

Provider e-newsletter—October 2021

Welcome to the October edition of the Overseas Student Ombudsman newsletter.

In this edition:

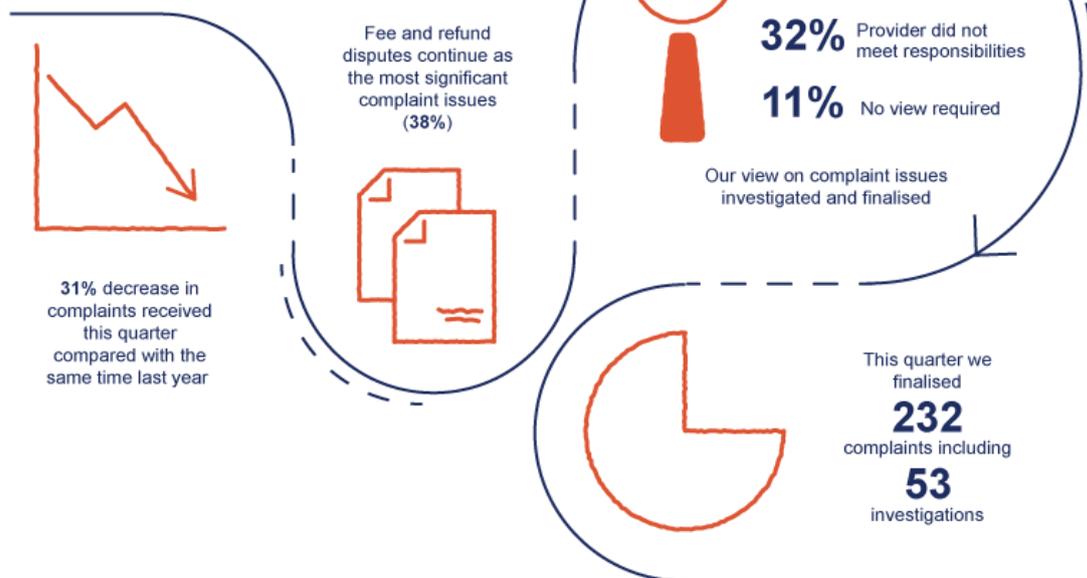
- » [Quarterly updates: 1 January to 31 March 2021 and 1 April to 30 June 2021](#)
- » [Spotlight on: Online delivery of classes](#)
- » [Alert for providers: take care with agents/third party providers accepting funds on your behalf](#)
- » [Case study](#)
- » [New website publications](#)
- » [Better Practice Complaints Management workshops](#)
- » [Outreach and engagement](#)

Overseas Students quarterly update

Our updates provide information about the complaints we received and finalised during the quarter, as well as common issues raised in those complaints. Our quarterly updates for 1 January –31 March 2021 and 1 April–30 June 2021 are available at ombudsman.gov.au/publications.

Quarterly update at a glance

1 January—31 March 2021



Quarterly update at a glance

1 April—30 June 2021



55% decrease in complaints received this quarter compared with the same time last year

Fee and refund disputes continue as the most significant complaint issues (32%)



55% Provider met responsibilities

27% Provider did not meet responsibilities

18% No view required

Our view on complaint issues investigated and finalised



This quarter we finalised
181 complaints including
37 investigations

Spotlight on online delivery of classes

Since the start of 2020, the impacts of the COVID-19 pandemic have challenged the delivery of education for both students and providers. During this time, our Office has received a broad range of complaints from international students engaged in online learning.

Some students told us they did not want to engage in online classes at all. Others were willing to try online classes but then wanted to withdraw or defer from their studies due to negative experiences. We received complaints about online classes being poorly implemented by providers, with examples of students being placed in classes that were not effectively set apart by language proficiency level, too many students in classes, and unreliable technology. Some students did not have access to suitable computers or reliable internet to effectively engage and learn through online classes. Some students were also challenged by financial and personal circumstances.



We consider all complaints individually. Where a complaint is about online tuition, we review the provider's policies and procedures and consider the relevant legislative requirements. We explore what solutions, if any, the provider suggests to improve the student's study experience. Where students do not wish to accept a solution other than a release and refund, we consider the terms of the written agreement with their provider and whether the course is being delivered in accordance with that agreement. If it is not, we consider the provider cannot rely on its refund policy.

Where there is no *valid* written agreement and the student states they do not wish to continue their studies in the existing course, the provider must comply with the requirements under section 46D of the *Education Services for Overseas Students Act 2000* (the ESOS Act). Section 46D is usually associated with provider default but, if a provider is unable to continue delivering the course as agreed with the student, the section 46D requirements provide an appropriate course of action. Specifically, the provider should place the student in another course with their agreement or refund the student's unspent tuition fees.

Recent advances in the online delivery of services may improve the situation for both students and providers. However, with the ongoing challenges of the pandemic, it is likely that other factors such as border restrictions, lockdowns, financial pressures, personal resources, and other circumstances will still have an impact.

Alert for providers: take care with agents/third party providers accepting funds on your behalf



We received a small number of complaints from international students requesting refunds for pre-paid fees where their visas were refused. While investigating these complaints, providers told us the education agent accepted the fees on behalf of students but did not pass them on to the education providers.

In one case, the education agent was also authorised as a third-party course provider to deliver the course to the student. The education provider told us they believe the complainant requesting the pre-paid fee be refunded was the education agent, posing as the student.

Our Office is not authorised to investigate the actions of education agents, other than investigating the actions of education providers to ensure their agents act in accordance with standard 4 of the *National Code of Practice for Providers of Education and Training to Overseas Students 2018*.

Therefore, we could not take further action to confirm these reports. However, we highlight the issue here, noting such practices may be of interest to education providers in our jurisdiction.

Education providers may wish to protect themselves against dishonest conduct by:

- checking funds are cleared into suitable accounts before confirming pre-paid fees on the issued Confirmation of Enrolment
- requesting proof of identity from individuals seeking a refund where there is doubt or concern about their identity
- considering a requirement for third-party providers to forward all funds to the CRICOS¹ registered provider in the first instance, to be disbursed on course commencement, and
- checking signed written agreements received from students to ensure agents have not changed their bank account details.

If you have an experience like this, you may wish to share the details with us. With your permission, we will share your contact information with other providers who contact us about similar concerns. Please contact us at overseas.students@ombudsman.gov.au

¹ Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS)

Case Study

A student* approached our Office when their provider moved from delivering course content face-to-face to online, due to the COVID-19 pandemic. The student found the quality of the course dropped and highlighted concerns with the provider, including technical problems, unmarked assessments and too many students in online classes.

Due to these problems, the student asked the provider to change the due date for payments on their payment plan, and requested a credit amounting to 30 per cent of the cost for the first term of study. The provider denied this request.

The student made a formal complaint to the provider but was not satisfied with the outcome. The student then applied to withdraw from the course, so they could transfer to another education provider. The provider denied their request to withdraw from the course.

The provider told us that, when handling their complaint, it considered the student's concerns and explained to the student it would not offer a fee discount because it had already offered them a partial scholarship for the course as compensation for the difficulties they experienced. The provider agreed to a request for a fee instalment plan and had not charged the student late payment fees even though the student did not pay the full instalment amounts on the due dates. The provider also advised the student did not present an offer letter from a new provider when they made a request for release, so it refused their request.

We assessed the case and found the student had signed a delivery mode option to change to online classes and were also satisfied the provider gave the student appropriate information about their options, such as a refund of unspent tuition fees.

The provider outlined the additional steps it took in response to the student's complaint, which included:

- revising the student's fee payment schedule
- providing a refund for a missed class
- agreeing to either:
 - suspend or defer the student's course for a fee until face-to-face classes resumed
 - reduce the outstanding fee by 50 per cent, and on payment of this fee, process a request for cancellation of enrolment and release from studies. A copy of the academic transcript would also be provided.

Our assessment found the provider had followed its policies and procedures and engaged with the student in good faith to try to resolve their complaint.

It appears the student did not understand the actions the provider took and suggested to resolve the complaint, which contributed to a complaint being raised with our Office. Once we considered the actions and explained them to the student, they accepted a resolution was available and agreed to finalise the complaint.

*De-identified for privacy purposes.

New website publications

We recently added new guidance material for education providers on our website. Two new factsheets provide information on:

- *How to deliver an effective apology*
- *Finalising investigations: information for providers on implementing our views.*

Click on this link for more information [Factsheets - Commonwealth Ombudsman](#)

Better Practice Complaints Management workshops

Part of our Office's role is to provide support to education providers to develop and implement best practice approaches to complaint handling.

We can do this via a 3-hour interactive workshop on complaint management conducted at your premises or online. Ideal workshop groups are 12 to 20 participants and include staff who are directly involved in considering complaints, administrative staff who receive complaints, and staff who deal with complainants while their complaint is being considered.

If your organisation would like to schedule a workshop during 2021 or 2022, please contact us at overseas.students@ombudsman.gov.au. In your email, please provide an estimate of the number of staff who would like to attend the workshop.

Outreach and engagement



Outreach in Darwin

During May 2021, Ombudsman staff spent time in Darwin conducting outreach activities and hosting an exhibitor stall at the annual Financial Counselling Australia Conference. This outreach enabled us to meet with financial counsellors from across the country, many of whom assist international students, and we were able to promote the role and services of the Commonwealth Ombudsman.

Other information: We were advised of a service offer which education providers in New South Wales (NSW) may find useful to share with their students. The Redfern Legal Centre is offering international students in NSW a limited number of free subscriptions to their legal assistance app, [My Legal Mate](#). This offer is normally only available to students whose education providers pay a subscription. The app is supported by the NSW Government and the City of Sydney and is available in 7 languages. The Redfern Legal Centre advise the purpose of the app is to give NSW international students access to free confidential legal information and provide information about laws in Australia. For further details, click on this link: [access My Legal Mate](#).

Sign up to the OSO e-newsletter

Has someone forwarded this newsletter to you? Would you like to receive it direct to your own inbox? Sign up and never miss an issue: [Overseas Students Ombudsman e-newsletter](#)

More information is available at ombudsman.gov.au.

Please note: This document is intended as a guide only. For this reason, the information should not be relied on as legal advice or regarded as a substitute for legal advice in individual cases. To the maximum extent permitted by the law, the Commonwealth Ombudsman is not liable to you for any loss or damage suffered because of reliance on this document. For the most up-to-date versions of cited Acts, please refer to the [Federal Register of Legislation](#).