

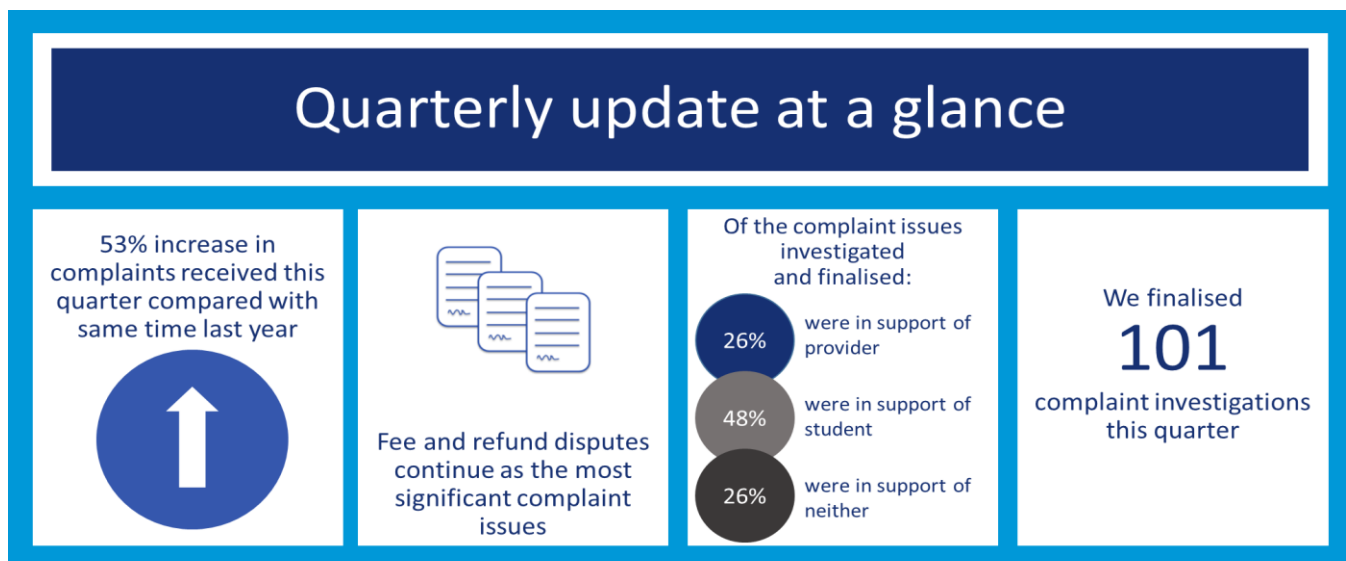
Quarterly Update: 1 April–30 June 2019

About the Commonwealth Ombudsman

The Office of the Commonwealth Ombudsman (the Office) has three main functions in its Overseas Students Ombudsman role. They are to:

- investigate complaints about actions taken by private registered education providers in connection with intending, current or former student visa holders
- give private registered providers advice and training about best practice complaint-handling for international student complaints
- report on trends and systemic issues arising from our complaints.

This update sets out our activities for the 1 April–30 June 2019 period in relation to each of these functions.¹

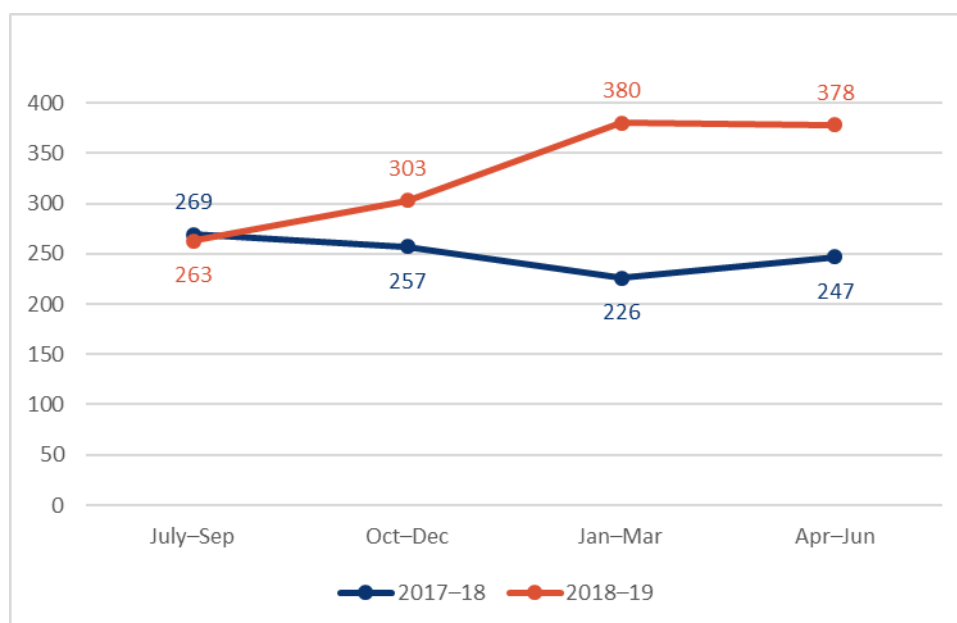


¹ Official statistics relating to the 2018–19 reporting year will be published in the 2018–19 Commonwealth Ombudsman Annual Report.

Complaints received

During 1 April–30 June 2019, we received 378 complaints from international students studying with privately registered education providers. This represents a 53 per cent increase compared to the same time last year. While the increase in complaints is significant, it is relatively small when compared to the 622,050 international students studying in Australia in May 2019². We expect the increase in complaints received by our Office relates to the increase in international students studying in Australia and an increase in our outreach activities undertaken during the financial year. These activities included targeted engagement with providers, students and education agents to increase awareness of our services.

Figure 1—Complaints received from 1 July 2017–30 June 2019



Complaints and issues finalised

During 1 April–30 June 2019 we finalised 360 complaints which contained 420 issues. Some complaints finalised during this period were received during previous quarters. Of the 360 finalised complaints we:

- investigated 101 complaints, which included 144 issues. The most common issue complained about was provider decisions not to issue refunds and other fee disputes (written agreements)
- declined to investigate 259 complaints which included 276 issues. In most of these cases we asked the student to first make their complaint to their education provider, we transferred the student's complaint directly to their education provider (assisted referral), or we declined to investigate for other reasons, for example where we decided that investigation was unlikely to provide a remedy for the student.

Detailed data about complaint issues finalised during 1 April–30 June 2019, including comparisons with the previous quarter can be found in Table 2 on [page eight](#) of this update.

Investigation outcomes

During 1 April–30 June 2019, we finalised 101 complaint investigations which included 144 issues. Table 1 shows which party our investigation outcome supported for all complaints finalised during the period.

² See Australian Trade and Investment Commission, monthly summary of international student data <https://www.austrade.gov.au/Australian/Education/Education-Data/Current-data/summaries-and-news>

Table 1—Issue outcomes for investigations finalised in 1 January–31 March 2019

| Party investigation outcome supported | Total issues | % |
|---------------------------------------|--------------|----|
| Student | 70 | 48 |
| Provider | 37 | 26 |
| Neither | 37 | 26 |

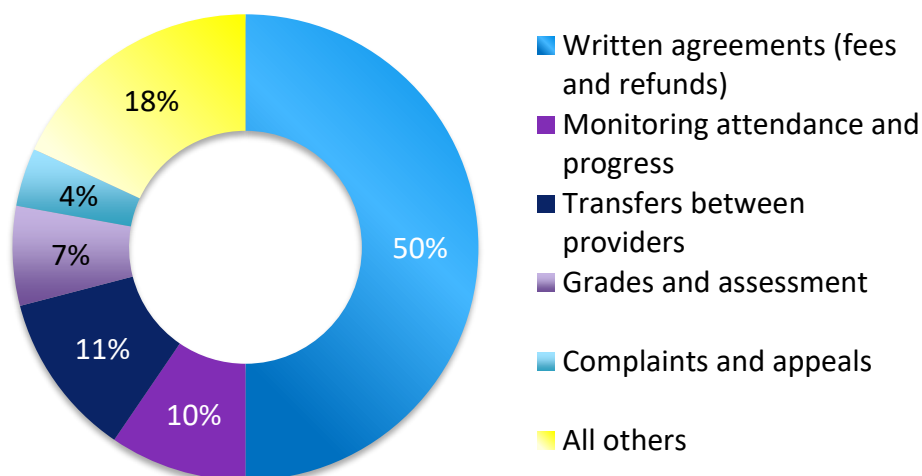
Table 1 shows that 26 per cent of issue investigation outcomes were not found to be in support of the student or the provider. This can be for the following reasons:

- the issue was not investigated, even though other issues complained about were investigated
- the issue was resolved between the student and provider during the course of the investigation
- the investigation of that issue was ceased before a determination could be made.

Complaint issues

Written agreements (fees and refunds) continue as the number one complaint issue. They are commonly due to students seeking a refund of pre-paid tuition fees when they have ceased their study before finishing their course. Students' ability to seek this refund should be stated in their written agreement with the provider. Student attendance and course progress monitoring, and transfers between registered providers were the next most common issues raised in complaints to our Office.

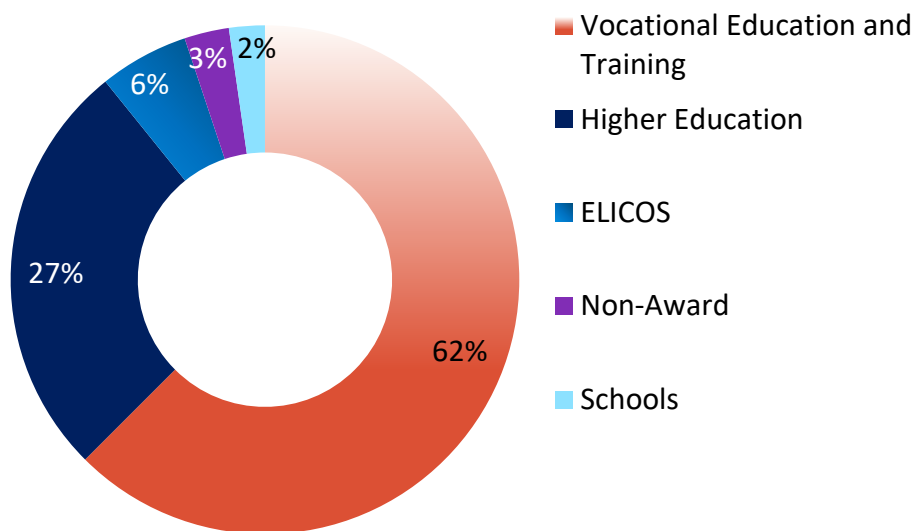
Figure 2—Common complaint issues: 1 April 30–June 2019



Complaints by education sector

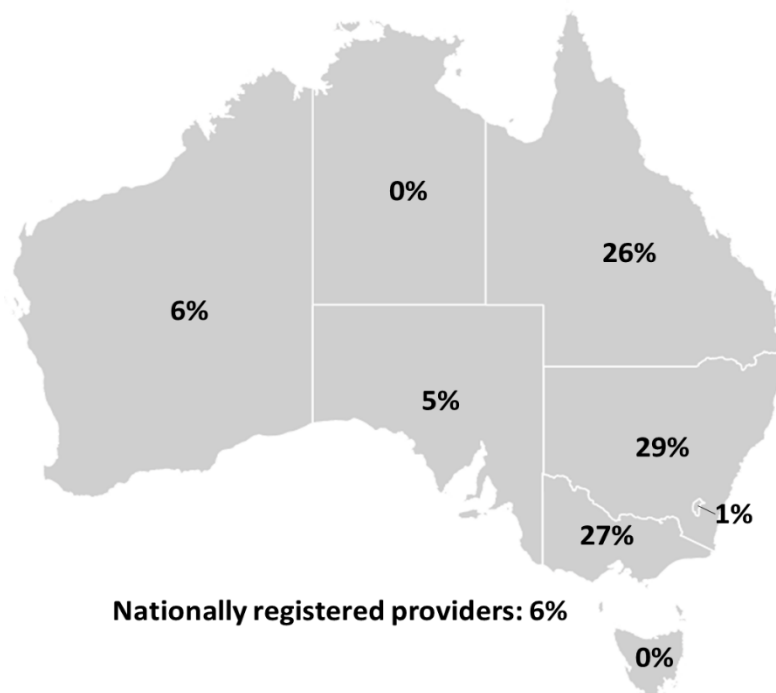
The Vocational Education and Training (VET) sector continues to be the most commonly complained about sector, however it also has the highest number of registered private providers.

Figure 3—Complaints investigated by sector: 1 April 30–June 2019



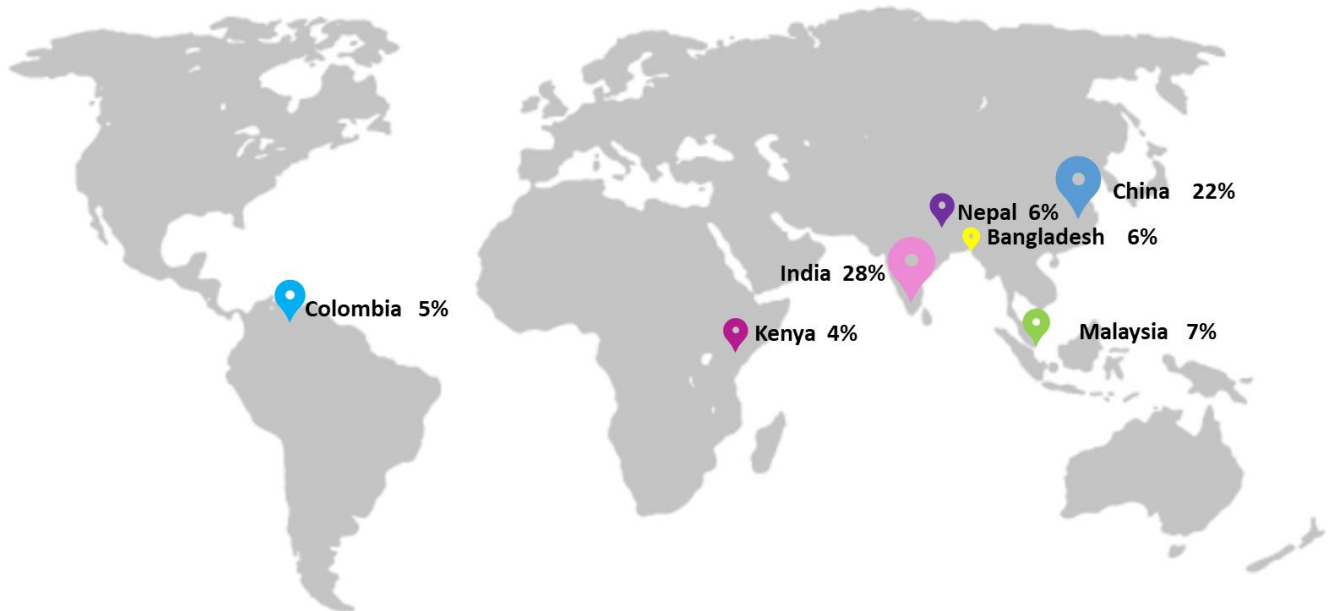
Complaints by registered state or territory of providers

Providers registered in New South Wales, Victoria and Queensland made up the three largest groups of complaints received by our Office. This is consistent with the higher number of students studying in these states.



Complaints investigated by origin of complainant

The complainants' cases we investigated and finalised during 1 April–30 June 2019 originated from 30 different countries and administrative regions. The largest groups of complainants were from India and China.



Complexity

Some investigations take longer than others. The length of the investigation varies depending on the complexity of the case and the responsiveness of the student and education provider.

We continue to look for ways to reduce complaint resolution times while maintaining best practice in complaint-handling.

During 1 April–30 June 2019, we finalised complaints within the following timeframes:

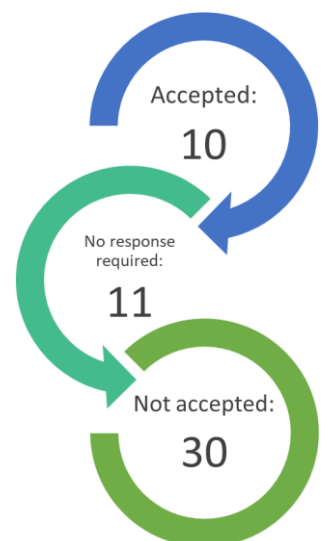
- 73 per cent of complaints were finalised within 30 days
- 13 per cent were finalised within 31–60 days
- 14 per cent were finalised within 61 days or more
- On average we finalised complaints within 29 days.

Comments and suggestions

At the conclusion of an investigation, we can make comments and suggestions to providers in relation to the specific remedies or improvements to the provider's policies or processes.

During 1 April–30 June 2019, we made 51 comments to providers for improvements or reconsideration of an earlier decision.

This quarter, 30 of our suggestions were not accepted by the education provider. In 29 cases, these related to the same education provider, which had not issued refunds to students who had had their visa application refused. As this provider did not comply with the requirements of the *Education Services for Overseas Students Act 2000* (ESOS Act) to refund such students within 28 days, or Standard 10.4 of the National Code of Practice for Providers of Education and Training to Overseas Students (the National Code) to immediately implement our decision or recommendation, we disclosed this non-compliance to the Australian Skills Quality Authority, and the Tuition Protection Service, who arranged refunds for the students.



Case study: refund after death of a student

We received a complaint from a law firm on behalf of Mei³, an international student who had passed away while studying in Australia. The law firm had tried to obtain a refund of fees from Mei's provider to be paid to Mei's estate. We had previously attempted to facilitate contact between the law firm and the provider through our assisted referral process, however the law firm advised us that it had not received contact from the provider within a reasonable timeframe.

In response to our investigation questions, the provider explained that it had not responded to the law firm, as it had been seeking independent legal advice about its obligations following the death of a student, and had not yet finalised its decision.

After assessing the circumstances of the complaint, we found that the provider should issue a refund to Mei's estate under the *student default* provisions of s 47A (1)(b) of the ESOS Act. We wrote to the provider with our proposed decision. Following some discussion about the calculation of the proposed refund amount, the refund was paid to Mei's estate.

This case highlights the need for timely responses to complaints, even if the complaint cannot be resolved immediately. An update to the law firm advising that the provider was seeking independent legal advice is a reasonable expectation in the circumstances, and may have prevented the need for the Ombudsman to become involved in this dispute.

Disclosures to regulatory bodies

Under s 35A of the *Ombudsman Act 1976*, the Ombudsman may make disclosures to regulatory bodies or public authorities where it is in the public interest to do so. We made three disclosures under s 35A during the 1 April–30 June 2019 period.

Submissions

Occasionally the Ombudsman may make submissions to government departments or parliamentary inquiries to inform development of new legislation and policy.

We did not make any submissions in this quarter. Previous submissions can be found on our [website](#).

Keep up to date with the latest news from the Ombudsman by signing up to our
Provider e-newsletter [here](#)

³ Name and other details changed to protect privacy

Detailed data regarding finalised complaints

Table 2—Complaint issues for complaints finalised 1 January –31 March 2019 and 1 April–30 June 2019.

| Issues | Complaint issues finalised Jan– Mar 2019 | Complaint issues finalised Apr–Jun 2019 |
|--|--|---|
| Formalisation of enrolment (written agreement) | 149 | 210 |
| Transfers between registered providers | 62 | 48 |
| Progress, attendance and course duration | 53 | 40 |
| Grades/assessment | 33 | 29 |
| Complaints and appeals | 6 | 17 |
| Academic Transcript | 12 | 16 |
| Deferring, suspending or cancelling enrolment | 15 | 14 |
| Graduation Completion Certificate | 4 | 9 |
| Education agents | 21 | 6 |
| Provider default | 10 | 6 |
| Recruitment of overseas student | 5 | 5 |
| Out of jurisdiction to investigate (OOJ) | 11 | 4 |
| Bullying or harassment | 1 | 4 |
| Discipline | 0 | 3 |
| Overseas Student Health Cover | 6 | 2 |
| Marketing information and practices | 3 | 2 |
| Student support services | 2 | 2 |
| Younger Students | 1 | 2 |
| Records management | 3 | 1 |
| TOTAL | 397 | 420 |

Table 3—Complaints investigated and finalised 1 January–31 March 2019 and 1 April–30 June 2019 by education sector

| Sector | No. of students ⁴ | % of total number of students | Complaints investigated and finalised Jan–Mar 2019 | % of complaints investigated and finalised | Complaints investigated and finalised Apr–Jun 2019 | % of complaints investigated and finalised |
|---------------------|------------------------------|-------------------------------|--|--|--|--|
| VET | 150,494 | 71% | 63 | 65% | 81 | 80% |
| Schools | 6,783 | 3% | 4 | 4% | 2 | 2% |
| ELICOS ⁵ | 21,433 | 10% | 14 | 14% | 9 | 9% |
| Higher Education | 32,001 | 15% | 12 | 12% | 9 | 9% |
| Non-Award | 949 | 1% | 5 | 5% | 0 | 0% |
| TOTAL | 211,660 | | 98 | | 101 | |

Table 4—Most common complaint issues for complaints investigated and finalised during 1 April–30 June 2019

| Sector | Issue 1 | Issue 2 | Issue 3 |
|------------------|-----------------------------------|--------------------|-----------------------------------|
| VET | Written agreements | Transfers | Progress, attendance and duration |
| Higher Education | Written agreements | Transfers | Progress, attendance and duration |
| ELICOS | Progress, attendance and duration | Written agreements | Transfers |
| Non-award | Written agreements | | |
| Schools | Written agreements | Younger students | Progress, attendance and duration |

⁴ Number of 'studying Confirmation of Enrolment' (CoEs) in Overseas Students Ombudsman jurisdiction by 'main course sector'. Excludes South Australian (SA) providers as, while they are in jurisdiction, we transfer complaints about SA providers to the Office of the Training Advocate. Provider Registration and International Student Management System (PRISMS) report as at 19 July 2019.

⁵ English Language Intensive Courses for Overseas Students.

Table 5—Registered state or territory of providers for complaints finalised 1 January–31 March 2019 and 1 April–30 June 2019

| State/Territory | Complaints finalised Jan–Mar 2019 | Number of registered providers ⁶ | Complaints finalised Apr–Jun 2019 | Number of registered providers ⁷ |
|--|-----------------------------------|---|-----------------------------------|---|
| New South Wales | 96 | 329 | 97 | 330 |
| Victoria | 129 | 297 | 92 | 303 |
| Queensland | 66 | 276 | 89 | 285 |
| Western Australia | 16 | 80 | 22 | 80 |
| National | 32 | 28 | 22 | 28 |
| Australian Capital Territory | 3 | 16 | 1 | 15 |
| South Australia | 8 | 76 | 17 | 77 |
| Northern Territory | 2 | 6 | 0 | 7 |
| Tasmania | 0 | 9 | 0 | 9 |
| Not recorded (provider or issue out of jurisdiction) | 1 | 0 | 20 | 0 |
| Total | 353 | 1,117 | 360 | 1,134 |

More information is available at [ombudsman.gov.au](https://www.ombudsman.gov.au)

⁶As above, as at 13 March 2019.

⁷As above, as at 19 July 2019.