

Quarterly Update: 1 April to 30 June 2022

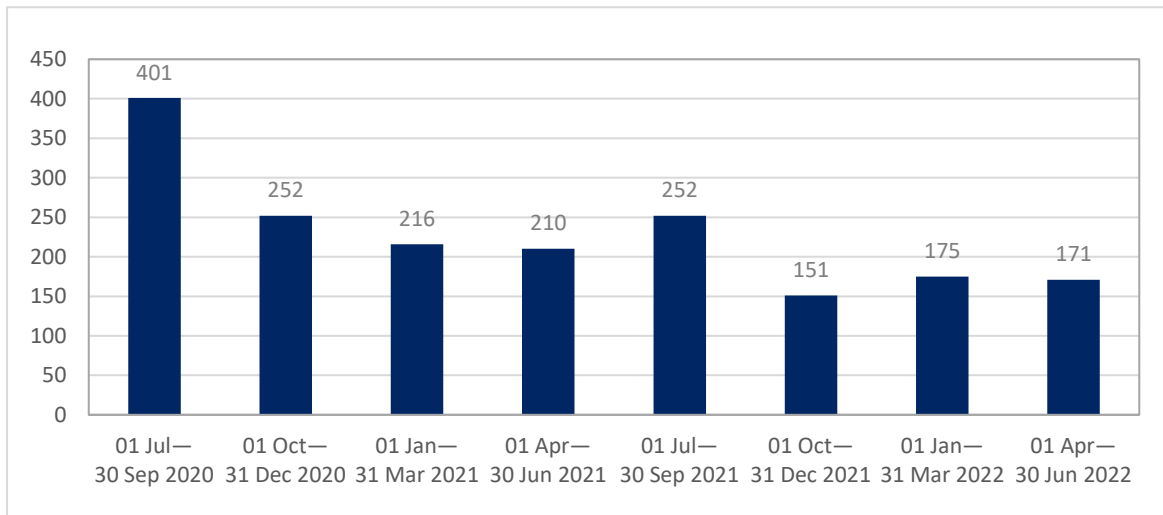
This is the last quarterly update for the 2021–22 financial year for the Office of the Commonwealth Ombudsman’s (the Office) Overseas Students Ombudsman function.

In its role as Overseas Students Ombudsman, the Office assists students to resolve complaints through our independent complaint-handling service. We can investigate private registered education providers’ actions in connection with intending, current or former student visa holders. The Office also offers private registered education providers advice and training about best practice complaint handling, and reports on trends and systemic issues arising from its complaint-handling activities.

During the 1 April to 30 June 2022 quarter, we received 171 complaints and enquiries from international students enrolled with private registered education providers (see

Figure 1). This is a decrease of 19% compared to the same period last year.

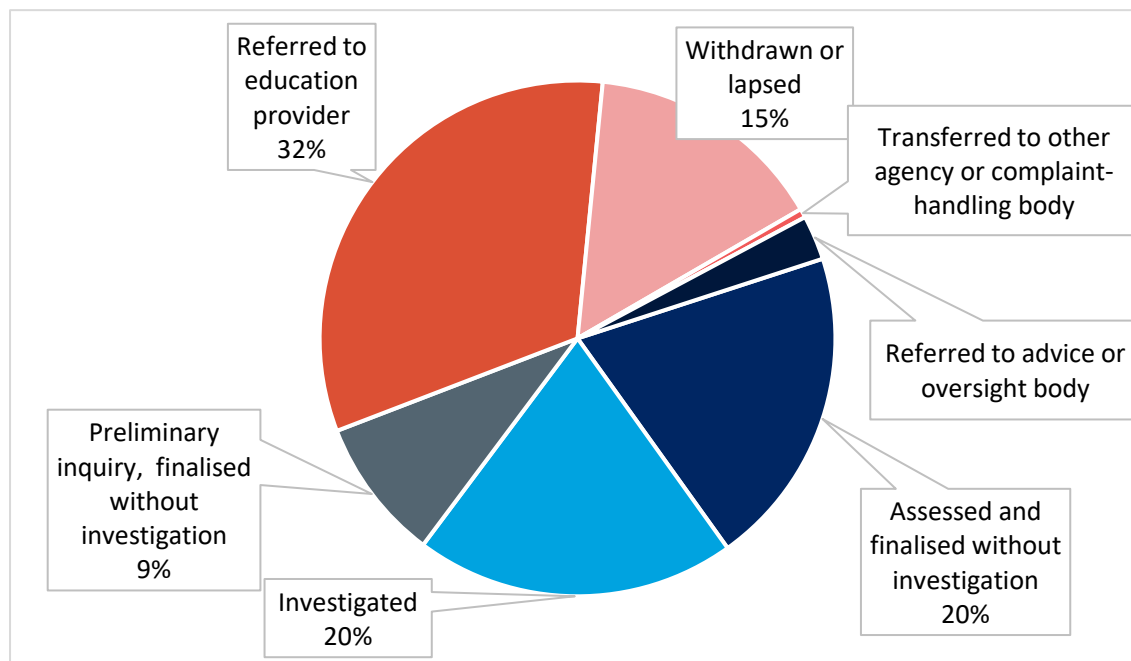
Figure 1: Complaints and enquiries received from July 2020–June 2022



Action taken to finalise complaints

During the 1 April to 30 June 2022 quarter, we finalised 179 complaints which included 241 issues. We received some of these complaints during previous quarters.

Figure 2 provides a snapshot 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 2: How we finalised complaint issues in the quarter

Did providers meet their responsibilities?

During the quarter, we finalised 36 complaint investigations which included 65 issues (see Figure 3). Table 1 details outcomes for investigations finalised during the period.

Table 1: Outcomes of finalised investigations: 1 April–30 June 2022

Outcome	Total issues	%
Provider substantially met responsibilities ¹	17	26%
Provider did not substantially meet responsibilities	33	51%
No view (see below)	15	23%

We do not always form a view about whether a provider substantially met their responsibilities. This is usually because the issue was resolved between the student and provider during the investigation, or the investigation was otherwise discontinued. For example, we may discontinue our investigation because the provider ceased operating, the student withdrew their complaint, or based on our review of available information we decided that further investigation was unlikely to lead to a different outcome for the student.

¹ In determining whether a provider substantially met their responsibilities, the Office considers the compliance of the provider's action or decision with their internal policies, whether those internal policies are compliant with the *Education Services for Overseas Students Act 2000* and its instruments, and whether the outcome is fair and reasonable in all the circumstances. In some cases, if we identify a technical non-compliance by the provider which would not have changed the result for the student, we would consider the provider to be *substantially* compliant. In those situations, we may offer comments to the provider to improve its policies and/or practices.

Comments, suggestions and formal recommendations

At the conclusion of a complaint investigation, we can make comments and suggestions to providers about specific remedies or improvements they could make to their policies or processes.

During the quarter, we made 12 suggestions to providers about issues including accessibility of complaints and appeals processes, improved wording in written agreements, and improvements to policies and procedures to ensure compliance with relevant legislation.

Also during this period, we made 3 recommendations to an education provider as part of a formal report. The report concerned a complaint from an international student who had applied for a refund of pre-paid fees from their education provider. Applying the terms of their written agreement, the provider deducted a significant amount from the student's refund. In the Ombudsman's opinion, the terms of the written agreement appeared to lead to an unreasonable or unfair outcome, considering the requirements of Australian Consumer Law. The provider accepted the Ombudsman's recommendation to refund an additional amount to the student and make changes to its written agreements.

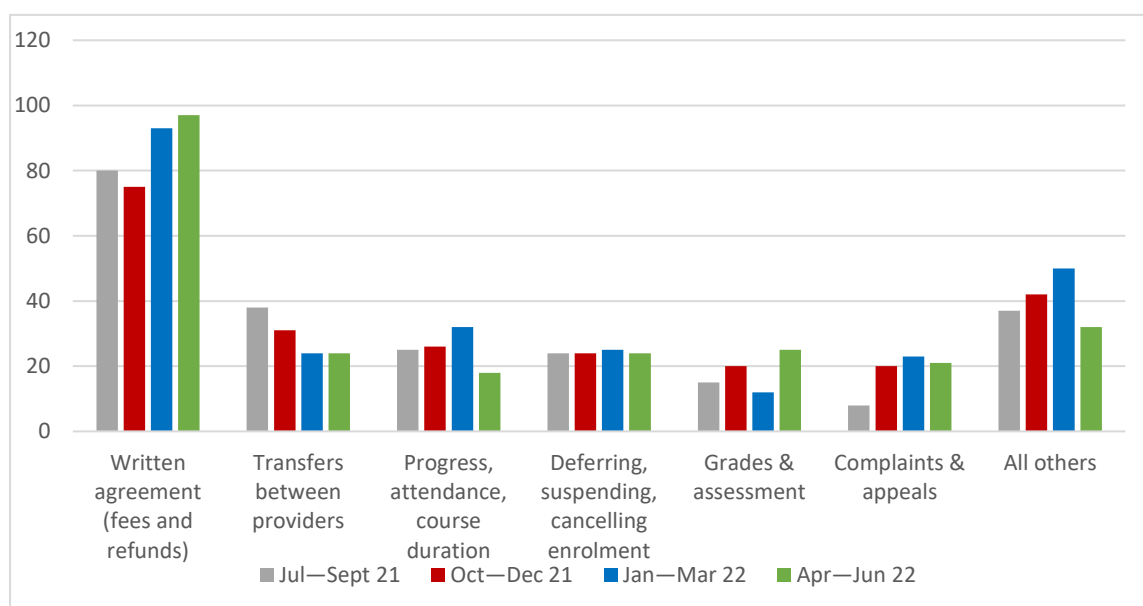
The Office will be raising this issue with other providers with similar written agreement terms and is preparing an issues paper on unfair contract terms in written agreements for publication in 2022–23.

Complaint issues

Written agreements (fees and refunds) continue to be the most common issue (40 per cent) in complaints from overseas students. These complaints are generally due to students seeking a refund of pre-paid tuition fees where 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 provider.²

Dissatisfaction with a grade or assessment process (10 per cent) and transfers between providers (also 10 per cent) were the next most common issues in complaints to our Office. Figure 3 below shows common issues raised in complaints during the quarter.

Figure 3: Common complaint issues: 1 April–30 June 2022



² National Code of Practice for Providers of Education and Training to Overseas Students 2018 standard 3.4.

Data

The quarterly data in this update covers the period 1 April to 30 June 2022. 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](#).

Case study

Faren had been studying a diploma with his education provider for more than 12 months when he decided to cancel his enrolment due to the impact of the pandemic on his mental health. Faren lodged his request for cancellation supported by a medical certificate which confirmed that he was being treated for stress and anxiety.

The provider rejected Faren's request, stating that Faren had not provided evidence to support his application, such as confirmation of a flight back to his home country or an offer to study from another provider. Faren appealed the decision, but the provider upheld their original decision as Faren had not provided additional information to support his request. Faren then contacted our office.

Our assessment:

We considered information provided by all parties and the requirements of:

- 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), and
- the provider's documented policies and procedures, in particular their Deferral, Suspension and Cancellation policy and procedure.

The Office assessed that Faren's withdrawal request using the provider's 'cancellation of enrolment' form should have been sufficient for it to action the cancellation/withdrawal request. Neither the ESOS Act nor the National Code impose restrictions on students cancelling their enrolment at any time. It appeared that the provider had imposed release conditions on a cancellation request.

Outcome:

We suggested the provider should:

1. cancel Faren's enrolment immediately and update the Provider Registration and International Student Management System (PRISMS) accordingly
2. inform Faren and our Office once this action was taken, and
3. not pursue Faren for fees incurred after the date he requested cancellation.

We also suggested that the provider should ensure:

- when assessing future requests for cancellation, staff are aware of the distinction between cancellation and release, and process each type of request accordingly
- all student requests for cancellation are actioned appropriately and in accordance with the time limits specified within the ESOS Act.

The provider accepted our suggestions and made changes to their forms and internal processes. The provider also delivered training to their staff.

Further Comment/Observations:

According to PRISMS, Faren had commenced his principal course more than 12 months prior to requesting cancellation. Therefore, he would not have required a release from the provider, even if he had been intending to enrol with another provider. Where students are transferring providers after completing six months of their principal course, there is no requirement for them to show evidence of their new enrolment before cancellation of their original course/s.

Summary: 1 July 2021 to 30 June 2022

In 2021–22, the Office received 750 complaints from international students, a 30 per cent decrease from the 1,079 complaints received in 2020–21. This decrease in complaint numbers is consistent with the decrease in international students studying in Australia during border closures relating to COVID-19.

Of the 750 complaints received, 107 (14 per cent) raised issues related to COVID-19. In most cases, students were seeking refunds of pre-paid fees due to:

- being unable to commence study due to border closures
- being unable to continue study due to financial hardship
- not being satisfied with online delivery.

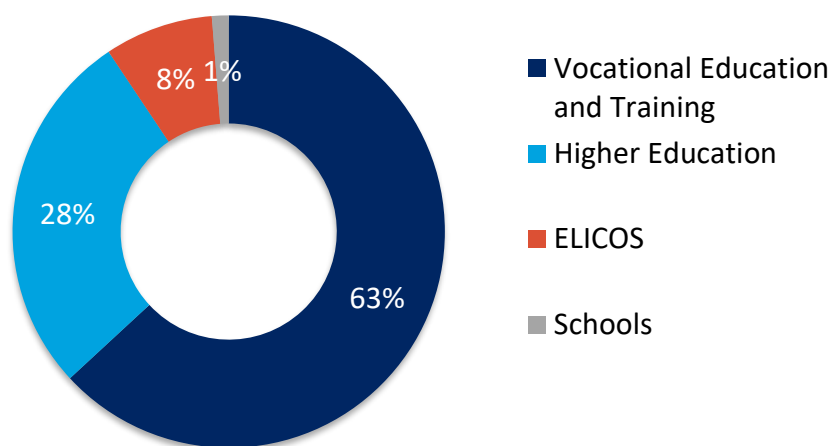
Students also sought transfers to lower cost courses, stating they had lost part-time work and their families were not able to support them due to disruptions to work and business overseas. Aside from financial remedies, students sought deferments or suspension of studies during lockdowns, and requested allowances be made in academic assessment to account for difficulties such as unreliable access when completing online studies from other countries, and psychological impacts of COVID-19.

Data on the year 2021–22

Complaints investigated by education sector

The Vocational Education and Training (VET) sector is the sector we investigate most often, with 63 per cent of investigated complaints coming from students studying VET courses. This is unsurprising, as the VET sector also has the highest proportion of international students in the Office's jurisdiction (77 per cent), followed by the Higher Education sector (18 per cent).³

Figure 4: Complaints investigated by sector: 1 July 2021–30 June 2022

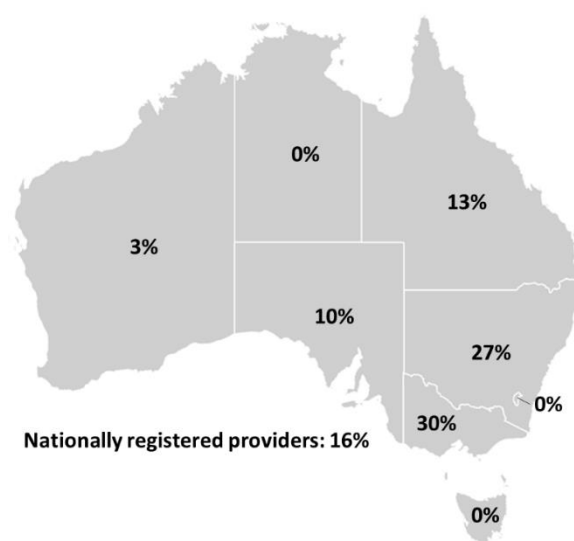


³ Number of 'Studying CoEs' by main course sector, non-government providers. Source: Provider export report from the Provider Registration and International Student Management System (PRISMS). Data extracted 24 August 2021.

Complaints by registered state or territory

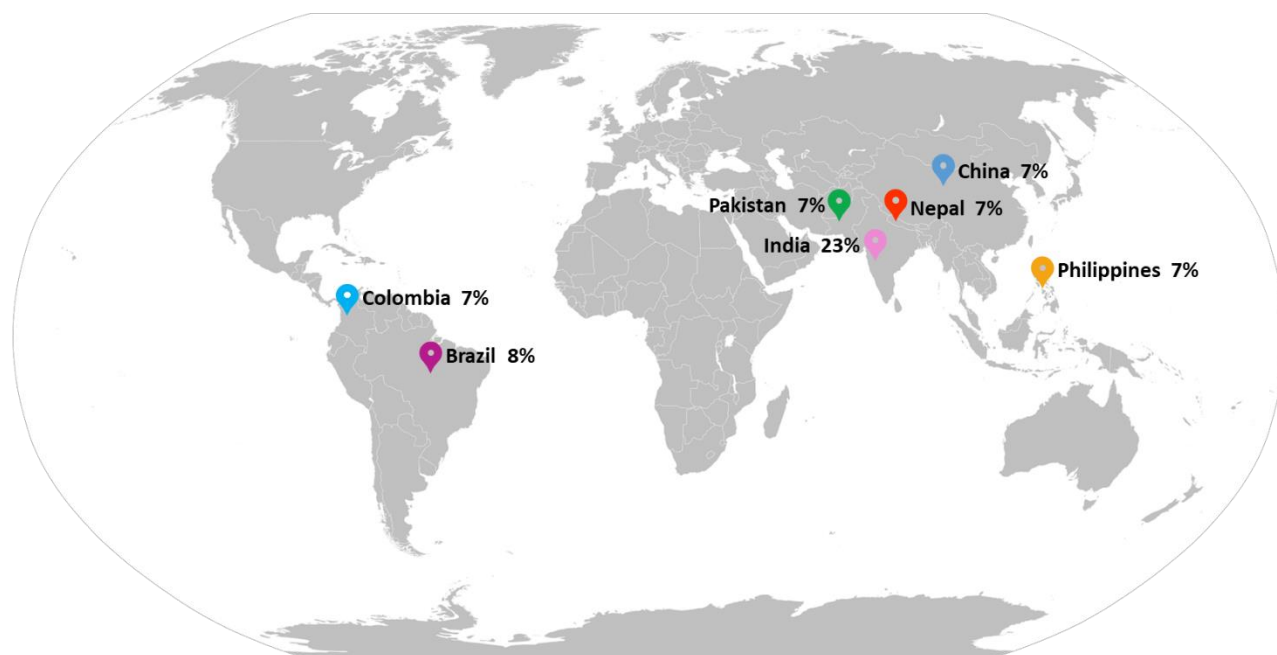
Providers registered in Victoria and New South Wales were the subject of the greatest numbers of complaints to our Office during the 2021–22 financial year.

This is consistent with the higher number of international students studying in these states.⁴



Complaints finalised by complainant's home location

We finalised complaints from students originating from 64 different countries and administrative regions during the financial year. Students from India made the largest number of complaints finalised in the year (23 per cent), followed by students from Brazil (8 per cent).



Data

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More information is available at ombudsman.gov.au/How-we-can-help/overseas-students

⁴ Number of 'Studying CoEs' by provider registered state, non-government providers. Source: Provider export report from the Provider Registration and International Student Management System (PRISMS). Data extracted 24 August 2021.