

Quarterly Update: 1 July–30 September 2020

Executive Summary

This is the first 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 also provides education providers with advice and training about best practice complaint handling and reports on trends and systemic issues arising from complaints.

The 1 July–30 September 2020 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 that we received.

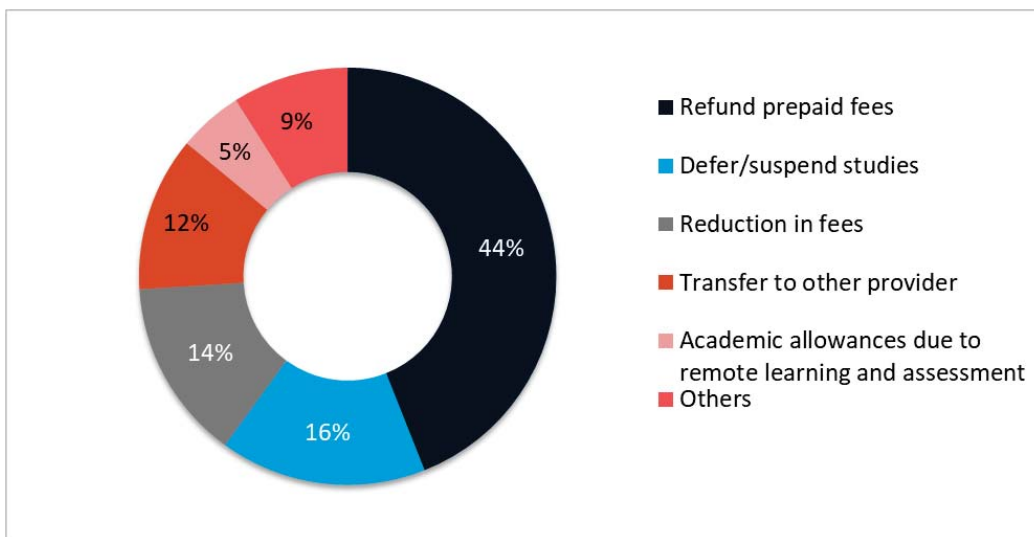


Complaints arising from COVID-19 pandemic

The Office continues to receive complaints from international students about actions or decisions of their providers in response to the COVID-19 pandemic. During the 1 July–30 September 2020 quarter, we received 99 complaints from students impacted by mode of study changes, financial hardship, or border closures as a result of the pandemic.

The outcomes sought by students complaining about pandemic-related issues to the Office are represented in **Figure 1**:

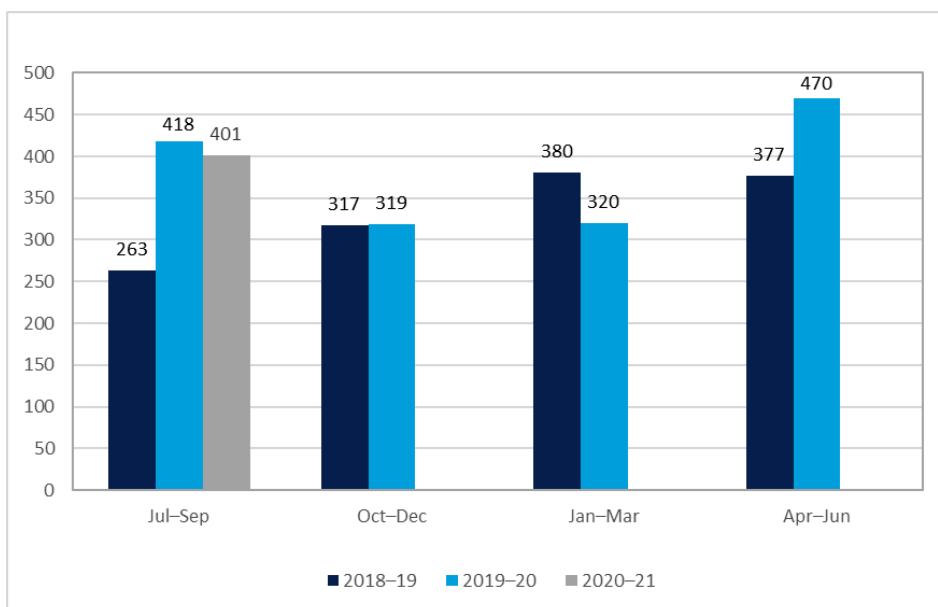
Figure 1—Outcomes sought by complainants in complaints arising from COVID-19 pandemic, 1 July–30 September 2020



Complaints and enquiries received

During the 1 July–30 September 2020 quarter, we received 401 complaints and enquiries from international students enrolled with private registered education providers (see **Figure 2**). This represented a four per cent decrease when compared to the same period last year.

Figure 2—Complaints received 2018–19, 2019–20 and 2020–21

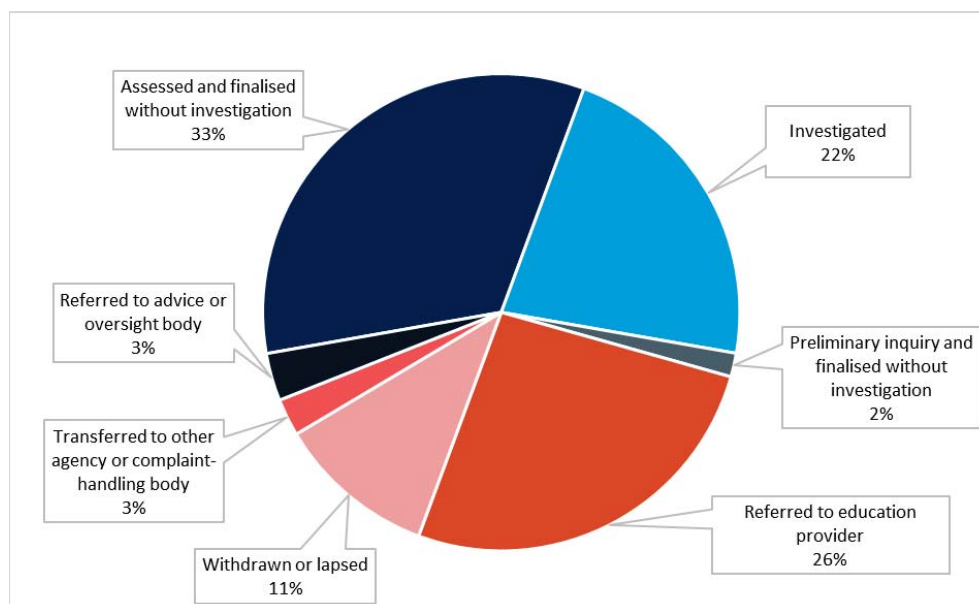


Action taken to finalise complaints

During 1 July–30 September 2020 we finalised 375 complaints, which included 414 issues. Some complaints finalised during this period were received during previous quarters.

Figure 3 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 3—How we finalised complaints in the quarter



Did providers meet their responsibilities?

During 1 July–30 September 2020, we finalised 75 complaint investigations which included 81 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 July–30 September 2020

View	Total issues	%
Provider substantially met responsibilities	42	52
Provider did not substantially meet responsibilities	33	41
No view (see below)	6	7

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 course of 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 July–30 September 2020, we made 12 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.

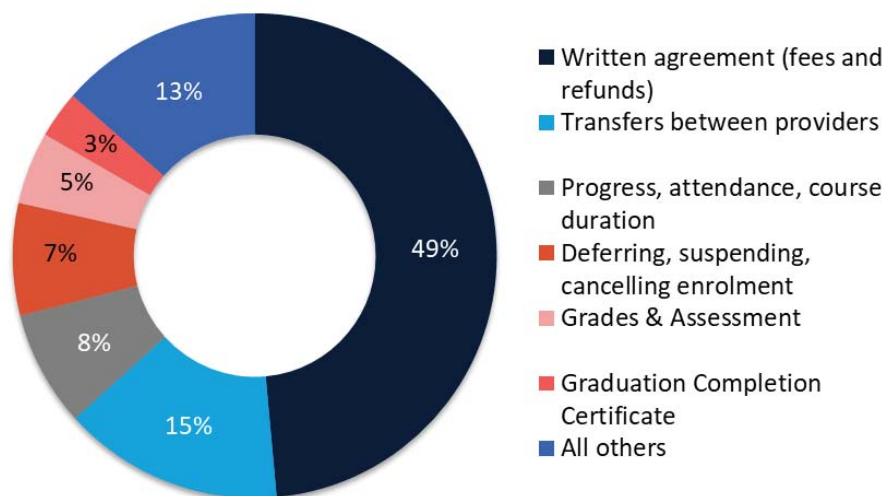
Complaint issues

Written agreements (fees and refunds) continue to be the most common complaint issue (49 per cent). They are generally due to students seeking a refund of pre-paid tuition fees when 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 (15 per cent) and progress, attendance and course duration (eight per cent) were the next most common issues raised in complaints to our Office.

Figure 4 below shows common complaint issues raised in complaints during the quarter. Detailed data about complaint issues finalised during 1 July–30 September 2020, including comparisons with the previous quarter, can be found in **Table 3** on page eight.

Figure 4—Common complaint issues: 1 July–30 September 2020

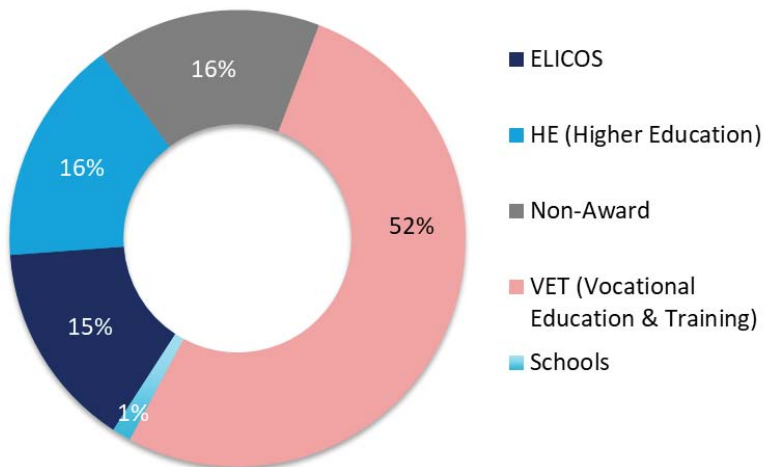


¹ National Code of Practice for Providers of Education and Training to Overseas Students 2018 Standard 3.4

Complaints investigated by education sector

The Vocational Education and Training (VET) sector continues to be the sector we investigate most, with 52 per cent of investigated complaints from students studying VET courses. However, the VET sector also has the highest proportion of international students in the Office’s jurisdiction (71 per cent), followed by the Higher Education sector (20.4 per cent) (see **Table 4** on page nine).

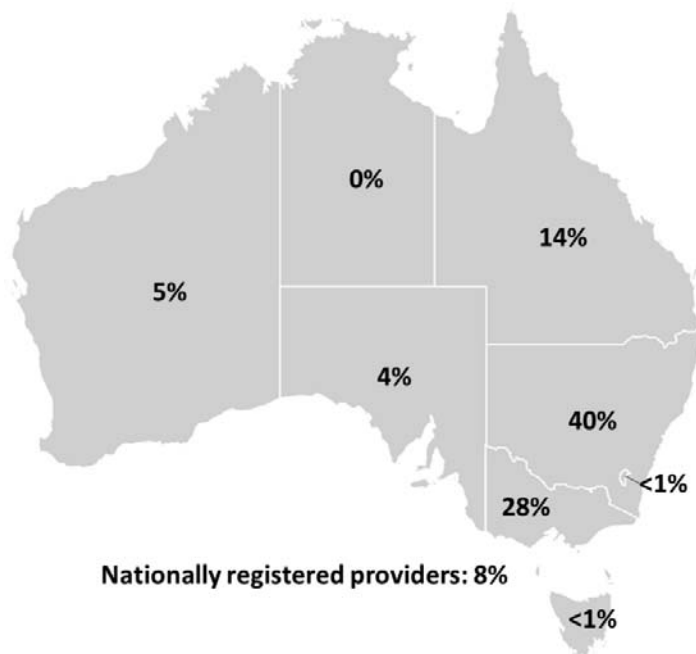
Figure 5—Complaints investigated by sector: 1 July–30 September 2020²



Complaints by registered state or territory

Providers registered in New South Wales, Victoria and Queensland made up the three largest groups of complaints received by our Office.

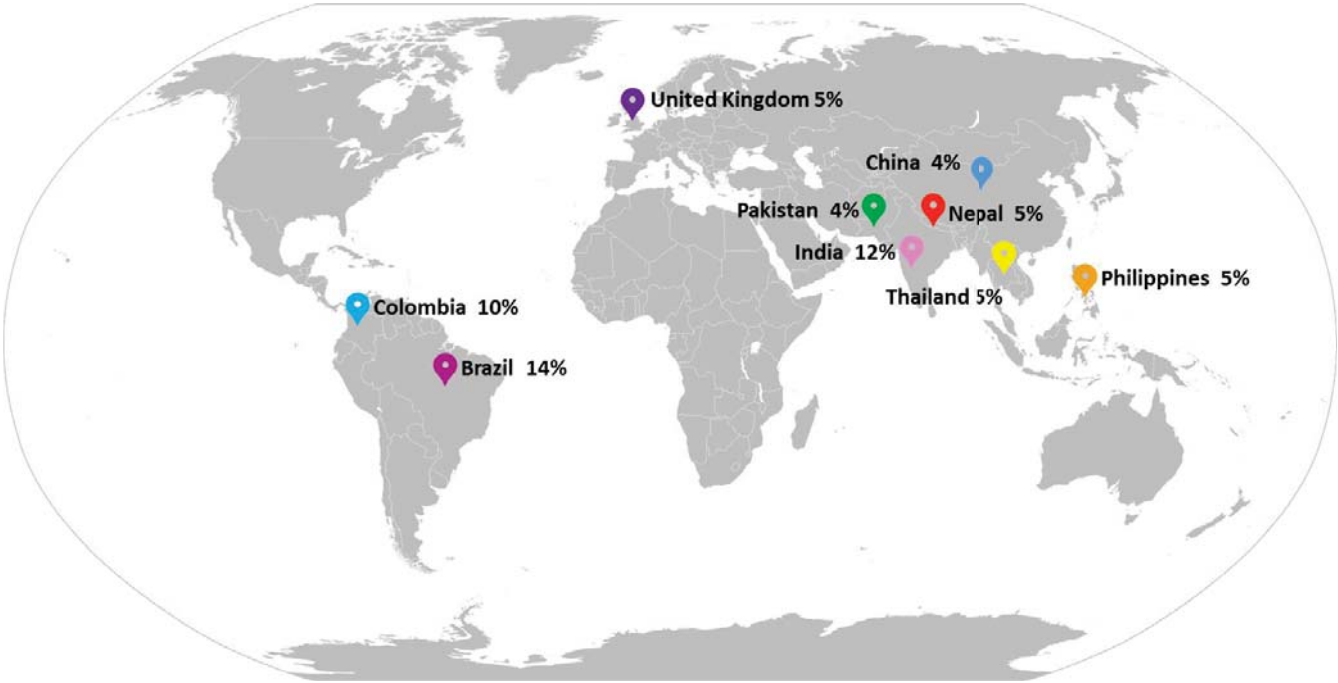
This is consistent with the higher number of students studying in these states (see **Table 6** on page 10).



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

Complaints investigated by complainant’s home location

We investigated and finalised complaints from students originating from 51 different countries and administrative regions during the quarter. The largest groups of complainants were from Brazil, India and Colombia.



Case study

We received a complaint from a student who could not commence their English language course in Australia due to travel restrictions. The student’s education provider had agreed to refund their pre-paid tuition fees, but insisted on sending the refund to the student’s education agent.

The student’s relationship with the education agent had broken down and the student wanted to be refunded directly. The education provider argued that the education agent had done a significant amount of work on the student’s placement with the provider and was entitled to discount their fees from the refund.

As part of our investigation into the dispute, we examined the student’s written agreement with the education provider. The written agreement did not specify the education agent as a person to whom a refund could be paid. Under the *National Code of Practice for Providers of Education and Training to Overseas Students 2018*, providers must specify in written agreements if a refund is to be paid to a person other than the overseas student (standard 3.4.3).

On that basis, we formed the view that the provider should refund the relevant fees directly to the international student, as requested. The education provider accepted this view and paid the refund to the student.

Commentary

In many cases, the amount of refund to be paid to an international student is clearly outlined in the *Education Services for Overseas Students Act 2000* (the ESOS Act), for example if a student’s visa is refused, or in the written agreement between the student and the education provider.

Where the amount has been worked out in accordance with ESOS Act requirements, no deduction for education agent fees can be made—the entire amount must be refunded to the student. If the amount has been worked out in accordance with the written agreement for the student, any deductions for education agent fees need to be clearly specified in that agreement.

Recognising that education agents often do a significant amount of work for international students, they remain agents of the education provider and appropriate remuneration should be agreed as part of the written agreement between the provider and the education agent. Any fees that students may be asked to pay to the education agent should be agreed between the education agent and the student and declared to the education provider as a potential conflict of interest.

Timeframes to finalise complaints

Some investigations take longer than others. This can be due to the complexity of the issues involved, or the response time of the complainant or provider to our requests for information. We continue to look for ways to more quickly finalise complaints, while maintaining best practice complaint handling processes. During 1 July–30 September 2020, we exceeded our complaint handling service standards in this regard, as displayed in **Table 2**.

Table 2—Complaint handling service standards: 1 July–30 September 2020

Complaints finalised	Timeframe	Service standard
82%	Within 30 days	75%
90%	Within 60 days	85%
94%	Within 90 days	90%
100%	Within 12 months	99%

Detailed data regarding finalised complaints

Table 3—Complaint issues for complaints finalised 1 April–30 June 2020 and 1 July–30 September 2020

Issue	Complaints finalised in which issue was raised April June 2020	Complaints finalised in which issue was raised July September 2020
Formalisation of enrolment (written agreement)	280	201
Transfers between registered providers	45	61
Progress, attendance and course duration	65	32
Deferring, suspending or cancelling enrolment	32	31
Grades/assessment	14	20
Graduation Completion Certificate	7	13
Complaints and appeals	9	11
Provider default	14	10
Academic Transcript	6	8
Education agents	3	5
Recruitment of overseas student	0	4
Records management	2	2
Overseas Student Health Cover	0	2
Marketing information and practices	3	1
Bullying or harassment	1	1
Additional provider registration requirements	0	1
Student support services	2	0
Discipline	1	0
Younger students	0	0
<i>Out of jurisdiction to investigate (OOI)</i>	22	11
TOTAL	506	414

Table 4—Complaints investigated and finalised: 1 April–30 June 2020 and 1 July–30 September 2020 by education sector

Sector	No. of students ³	% of total number of students	Complaints investigated and finalised April June 2020	% of complaints investigated and finalised	Complaints investigated and finalised July September 2020	% of complaints investigated and finalised
VET	161,825	71%	42	52%	39	52%
Schools	7,050	3.1%	0	0%	1	1%
ELICOS	11,598	5.1%	6	7%	11	15%
Higher Education	46,440	20.4%	26	32%	12	16%
Non-Award	1087	0.5%	7	9%	12	16%
TOTAL	228,000	100%	81	100%	75	100%

Table 5—Most common issues for complaint investigations finalised: 1 July–30 September 2020 by education sector

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

³ 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 10 October 2020.

Table 6—Registered state or territory of providers for complaints finalised: 1 April–30 June 2020 and 1 July–30 September 2020

State/Territory	Complaints finalised April June 2020	Number of registered providers ⁴	Complaints finalised July September 2020	Number of registered providers ⁵
New South Wales	176	344	149	351
Victoria	131	304	106	306
Queensland	78	293	52	294
Western Australia	17	81	19	81
South Australia	18	75	16	75
Australian Capital Territory	0	18	1	18
Tasmania	4	10	1	10
Northern Territory	0	7	0	7
National (provider may operate nationally)	51	27	31	27
Not recorded (provider or issue out of jurisdiction)	0	0	0	0
Total	475	1,159	375	1,169

Data

The data in this update is for the period 1 July–30 September 2020. 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 <https://www.ombudsman.gov.au/How-we-can-help/overseas-students>

⁴Number of education providers in Overseas Students Ombudsman jurisdiction by ‘main course sector’. PRISMS report, as at 7 July 2020.

⁵Number of education providers in Overseas Students Ombudsman jurisdiction by ‘main course sector’. PRISMS report, as at 10 October 2020.