

Senate Standing Committee on  
Education and Employment

Inquiry into the VET Student Loans Bill 2016,  
the VET Student Loans (Consequential  
Amendments and Transitional Provisions) Bill  
2016 and the VET Student Loans (Charges) Bill  
2016

ACPET submission

October 2016



## Introduction

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Established in 1992, ACPET is the national industry association for private providers of tertiary education and training. ACPET has over 1,000 members nationally who deliver a range of vocational education and training (VET), higher education and English language programs across all states and territories, as well as internationally.

ACPET aims to enhance quality and choice in Australian tertiary education and training. Its members include commercial and not-for-profit entities, community groups, industry providers and enterprise-based training organisations. ACPET works with governments, industries and community organisations to ensure VET, higher education, English language and international education programs are well targeted, accessible and delivered to a high standard.

Some 250 ACPET members have participated in the delivery of the VET FEE HELP program (VFH). For most of these members their involvement in VFH has built on many years of delivering quality training to students, apprentices and trainees and business and industry.

It is clear, however, that fundamentally flawed program design, implementation and lack of monitoring by the Commonwealth Government has allowed the exponential and unsustainable growth of the program, escalating course fees and the exploitation of students by a small minority of providers. The VFH 'experience' has tarnished the sector, which otherwise enjoys a strong, proud record of supporting the development of Australia's workforce. It has been an affront to the vast majority of ACPET members who maintain the highest standards of service to their students, industry and communities.

The widely identified major flaws with VFH warrant the overhaul evidenced by the measures contained in the VET Student Loans Bill 2016. ACPET has strongly advocated for a number of the reforms outlined in the Bill that will strengthen quality delivery and outcomes for students. Accordingly, key elements of the VET Student Loans program (VSL) outlined in the Bill are supported.

It is the case, however, there are a number of features of VSL that will not support quality training choices and outcomes for some students. This submission identifies those measures where further reforms or changes are warranted.

It is worth reflecting that the VSL package of course restrictions, loan caps and other measures is projected to save some \$7 billion in loan funds over the forward estimates. This equates to at least 500,000 students who will not have the opportunity to develop their skills and career aspirations. It will also lead to major job losses across the sector.

The reforms will see a major downgrading of the Commonwealth Government's commitment to vocational education and training, with significant implications for the future of Australia's workforce development. This is particularly concerning at a time when government-funded VET enrolments in Australia are also declining. In this regard, the Productivity Commission has reported real per unit expenditure has declined by more than 30% over 10 years. It would appear that the VET industry may have been caught in the political cross fire between the Commonwealth and States and Territories about the funding mix in this important sector.



Without an effective VSL program, more students will simply not get the opportunity to pursue their career aspirations or be forced into higher education courses that do not meet their needs, or that of business and industry and the broader economy. It will add to the pressures on a more expensive (for students and taxpayers) higher education sector which is already under pressure over unsustainable enrolment and funding growth.

The board and membership of ACPET are committed to working with the Commonwealth Government and other stakeholders to implement the VET Student Loans program that maximises the skills and career opportunities of students and the Australian workforce.

### **Responding to key VET Student Loans measures**

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#### **Approved Courses**

Part 2, Division 3 of the VET Student Loans Bill 2016 outlines the arrangements whereby individual courses must be approved by the Minister for delivery under VSL. The accompanying Explanatory Memorandum indicates the intention is that approved courses be limited to those with a high national priority, align with industry needs, lead to employment outcomes and ensure fiscal sustainability for the Commonwealth.

While the Bill does not specifically identify the courses to be supported, the list is a critical feature of the reform package and does need to be considered by the Senate Committee.

The approach to identifying courses did not include consultation with peak employer groups or the broader industry, and the model is significantly flawed. Those courses on the proposed eligible course list were determined on the basis they appear on at least two State and Territory skills lists or are STEM related. Nonetheless, ACPET understands there are courses on the list with expired accreditation, without providers registered to deliver them or owned by a single business entity.

It is not at all evident that governments have successfully demonstrated a capacity to 'centrally' determine the future skill needs and relevant qualifications across a diverse labour market and workforce. With the direct link between qualification completion and entry into like industries at only around 40 per cent, and less so for higher level occupations, the value of these skills lists is limited, and in effect penalises potential employment in new industries.

While States and Territory skills lists provide a reference point, they often reflect narrower State and Territory Government priorities and consultation protocols with industry, as well as their funding responsibilities for trade training and related sectors. They also, of course, reflect their obligations and priorities under the National Partnership agreements to deliver a Certificate III entitlement.

These processes are not suited to identifying the emerging higher level skill needs and opportunities in the burgeoning human services sector or those of the creative industries, for example, where traditional industry links and employment pathways are less well defined.



Referencing these lists also ignores the reality that States and Territories have shaped their skills lists in light of their limited program budgets and the ready availability of VFH funding to address some course needs. In other words, deliberate decisions by States and Territories to omit some courses for budgetary reasons will see those same courses excluded from the VSL eligible course list.

ACPET understands that States and Territories were not appropriately consulted by the Commonwealth on the make-up of, or parameters, that informed their skills lists. It means that regional or specific state priorities not evidenced elsewhere may not be included. Advice from Tasmanian ACPET members, for example, has highlighted the absence of the Diploma of Fisheries (Operations) which is a priority in that State.

Consequently, nearly 480 of the 800 courses previously supported through VFH are no longer available to students. Just a few of the courses not eligible for support include Diplomas and above in Screen Acting, Professional Writing and Editing, Theology, Disability, Interior Design, Anaesthetics, Nutrition and Dietetics, Diagnostic Medical Ultrasound, Audiometry, Journalism, Building and Construction, Laser Therapy, Family Dispute Resolution and Relationship Counselling.

This wholesale removal of courses leaves few, if any, options for many students to gain support to obtain qualifications and pursue careers in fields of education that are likely to provide the 'future of work' as Australia's services sector economy develops. This hardly seems a forward looking approach for a country that aspires to build its innovative and creative capabilities to support a new economy. The response that individuals will need to pay is a considerable blow to the principle of an equitable access to education for all Australians.

*The proposed changes recently put forward .... may end accessibility to VET Student Loans for Australian screen acting students. To sustain a \$5.8 billion screen industry, and to ensure ongoing production, producers need to be able to have access to highly trained professionals including, of course, screen actors. Like most students in other fields, screen acting students do not necessarily have economic means to allow them access to the training and education they need. If passed into law, the VET changes will have a direct and negative impact on the quality and diversity of professional screen actors contributing to the way Australia presents its culture and tells its stories at home and abroad.*

***Denise Roberts, Chief Executive Officer, Screenwise***

It is noted that a key driver of the reforms, outlined in the Explanatory Memorandum and other material, was the necessity to rein in the unsustainable and exponential growth that occurred under VFH and to more strongly align courses to employment needs. Based on the latest available VFH Statistics, the largest proportion of VFH assisted enrolments was in the Management and Commerce broad field of education that comprised 48.9 per cent of all enrolments in 2014. The Diploma of Business and Diploma of Management alone comprised over 30 per cent of all course enrolments in that year.

Conversely, VFH assisted enrolments in the Society and Culture comprised only 19 per cent of all VFH assisted enrolments, Health 8.3 percent, Food, Hospitality and Personal Services 7.0 per cent, Creative Industries 5.8 per cent, Information Technology 6.6 per cent and Engineering and Related Technologies



0.4 percent. Most of the courses removed contributed only a very small proportion of total enrolments and yet present genuine career alternatives.

Noting the shortcomings of the Government's approach to 'picking winners' there is a real risk that opportunities for young people and others to get the support to gain skills that lead to careers in a diverse range of sectors, and not those identified or favoured by governments, will be significantly impacted. This will be particularly so for those disadvantaged students for whom other funding options are not available.

That courses funded through VSL should respond to the needs of business and industry and support employment and careers for students is strongly supported. Indeed, it is ACPET's submission that a focus on outcomes for students and industry should be the overriding consideration. Provider evidence of industry support, program completions and employment outcomes for their students should be the critical measure of whether a course should be eligible for a VSL loan (to be repaid by the student) and not whether it appears on two State and Territory skills lists or is a national priority. It's only a few years ago that skilling for the resources sector was, similarly, a national priority.

A strategic and evidence based approach to identifying skills priorities would be a considerably better model than relying on State and Territory level lists constructed for a different purpose.

Surely students (and employers) should make their career choices - not governments.

***It is recommended that:***

- ***The approach utilised to identify eligible courses is not supported, and***
- ***providers, supported by business and industry and course completion and employment outcomes data, be able to submit courses not on the eligible course list for consideration and decision prior to the commencement of the VET Student Loans program.***

Under Clause 15 – Provision and delivery, the Bill outlines that approved courses can only be delivered by an approved course provider, a TEQSA approved body or a person or body approved by the Secretary. The Explanatory Memorandum indicates this clause is intended to restrict the third party arrangements identified with VFH that the Government asserts have contributed to the growth in places and cost blowout of the scheme and made it difficult to measure the quality of training being delivered.

The Explanatory Memorandum also indicates that individual subcontractors delivering part of a course that cannot be delivered by an approved provider may be approved on a case by case basis.

This provision runs counter to the accepted, long-standing practice and valued aspect of VET delivery that features industry and subject experts engaged in the delivery of training - passing on real world skills. It means, for example, that contracted teachers will need to be approved on a case by case basis by the Department. It has the potential to cause considerable disruption and delay to the delivery of training courses.

This is an extreme invasion into the management practices of business and will result in overwhelming red tape and should not be supported.



Rather than seeking approval, providers should be able to advise their subcontracting arrangements on a periodic basis with the Department able to take appropriate action where these arrangements are determined to be inadequate or inappropriate.

In relation to the requirement that VSL can only be provided on behalf of the approved course provider by another approved course provider, there has been little evidence that third party delivery has resulted in poor quality. Both ASQA and the department hold the approved course provider as being responsible for the quality of delivery, including in auspicing arrangements. This is the appropriate approach to encourage innovation across the system. When many providers have been waiting for approval as VFH providers for significant periods of time already, this approach is seen as creating red tape rather than genuine improvement.

***It is recommended that Part 2, Division 3, Clause 15 be amended to:***

- ***remove the requirement to seek Secretary approval of sub-contracting arrangements***
- ***remove the requirement that third party arrangements are restricted to other approved course providers***
- ***add a specific requirement that the primary approved course provider is responsible for compliance with contractual requirements and national standards, AND***
- ***require approved providers to advise the Department periodically of subcontracting arrangements and for appropriate action to be taken where these arrangements are inadequate or inappropriate. This requirement should exclude individual subcontractors.***

## **Loan Caps**

Part 2 Division 3 of the Bill also responds to the fundamental VFH program design flaw that meant there were no course cost constraints with a minority of providers price gouging at the expense of students and taxpayers. This price gouging was accompanied by no apparent Departmental monitoring or action to improve pricing information for students. There was, however, action to approve ever larger contract values for providers delivering little, if any, training.

To put this in perspective, the Department approved the growth in VFH expenditure from \$117 million in 2010 to some \$2.9 billion in 2015. The fact that this growth was approved without any apparent monitoring or intervention to ensure the veracity of the training is without precedent. This failure in administration is the prime cause of the failings of the program. This failure has now resulted in the widespread changes across the program, rather than just fixing the cause of the problem.

The changes provide for the Minister, by legislative instrument, to determine maximum loan amounts. The eligible course list released by the Department indicates the loan cap for each eligible course. The initial course loan cap bands will be \$5,000, \$10,000 and \$15,000 aligned to the relevant broad field of education.



Information provided in support of these caps indicates reference was made to the *Smart and Skilled* price list developed for the funding of VET courses in New South Wales. While the *Smart and Skilled* prices are calculated for each course to reflect the learning requirements of each course (based on some economic delivery assumptions), this is not the case for VSL courses. Analysis indicates tenuous, at best, alignment for some courses with the *Smart and Skilled* price list. Most courses are banded below the relevant *Smart and Skilled* price with some, like agriculture courses, well above the relevant *Smart and Skilled* price.

The *Smart and Skilled* list also recognises the additional barriers faced by rural and remote and disadvantaged cohorts - VSL does not.

The VSL loan caps are, at best, a simplistic tool that minimises the Department's administration associated with the program. They do not address the usual, normal expectation of a purchaser (acting on behalf of students in this case) to test the market to inform value for money decisions.

The result of this approach is that price bands for many courses bear little correlation to the cost of delivery. The overwhelming evidence, for example, from high quality, reputable nursing training providers across the country indicates the loan cap for the Diploma of Nursing (at \$10,000) is at least \$10,000 below that required to meet the needs of this highly resource intensive program.

Similar evidence across a broad range of courses including in the interactive media, aviation, hospitality, creative arts, and business and building fields indicates fundamental concerns with the price bands.

The implications of those courses capped well below the cost of delivery will be significant. This will be particularly the case for those disadvantaged and other students without the resources to meet fee gaps. For some students the opportunity to get the qualifications to secure employment will be lost.

It is worth noting that a key aim of VFH (and income contingent loans in the tertiary education sector more generally) was to avoid barring access to skills training for these reasons. The income contingent loan arrangements mean students are required to repay their loans once income thresholds are reached. This important principle means that higher level vocational education is available to the broad cross section of Australia. The proposed changes walk away from this principle, meaning those without the capacity to pay upfront fees will not be able to access the best quality in programs. This is a retrograde step, caused by a failure to administer the program.

*VET FEE HELP may have been flawed in its implementation but it empowered women with children to access vocational education and re-enter the workforce. Studying Interior Design provides a flexible career path enabling mothers to balance work and family commitments. By capping loans for our courses at half to a third of their price – they will become unaffordable. We do not believe that decreasing the cost of our courses and deliver an inferior service that produces unemployable graduates is the answer.*

**Amanda Grace, Sydney Design School**





The consequence of caps well below the cost of delivery will also impact on the services of providers. High quality providers, delivering sound employment outcomes, may simply cease to offer VSL programs where they are unable to recover the fee gap from students. Of course, the alternative is tailor the course delivery to the available loan cap, which will undermine quality and outcomes.

None of these options would be the interests of students or industry.

The legislation provides for the Minister to declare exemptions for courses that have high delivery costs but also high social good. While there are indications aviation training will be exempt from the loan cap this must be confirmed. There is also a strong case for nursing and a number of other courses including those in the creative arts sector to also be exempt.

***The Department of Education and Training must undertake market testing of all VSL courses, in consultation with the industry and State and Territory Governments, to ensure all course loan settings are appropriate to support quality training outcomes.***

### **Approved Course Providers**

ACPET welcomes the intent of Part 4 of the Bill to set a 'high bar' for providers seeking to deliver courses with funding through VSL. The major concerns with VFH were, in many parts, due to the Department contracting providers with little or no record of delivering training and then 'standing back' and approving the rapid growth in VFH revenues as the value of some contracts with these providers grew exponentially at the same time their course completions plummeted.

Of course the Government sought to address this failure to contract quality providers only through VFH with a raft of regulation and other rules during 2015 that simply made the program difficult to deliver and administer.

ACPET notes at Clause 25 that approved course providers must not be a body corporate that is a trustee. While ACPET is working with the Department on transitional arrangements for impacted members, it does not seem appropriate to exclude a specific corporate arrangement regulated by ASIC.

### ***It is recommended the provision excluding trustees be removed from the Bill***

Subject to the details being provided, the suitability requirements outlined at Clause 26 of the Bill are supported. The strong focus on experience, student outcomes and industry links are most welcome and should provide the single most effective means of lifting quality outcomes for students and industry.

There are, however, concerns with the transition arrangements to VSL. While Clause 27 will enable Table A and B providers, TAFEs and other government owned providers automatic entry to VSL, existing VFH private providers will need to seek provisional approval to participate in VSL during the period 1 January to 30 June 2017. These providers will then, during the provisional approval period, be required to apply again for formal approval under new streamlined eligibility requirements. These measures fail to recognise the quality training and outcomes delivered by the great bulk of private providers and deny students choices that may better meet their needs.





At the time of writing no provisional application process had been released - less than 3 months from the start of the new academic year for some providers. They are unable to market programs, plan resources or staffing. There is almost no time for private providers to plan and fund the necessary infrastructure required to support course delivery. This will cause considerable turmoil and ongoing uncertainty.

Put simply, the approach taken in the Bill is anti-competitive and significantly disadvantages quality private providers. Quality providers invest significantly in educational infrastructure and support and such changes, with no time to plan for implementation, shows a complete lack of understanding of commercial imperatives.

Providers with no adverse audit history, quality outcomes and high level relationships with industry have been unfairly disadvantaged. Their business planning has been significantly disrupted and are unable to market or engage with students with any confidence. This approach is unsatisfactory.

***It is recommended that the provisional and formal application process for existing VFH providers be merged with the Department granting automatic approval for providers without significant adverse compliance actions that are meeting provisional contractual requirements.***

At Clause 31 of the Bill an application fee will be imposed on providers making application to deliver VSL funded training. In the related VET Student Loans (Charges) Bill 2016 a charge to help meet the administration costs of the program will also be imposed on VSL (but not government owned) providers.

Neither of these charges were canvassed with industry during the VFH redesign consultations and the details have not been announced. This measure comes in addition to significantly reduced loan caps and will further erode the capacity of providers to deliver to quality benchmarks. The application of the tax to only private providers is anti-competitive.

***It is recommended that the application fee and administrative charges not be supported.***

#### **Other requirements for approved course providers**

At Part 5, Division 1, Clause 49 the Bill outlines that approved providers must not engage third parties, such as agents and brokers, to undertake activities including enrolling students, mentioning the availability of VSL or providing information on VSL.

While these exclusions are comprehensive, ACPET believes there is a role for the industry in supporting agents and brokers to best fulfil the functions they are able to undertake. Accordingly, ACPET will be seeking to develop an industry-led register of agents and brokers.