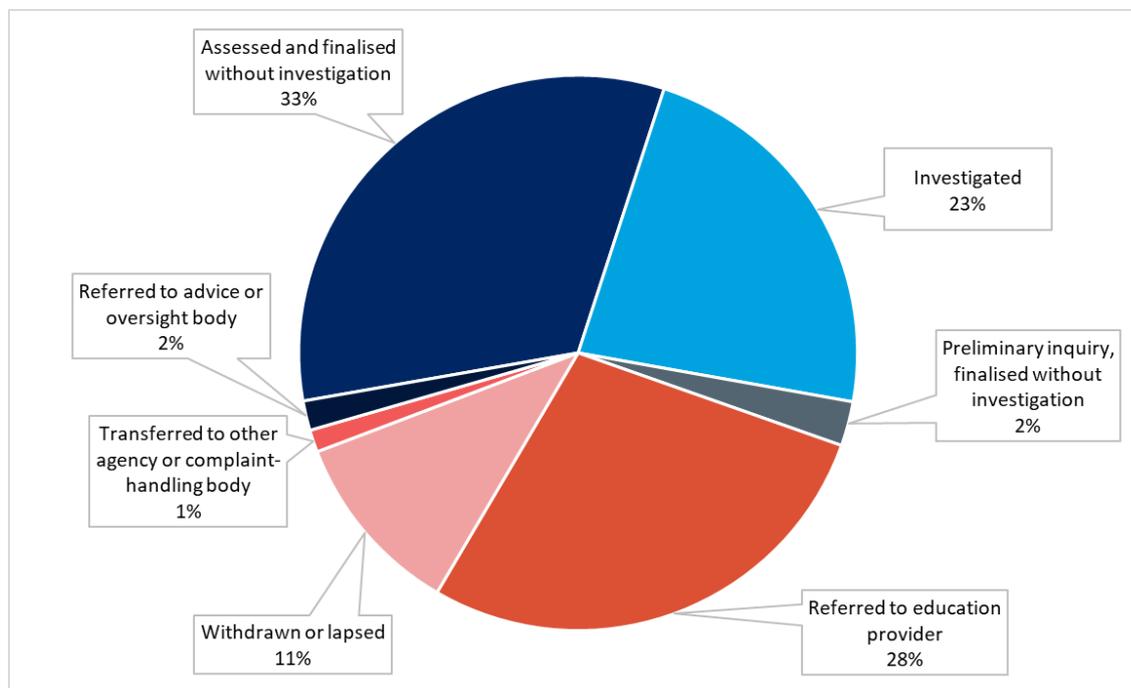


Action taken to finalise complaints

During 1 January–31 March 2021, we finalised 232 complaints which included 281 issues. Some complaints finalised during this period were received during previous quarters.

Figure 2 provides a summary of the actions we took to finalise complaints in the quarter. More information on how we finalise complaints can be found in an earlier quarterly update [here](#).

Figure 2—How we finalised complaints in the quarter



Did providers meet their responsibilities?

During 1 January–31 March 2021, we finalised 53 complaint investigations which included 65 issues. **Table 1** details our views as to whether providers met their responsibilities for investigations finalised during the period.

Table 1—Views on finalised investigations: 1 January–31 March 2021

View	Total issues	%
Provider substantially met responsibilities	37	57
Provider did not substantially meet responsibilities	21	32
No view (see below)	7	11

We do not always form a view about whether the provider substantially met their responsibilities. This is usually because the issue was resolved between the student and provider during the investigation, or the investigation was otherwise discontinued. For example, because the provider ceased operating, the student withdrew their complaint, or we decided that further investigation of that issue was unlikely to lead to a different outcome for the student.

Comments and suggestions

At the conclusion of a complaint investigation, we can make comments and suggestions to providers in relation to the specific remedies or improvements that could be made to the provider's policies or processes.

During 1 January–31 March 2021, we made 15 suggestions to providers, covering issues such as accessibility of complaints and appeals processes, improved wording of clauses in written agreements, and improvements to policies and procedures to ensure compliance with relevant legislation.

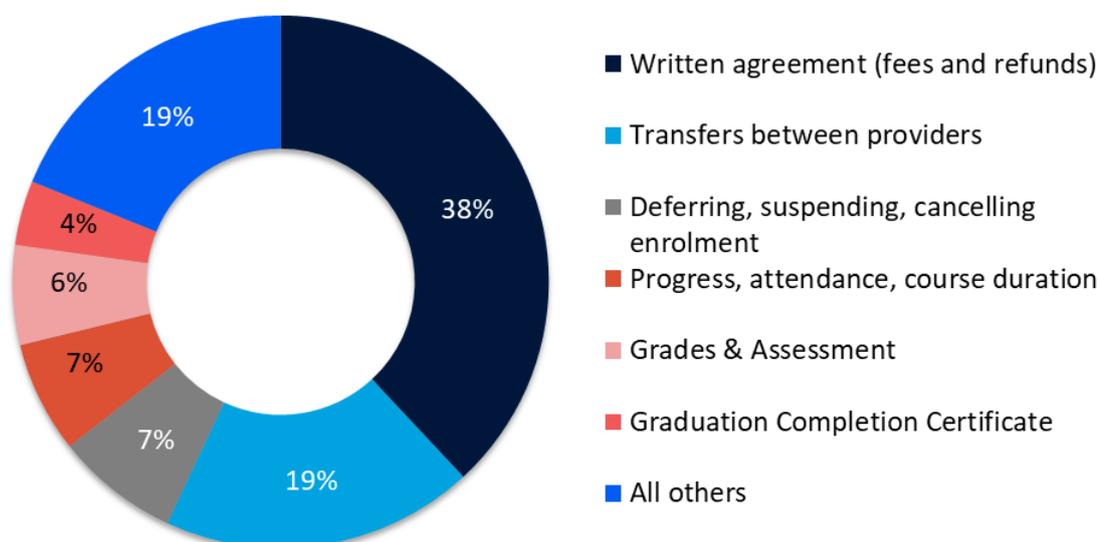
Complaint issues

Written agreements (fees and refunds) continue to be the most common complaint issue (38 per cent). These complaints are generally due to students seeking a refund of pre-paid tuition fees where they ceased their study before finishing their course. The student's ability to seek a refund should be stated in their written agreement with their provider¹.

Transfers between providers (19 per cent) and deferring, suspending, and cancelling enrolment (7 per cent) were the next most common issues raised in complaints to our Office.

Figure 3 below shows common complaint issues raised in complaints during the quarter. Detailed data about complaint issues finalised during 1 January–31 March 2021, including comparisons with the previous quarter, can be found in **Table 3** on page eight.

Figure 3—Common complaint issues: 1 January–31 March 2021

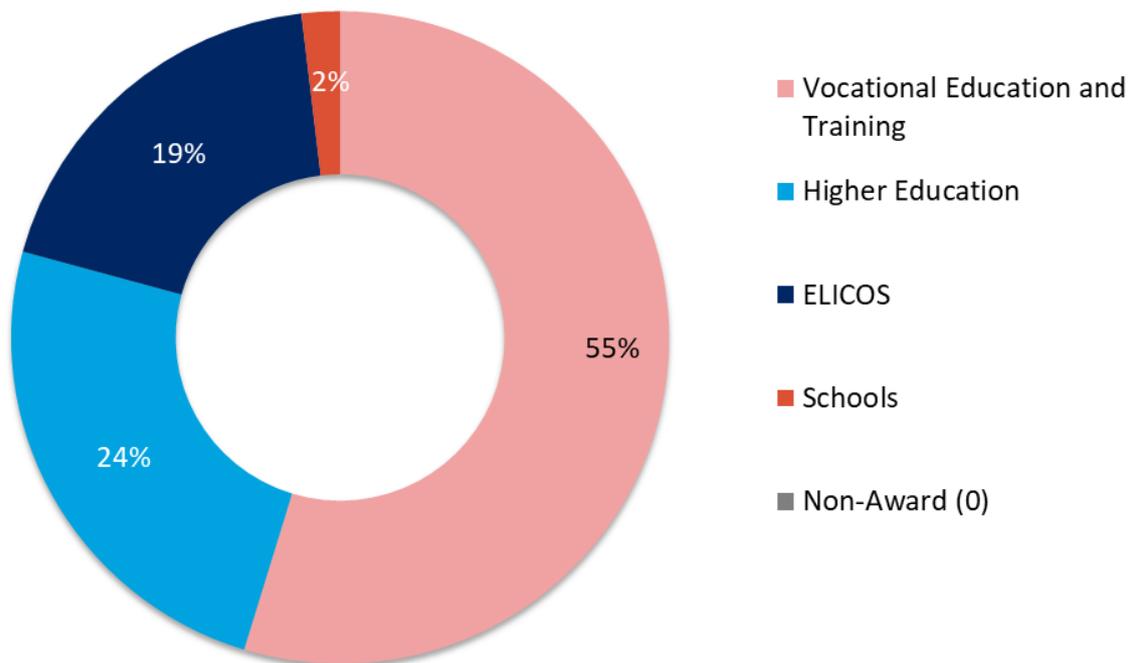


¹ National Code of Practice for Providers of Education and Training to Overseas Students 2018 standard 3.4.

Complaints investigated by education sector

The Vocational Education and Training (VET) sector continues to be the sector we investigate most, with 55 per cent of investigated complaints coming from students studying VET courses. However, the VET sector also has the highest proportion of international students in the Office’s jurisdiction (74 per cent), followed by the Higher Education sector (20.5 per cent) (see **Table 4** on page nine).

Figure 4—Complaints investigated by sector: 1 January–31 March 2021²

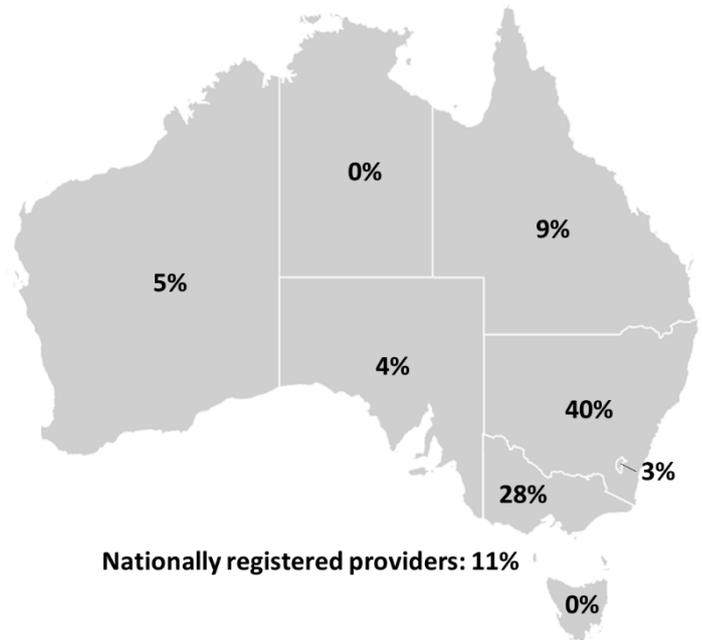


² English Language Intensive Courses for Overseas Students (ELICOS).

Complaints by registered state or territory

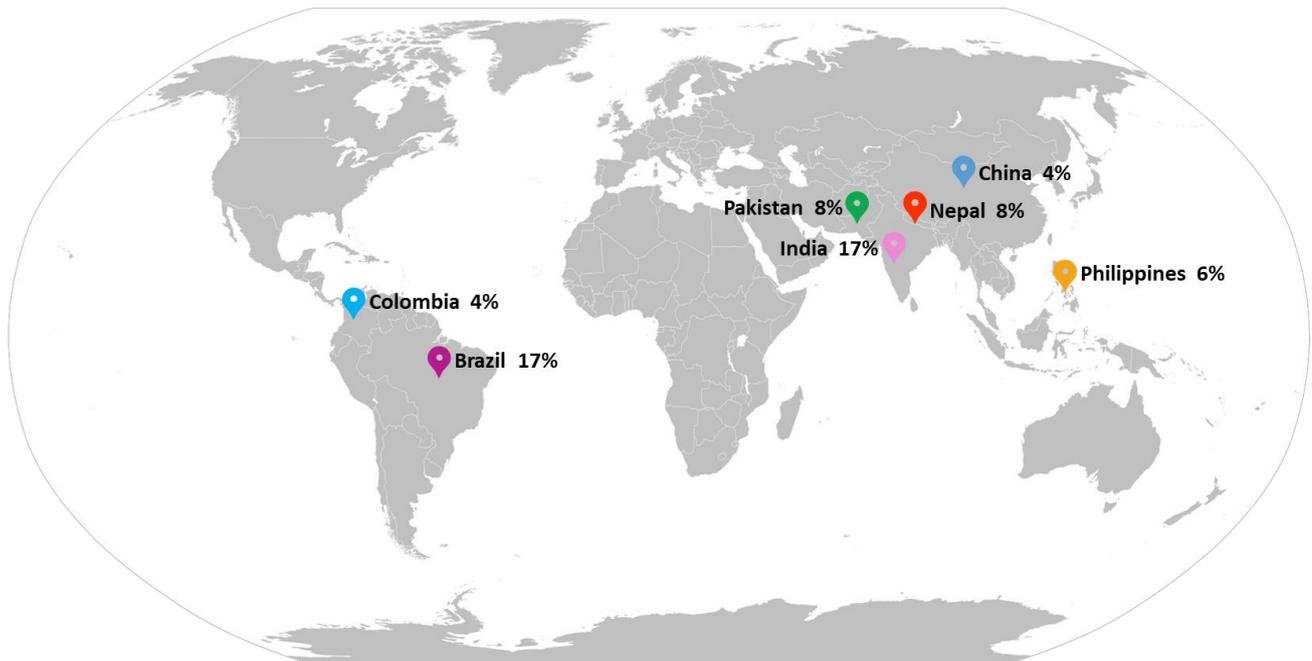
Providers registered in Victoria and New South Wales were the two largest groups of complaints received by our Office.

This is consistent with the higher number of students studying in these states (see **Table 6** on page 10).



Complaints investigated by complainant’s home location

We investigated and finalised complaints from students originating from 20 different countries and administrative regions during the quarter. The largest groups of complainants were from India and Brazil.



Case study

We received a complaint from a student who had enrolled in an Advanced Diploma of Business using the provider's recommended agent. The student paid \$1,500 towards the cost of the course which was due to start in late 2020.

A few weeks after paying the deposit, the student told the provider that they wished to withdraw from the course and requested a refund of their pre-paid fees. The provider refused the student's request and advised the student that the course had already commenced earlier that week. The provider requested an additional \$350 in cancellation fees according to the written agreement the student had signed with the provider.

The student appealed the provider's decision, stating that they had not received any pre-enrolment information or communication from the provider confirming their commencement date, noting the provider's email address recorded for them was incorrect. The student also denied having a written agreement with their provider.

After unsuccessfully appealing through the provider's internal process, the student approached our Office.

We examined the student's written agreement with the provider which included the cancellation and refund policy.

The student said they did not accept and sign the letter of offer/written agreement, however there was an electronic signature shown on the agreement. The student believed the education agent had signed this on their behalf, highlighting that their name had been misspelt and the signature was not theirs.

The provider explained that the agency assisted students without printers by asking them to visit their premises to sign electronically on their computers. The agency kept no specific records of students attending to sign. The provider considered that as the student was communicating electronically with the agent, this showed an acceptance of electronic communication generally, extending to acceptance of electronic recording of their signature.

We considered the response from the provider and the requirements of Standard 3 of *the National Code of Practice for Providers of Education and Training to Overseas Students 2018* (National Code), in particular the clauses requiring a student to sign or otherwise accept the written agreement.

We formed the view that the student had not accepted the terms of the written agreement. We did not form a view on whether the student was aware of their commencement date.

The provider accepted our view and refunded the pre-paid fees.

Commentary

Written agreements must be signed or otherwise accepted by students over the age of 18.³ We often accept alternatives to handwritten signatures to demonstrate acceptance by students, for example:

- an email from the student attaching the written agreement containing their electronic signature and confirming acceptance of the agreement in the text of the email.
- use of electronic signature software which keeps a verifiable audit trail of the signature.

The situation described in this complaint, where there was no record of the student accepting the agreement other than the agent's description and the student's misspelt name, was not sufficient to demonstrate that the student had accepted the agreement. In such circumstances, providers are required to refund the student in accordance with s 47E of the *Education Services for Overseas Students Act 2000*.

³ *National Code of Practice for Providers of Education and Training to Overseas 2018* Standard 3.1.

Timeframes to finalise complaints

During 1 January–31 March 2021, we finalised some older, more complex complaints and fell slightly short of some of our complaint handling service standards as displayed in **Table 2**. We strive to meet our standards by actively monitoring complaint progress and looking for ways to improve finalisation timeframes while maintaining quality of complaint handling.

Table 2—Complaint handling service standards: 1 January–31 March 2021

Complaints finalised	Timeframe	Service standard
76%	Within 30 days	75%
80%	Within 60 days	85%
88%	Within 90 days	90%
99%	Within 12 months	99%

Detailed data regarding finalised complaints

Table 3—Complaint issues for complaints finalised 1 October–31 December 2020 and 1 January–31 March 2021

Issue	Issues raised in complaints finalised in October December 2020	Issues raised in complaints finalised in January March 2021
Formalisation of enrolment (written agreement)	159	107
Transfers between registered providers	49	53
Deferring, suspending or cancelling enrolment	31	21
Progress, attendance and course duration	36	19
Grades/assessment	21	17
Graduation Completion Certificate	18	11
Marketing information and practices	3	10
<i>Out of jurisdiction to investigate (OOJ)</i>	11	8
Complaints and appeals	17	8
Academic Transcript	3	8
Student support services	1	5
Discipline	1	4
Records management	3	3
Education agents	0	3
Recruitment of overseas student	5	1
Provider default	4	1
Bullying or harassment	3	2
Overseas Student Health Cover	3	0

Issue	Issues raised in complaints finalised in October December 2020	Issues raised in complaints finalised in January March 2021
TOTAL	368	281

Table 4—Complaints investigated and finalised: 1 October–31 December 2020 and 1 January–31 March 2021 by education sector

Sector	No. of students ⁴	% of total number of students	Complaints investigated and finalised October December 2020	% of complaints investigated and finalised	Complaints investigated and finalised January March 2021	% of complaints investigated and finalised ⁵
VET	160,156	74%	62	57%	29	55%
Schools	5,457	2.5%	2	2%	1	2%
ELICOS	5,188	2.5%	17	16%	10	19%
Higher Education	44,277	20.5%	23	21%	13	25%
Non-Award	781	0.5%	4	4%	0	0%
TOTAL	215,859	100%	108	100%	53	100%

Table 5—Most common issues for complaint investigations finalised: 1 January–31 March 2021 by education sector

Sector	Issue 1	Issue 2	Issue 3
VET	Written agreements	Transfers	Progress, attendance and duration
Schools	Written agreements		
ELICOS	Written agreements	Deferring, suspending, cancelling enrolment	Progress, attendance and duration
Higher Education	Written agreements	Transfers	Deferring, suspending, cancelling enrolment
Non-award	No investigations finalised		

⁴ Number of 'Studying Confirmations of Enrolment' (CoEs) in Overseas Students Ombudsman jurisdiction by 'main course sector'. Provider Registration and International Student Management System (PRISMS) report as at 21 April 2021.

⁵ Total does not appear to equal 100% due to rounding.

Table 6—Registered state or territory of providers for complaints finalised: 1 October–31 December 2020 and 1 January–31 March 2021

State/Territory	Complaints finalised October December 2020	Number of registered providers ⁶	Complaints finalised January March 2021	Number of registered providers ⁷
New South Wales	117	351	94	358
Victoria	125	306	65	317
Queensland	56	294	20	293
Western Australia	18	81	11	81
South Australia	14	75	10	74
Australian Capital Territory	1	18	6	21
Tasmania	2	10	0	11
Northern Territory	4	7	1	7
National (provider may operate nationally)	31	27	25	27
Total	368	1,169	232	1,189

Data

The data in this update is for the period 1 January–31 March 2021. Our data is dynamic and may be updated if new information comes to light. For this reason, there may be minor differences in data when compared to what was reported in the last quarterly update. Previous quarterly updates are available on the Ombudsman’s [website](#).

More information is available at ombudsman.gov.au/How-we-can-help/overseas-students

⁶Number of education providers in Overseas Students Ombudsman jurisdiction by ‘main course sector’. PRISMS report, as at 4 January 2021.

⁷Number of education providers in Overseas Students Ombudsman jurisdiction by ‘main course sector’. PRISMS report, as at 21 April 2021.