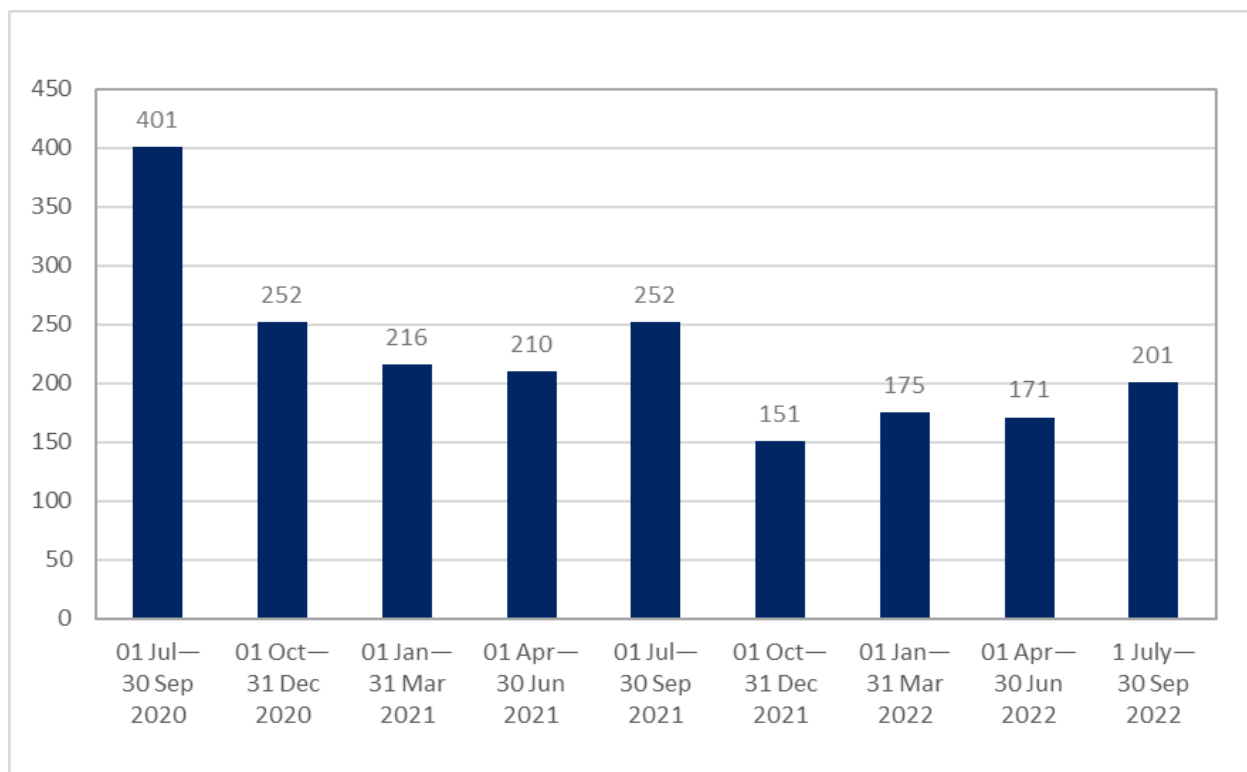


Quarterly Update: 1 July – 30 September

Complaints and enquiries received

Between 1 July and 30 September 2022, the Office of the Commonwealth Ombudsman (the Office) received 201 complaints and enquiries from international students enrolled with private registered education providers (see Figure 1). This represents a 20 percent decrease when compared to the same period last year. We note that despite the relative decrease compared to last year, this is an increase on the previous quarter, which may be related to the gradual return of international students to Australia following the reopening of borders.

Figure 1: Complaints¹ and enquiries received by quarter



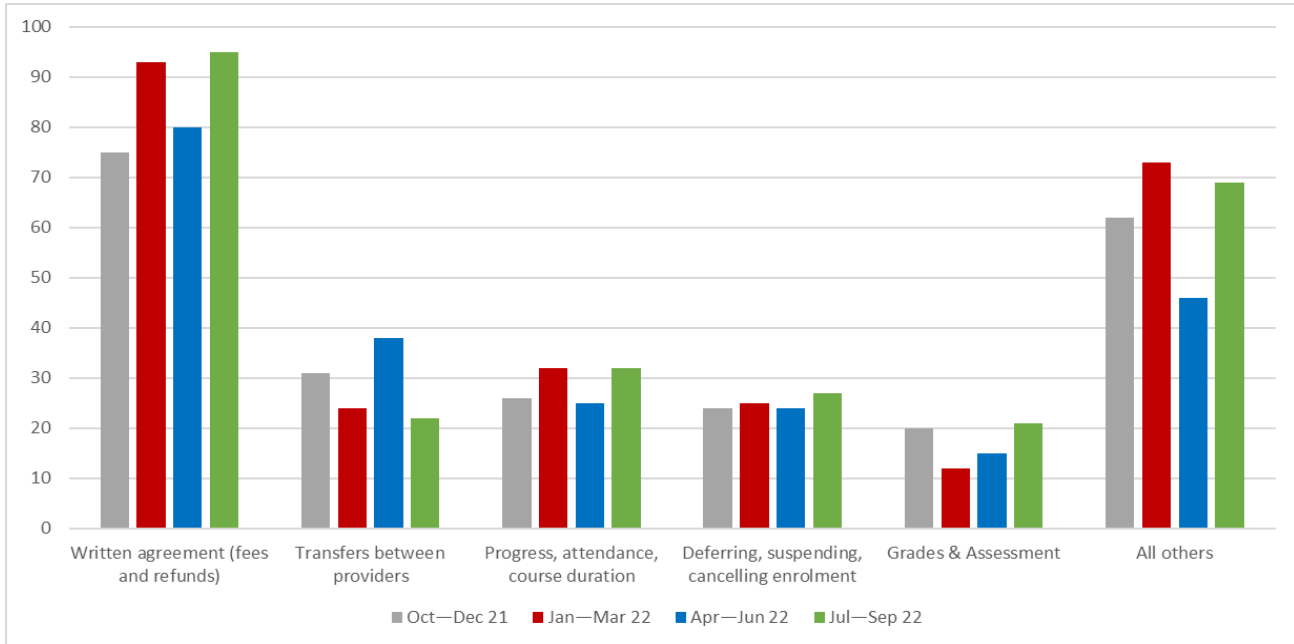
Refund practices and potentially unfair contract terms

As in previous quarters the most common issue in complaints to the Office between 1 July and 30 September 2022 was written agreements and students seeking refunds of pre-paid tuition fees because they ceased studying before they finished their course. The Office recently published an [issues paper](#) on Improving fairness in written agreements between international students and Australian education providers. We encourage all private education providers to read this paper and consider the fairness of their refund practices.

¹ Includes complaints about private overseas education providers. For definitions of complaints, views, issues and other terms, please refer to [Overseas Students - Commonwealth Ombudsman](#). Our data is dynamic and regularly updated. This means there may be minor differences when compared to the last quarterly update. Previous quarterly updates are available on the Ombudsman's [website](#).

Further guidance for education providers and students will be published by the Office and included in further quarterly updates.

Figure 2: Common complaint issues – Comparative data for 1 Oct 2021 to 30 Sept 2022



Did providers meet their responsibilities to students?

When delivering education products and services for overseas students, education providers are responsible for treating students fairly and reasonably and acting consistently with relevant legislation and national standards.

During the period from 1 July to 30 September 2022, the Office finalised 44 complaint investigations, covering 68 issues. Table 1 summarises our view on whether providers met their responsibilities to their students for each issue in the complaints we investigated during this period.

Table 1: Views on finalised investigations: 1 July to 30 September 2022

View	Total issues
Provider substantially met responsibilities to student	31
Provider did not substantially meet responsibilities to student (see below)	23
No view – provider and student resolved matter, or we otherwise discontinued the investigation	14

When we consider a provider has not substantially met their responsibilities, we work with both parties to find any possible suitable remedy for the student. If we observe that a provider's non-compliance is serious or repeated, we may disclose the matter to the appropriate regulators and other bodies such as the Tuition Protection Service and the Department of Education.

Case Study

Brandon enrolled in a Bachelor-level course with a private education provider and paid \$2,300 for the first study period. Two days before the course was due to start, Brandon emailed the provider advising that he wished to withdraw from the course due to financial difficulties. Brandon then sent another email changing the reason: he now said he wanted to transfer to a different education provider.

The provider sent Brandon the forms he needed to withdraw from his course, which Brandon completed together with a partial refund request.

The provider then emailed Brandon asking him to complete a release form and provide a letter of offer from a new provider, since Brandon had not completed 6 months of his principal course. Brandon responded with the application form but did not include the letter of offer from a new provider.

The provider denied Brandon's requests for a release and refund of pre-paid fees. Brandon made an internal appeal, which was unsuccessful, so he complained to the Office.

Our assessment

We considered information provided by Brandon and his education provider:

- The *Education Services for Overseas Students Act 2000* (the ESOS Act)
- The National Code of Practice for Providers of Education and Training to Overseas Students 2018 (National Code),
- Whether the decision complied with the student's written agreement, and the providers policies for cancellations, refunds and transfers and,
- Whether any fees retained by the provider could be justified as genuine cancellation costs for this student.

Outcome

We considered that in this instance it was reasonable for the provider to decline Brandon's refund and transfer requests. By cancelling two days before the course commenced, the provider had little opportunity to recoup costs it had already committed to so retaining 6 months of fees appeared reasonable.

In relation to the transfer request, because Brandon had not supplied a letter of offer from a new education provider, the decision to refuse was justified. We confirmed that Brandon understood the consequences of not providing the required evidence and was given further opportunities to provide evidence of starting a new course, however for unknown reasons he chose not to do so.

Brandon's education provider encouraged him to study with them as originally planned, and to contact the Department of Home Affairs to discuss any impacts on his student visa.

Information for providers – Designing an effective complaint handling system

Every organisation should choose a complaint handling model that is best suited to the work they do, the structure and size of their business and the needs of their users.

Whether you are designing a new complaint handling system, or reviewing your existing system to improve processes, here are some design principles to bear in mind:

- ✓ Your system should be user-centred, easy to access and simple to use
- ✓ Your system should support early resolution of complaints
- ✓ Your system should help you integrate complaint-handling into your overall corporate structure
- ✓ Clear processes should support your complaint handling staff
- ✓ Staff should have the right skills and be appropriately trained to handle complaints
- ✓ The system should have robust quality assurance and review processes and be adequately resourced.

Further information and tips on effective complaint handling for providers can be found in our [Better Practice Complaint Handling Guide](#).

Submission to the Department of Education's ESOS Review.

Have you read the Office's submission to the Department of Education's Education Services for Overseas Students (ESOS) Review 2022? You may be interested in reading some of the insights gained from complaint handling the Office offered in response to the review questions.

You can access the submission here: [Commonwealth Ombudsman - Submission to the 2022 ESOS Review](#)

Issues paper: Improving fairness of written agreements between international students and Australian education providers.

The Office has published an issues paper exploring some potential unfairness in written agreements between international students and their education providers in Australia. Although written agreements should comply with Australian Consumer Law requirements about fairness in contract terms, the Office has noticed some potentially unfair trends in the written agreements we have analysed.

The issues paper has outlined how we would approach disputes on potentially unfair refund terms. The Office naturally only sees issues that result in a dispute that isn't resolved between students and their education provider – it doesn't see the many examples of providers making decisions to the satisfaction of students. The focus should be on how the industry can learn from and implement the recommendations in the issues paper where needed, to solidify trust in international education in Australia.

For more information, you can access the issues paper here: [All Issues Papers - Commonwealth Ombudsman](#).