



Quarterly Summary 1 January–31 March 2018

About the Commonwealth Ombudsman

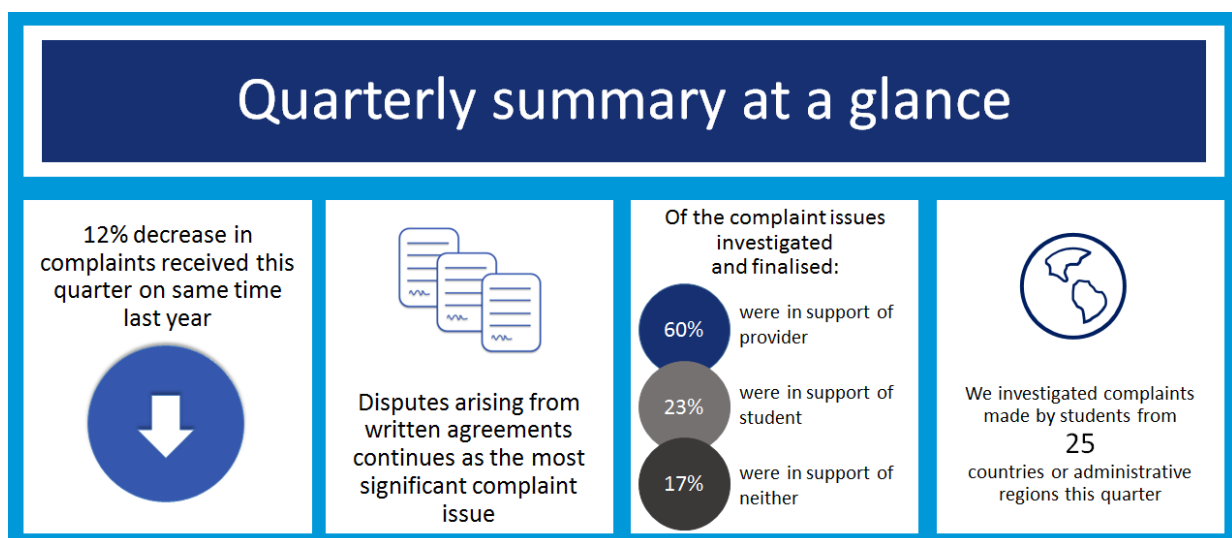
The Commonwealth Ombudsman’s three main functions in its specialist Overseas Students role are to:

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

This summary sets our activities in the January–March 2018 quarter in relation to each of these functions¹.

Significant points in this summary

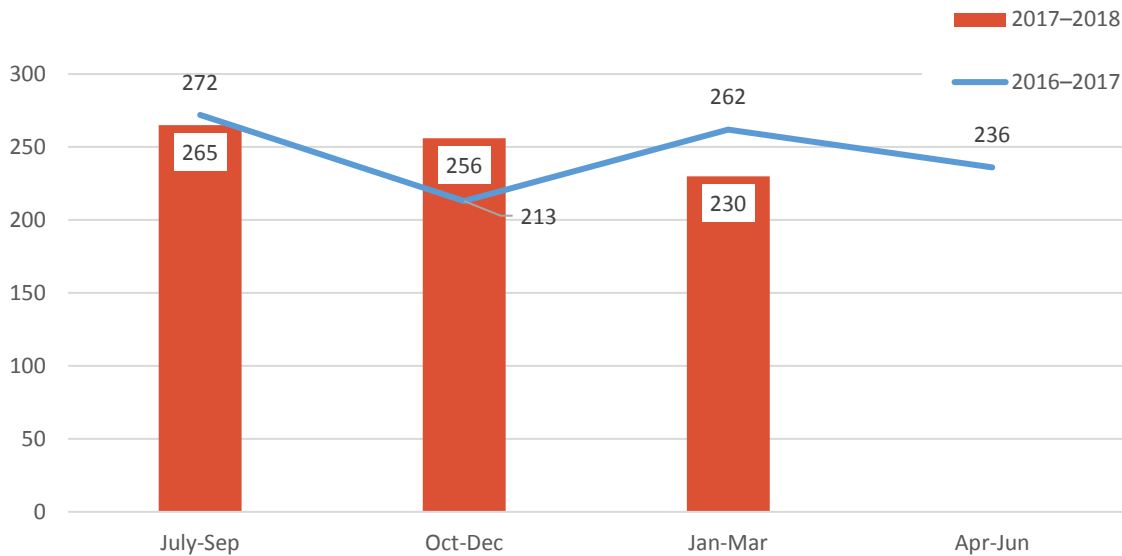
- The number of complaints received during the January– March 2018 period is 12 per cent lower than the same period in 2017. Year to date, the number of complaints received is approximately equal to the number of complaints received in the same period last year.
- Sixty per cent of complaints investigated were decided in support of the provider, an increase of 14 per cent on the previous quarter. Twenty-three per cent were decided in support of the student, a decrease of 15 per cent on the last quarter.
- Complainants came from 25 countries or administrative regions. China (29 per cent) and India (11 per cent) represented the most frequent origins for complainants whose complaints we investigated.



¹ Official statistics relating to the 2017–18 reporting year will be published in the Commonwealth Ombudsman’s annual report.



Complaints received



Complaints finalised

Finalised	Not investigated	Investigated	No. of issues investigated	Outcome found in support of:		
				Provider	Student	Neither
234	164	70	87	42	16	12
	70%	30%		60%	23%	17%

We finalised 234 complaints during the quarter which contained 267 issues. Of those 234 complaints we:

- Investigated 70 complaints which included 87 issues. Complaints about provider refund refusals and fee disputes (written agreements) remain the most significant issues.
- Declined to investigate 164 complaints. Documents provided by the student at the time of the complaint allowed us to form a view about the dispute to determine whether it required investigation.

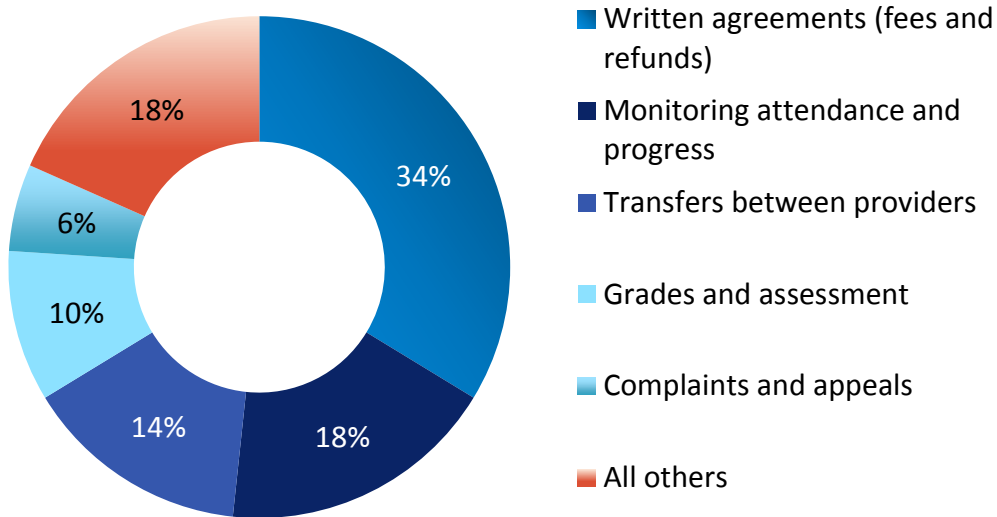
Investigations finalised in support of neither party are usually resolved between the student and provider during the course of the investigation.

Detailed data about complaint issues handled during the period, including comparisons with the previous quarter, can be found at [Appendix A](#).

Complaint issues

The common areas of student complaints that continue to make up the majority of issues reported to our Office include written agreements (fees and refunds) and monitoring attendance and progress.

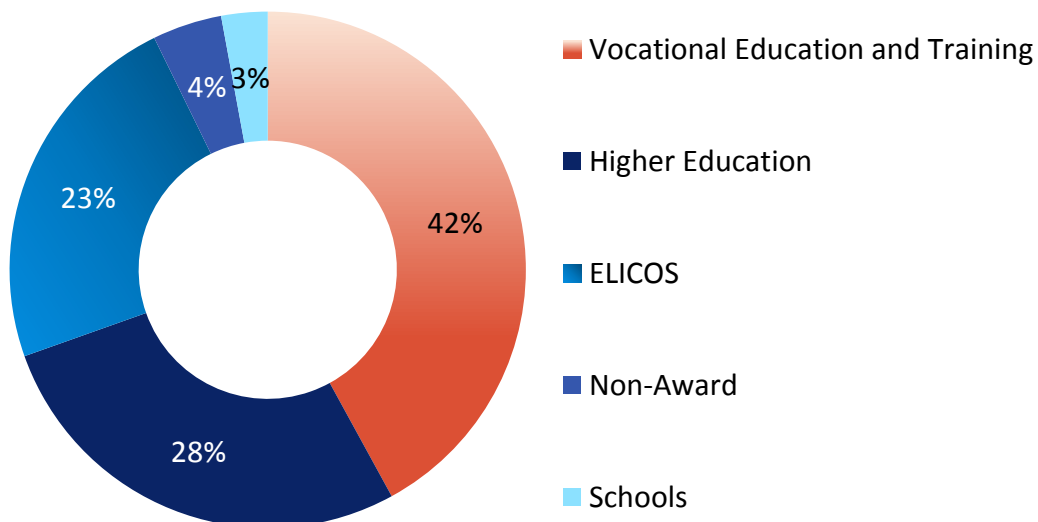
Main complaint issues: January–March 2018



Complaints by education sector

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

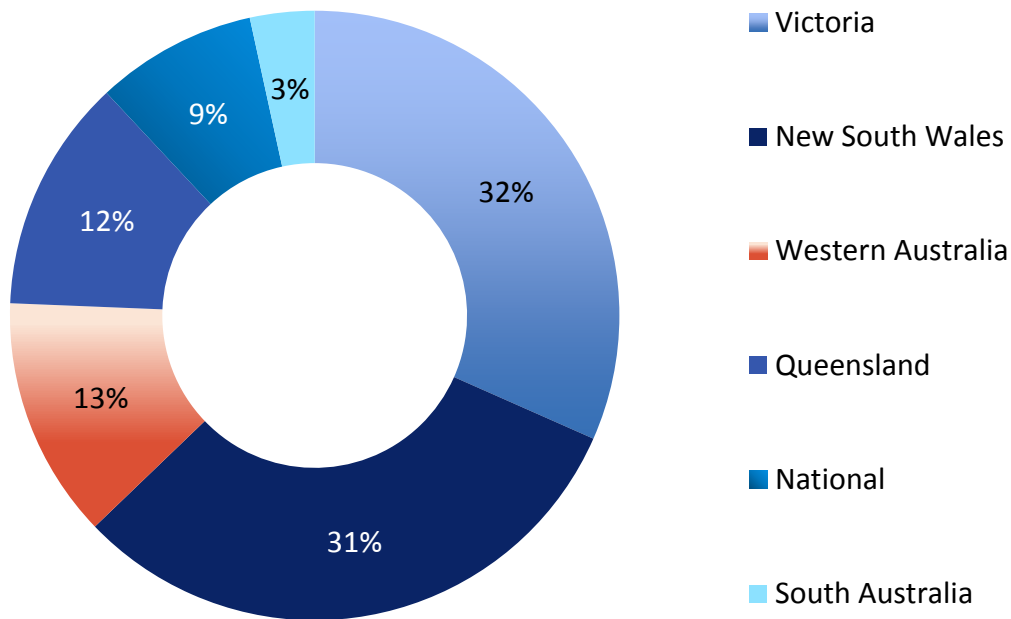
Complaints investigated by sector: January–March 2018



Complaints by state/territory

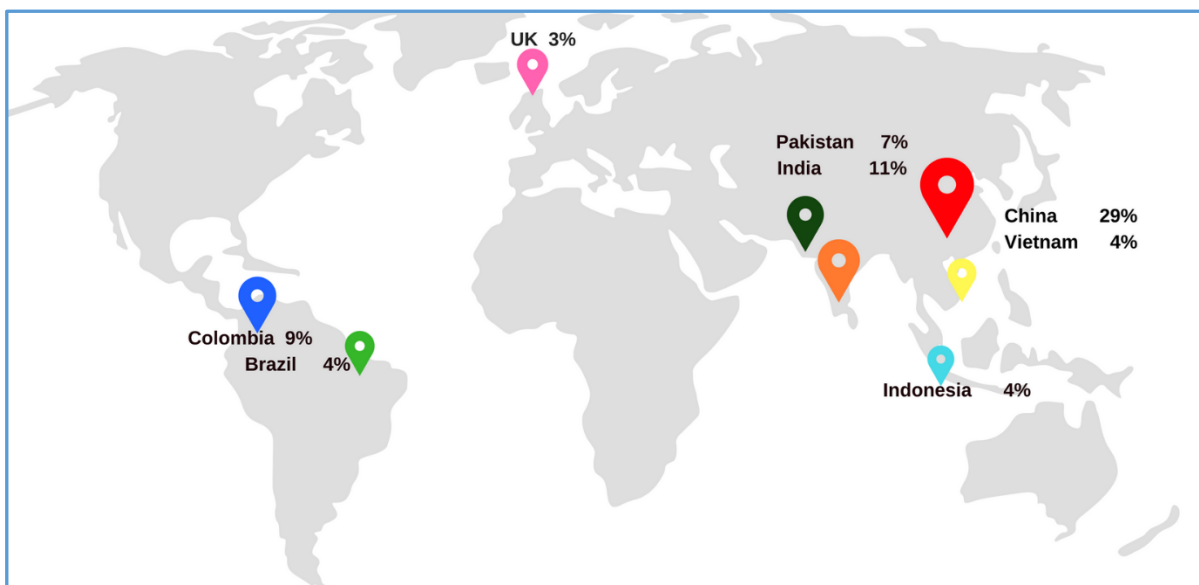
The two largest groups of complaints were made by students registered with providers in Victoria and New South Wales, which is consistent with the higher number of students studying in these states.

**Complaints by provider's registered state/territory:
January–March 2018**



Complaints investigated by origin of complainant

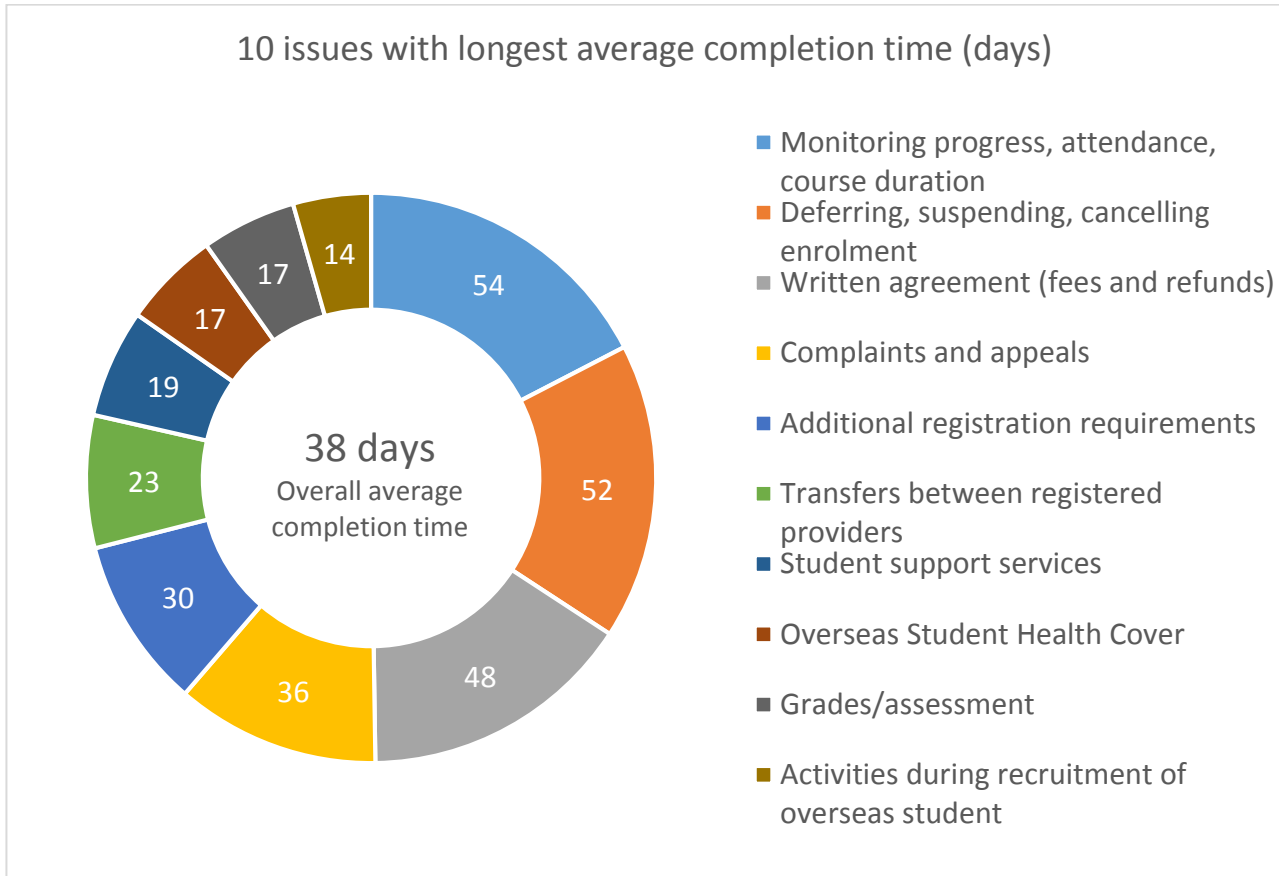
The complainants whose cases we investigated and closed in the January to March quarter originated from 25 different countries and administrative regions. The largest groups of complainants were from China and India.



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 finalisation times.

In the January–March 2018 period, the average completion time for all complaints was 38 days.



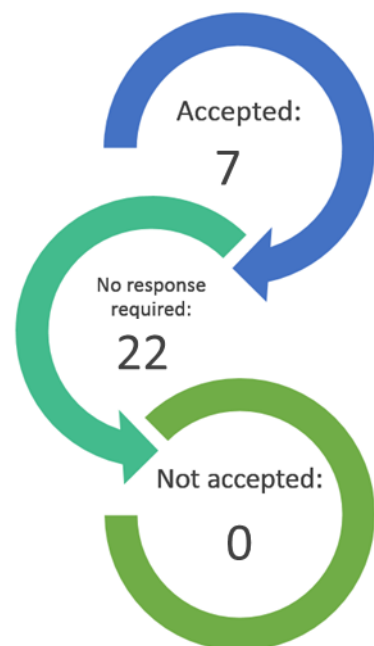
In the January–March 2018 quarter, 66 per cent of all complaints were closed within 30 days, 14 per cent from 31–60 days and the remainder closed in 61 days or more.

Recommendations

At the conclusion of an investigation, we can make recommendations to providers not only in relation to specific remedies, but also in relation to the provider's policies or processes.

In the January–March 2018 period, we made 29 recommendations to providers.

If we finalise our investigation in support of the student and we recommend that a provider takes specific action to benefit the student, providers are obliged to implement our decision or recommendation immediately. If a provider does not agree to implement our decision, we may disclose this refusal to the appropriate regulator.



Public disclosures

Under s 35A of the *Ombudsman Act 1976*, the Ombudsman may also make disclosures to regulatory bodies or public authorities where it is in the public interest to do so.

We made two s 35A disclosures during the January–March quarter. One disclosure related to a provider who had failed to conclude any written agreements with a student over a number of courses, failed to monitor and record course progress and breached the National Code in other ways.

The other disclosure related to a provider’s failure to cooperate with our investigation and failure to implement our recommendation.

Submissions

On 28 February 2018, the Ombudsman provided a submission to the Victorian Registration and Qualifications Authority (VRQA) on their proposed ‘Guidelines for the enrolment of overseas students aged under 18 years’.

Our 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](#)

Making a difference

Case study 1:

Xing² had applied for a visa to study a two-year foundation course in Australia. She had pre-paid the first year of her studies, but her visa was refused. She therefore requested a refund of the pre-paid course fees.

Her provider agreed to refund the fees, according to a schedule of six instalments. The first two instalments were received, but then the refund payments ceased. Xing contacted her provider but did not get any response. She then contacted the Ombudsman.

Our investigation officer sent the provider a request for information. The provider responded two weeks later, advising that they had completed the refund of all remaining instalments owed to Xing.

Xing confirmed that the refund had been received, thanked us for our involvement and withdrew her complaint.

Commentary:

Under s 47E of the *Education Services for Overseas Students Act 2000* (ESOS Act), providers must pay a refund to students who are unable to attend their course due to the refusal of their student visa application. Section 47E (3) clearly states:

(3) The provider must pay the refund within the period (the provider obligation period) of 4 weeks after the default day.

There is no scope within the ESOS Act for the payment to be made in instalments or delayed in any other way.

Case study 2:

Tilly³ was an international student studying a Master of International Business with a private education provider in Australia. She had sat an exam, and logged in to her online study portal to see her result. She was pleased to see that she had passed. However, next time she logged in to her online study portal, she noticed that her mark had been changed, and she had now failed the unit.

Tilly called the Ombudsman to lodge a complaint, but we directed her to access her provider's complaints and appeals process. If she was unsatisfied with the outcome of the provider's process, she could lodge a complaint with the Ombudsman.

Sometime later, Tilly contacted us again, wanting to make a formal complaint. She had lodged a complaint with the provider, and met with an academic supervisor to discuss the changed exam result, but the supervisor would not change the result back to her original passing mark.

Our investigation officer requested information from the provider to determine:

- why the mark had been changed, and
- what processes the provider had followed in informing students about the changed results.

² Name changed to protect privacy

³ Name changed to protect privacy

After reviewing information provided by the school, our investigator determined that:

- there had been a computer error when marks had been uploaded to the provider's student portal, so the initial upload had attributed results to the wrong students
- the school had rectified the error, so that students received their own grades
- the school had communicated with concerned students, and
- the academic supervisor had met with Tilly to explain what had happened, and had been under the impression that Tilly had accepted the explanation.

Our investigation officer ultimately considered that the provider had acted fairly and reasonably in its actions relating to Tilly's mark, as the computer error had been unforeseen, and the provider had taken prompt and appropriate action in the circumstances.

Commentary

Most of the complaints considered by the Ombudsman are assessed under the standards of the National Code. In this complaint, the main issue was the grade which had been awarded to the student. There is no National Code standard which would assist the investigator in determining a correct course of action in such a situation, and the Office of the Ombudsman is not an academic merits review body which could determine whether a specific mark is fairly awarded.

In situations like these, investigation officers can look at the procedural fairness afforded to a complainant, and whether a provider has acted reasonably in the circumstances.

Appendix A – detailed data regarding finalised complaints

Complaint issues closed, compared to previous quarter

Issues	Oct–Dec 2017 ⁴	Jan–Mar 2018
Formalisation of enrolment (written agreement)	87	90
Progress, attendance, course duration	67	48
Transfers between registered providers	33	39
Grades/assessment	28	26
Complaints and appeals	0	15
Deferring, suspending, cancelling enrolment	18	14
Out of jurisdiction to investigate (OOJ)	11	9
Graduation Completion Certificate	8	7
Bullying or harassment	5	5
Recruitment of overseas student	3	3
Staff capability, educational resources and premises	13	2
Academic Transcript	6	2
Education agents	2	2
Additional registration requirements	0	1
Student support services	2	1
Younger students	0	1
Overseas Student Health Cover	1	1
Provider default	6	1
Marketing information and practices	5	0
Work placement/experience	1	0
TOTAL	296	267

⁴ Due to changes in the organisation of National Code standards from 1 January 2018, issues which appeared under separate standards have been merged into new standards. For example, complaints about monitoring course progress, monitoring attendance and extensions to course duration are now reported together.

Complaints investigated and closed by education sector

Sector	No. of students ⁵	%	Oct–Dec 2017	%	Jan–Mar 2018	%
VET	123,272	66%	51	62%	29	42%
Schools	6,603	4%	3	4%	2	3%
ELICOS ⁶	20,824	11%	15	18%	16	23%
Higher Education	35,079	19%	12	15%	19	28%
Non-Award	1,478	1%	1	1%	3	4%
TOTAL	187,256		82		69	

Top three issues investigated and closed by sector

Sector	Issue 1	Issue 2	Issue 3
VET	Written agreements	Progress, attendance and duration	Transfers
Higher Education	Progress, attendance and duration	Written agreements	Deferring, suspending, cancelling enrolment
ELICOS	Progress, attendance and duration	Written agreements	Complaints and appeals
Non-award	Progress, attendance and duration		
Schools	Progress, attendance and duration		

Complaints closed by State/Territory

State/Territory	Oct–Dec 2017	Number of registered providers ⁷	Jan–Dec 2018	Number of registered providers ⁸
Victoria	85	284	74	289
New South Wales	85	300	73	316
Queensland	40	275	29	278
Western Australia	22	85	30	79
National	13	29	20	28
Australian Capital Territory	0	13	0	14
South Australia	11	77	8	75
Northern Territory	0	5	0	6
Tasmania	0	10	0	10
Total	256	1,078	234	1,095

⁵ Number of 'studying CoEs' in Overseas Students jurisdiction by 'main course sector'. Excludes South Australian (SA) providers as, while they are in jurisdiction, we transfer complaints about SA providers to the SA Training Advocate. PRISMS report as at 11 April 2018.

⁶ English Language Intensive Courses for Overseas Students

⁷ Number of providers in jurisdiction, per PRISMS data. Includes SA providers, noting that we transfer complaints about SA providers to the SA Training Advocate, as at 1 November 2017.

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