Australian Government
Department of Employment, Skills, Small and Family Business

Submission from the Department of Employment, Skills, Small and Family Business to the Education and Employment Legislation Committee

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Introduction

1. The Department of Employment, Skills, Small and Family Business welcomes the opportunity to make a submission to the Education and Employment Legislation Committee. This submission refers to the Committee's inquiry into the Education Legislation Amendment (Tuition Protection and Other Measures) Bill 2019, the VET Student Loans (VSL Tuition Protection Levy) Bill 2019 and the Higher Education Support (HELP Tuition Protection Levy) Bill 2019 ('the Bills').

2. Specifically, the Committee is considering whether the Bills appropriately protect students who use student loans to pay for vocational education and training (VET) and higher education courses at public and private providers, including TAFEs, in the case of provider or course closure.

3. The good reputation and integrity of the VET and higher education sectors is critical to their success. The Australian Government is committed to strengthening the VET sector, investing $525 million to upgrade and modernise the sector through measures announced as part of the 2019-20 Budget. A strong VET sector is vital to the Australian economy and to helping prepare Australians for the workforce opportunities of today and the future.

4. The VET Student Loans program is a key component of a modern VET system. The program commenced on 1 January 2017, replacing the VET FEE-HELP scheme that closed to new students on 31 December 2016.

5. The VET Student Loans program involved the redesign of the VET income contingent loans program to ensure that it is student centred, delivers high quality training, is fiscally sustainable, and holds providers to account. The VET Student Loans program focuses on program integrity, manages risk and promotes confidence in the regulated VET market by ensuring students are both academically suited to their course and are studying under a quality provider.

6. The VET Student Loan program represents a significant investment by the Australian Government. In 2018 alone, the program assisted almost 60,000 students to access training and education through 182 approved providers. This represents an investment of almost $280 million.

7. The new, sector-funded tuition protection arrangements introduced by the Bills would help to protect this investment.

8. The Bills would expand the successful Tuition Protection Service (TPS) for international students, to offer similar tuition protections for domestic students with a VET Student Loan, or a FEE-HELP or HECS-HELP loan at a private education provider or TAFE.

9. The TPS for international students has proven to be effective, sustainable, and supportive of students. Subsequently, the sector has benefited from a strong reputation. The existing protections for international students will not change through these Bills.

10. The Bills would introduce a range of changes to existing tuition protections for domestic students that would strengthen the sectors and give students who access Australian Government loans to fund their study, increased confidence that they will be supported to continue their education and training if their provider closes or ceases delivering their course.

11. The new tuition protection measures introduce self-sustaining, sector-funded arrangements through a new provider levy framework. The levy framework, developed by the Australian Government Actuary, would cover the long-term costs of tuition protection by requiring all non-exempt approved VET Student Loan and FEE-HELP or HECS-HELP approved providers to contribute annual levies commensurate with their size and risk.

12. The revenue raised by levies would directly benefit the sector by supporting students and providers. Importantly, all providers would benefit from the stronger reputation that comes from sustainable tuition assurance arrangements.

13. The former Department of Education and Training and the Department of Employment, Skills, Small and Family Business, consulted with the VET and higher education on the new arrangements. Both Departments are actively engaging with key stakeholders to seek feedback and respond to any questions or concerns they may have about the new arrangements.

Why do tuition protection arrangements need to change?

14. From 1 January 2009 to 31 December 2017, the Australian Council for Private Education and Training (ACPET) (now called Independent Tertiary Education Council Australia) and TAFE Directors Australia (TDA) managed tuition protection for providers accessing the VET FEE-HELP and FEE-HELP schemes.

15. In late 2017, the then Department of Education and Training determined that those arrangements were unsustainable and, importantly, did not offer adequate protection to students. Continuing those arrangements would expose the sector and the Australian Government to increased reputational risk. The Department assumed interim responsibility for tuition protection for domestic students accessing a Government loan from 1 January 2018.

16. While this provided some stability to the sector and assurance to students, the interim tuition arrangements are not sustainable and represent an ongoing cost to Government and the Australian taxpayer. These arrangements were only ever intended to be temporary while the Government implemented a more sustainable, sector-funded tuition protection model.

17. The changes proposed under the Bills represent a continuation of the reforms to the VET income-contingent loans program. The new tuition protection arrangements would reduce administrative duplication across government, while providing a consistent approach for providers across sectors.

18. Importantly, the new arrangements would reduce costs to Government and, by extension, Australian taxpayers.

How would the new tuition protection arrangements operate?

19. The new arrangements would expand the successful TPS for international students to include tuition protections for domestic students accessing a VET Student Loan, a FEE-HELP or HECS-HELP loan at a private education provider or TAFE.

20. Consistent with the TPS for international students, the aim of the new tuition protection arrangements is to ensure students are supported if their education or training provider stops teaching their course or closes entirely.

21. If a provider ceases to offer a course or closes, students accessing a VET Student Loan, a FEE-HELP or HECS-HELP loan are protected and would be assisted to move to another, similar course where they can complete their studies and gain a qualification.

22. For VET students, if there is no suitable replacement course, the students would have their loan re-credited for the parts of their study that they commenced but were not able to complete due to the first provider's failure to deliver. This means students are not left with a loan for the parts of a course they were unable to complete, through no fault of their own. Higher education students would be able to choose between continuing their students (if there is a suitable replacement course) or seek a re-credit. This difference reflects the small and diverse nature of the private higher education sector where it can be more difficult for a student to find a suitable replacement course.

23. A statutory appointed Director would administer the new tuition protection arrangements. The same Director that administers the tuition protection for international students would also manage the VET Student Loans, FEE-HELP and HECS-HELP tuition protection arrangements, supported by the same Advisory Board. This would significantly streamline the administration of tuition protection arrangements as many providers currently operate across the VET, Higher Education and International sectors.

How would the new tuition protection arrangements be funded?

24. A provider levy framework underpins the new tuition protection arrangements. The levy framework, developed by the Australian Government Actuary, would introduce sector-funded levies to cover the long-term cost of tuition protection by requiring all non-exempt approved VET Student Loan and FEE-HELP or HECS-HELP providers to contribute annual levies commensurate with their size and risk.

25. The levy framework is broadly consistent with that of the successful TPS for international students. It includes three components: an administrative fee component, a risk rated premium component and a special tuition protection component. In combination, the components would cover the ongoing administrative costs of the new tuition protection arrangements, including the actual costs of assisting students in the event of a provider closure.

26. Consistent with the TPS for international students, TAFEs would only be required to pay the nominal administrative fee component of the levy and would be exempt from the risk and special tuition protection components. This recognises the lower risk profiles of TAFEs.

27. Provider contributions to fund tuition protection arrangements are not new. Under the previous external arrangements, non-exempt VET FEE-HELP and FEE-HELP providers paid membership fees to the two peak industry bodies, ACPET and TDA, to meet their tuition protection requirements. The new tuition protection arrangements and the introduction of a provider levy framework would see a return to a sector-funded tuition protection model.

28. It is also important to note that while the levy framework does represent a cost to the sector, it is not a significant cost when compared with the current investment in the sector through the VET Student Loans program.

29. The levy framework would also serve to reward 'good' providers. Under the new tuition protection arrangements, the levies paid by providers would be commensurate with their size and risk. Providers whose risk of default is low (based on certain risk factors) would pay reduced levies. Providers with a greater risk of default e.g. providers with poor student completion rates, volatility in student numbers or numbers of high-risk courses, would pay higher levies.

30. The levies would be required to be reviewed annually. The Bills provide for an upper limit beyond which the administrative fee component of the levy cannot exceed. The calculations for the risk rated premium component and special tuition protection component of the levy would be required to be determined by the TPS Director in a legislative instrument. In making this instrument, the Director is required to have regard to the advice of the Advisory Board as well as the sustainability of the Tuition Protection Fund. Members of the Advisory Board are required to include, amongst others, representatives from the Department of Finance, the Australian Prudential Regulatory Authority and the Australian Government Actuary. The Treasurer must also approve this instrument. This expert oversight ensures the levies remain appropriate and sustainable to support the delivery of tuition protections for students.

31. Given that sector-funded tuition protection arrangements are not new, the Department does not expect that the costs associated with the levy framework would negatively affect students, or drive increases in tuition fees, noting that the course fees charged by education and training providers are a commercial decision for each provider. Course fees are published on MySkills.gov.au so that students can factor the price of tuition fees into their decision-making process.

What obligations would providers have under the new tuition protection arrangements?

32. Under the new tuition protection arrangements, providers would not be obliged to take on displaced students, although they are encouraged to do so. Providers who do elect to take on

these student would be supported by a new incentive payment, where required. The incentive payment would cover a portion of the administrative costs a replacement provider might incur in placing the student.

33. While providers are encouraged to enrol displaced students, and support and train them to gain their qualification, there is no requirement to do so, and the Bills do not impose any penalties or other punitive measures if a provider does not offer displaced students a place in a replacement course.

34. While the Bills do include provisions that would allow the imposition of civil penalties, there is no penalty should a second provider refuse to offer a displaced student a place in a replacement course.

35. The application of civil penalties generally refers to instances where defaulting providers fail to provide information to the TPS Director when reasonably requested to do so. The Bills also require all approved providers – including replacement providers – to provide course information to the TPS Director, if requested, and meet other reasonable obligations including not charging students' tuition fees for the replacement component of the replacement course if the student has already paid tuition fees. This is in line with current arrangements.

36. Replacement providers who enrol displaced students are obliged to accept the student's evidence of units or modules successfully completed with their previous provider. There are, however, a number of steps replacement providers can take to authenticate a student's information. This includes authenticating the information by directly accessing the Unique Student Identifier transcript online or by contacting the organisation that issued the document to confirm the content is valid.

Would full fee-paying students be covered by the new tuition protection arrangements?

37. The Australian Government's first priority is to ensure that tuition protections are available to domestic students whose study is supported by an Australian Government income-contingent loan.

38. The Australian Government has an obligation to these students to ensure that, in the event their provider closes, they are able to continue their studies wherever possible. This course assurance makes it more likely that these students would complete their studies, get a job and repay their income-contingent loan to the Government through the taxation system.

39. Full fee-paying students do not receive a direct Government contribution to the cost of their education or training. Rather, they have entered into a commercial arrangement with their training provider.

40. This does not mean that students who pay for their education or training upfront are not protected. Full fee-paying students are able to access remedies outside of the new tuition protection arrangements, in the event that their provider stops delivering their course or closes.

41. All students are able to access remedies under Australian Consumer Law, and full fee-paying students can contact the Australian Competition and Consumer Commission to seek a refund of their upfront fees from a provider that has closed.

42. In addition, there are tuition protections already in place for students who pay upfront fees on $1,500 or more. VET providers who charge upfront fees of $1,500 or more are required to provide tuition protection for students under the *Standards of RTOs 2015*. This could include – but is not limited to – being part of a tuition assurance scheme. Providers can meet their obligation in a number of ways, including holding an unconditional bank guarantee for the amount of prepaid fees held by the organisation for each student or electing not to collect upfront fees of $1,500 or more.

43. The Independent Tertiary Education Council Australia currently administers a tuition protection scheme for providers who charge upfront fees of $1,500 or more. This is the Australian Students Tuition Assurance Scheme and it is underwritten by insurance premiums paid by ITECA's members.

44. Under the Bills, the respective Minister responsible for each of the tuition protection arrangements for students accessing loans for VET and higher education as well as the international students is required to undertake a review of these arrangements, to commence before 1 July 2021.

Conclusion

45. The Australian Government is committed to ensuring students who access Government loans to fund their education and training are supported and protected in the event their provider closes. By implementing a rigorous approval process and ongoing monitoring, the Government has acted to ensure only high quality providers have access to the VET Student Loans program. However, providers close for a range of reasons, and students and the sector require a sustainable framework to support tuition protections.

46. The new tuition protection arrangements would ensure ongoing and sustainable protections for students accessing an Australian Government loan to fund their studies, and would strengthen the VET and higher education sectors. The new tuition protection arrangements form part of ongoing work to improve the quality of training, student protections and reputation of the VET and higher education sectors.

47. The current interim arrangements, managed by the Department of Employment, Skills, Small and Family Business (for VET students) and the Department of Education (for Higher Education

students) are not sustainable and represent an ongoing cost to Government and the Australian taxpayer.

48. The Bills would introduce a sustainable, sector-funded model that would offer protections for students, taxpayers and the sectors themselves. Students would benefit from the ongoing protections and support to complete their studies and gain a qualification. Providers would benefit from risk-based levies, and the stronger reputation that comes from adequate and sustainable insurance arrangements. The Australian public would benefit from self-sustaining, sector-funded arrangements, which do not place a burden on public funds.