

Quarterly Update: 1 July–30 September 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 July–30 September 2019 period in relation to each of these functions.¹

Quarterly update at a glance

59% increase in complaints received this quarter compared with same time last year



Fee and refund disputes continue as the most significant complaint issues

Our view on complaint issues investigated and finalised:



This quarter we finalised
443
complaints including
119
investigations

¹ Official statistics relating to the 2019–20 reporting year will be published in the 2019–20 Commonwealth Ombudsman Annual Report.

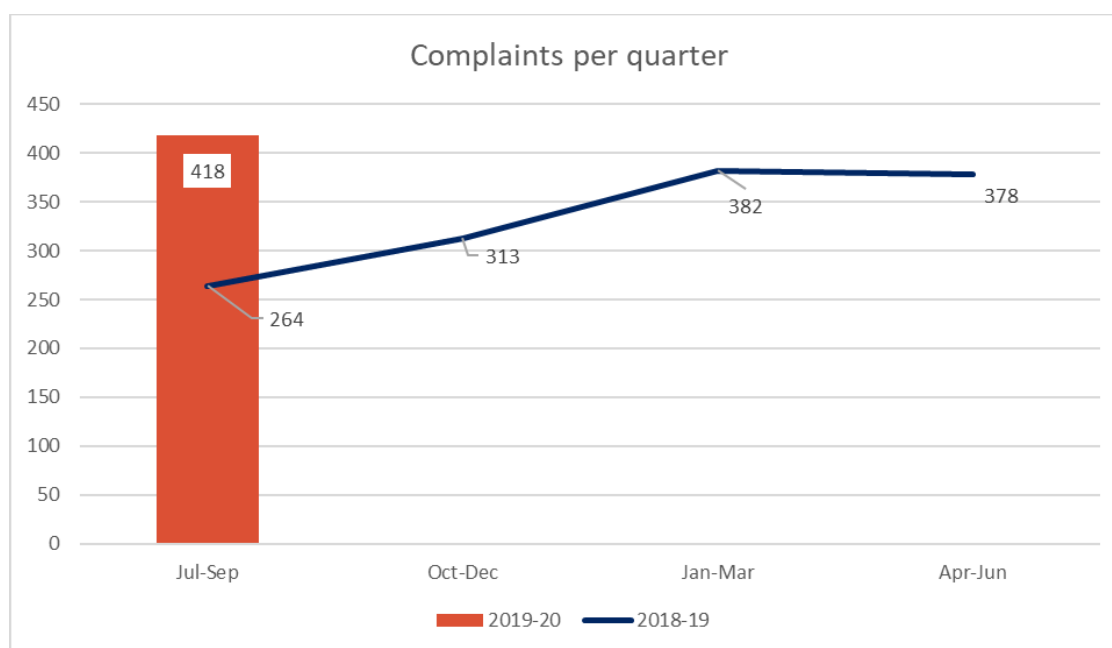
* Does not total 100% due to rounding

Complaints received

During 1 July–30 September 2019, we received 418 complaints from international students studying with privately registered education providers (see Figure 1). This represents a 59 per cent increase compared to the same time last year. While the increase in complaints is significant, it is a relatively small number when compared to the 684,754 international students in Australia in July 2019².

We expect that the increase in complaints received by our Office is related to the increase in international students in Australia and our ongoing outreach activities. These activities include targeted engagement with providers, students and education agents to increase awareness of our services.

Figure 1—Complaints received from 1 July–30 September 2019



Complaints and issues finalised

During 1 July–30 September 2019 we finalised 443 complaints which contained 495 issues. Some complaints finalised during this period were received during previous quarters. Of the 443 finalised complaints we:

- investigated 119 complaints, which included 132 issues. The most common issue complained about was provider decisions not to issue refunds and other fee disputes (written agreements)
- declined to investigate 324 complaints which included 364 issues. In most of these cases we asked the student to first make a complaint to their education provider, we transferred the student's complaint directly to their education provider with consent (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 July–30 September 2019, including comparisons with the previous quarter, can be found in Table 2 on page 7 of this update.

² See Australian Trade and Investment Commission, monthly summary of international student data (accessed 9 October 2019) <https://www.austrade.gov.au/Australian/Education/Education-Data/Current-data/summaries-and-news>. Please note that only those international students with private education providers are in the Office's jurisdiction.

Final views on complaint issues

During 1 July–30 September 2019, we finalised 119 complaint investigations which included 132 issues. Table 1 shows the view we formed into the complaint issues investigated for all complaints finalised during the period.

Table 1—Views on finalised investigations into issues: 1 July–30 September 2019

View	Total issues	% ³
Provider did not substantially meet responsibilities	53	40
Provider substantially met responsibilities	52	39
No view (see below)	27	20

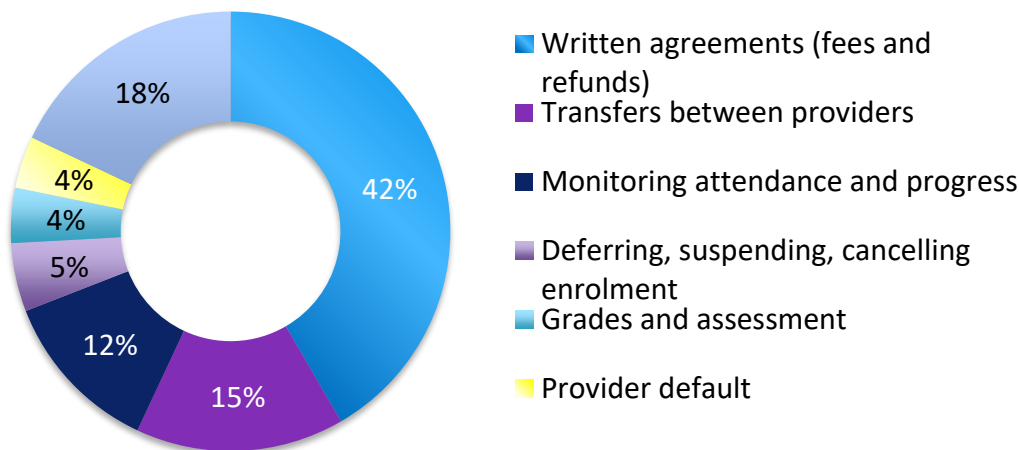
Table 1 shows that in 20 per cent of issues where an investigation was commenced, we did not form a view as to whether the provider substantially met their responsibilities. This can be for the following reasons:

- 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 ceased before a view could be formed.

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. The students' ability to seek a refund should be stated in their written agreement with the provider⁴. 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 July–30 September 2019



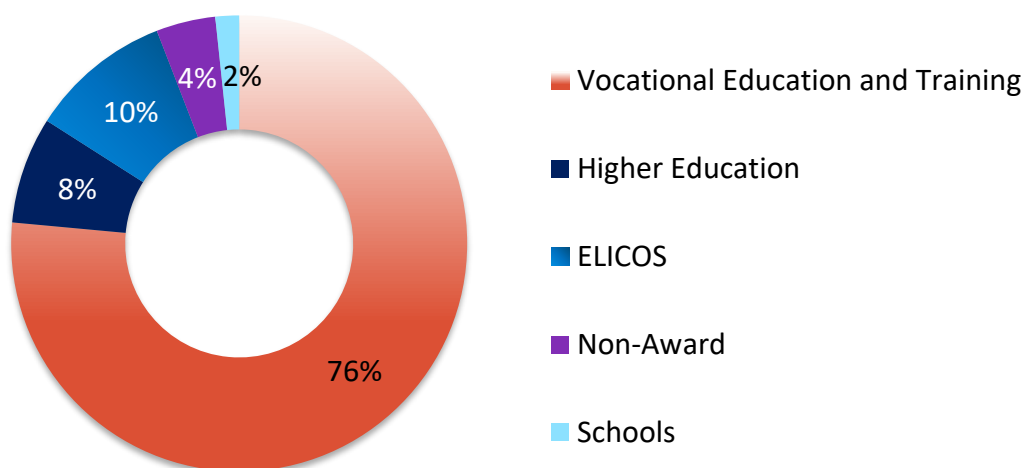
³ Does not total 100 due to rounding.

⁴ *National Code of Practice for Providers of Education and Training to Overseas Students 2018* Standard 3.4

Complaints by education sector

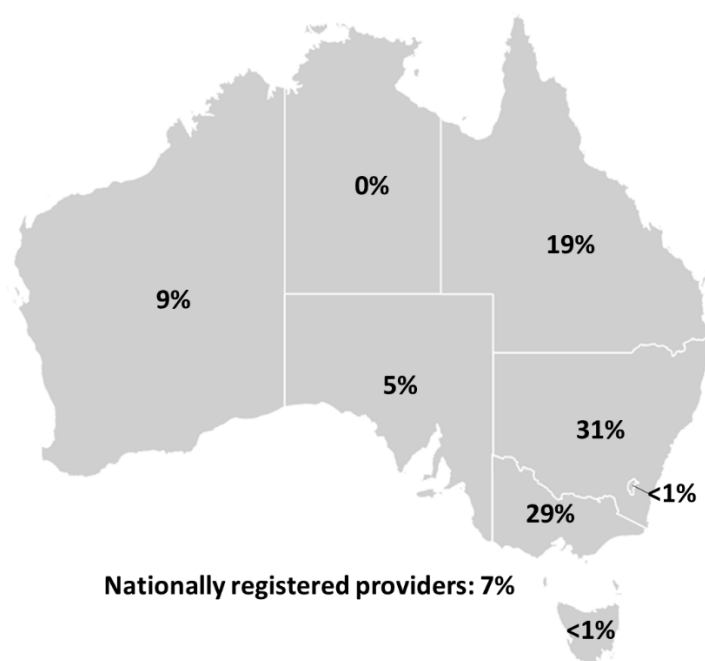
The Vocational Education and Training (VET) sector continues to be the most commonly complained about sector, however it also has the highest number of international students enrolled with private registered providers (69 per cent).

Figure 3—Complaints investigated by sector: 1 July–30 September 2019



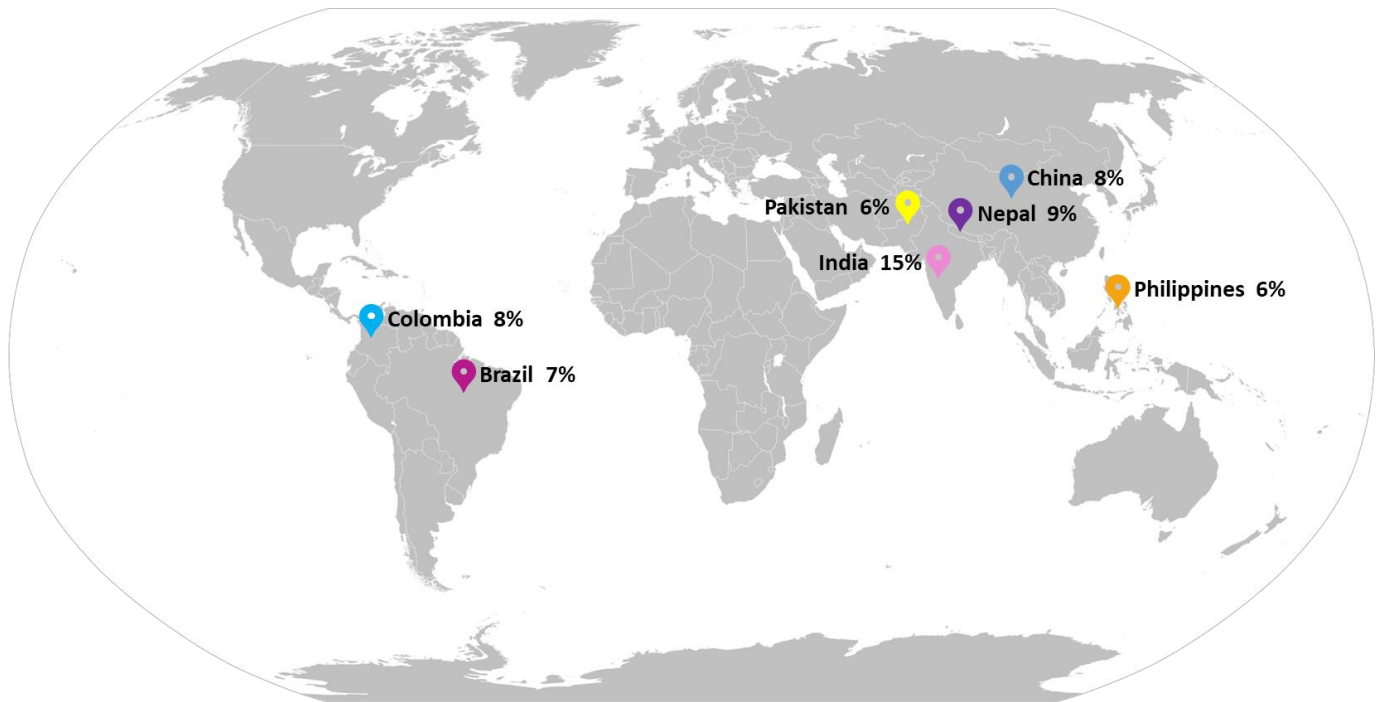
Complaints by registered state or territory of providers

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

We investigated and finalised complaints from students originating from 50 different countries and administrative regions during the quarter. The largest groups of complainants were from India and Nepal.



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 July –30 September 2019, we finalised complaints within the following timeframes:

- 57 per cent of complaints were finalised within 14 days
- 76 per cent of complaints were finalised within 30 days
- 92 per cent of complaints were finalised within 90 days
- 100 per cent of complaints were finalised within 12 months.

On average we finalised complaints within 25 days.

Case study: Transfer to a lower-level course

In July 2019, Kiet, a student from Thailand⁵, contacted the Office to complain that his provider had denied his application for release to transfer to another provider.

Kiet had heard that the Bachelor level course he was studying was not held in high regard, and others who had completed similar studies told him they were struggling to secure employment. Kiet applied for and was offered a place with a different provider at a Certificate III level, and wanted to be released from his current provider to transfer to this course.

The provider advised Kiet that his student visa was granted for him to study a Bachelor level course, and Kiet had also not demonstrated compelling or compassionate grounds for a transfer, so they decided not to release him from the course. The provider gave Kiet information on their appeals process and how to complain to the Commonwealth Ombudsman.

Kiet appealed the provider's decision, but was unsuccessful, so he approached the Commonwealth Ombudsman to complain.

The provider was able to demonstrate that as part of its admission requirements, Kiet had submitted a Statement of Purpose saying that he had researched a number of courses and providers in several countries, and had decided on the course in which he eventually enrolled. Kiet's student visa conditions made it mandatory for him to study at Higher Education level, and if he transferred to a lower level of study he would be in breach of his visa conditions.

The provider had thorough policies and procedures in place to support its decision, and responded to Kiet in line with these documents. The provider further stated as part of its response to the Office that Kiet was passing the course he had originally enrolled in, and that it was evident that Kiet could succeed at the Bachelor level course.

As a result of our investigation we concluded that the provider had acted in accordance with the National Code, and its own policies and procedures and therefore met its obligations.

Disclosures to regulatory bodies

Under s 35A of the *Ombudsman Act 1976* (Ombudsman Act), the Ombudsman may make disclosures to any person, including a regulatory body in respect of the performance of its functions or in relation to an investigation, if it is considered in the public interest to do so. We made one disclosure to a regulator under s 35A of the Ombudsman Act during the 1 July—30 September 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](#)

⁵ Name and other details changed to protect privacy

Comments and suggestions

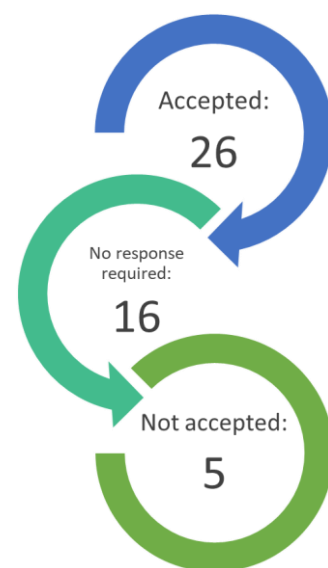
At the conclusion of an investigation, we can make comments and suggestions to providers in relation to the specific remedies or improvements to the provider's policies or processes.

During 1 July–30 September 2019, we made 47 comments to providers for improvements or reconsideration of an earlier decision.

This quarter, five of our suggestions were not accepted by the education provider. In three cases, these related to the same education provider, which had not issued refunds to students who had had their visa application refused. These complaints were transferred to the Tuition Protection Service.

In another case, the provider claimed to accept our suggestions, but ongoing complaints about the same issue revealed that the provider had not made the required changes to their policies and processes. As a result we made a disclosure to the Australian Skills Quality Authority about the provider.

In the final case, the provider later agreed to implement our suggestions.



Detailed data regarding finalised complaints

Table 2—Complaint issues for complaints finalised 1 April–30 June 2019 and 1 July–30 September 2019.

Issues	Complaint issues finalised April–June 2019	Complaint issues finalised July–September 2019
Formalisation of enrolment (written agreement)	210	206
Transfers between registered providers	48	76
Progress, attendance and course duration	40	60
Deferring, suspending or cancelling enrolment	14	25
Grades/assessment	29	20
Provider default	6	19
Out of jurisdiction to investigate (OOJ)	4	16
Graduation Completion Certificate	9	15
Recruitment of overseas student	5	14
Student support services	2	14
Academic Transcript	16	11
Education agents	6	6
Bullying or harassment	4	4
Complaints and appeals	17	3
Younger students	2	2
Marketing information and practices	2	2
Overseas Student Health Cover	2	1
Records management	1	1
Discipline	3	0
TOTAL	420	495

Table 3—Complaints investigated and finalised 1 April–30 June 2019 and 1 July–30 September 2019 by education sector

Sector	No. of students ⁶	% of total number of students ⁷	Complaints investigated and finalised April–June 2019	% of complaints investigated and finalised	Complaints investigated and finalised July–September 2019	% of complaints investigated and finalised
VET	155,377	69%	81	80%	91	76%
Schools	6,926	3%	2	2%	2	2%
ELICOS ⁸	25,576	11%	9	9%	12	10%
Higher Education	33,587	15%	9	9%	9	8%
Non-Award	1,620	1%	0	0%	5	4%
TOTAL	223,086		101		119	

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

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

⁶ Number of 'studying Confirmation of Enrolments' (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 1 October 2019.

⁷ Does not total 100 due to rounding.

⁸ English Language Intensive Courses for Overseas Students.

Table 5—Registered state or territory of providers for complaints finalised 1 April–30 June 2019 and 1 July–30 September 2019

State/Territory	Complaints finalised April-June 2019	Number of registered providers ⁹	Complaints finalised July-September 2019	Number of registered providers ¹⁰
New South Wales	97	330	137	336
Victoria	92	303	127	302
Queensland	89	285	83	292
Western Australia	22	80	40	80
National	22	28	32	28
Australian Capital Territory	1	15	2	15
South Australia	17	77	21	77
Northern Territory	0	7	0	7
Tasmania	0	9	1	9
Not recorded (provider or issue out of jurisdiction)	20	0	0	0
Total	360	1,134	443	1,146

More information is available at ombudsman.gov.au

⁹Number 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 19 July 2019.

¹⁰As above, as at 1 October 2019.