



Quarterly Summary 1 July 2017–30 September 2017

About the Commonwealth Ombudsman

The Commonwealth Ombudsman has three main functions in its specialist Overseas Students role:

1. investigate complaints about actions taken by private registered education providers in connection with overseas students
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 out our activities from 1 July – 30 September 2017 in relation to each of these functions.¹

Significant points in this summary

- » The number of complaints received during the period 1 July – 30 September 2017 is slightly lower than the same period in 2016
- » Around 52 per cent of complaint issues investigated were decided in support of the provider
- » Complainants hailed from 28 countries/administrative regions. Pakistan and China represented the most frequent origin for complaints investigated, at 12 per cent each.

Quarterly summary at a glance

Slight decrease in complaints received this quarter on same time last year



Written agreements continue to raise the most complaint issues

Of the complaint issues investigated and finalised:

52%

Decided in support of provider

23%

Decided in support of student

25%

Decided in support of neither



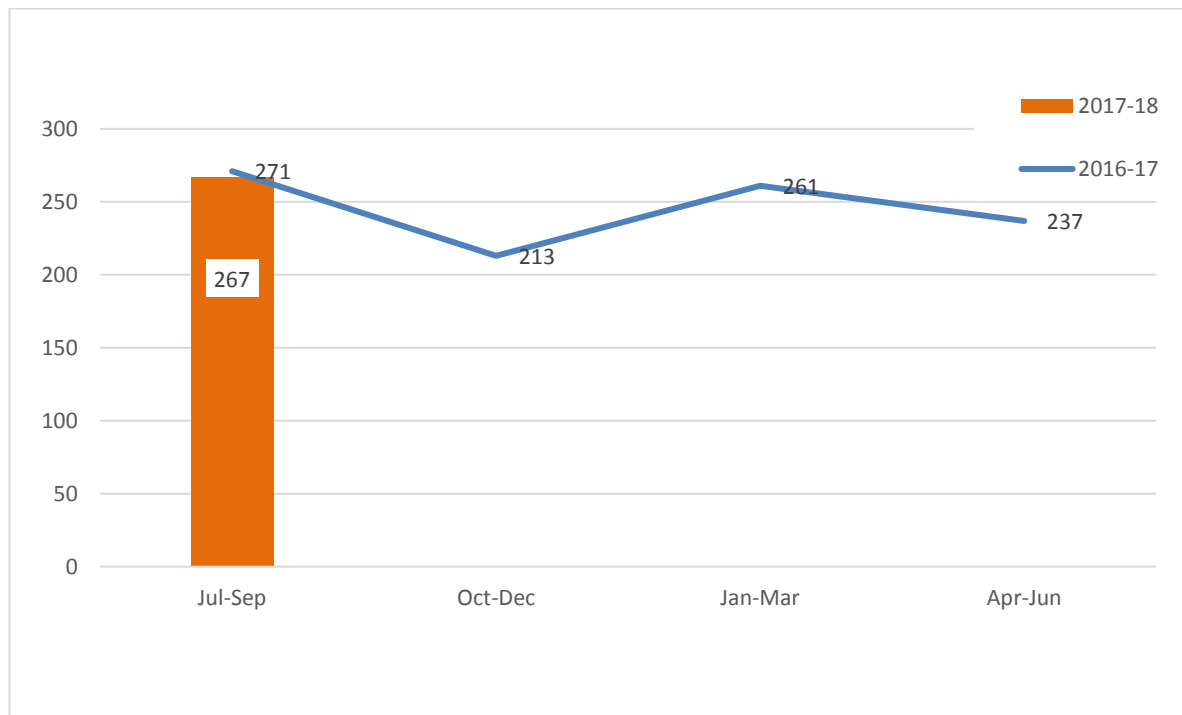
28 countries / administrative regions

Origin of students whose complaints were investigated by the Ombudsman this quarter

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



Complaints received



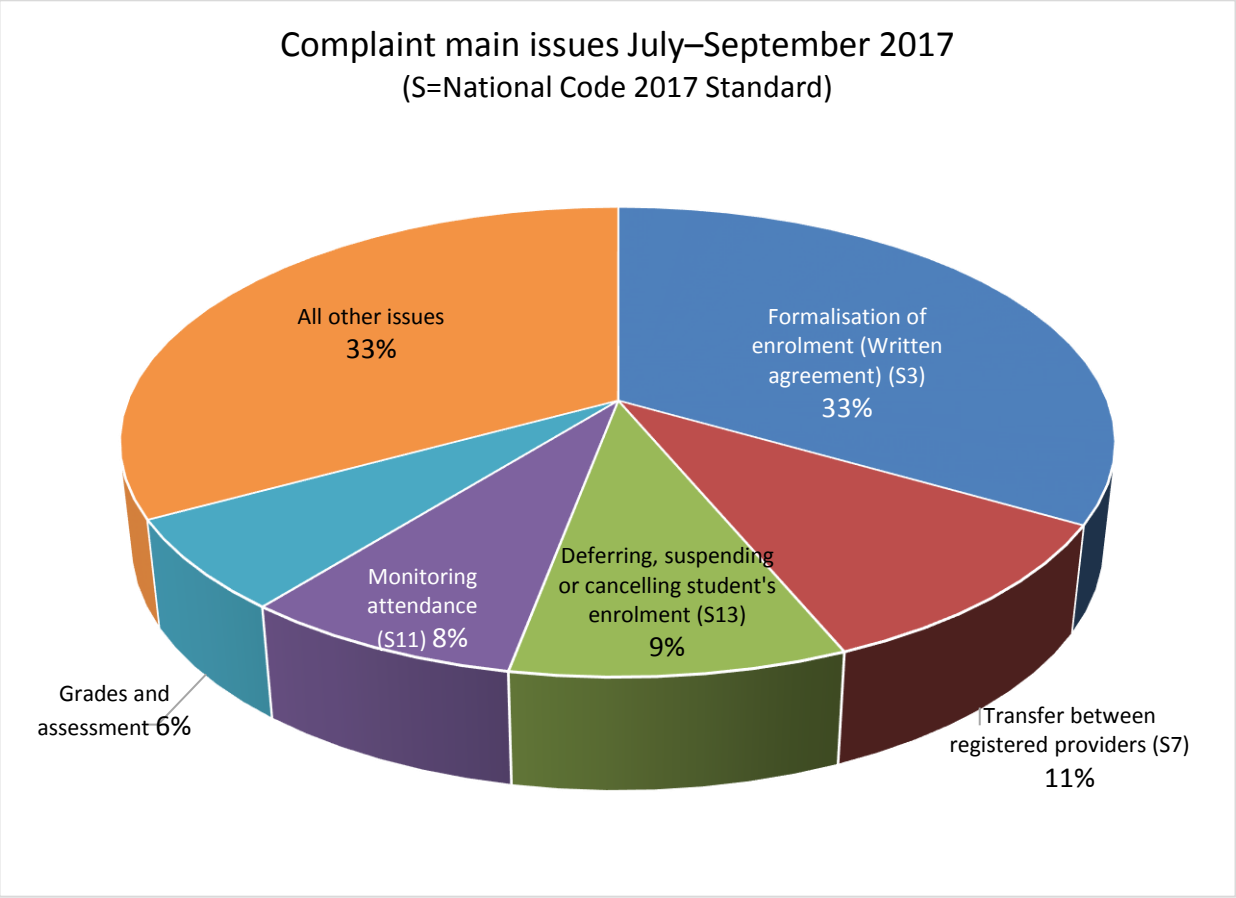
Complaints finalised

Finalised	Not investigated	Investigated	No. of issues investigated	Outcome found in support of:		
				Provider	Student	Neither
242	170	72	83	43	19	21
	70%	30%		52%	23%	25%

We finalised 242 complaints during the quarter which contained 270 issues, and:

- investigated 72 complaints which included 83 issues. Complaints about provider refund refusals and fee disputes remain the most significant issues. For detailed data about complaint issues handled during the period, please refer to [the appendix to this report](#)
- did not investigate 170 complaints. Documents provided by the student at the time of the complaint allow us to form a view about the dispute raised to determine whether it requires further investigation
- complaints resolved in support of neither party are usually resolved between the student and provider during the course of the investigation.

Complaint issues

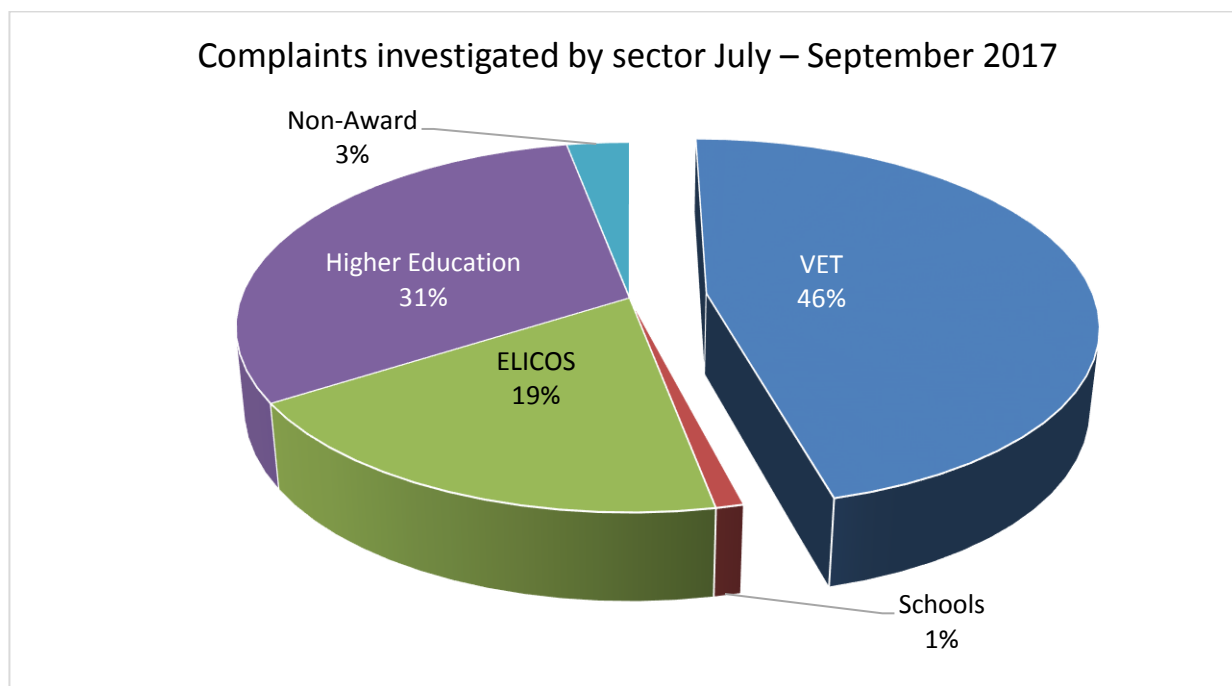


The common areas of student complaints such as written agreements and transfers continue to make up the majority of issues reported to our Office. Complaints about education agents dropped to 1 per cent of all issues received.

Complaints by education sector

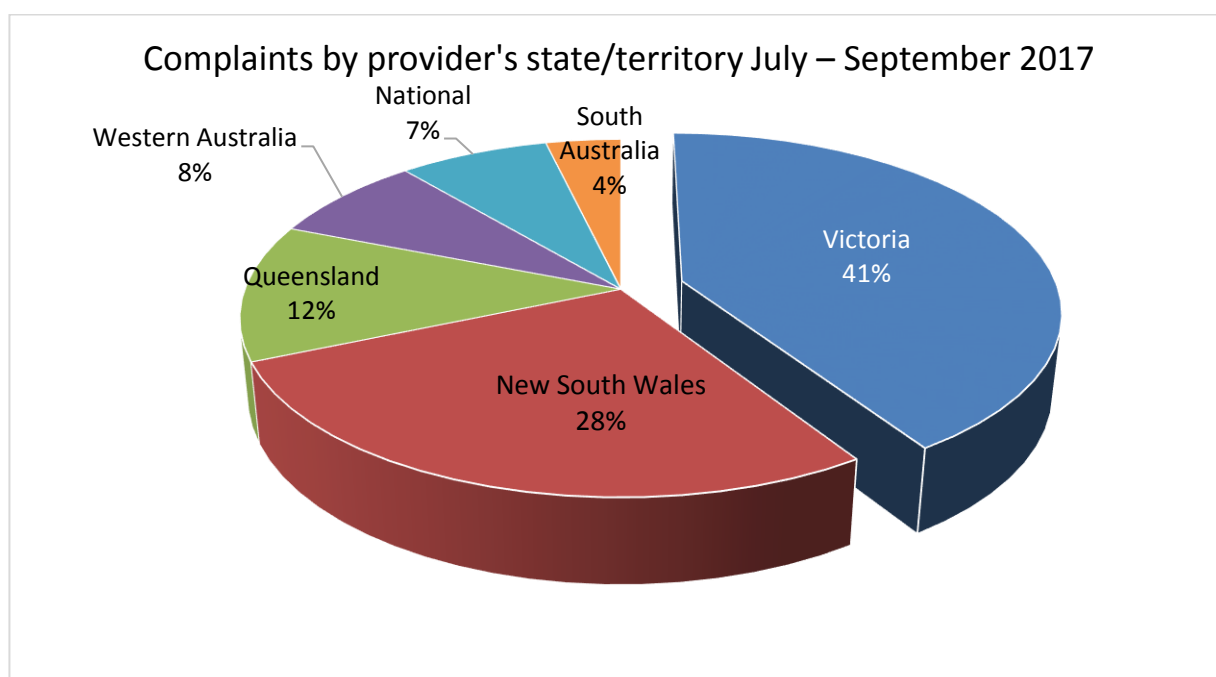
Most finalised investigated complaints related to Vocational Education and Training (VET) (46 per cent), Higher Education (HE) (31 per cent), and English Language Intensive Courses for Overseas Students (ELICOS) (19 per cent) sectors.

VET again represented the most common course sector for complaints investigated and closed, noting that VET has the highest number of private providers in the Commonwealth Ombudsman's jurisdiction.



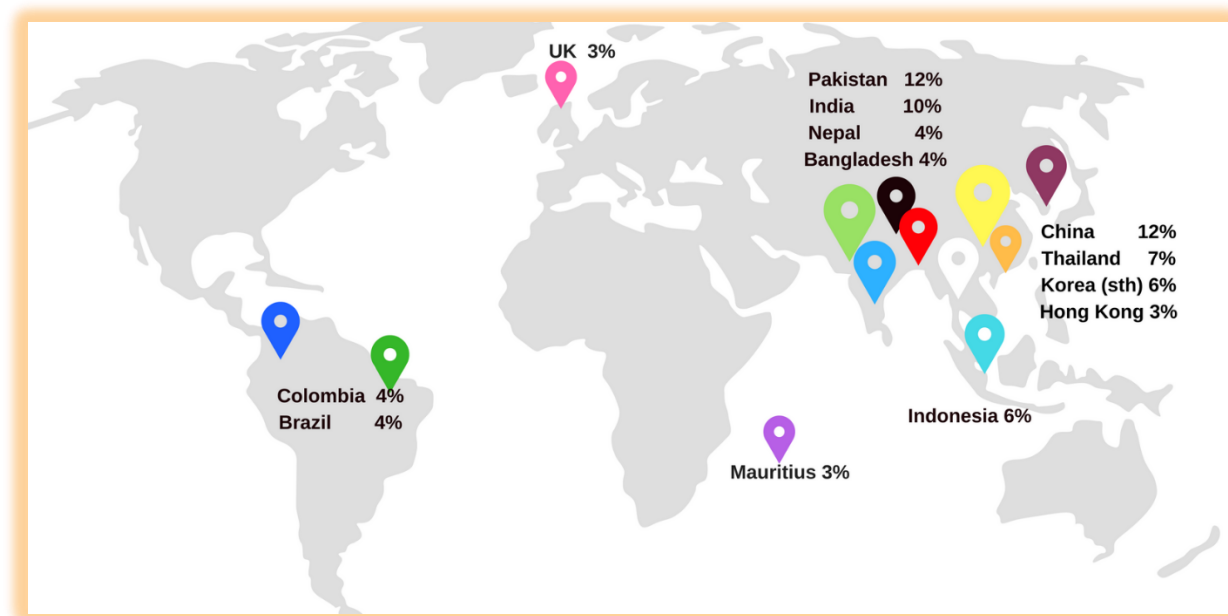
Complaints by state/territory

Complaints made by students about providers registered in Victoria (41 per cent) were significantly higher than in other states, despite having fewer in-jurisdiction students than NSW.



Complaints investigated by origin of complainant

The complainants whose cases we investigated and closed in the July to September quarter originated from 28 different countries/administrative regions. The largest groups of complainants were from Pakistan and China.

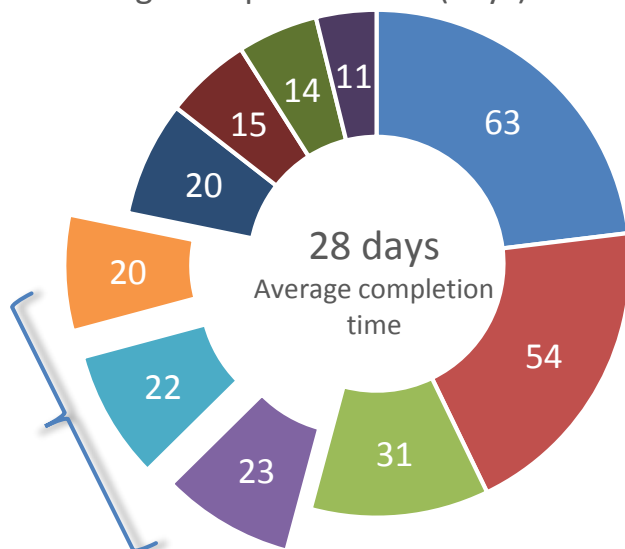


Complexity

Some investigations take longer than others. The length of the process may vary 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 1 July – 30 September 2017 period, the average completion time for National Code-related complaints was 28 days. Some issues have a longer average finalisation time, however complaints relating to our top three issues (by volume) were resolved within 23 days on average.

National Code - 10 issues with longest average completion time (days)



- Standard 10 - Monitoring course progress
- Standard 11 - Monitoring attendance
- Standard 8 - Provider complaints and appeals processes
- Standard 13 - Deferral, suspension, cancellation
- Standard 3 - Written agreements
- Standard 7 - Transfer between providers
- Standard 14 - Staff capability, educational resources & premises
- Standard 4 - Education agents
- Standard 2 - Student engagement before enrolment
- Standard 9 - Completion within expected duration of study

Top three complaint issues (volume)

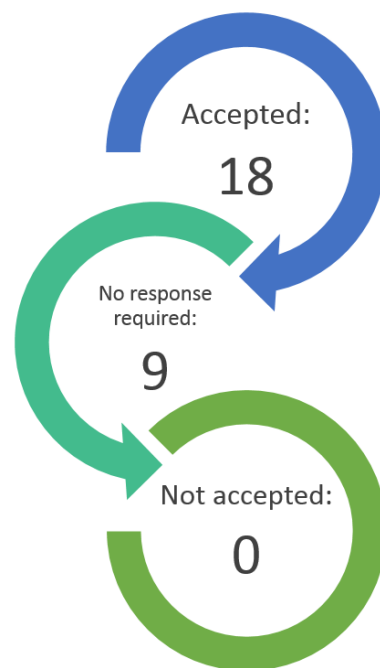
From 1 July – 30 September 2017, 75 per cent of all complaints were closed within 30 days, 12.5 per cent from 31–60 days, and the remainder closed in 61 days or more.

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 1 July to 30 September 2017 period, we made **27** recommendations to providers.

For example, following a recent investigation of a complaint about a transfer request, we recommended improvements to a provider's policies and processes for considering a transfer. As a result of our recommendations, the provider updated its processes to ensure that full consideration is given and clear reasons are provided to students if the provider decides to refuse their transfer.



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 one s 35A disclosure during the July – September 2017 quarter.

Submissions

The Office provided a submission to the Department of Education and Training review of ELICOS National Standards in this quarter. The submission has not yet been published.

Previous submissions can be found on our [website](#), including our recent submission on proposed changes to the *National Code of Practice for Providers of Education and Training to Overseas Students 2018*.

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: Kali

Kali contacted the Ombudsman to complain about a notification of intention to report for failing to achieve satisfactory course progress, which she had received from her previous education provider. Earlier this year she had withdrawn from that provider's course, and was now studying with a different education provider.

Kali had studied with her previous provider for terms one and two. She had completed her term one assessments and been deemed competent in two units, but had not completed her assessments for her two units in term two. Her provider had cancelled her Confirmation of Enrolment and issued her with a release letter, noting that her assessments from term two were outstanding and she still needed to achieve competency in two units.

The provider contacted Kali on several occasions reminding her to complete the two outstanding assessments. Kali did not want to complete the assessments.

Under the National Code Standard 10, providers are required to monitor the course progress for overseas students systematically, to have documented policies and procedures in relation to course progress, to counsel students at risk of failing to meet requirements, and to report students who have breached their course requirements.

In addition, Standards 10.4 and 10.5 require providers to implement an intervention strategy for students at risk of not meeting course progress requirements. This intervention strategy must be exhausted before taking action to report a student via PRISMS.

No intervention strategy had been implemented in Kali's case. We therefore recommended that Kali's previous provider not report her for unsatisfactory course progress. Kali thanked us for investigating.

Commentary:

Kali's previous provider was correct that their obligation to report extended even after Kali was no longer enrolled as their student. However, they were still required to implement an intervention strategy to help Kali get her studies back on track before they could report her.

In this situation, they had already released Kali to study with another provider, so they were not able to implement the intervention strategy.

The provider should have had a policy and process to identify when Kali was *at risk* of not meeting course progress requirements. At this point the provider should have implemented an intervention strategy. When Kali did not meet course progress requirements, it would then be open to the provider to issue the Notice of Intention to Report and, following the appeals process, report Kali.

Under National Code Standard 7, providers must have a transfer request, assessment policy and procedure. The provider must specify the circumstances that they consider reasonable grounds to refuse a student's transfer request. One such circumstance may be where the student is trying to avoid being reported for failure to meet course progress requirements².

Please note that in the revised National Code due to take effect on 1 January 2018, it is foreseen that failure to achieve satisfactory course progress after intervention could be a reason for a provider to grant a student's transfer request³.

² Explanatory guide for Standard 7, National Code Part D, <https://internationaleducation.gov.au/Regulatory-Information/Education-Services-for-Overseas-Students-ESOS-Legislative-Framework/National-Code/nationalcodepartd/Pages/ExplanatoryguideD7.aspx>.

³ *National Code of Practice for Providers of Education and Training to Overseas Students 2018*, standard 7.2.2.1.

Case study 2: Jem

Jem was enrolled in a Diploma of Design followed by a Bachelor of Architecture. He had been studying his Diploma of Design for three trimesters, but had failed most of his units, including some which he had attempted three times. He approached our Office to complain about his provider's decision to report him for failing to achieve satisfactory course progress.

An investigation of his complaint revealed that the provider had issued Jem with warnings, and asked him to engage in an intervention strategy. The provider's course progress policy had clear guidelines for identifying a student as 'at risk' of making unsatisfactory course progress, and steps for intervention. The provider had engaged with Jem in meetings about his academic progress, and a number of services were offered to him to support him academically.

The provider had also followed its notification policy. It had notified Jem about its intention to report him to the Department of Education and Training and the Department of Immigration and Border Protection, and had considered his appeal on the matter, providing detailed reasons for its conclusions. We therefore found in support of the provider's decision.

Commentary:

Other students had previously lodged complaints about this provider's course progress policy which were found in support of the students. As a result, we had made recommendations about improvements to address specific gaps in the provider's policies. The recommendations had clearly been implemented and resulted in our subsequent decision, in this case, in support of the provider.

Appendix – detailed data regarding finalised complaints

Complaint issues closed, compared to previous quarter

Issues	Jul–Sep 2017	Apr–Jun 2017
Standard 3 – provider refund/fee dispute/written agreement	91	108
Standard 7 – transfer between registered providers	28	28
Standard 13 – deferring, suspending or cancelling enrolment	25	30
Standard 11 – monitoring attendance	21	16
Grades/assessment	17	22
Standard 14 – staff capability, educational resources and premises	15	10
Standard 10 – monitoring course progress	14	21
Out of jurisdiction to investigate ⁴	14	13
Standard 8 – provider complaints and appeals processes	10	11
Provider default	6	8
Graduation Completion Certificate	6	4
Academic Transcript	4	5
Standard 12 – course credit	4	3
Standard 4 – education agents	3	23
Standard 1 – marketing information and practices	3	8
Bullying or harassment	2	5
Standard 2 – student engagement before enrolment	2	1
Standard 9 – completion within the expected duration of study	2	1
Overseas Student Health Cover	1	1
Work placement/experience	1	0
Standard 5 – younger students	1	0
Discipline	0	2
Standard 6 – student support services	0	2
TOTAL	270	322

⁴ Out of jurisdiction means the provider was in jurisdiction but the student was out of jurisdiction because they were not a current, former or intending international student visa holder or the issue complained about was out of jurisdiction, for example discrimination, employment or privacy issues.

Complaints investigated and closed by education sector

Sector	No. of providers ⁵	%	Jul-Sep 2017	%	Apr-Jun 2017	%
VET	479	48.5%	33	46%	33	32%
Schools	336	34%	1	1%	2	2%
ELICOS ⁶	99	10%	14	19%	30	30%
Higher Education	64	6.5%	22	31%	25	25%
Non-Award	9	1%	2	3%	11	11%
TOTAL	987		72		101	

Top three issues investigated and closed by sector

Sector	Issue 1	Issue 2	Issue 3
VET	Written agreements	Course progress monitoring	Transfers
Higher Education	Written agreements	Suspending, deferring and cancelling	Transfers
ELICOS	Written agreements	Attendance monitoring	
Non-award	Attendance monitoring	Course progress monitoring	
Schools	Written agreements		

Complaints closed by State/Territory

State/Territory	Jul-Sep 2017	Number of registered providers ⁷	Apr-Jun 2017	Number of registered providers ⁸
Victoria	99	278	83	275
New South Wales	67	297	67	294
Queensland	30	270	36	268
Western Australia	19	86	29	85
National	18	29	17	29
Australian Capital Territory	0	12	0	12
South Australia	9	78	5	79
Northern Territory	0	5	0	5
Tasmania	0	10	0	10
Total	242	1065	237	1057

⁵ Number of providers in OS 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, as recommended by the 2010 Baird Review.

⁶ English Language Intensive Courses for Overseas Students

⁷ Number of providers in jurisdiction, per PRISMS data. Includes South Australian (SA) providers, noting that we transfer complaints about SA providers to the SA Training Advocate, as at 29 August 2017.

⁸ 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 18 July 2017.