

## Quarterly Update 6: 1 October–31 December 2018

### Executive Summary

This is the sixth quarterly update for the Office of the Commonwealth Ombudsman's (the Office) VET Student Loans Ombudsman function (the function). This update covers the period 1 October–31 December 2018. The function was established on 1 July 2017 to investigate complaints about the former VET FEE-HELP scheme and the current VET Student Loans program.

This update:

- provides statistical data on complaints received, complaints closed and open complaints
- compares complaint data from 1 October–31 December 2018 and previous periods
- describes progress made to date in resolving complaints
- provides an outlook for 2019.

During 1 October–31 December 2018, we received 1,128 complaints, closed 1,170 complaints, commenced 27 preliminary inquiries and commenced 31 investigations.

VET FEE-HELP Student Redress Measures (redress measures) became available from 1 January 2019. The redress measures provide a remedy for students who, due to the inappropriate conduct of their VET provider, incurred debts under the VET FEE-HELP loan scheme. Under the redress measures, we will assess complaints and decide whether we will make a recommendation to the Department of Education and Training (DET) to remove individual VET FEE-HELP debts. We have contacted complainants who have open complaints with our Office and whose debts are eligible for consideration under these new measures, to let them know about the new remedy. We have also informed complainants that due to the complexity of issues presented in complaints and the large volume of complaints on hand, it could take up to 12 months for our Office to investigate and then recommend removal of loans for some complaints. While these matters are being investigated we will continue our arrangement with the Australian Taxation Office (ATO) to enable compulsory student repayments to be deferred if there is sufficient evidence of provider misconduct.

As at 31 January 2019, the Office had recommended that 120 people have VET FEE-HELP debts removed, comprising 644 units of study, with a total value of \$3.401 million including \$2.836 million in loan debts and \$0.565 million in loan fees.

At 31 January 2019, DET had made decisions to remove debts for 107 people to a total value of \$3.003 million comprising \$2.503 million in loan debts and \$0.501 million in loan fees. We were working with DET to finalise the remaining recommendations as at 31 January 2019.

In future updates we will continue to provide data relating to recommendations, decisions and our progress in assessing eligible complaints.

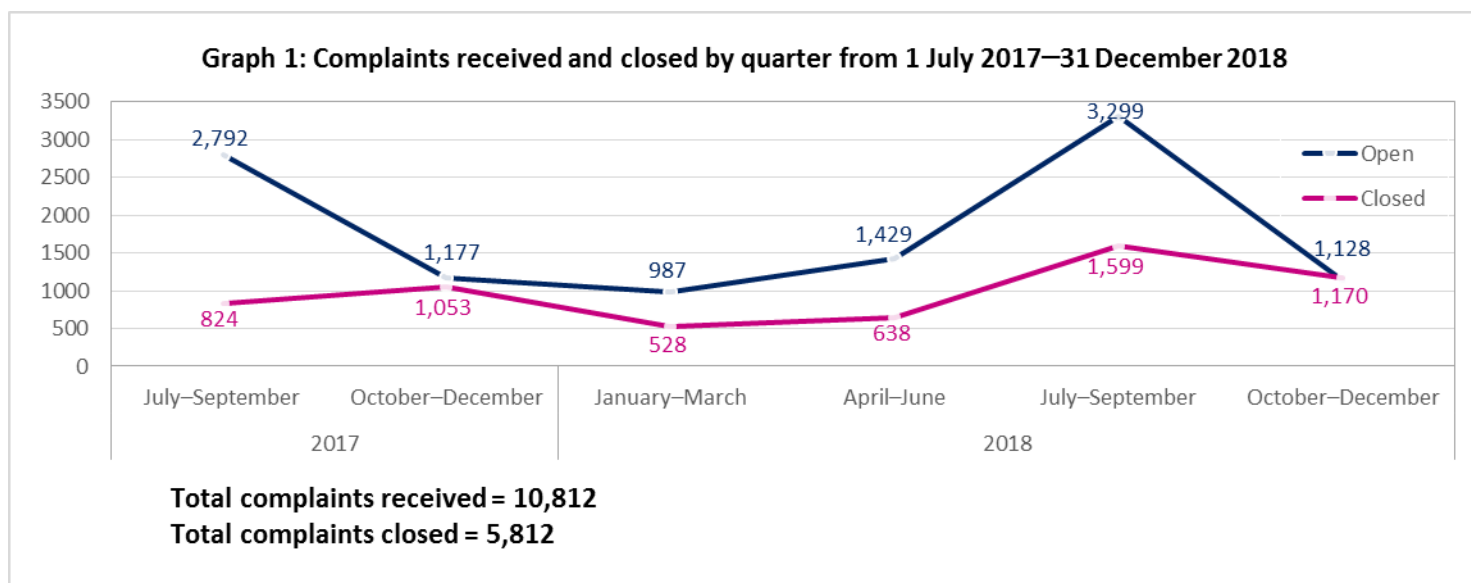
## Data and glossary of terms in this update

An explanation of the data presented in this update and a glossary of terms can be found on our [website](#).

## Approaches received and approaches closed

### Complaints received and closed

We received 1,128 VET loan assistance related complaints during 1 October–31 December 2018. This is a 66 per cent decrease compared to the 3,299 complaints received during 1 July–30 September 2018.



We closed 1,170 complaints during 1 October–31 December 2018, which is an 11 per cent increase compared to the 1,053 complaints closed during 1 October–31 December 2017.

### October peak in closed complaints

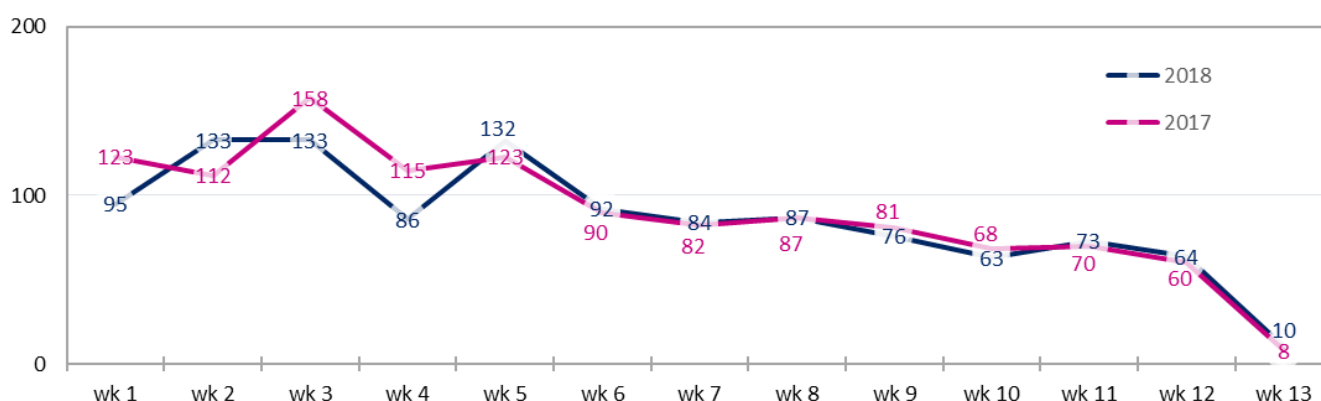
In October 2018, we contacted several hundred complainants who had not yet lodged a complaint with their provider before contacting our Office informing them of their provider’s complaint process. Complainants were asked to contact us if they had exhausted their provider’s internal grievance process and still had a dispute. This allowed us to close 451 complaints in the week of 8–15 October 2018.

Outcomes of closed complaints are discussed further on [page five](#).

### Complaints received by week

Graph 2 is a comparison of complaints received during 1 October–31 December 2018 and those received during the same period in 2017. We received 1,128 complaints during 1 October–31 December 2018. This compares with 1,177 complaints received during 1 October–31 December 2017, a 4 per cent decrease.

**Graph 2: Complaints received weekly during October–December**



**Total complaints received October–December 2017 = 1,177**  
**Total complaints received October–December 2018 = 1,128**

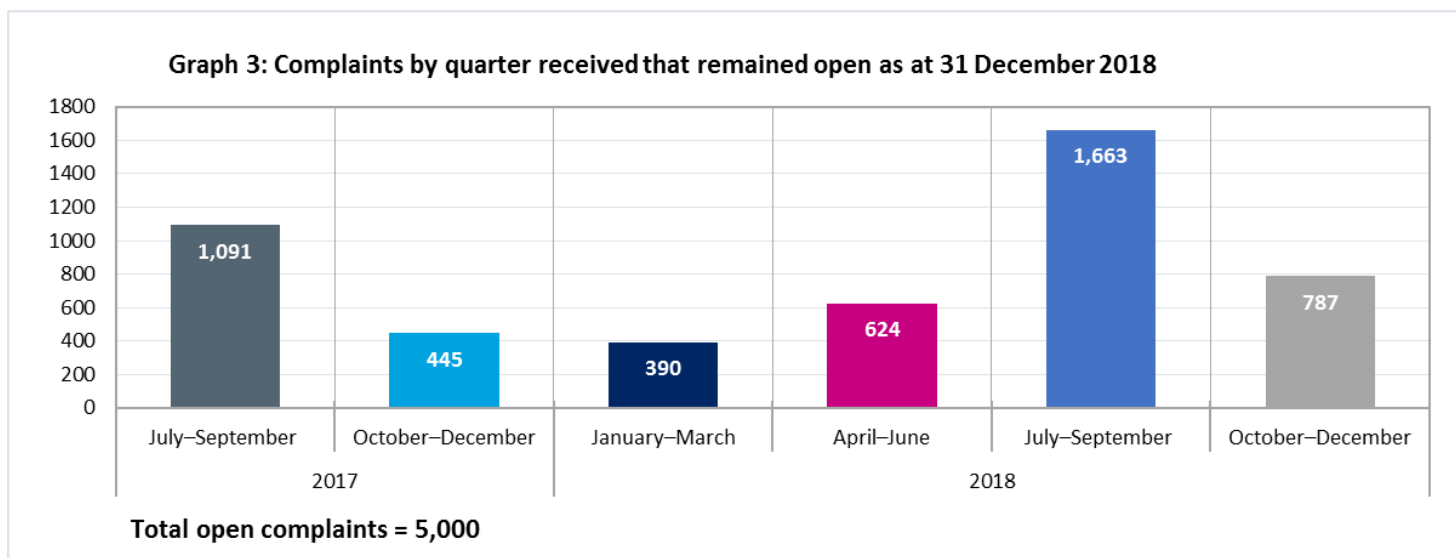
### Complaints closed and open by quarter received

The Office closes complaints if:

- The complainant can be directed to an external remedy pathway either with the provider or another oversight agency, particularly where there is a reasonable prospect of the complainant securing a positive outcome.
- The Office decides to not investigate or to not investigate further because:
  - the action was open to a provider
  - the complainant is referred to a tuition assurance operator to seek redress, or
  - the provider has agreed to re-credit all or part of the complainant’s student loan.
- The complaint is withdrawn or is not within our jurisdiction.

Closed complaint outcomes, which are discussed on [page five](#) give an indication of the proportion of complaints that may be dealt with by providers or other government agencies.

Graph 3 shows complaints that were open as at 31 December 2018 by the period they were received.



Graph 3 shows that 2,550 complaints received in the 2017–18 financial year remained open as at 31 December 2018. This is due to the complexity of handling complaints where the provider is unavailable. We will now be able to assess these complaints under the new redress measures.

### Complaints closed and open by category

Table 1 shows all complaints we have received from our commencement on 1 July 2017 to 31 December 2018, classified by the category they had progressed to at 31 December 2018 in the case of open complaints, and by the category they were closed at in the case of closed complaints.

**Table 1: Open and closed complaints by category as at 31 December 2018**

	Initial approach	Assessment	Further Assessment/ Investigation	Further investigation	Total
Open	27	2,737	2,197	39	5,000
Closed	52	5,687	55	18	5,812

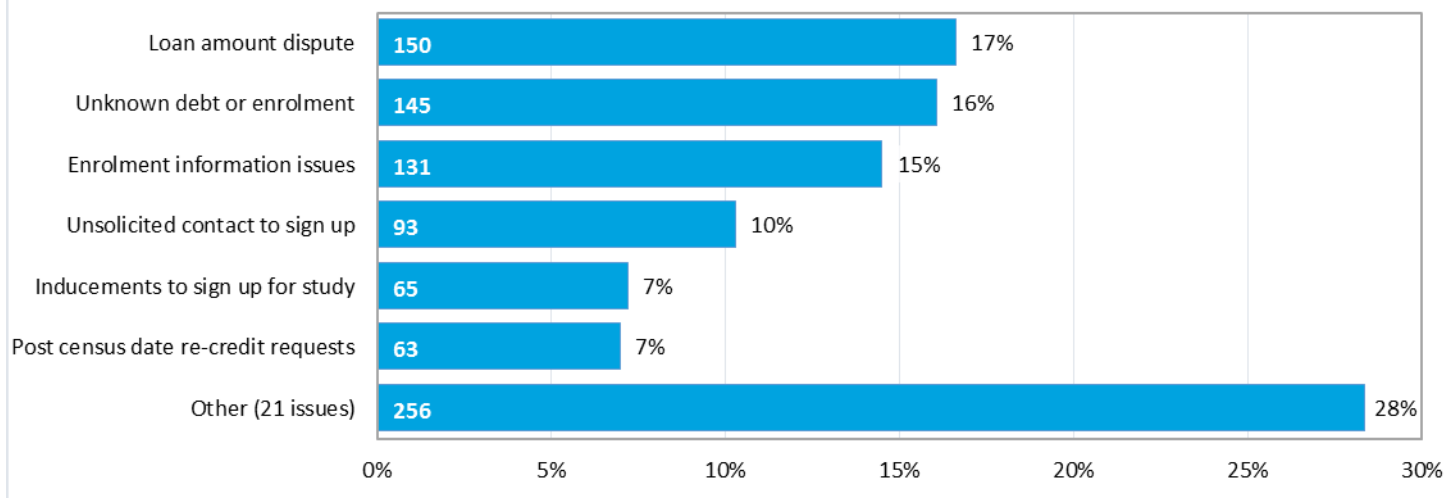
As at 31 December 2018, 2,197 complaints were open at the further assessment/investigation category. Additionally, we closed 5,739 complaints at the initial approach and assessment categories, without investigating these complaints.

### Issues identified by complainants

It is important to note that we record issues as complainants present them. When we do not investigate complaints, issues are recorded as complainants report them and we do not verify whether the reported conduct occurred.

Graph 4 on page five shows the most common issues raised for validated complaints received during 1 October–31 December 2018.

**Graph 4: Most common issues in complaints received during October–December 2018**



### Outcomes for closed complaints

Table 2 on page six includes data for complaints closed during 1 October–31 December 2018 and shows the complaint issue outcomes. Complaints can include multiple issues, therefore there are more issues (1,940), than total complaints closed (1,170).

This table shows that the top two outcomes for the quarter were ‘directed to provider to lodge complaint’ and ‘decision not to investigate’. We closed 1,293 issues because complainants had not exhausted their provider’s internal grievance process or internal re-credit review steps. We consider that providers are best placed to handle complaints in the first instance for the following reasons:

- Providers have access to student information which may result in a more timely outcome.
- Providers should be aware of students’ academic progress and any specific student circumstances.
- In order to be a registered training organisation, providers are required to have a complaints process and it is important that this process be exhausted before we investigate.

If a complainant comes back to us because they are dissatisfied with the outcome given by their provider, we will re-open their complaint and assess whether the matter should be investigated.

Table 2: Issue outcomes for complaints closed between 1 October–31 December 2018			
Complaint outcome	Description	Total number	%
Directed to provider to lodge complaint	The complainant has not yet followed the provider's complaint-handling or grievance procedures.	1,293	67
Decision not to investigate	Investigation was not warranted in all the circumstances and therefore no investigation was commenced. This includes when: <ul style="list-style-type: none"> <li>• an action was reasonably open to a provider to take</li> <li>• a complainant is referred to a tuition assurance operator to seek redress, or</li> <li>• a provider has agreed to re-credit a complainant's student loan.</li> </ul> <p>This also includes when the complainant is not sufficiently connected to the complaint, such as when a person calls on behalf of another person without their knowledge or consent.</p>	412	21
Case lapsed or withdrawn	The complainant cannot be contacted, does not respond to requests for information or does not wish to pursue their complaint.	142	7
Directed to other oversight body, advice body, tribunal or court	The complaint would be better dealt with through an external avenue such as DET, the Administrative Appeals Tribunal (AAT) or the complainant was referred to an advice or advocacy body.	51	3
Decision not to investigate further	After commencing an investigation or further assessment of a complaint, we decided that further investigation was not warranted for any reason, including if the provider had provided an appropriate remedy.	42	2

### Preliminary Inquiries

As at 31 December 2018, we had made 52 preliminary inquiries of providers, including 27 made during 1 October–31 December 2018. Table 3 provides the outcomes of our preliminary inquiries.

Table 3: Preliminary inquiry outcomes as at 31 December 2018	
Outcome of preliminary inquiry	Total
No investigation required following preliminary inquiry response	34
Investigation commenced following preliminary inquiry response	10
Still under assessment as at 31 December 2018	8

## Investigations

As at 31 December 2018, the Office had sent 228 notices under s 8 of the *Ombudsman Act 1976* to providers or liquidators/administrators. As at 31 December 2018, we had finalised 67 investigations.

Our investigations had the below outcomes.

Investigation outcome	Description of outcome	Number of finalised complaint investigations
No remedy required	The investigation did not result in a re-credit or other remedy for the complainant. Typically, in these cases, we have found that we are satisfied with the provider's explanation of its actions and decided not to investigate further.	32
Debt waived or reduced	The investigation resulted in a provider re-crediting a person's VET loan assistance debt, either in part or in full.	23
Provider undertook to reconsider matter	As a result of our investigation, the provider agreed to reconsider the decision and/or action, for example, to conduct a fresh review of the complaint.	5
Other non-financial remedy	There was no re-credit made as a result of the investigation, but another remedy was offered by the provider such as extending a student's study period without charge or issuing a student's completion certificate.	3
Better explanation by provider	Through our investigation we secured a better explanation from a provider about its decisions or actions, through our investigation.	3
Action expedited	The investigation resulted in the provider expediting a delayed action, for example, the processing of an application.	1
<b>Total</b>		<b>67</b>

## Process to defer debts with the Australian Taxation Office

We have an arrangement with the ATO where complainants' compulsory student repayments can be deferred while we assess and investigate their complaint if there is sufficient evidence of provider misconduct. Complainants are made aware that the deferment is temporary, the debt remains and indexation continues to accrue unless the debt is removed or otherwise cancelled.

During 1 October–31 December 2018, the Office referred 1,539 complainants to the ATO for deferment of their loan repayments for the 2018–19 financial year.

### Complaints relating to the VET Student Loans program

During 1 October–31 December 2018, we received 41 complaints relating to the VET Student Loans program. This compares with 14 complaints received for this program during the same period in 2017.

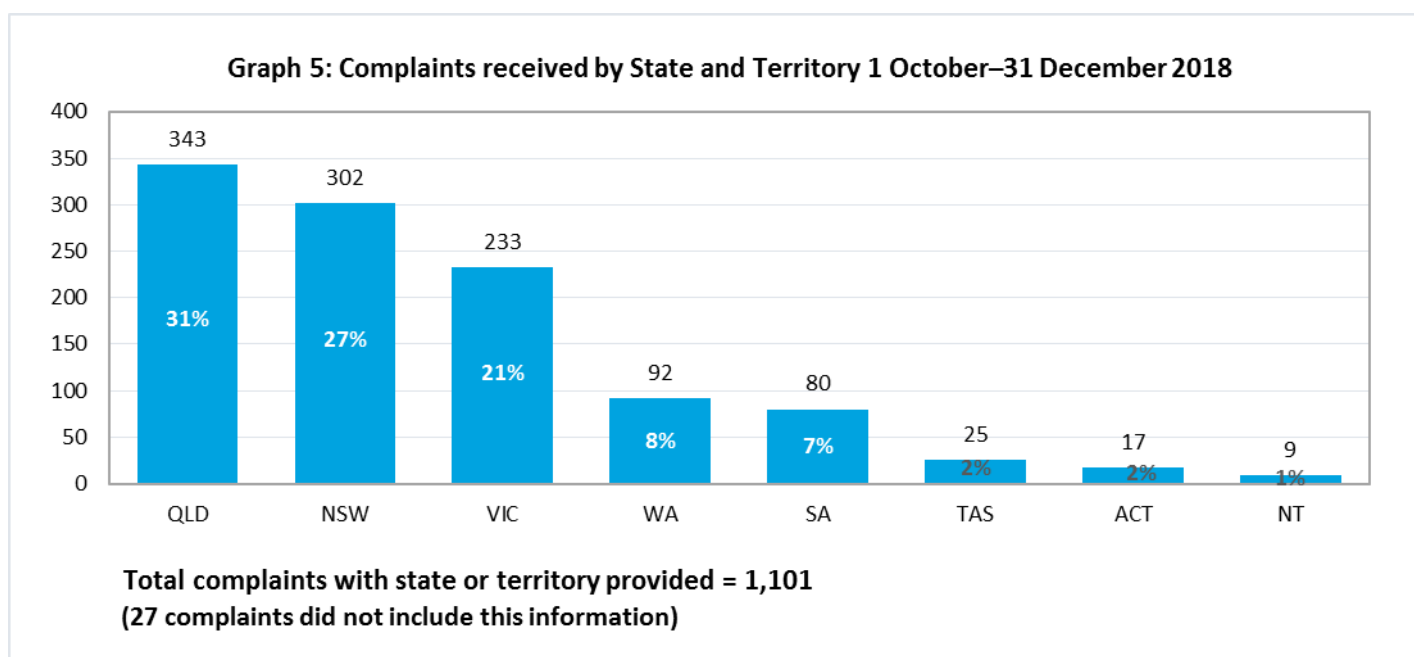
The most common issues raised in complaints we have received about the VET Student Loans program relate to the loan amount and course progression. More than half of the complaints about loan amounts relate to further study costs incurred after a tuition assurance event. Table 5 shows VET Student Loans program complaints' categories at 31 December, for open complaints and closed complaints.

Table 5: Complaints received about the VET Student Loans program during 1 July 2017–31 December 2018 as at 30 September 2018					
Category	Initial approach	Assessment	Further assessment/ investigation	Further investigation	Total
Open	0	37	5	1	43
Closed	3	120	0	0	123

The five open VET Student Loans program complaints at further assessment/investigation relate to the conduct of unavailable providers. We will seek alternative sources of information with a view to resolve these complaints. We provide regular updates to these complainants and do not consider that any delay in obtaining information will pose further risk to them or other students as the providers no longer operate. The open complaint at the further investigation relates to an available provider and as at 31 December 2018 was under investigation.

### VET Student Loans and VET FEE-HELP complaints by state and territory

During 1 October–31 December 2018, we received complaints from people in each state and territory in Australia as outlined in Graph 5.





## Stakeholder Engagement

As advised in previous updates, we will commence delivery of a program of training sessions to VET Student Loans program providers in the first half of 2019. Our first training session will be delivered in early March.