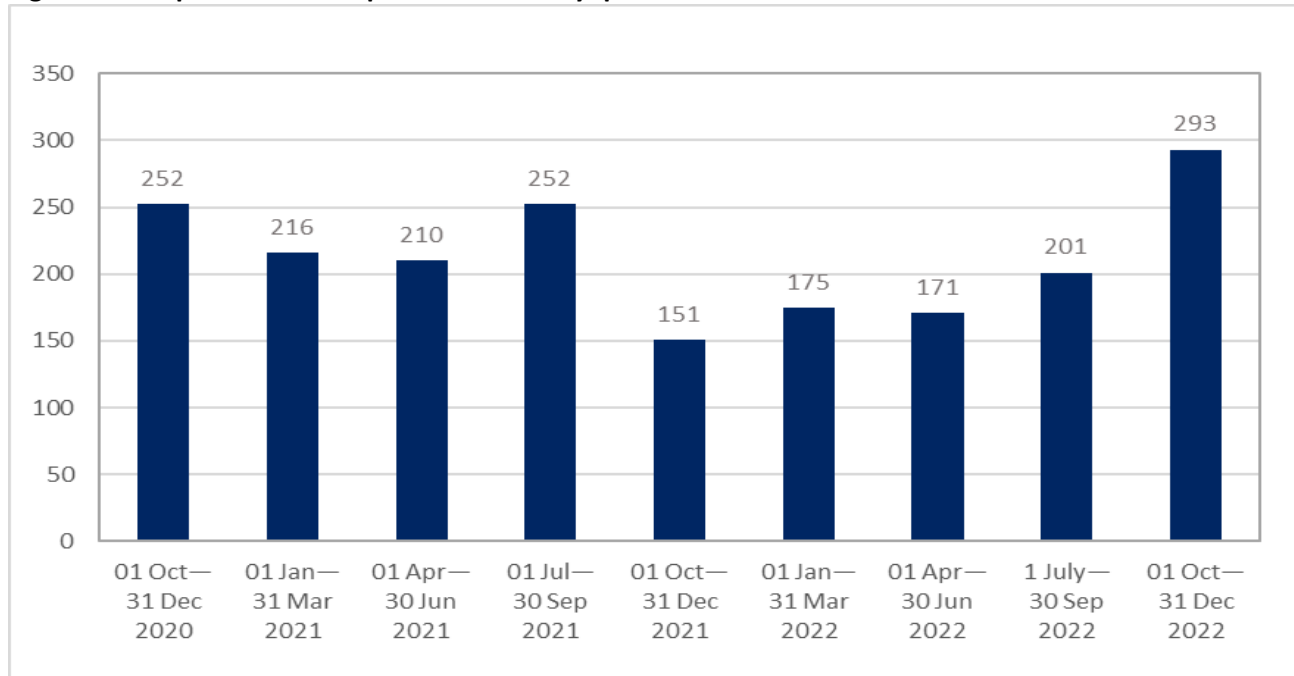


## Quarterly Update: 1 October – 31 December

### Complaints and enquiries received

Between 1 October and 31 December 2022, the Office of the Commonwealth Ombudsman (the Office) received 293 complaints and enquiries from international students enrolled with private registered education providers (see Figure 1). This represents a 52% percent increase when compared to the same period last year. This increase was expected with the high number of overseas students recently returning to Australia. This is also an increase on the previous quarter, which is consistent with the number of students returning to Australia following the reopening of borders.

**Figure 1: Complaints<sup>1</sup> and enquiries received by quarter**

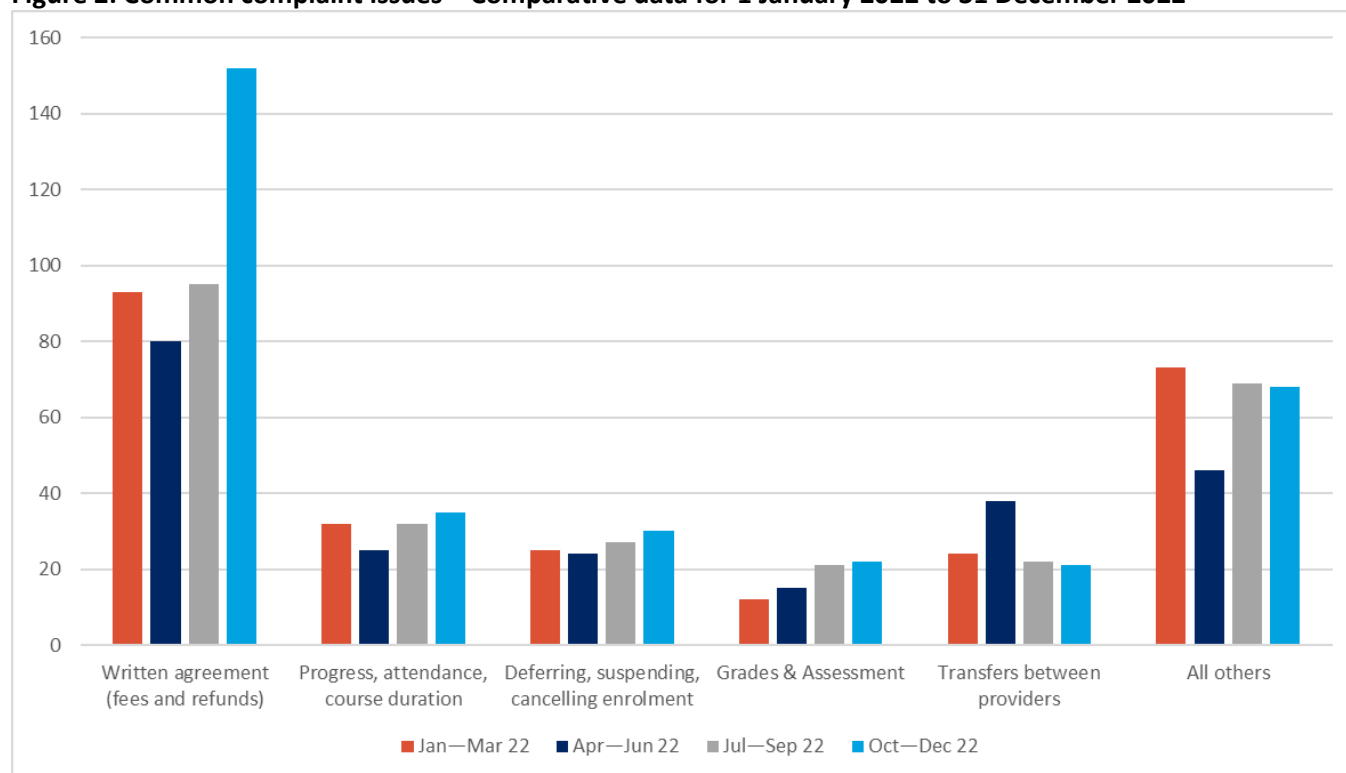


### Refund practices and potentially unfair contract terms

As in previous quarters the most common issue in complaints to the Office between 1 October and 31 December 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 strongly encourage all private education providers to read this paper and consider the fairness of their refund practices.

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

<sup>1</sup> 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](#).

**Figure 2: Common complaint issues – Comparative data for 1 January 2022 to 31 December 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 October to 31 December 2022, the Office finalised 37 complaint investigations, covering 60 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 October to 31 December 2022**

View	Total issues
Provider substantially met responsibilities to student	29
Provider did not substantially meet responsibilities to student (see below)	16
No view – provider and student resolved matter, or we otherwise discontinued the investigation	15

When we consider a provider has not substantially met their responsibilities, we work with both parties to find a possible 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

Edward was studying a bachelor-level course and wanted to study a trade concurrently. He enrolled in a trade course with a private education provider and paid \$6,500, which included tuition fees and a \$250 application fee. The trade course provider was aware that Edward was enrolled in another course.

Edward attended orientation with the trade provider and tried to arrange a suitable timetable to fit into his schedule but was unable to. Edward emailed the provider to withdraw from the trade course and ask for a refund. He did not receive a response so sent several follow-up emails, each with no response. Edward contacted the Office to complain.

### Our assessment

We considered information provided by Edward and his education provider, and:

- 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 Edward's written agreement, and the provider's policies for cancellations, refunds and transfers and,
- whether it was fair and reasonable, in the circumstances, for the provider to retain Edward's fees.

### Our view

The written agreement that Edward signed with the provider did not fully comply with Standard 3 of the National Code. The written agreement between the provider and Edward:

- did not provide details of common non-tuition fees that international students may incur (standard 3.3.5)
- changed the wording of a statement about Australian Consumer Law that is mandatory in all written agreements (standard 3.4.5). Note that in many cases we will accept slight modifications to the required wording but this provider's wording removed the term 'Australian Consumer Law', which we regarded as essential.
- did not state that it is a student's choice to pay more than 50 per cent of their tuition fees before their course commences (standard 3.3.4)

In addition, the provider's refund policy appeared potentially unreasonable, as it did not permit refunds for any reason except:

- a) if a student's visa is refused, and
- b) if the provider does not deliver the course.

The Office was also concerned that the education provider had accepted Edward as a concurrent student, knowing that Edward was studying full-time with another provider, without first:

- giving an indication of available study times
- counselling Edward about his obligation to meet course requirements for both courses while on a student visa, and
- providing Edward the opportunity to withdraw without penalty if the study timetables did not permit him to attend both courses.

In our view, international students wanting to enrol in concurrent studies should not bear all the risks of not being able to proceed. Education providers who accept them into a second course should fully understand the challenges of successfully engaging in concurrent study, and therefore accept some financial risk.

**Outcome**

We suggested the provider should:

1. pay Edward a total refund of \$4,598 (in accordance with section 8 Education Services for Overseas students (Calculation of Refund) Specification 2014),
2. cancel Edward's enrolment effective from the date of receiving his letter requesting withdrawal and a refund,
3. update its written agreement template to ensure compliance with Standard 3 of the National Code,
4. amend its process for accepting students in concurrent study to ensure greater student understanding of the challenges and a fairer distribution of risk.

The provider accepted our suggestions and paid Edward a refund of \$4,598.

**Information for providers – helping students to complain**

Some students may struggle when making a complaint to their education provider. They may have difficulty understanding the provider's process or knowing the best way to share their information.

To assist students, we have developed a factsheet which gives guidance and tips on making effective complaints. This factsheet is available on our website: [How to make an effective complaint](#)  
Education providers have a responsibility to have an effective complaint handling process in place, and to make this accessible to their students. Sharing this factsheet with students can help providers to meet these responsibilities.

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