

LABOR SENATORS' ADDITIONAL COMMENTS

Key Issues

1.1 The Higher Education Support Amendment (VET FEE-HELP Reform) Bill 2015 seeks to play catch-up in terms of regulating the operation of VET FEE-HELP and providing some measure of redress for the victims of the shonks and shysters who have been perpetuating a scam on students and the Australian people.

1.2 This Bill is expressly inadequate. It continues this Government's practice of addressing the symptoms, but not fixing the underlying problems, that plague the VET FEE-HELP system and vocational education across the country.

1.3 The Bill is a missed opportunity. The Government has failed to take the opportunity to give the Commonwealth and the national regulator sufficient powers to act decisively against providers who are suspected of misusing the VET FEE-HELP scheme and exploiting Australians — young and old — who are the victims of this provider and broker-led feeding frenzy.

1.4 Labor Senators agree with the Member for Calare, Mr John Cobb:

The good providers who are doing the right thing are victims because it sullies the good name of everybody when providers take advantage of young people and of a government system that allows those people to borrow money from the Commonwealth. Obviously, the students themselves are victims if they are encouraged to get involved in a course that either is no good to them or does not leave them with anything substantive at the end of the day.¹

Recent History of VET FEE-HELP

1.5 In his second reading speech, the Government Minister has sought to play partisan politics with this Bill, pinning the blame for this scheme on the former government.

1.6 Unfortunately for the Government the facts do not bear out its divisive politics. In 2012, the last year of published figures before the current Government was elected there were 55,115 VET FEE-HELP assisted students. VET FEE-HELP loans totalled \$235 million in that year, and the average loan amount was \$5,890.

1.7 In 2014 there were 202,776 students – an increase of 367 per cent. VET FEE-HELP loans totalled \$1.757 billion, up by 747 per cent. And fees have shot up to \$8,666 per student, an increase of 147 per cent.

1 Mr John Cobb MP, House of Representatives Hansard, 9 November 2015, pp 65–67.

1.8 Under this Government there have been three Ministers to date. Minister MacFarlane and Birmingham both talked tough but on outcomes have demonstratively failed.

1.9 Even Minister Birmingham's cherished initiative of a transfer of VET powers from States and Territories to the Commonwealth appears to have failed, largely because State and Territory Ministers quite rightly doubt the capacity of the Commonwealth Department of Education and Training to manage a national VET system given its incompetent administration of VET FEE-HELP.

1.10 This is not the Government's first attempt to fix VET FEE-HELP. Amendments to the Act last year and new national standards which came into effect on 1 April this year have not stemmed the tide of abuse and exploitation.

A system in crisis on this government's watch

1.11 For months the Government has claimed that its previous changes, the most notable being new national standards that came into effect on 1 April 2015, would fix the problem.

1.12 The then Assistant Minister for Education and Training said in a media release on 1 April 2015:

The time is up for dodgy marketing agents offering inducements like laptops, meals, vouchers and prizes so that people sign up for VET courses they don't need and incur a debt they cannot repay.²

1.13 However it is now clear that the Government's actions have either failed or been too little, too late.

1.14 Since April reports of exploitation have continued:

- *The Saturday Age* reported on the 4 April 2015 that brokers were targeting elderly and disabled public housing tenants in the suburb of Prahran with inducements like iPads.³
- 15 private colleges were reported to be under investigation for flouting the new standards by offering inducements like 'laptop scholarships' according to *The Saturday Age* on 16 May 2015.⁴
- The Australian Skills and Quality Agency (ASQA) was forced to defend its conduct in June 2016.⁵

2 Senator the Hon Simon Birmingham, Assistant Minister for Education and Training, Time is up for shonky VET spruikers, *Media Release*, 1 April 2015.

3 *The Saturday Age*, 4 April 2015.

4 *The Saturday Age*, 16 May 2015.

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- A Senate inquiry was told that brokers were continuing to flout the national standards by the Redfern Legal Centre in July 2015.⁶
 - The Australian College of Broadway was accused of enrolling a woman for a \$28,000 course after convincing her it was free *The Australian* reported on 5 August 2015.⁷
 - Fairfax media reported that one of the nation's biggest private colleges, Careers Australia, enrolled 2762 students using VET FEE-HELP, yet only 300 graduated. The figures were disputed by Careers Australia.⁸
 - A Senate hearing in Melbourne was told that a broker had targeted Vietnamese students studying English at a Yarraville Community Centre offering inducements.⁹
 - *The Age* investigation revealed that brokers operating for Phoenix College offered free laptops for disabled public housing tenants in rural Euroa.¹⁰ Phoenix College was subsequently put under investigation by ASQA and the Department of Education and Training, and the shares of its parent company – Australian Careers Network – plunged by 12 per cent.¹¹
 - The Australian Competition and Consumer Commission (ACCC) commenced court action against Unique College in Sydney alleging that the college sent salespeople into Aboriginal communities and handed out free laptops in return for their signatures on applications for online diplomas.¹²
 - *The Daily Telegraph* reports that ten colleges are being investigated for VET FEE-HELP rorts by the ACCC. ASQA admits that the number of complaints pointed to a 'potential systematic issue'.¹³
 - *The Australian* reports that \$1 billion in loans will be spent on students who do not complete their Diploma courses.¹⁴

5 The Australian, Wednesday 17 June 2015, p. 31.

6 Sydney Morning Herald, Saturday 18 July, p. 13.

7 The Australian, 5 August 2015.

8 The Canberra Times, 21 August 2015, p. 6.

9 The Age, 4 September 2015, p. 18.

10 The Age, 17 September 2015, p. 1.

11 The Age, 18 September 2015; Australian Financial Review, 18 September 2015, p. 15.

12 The Age, 28 October 2015, p. 12.

13 Daily Telegraph, 29 October 2015, p. 11.

- Evocca College is facing a class action from former students who claim they were duped into enrolling into its courses.¹⁵
- Sydney man, Keith Broos, claims he was signed up to a course by a spruiker for Evocca College and incurred a VET FEE-HELP debt he was unaware of.¹⁶
- Fairfax media reports that Unique International College paid students to sign documents they could not read in order to take up loans of \$25,000.¹⁷
- *The Australian* reports that tuition fees have tripled in three years, with the private training industry calling on the government to regulate tuition fees to prevent rorting.¹⁸
- *The Australian* reports that competition rates for government funded VET FEE-HELP courses has fallen.¹⁹
- Cornerstone Investments paid \$46 million for VET FEE-HELP in 2014 for 4,000 students but only graduated five, *The Australian* reports.²⁰
- Six of the top 10 organisations running Australian private colleges are under regulatory scrutiny *The Australian* reports.²¹
- *The Age* reports on the business model on vocational educational businesses, including the woes of Vocation, the troubles of Australian Careers Network, and allegations against another company Acquire Learning.²²
- The ACCC to launch court action against Phoenix Institute parent company CAN tells the Australian Stock Exchange.²³
- *The Age* reports that a federal government back to work scheme is supplying workers that sells expensive diplomas to the unemployed. Allegations are levelled against Go Careers about their sales tactics.²⁴

14 The Australian, 29 October 2015, p. 1.

15 The Australian, 29 October 2015, p. 6.

16 Daily Telegraph, 20 October 2015, p. 22.

17 Sydney Morning Herald, 30 October 2015, p. 15.

18 Natasha Bitu, \$3bn blow as colleges 'profiteer', *The Australian*, 30 October 2015.

19 The Australian, 30 October 2015, p. 1.

20 The Australian, 31 October 2015, p. 4.

21 The Australian, 5 November 2015, p. 7

22 The Saturday Age, 14 November 2015.

23 The Australian, 20 November 2015, p. 5.

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- On the same day *The Age* reported that dodgy brokers were still offering free laptops for people to enrol in courses for ASCET Institute of Technology, Phoenix Institute and Sydney based AIPE.²⁵
 - The ACCC accuses Phoenix Institute of false, misleading and unconscionable conduct and should pay back \$106 million in VET FEE-HELP funding, court documents show.²⁶
 - ASQA reveals that it had informed two more colleges – Cornerstone Investments and the Australian Institute of Professional Education – that it intends to cancel their registration.²⁷
 - Vocation Ltd advises the Australian Stock Exchange that it has initiated voluntary administration procedures.²⁸

1.15 The sheer volume of these reports and the flurry of regulatory action demonstrate that despite the Government's claims that previous changes to the VET FEE-HELP program have failed to even deter the shonks and shysters.

1.16 As TAFE Directors Australia (TDA) said in their submission to the committee:

Put simply, there is a culture of private 'for-profit' providers who have exploited – and without stricter legislation will continue to exploit – any and every loop hole or weakness in the VET FEE-HELP guidelines and legislation.

TDA cautions that current legislation and policy settings appear to be insufficient, and that far stronger control and governance of the VET FEE-HELP loan scheme is warranted in the face of incontrovertible evidence of abuse.²⁹

1.17 In this context Labor Senators welcome the legislation, and are prepared to support its passage. However, such is the scale of the problem we are looking to the Government to enact further measures that the community and indeed the private college sector are calling for.

24 The Age, 23 November 2015, p. 1.

25 The Age, 23 November 2015, p. 8.

26 The Age, 25 November 2015, p. 3.

27 The Australian, 26 November 2015, p. 1.

28 The Australian, 26 November 2015,
<http://www.theaustralian.com.au/business/companies/vocation-goes-into-voluntary-administration/story-fn91v9q3-1227623506720>

29 TAFE Directors Australia, Submission 6, p. 1.

VET FEE-HELP could overtake HECS this year

1.18 La Trobe University, in its submission to the inquiry has revealed the scale of the change where VET FEE-HELP was in 2014 more than one-third of the amount of University HELP loans:

An important issue within tertiary education policy is maintaining the sustainability of Australia's income contingent loan scheme. At this point, the bulk of loans made through the income contingent loan scheme are administered through the Higher Education Support Act (2003). Trade Support Loans are a small but significant addition to the income contingent loan policy framework (representing around 2.5% of costs of the higher education loan program for 2014-15).

The quantum of funds distributed through VET FEE HELP has increased significantly, and now makes up around a third of the funds distributed to Australian universities through the higher education loan program (Table One).³⁰

Table One. University HELP and VET FEE HELP 2012 to 2014

	2012 (\$m)	2013 (\$m)	2014 (\$m)
HECS-HELP ¹	3,037	3,633	3,947
FEE-HELP ¹	593	724	796
SA-HELP ¹	57	86	96
Total University HELP¹	3,687	4,443	4,839
VET-FEE HELP ²	325	669	1,757
VET-FEE HELP: University HELP Ratio	0.09	0.15	0.36

Source:

1. Department of Education and Training - Financial Reports of Higher Education Providers 2012-2014
2. Higher Education Support Amendment (VET FEE-HELP Reform) Bill 2015 Regulatory Impact Statement

1.19 The Regulation Impact Statement (RIS), Changes to the VET FEE-HELP Scheme, indicates that the rapid increase in the number of registered training organisations (RTOs) seeking approval, and being approved as VET FEE-HELP providers, means that 'there is still significant scope for further growth in VET FEE-HELP'. The RIS goes on to say:

Based on the number of providers approved in 2015, current applications undergoing assessment and pending, a potential increase during 2015 of 300 per cent over 2014 is indicated.

1.20 Based on the trend established by May this year, the total VET FEE-HELP debt for 2015 is likely to exceed \$4 billion. If left unaddressed, or not adequately

30 La Trobe University, *Submission 2*, p. 1.

addressed, it is possible that VET FEE-HELP could exceed HECS-HELP this year or in 2016.

Strengthening student protection when entering into VET FEE-HELP debts

1.21 Currently, a person signing up for a \$1,000 credit card or phone-contract has more protection than students signing up VET FEE-HELP loans.

1.22 There have been extensive media reports over the past two years detailing cases where dodgy brokers and RTOs target vulnerable students, often in low socio economic areas or people with intellectual disabilities, effectively tricking them into signing up to VET FEE-HELP debts without their knowledge. In many cases, 'students' will not find out about their VET FEE-HELP debt until they file a tax return.

1.23 They offer incentives such as free laptops, meals, gift vouchers and iPads in order to get their details and a signature to sign them up for a VET FEE-HELP loan – in many cases up to \$20,000.

1.24 In other cases, students have withdrawn from courses and followed the correct procedures to later find out that they have still accrued a debt.

1.25 This is effectively fraud and must be stopped.

1.26 Labor introduced an amendment in detail in the House of Representatives requiring the Department of Education and Training write to the student with a clear statement on the amount of debt that they are about to incur and requiring the student to reply to the Department before a debt is raised. This puts the Department in as a check-point between the prospective student and the broker or RTO.

1.27 In his speech to the House of Representatives on 11 November 2015, the Minister advised that the Department of Education and Training is already working on a new electronic application system for VET FEE-HELP loans which will come into effect on 1 January 2017.

1.28 While understanding that new IT systems take some time to establish, one year is far too long given the industry is in crisis and the volume of taxpayer funds that are being funnelled through to dodgy brokers and RTOs.

1.29 Labor Senators will propose amendments in detail in the Senate to require that the Minister and the Department fast-track this system and also look at risk management options, such as recording IPS and email addresses to ensure there is no commonality and staggering the Department's replies to students so that brokers and RTOs are unable to predict the response time from the Department to the student.

Capping runaway tuition fees

1.30 In vocational education fees for non-government subsidised courses are completely deregulated. A provider may charge whatever they want for a VET qualification and a student must therefore borrow the full cost as a VET FEE-HELP loan.

1.31 As a consequence of these deregulatory settings, tuition fees are out of control. The RIS prepared for this legislation says:

During 2014, there were almost 203,000 students (or 133,000 EFTSL) who accessed loans, with a total value of approximately \$1.76 billion, and an average loan amount of \$8,666 per student (or \$13,197 per EFTSL). Of the 133,000 EFTSL, around 113,700 were full fee paying with an average loan of \$14,500 and around 19,500 were state subsidised with an average loan of \$5,500.³¹

1.32 The 2014 VET FEE-HELP Statistical Report reports some more startling fee rises. In 2011 the average loan amount for a Diploma was \$4870. In 2014 it was \$12,658.³²

1.33 The average cost of an information technology diploma has increased from \$2779 in 2011 to \$18,735, increasing by 84.9 per cent between 2013 and 2014. A diploma of business management which cost \$4623 in 2011 now costs \$15,493.

<i>Average annual tuition fee per EFTSL (\$)</i>					Change 2013 to 2014
	2011	2012	2013	2014	
Natural and Physical Sciences	\$3,731	\$3,955	\$5,820	\$6,241	7.2%
Information Technology	\$2,779	\$4,473	\$10,134	\$18,735	84.9%
Engineering and Related Technologies	\$2,196	\$3,046	\$8,053	\$10,296	27.9%
Architecture and Building	\$2,009	\$2,589	\$4,500	\$5,792	28.7%
Agriculture, Environmental and Related Studies	\$1,525	\$1,524	\$2,980	\$4,810	61.4%
Health	\$5,660	\$5,997	\$7,954	\$9,622	21.0%
Education	\$8,078	\$8,473	\$9,259	\$5,821	-37.1%
Management and Commerce	\$4,623	\$6,454	\$12,130	\$15,493	27.7%
Society and Culture	\$3,671	\$4,727	\$6,544	\$8,276	26.5%
Creative Arts	\$6,310	\$7,399	\$10,145	\$12,097	19.2%
Food, Hospitality and Personal Services	\$10,466	\$11,958	\$13,081	\$16,982	29.8%
Mixed field programs	\$1,038	\$1,297	\$1,769	\$2,909	64.4%
Total	\$4,814	\$5,917	\$9,549	\$12,308	28.9%

Source: Australian Government Department of Education VET FEE-HELP data collection

31 Australian Government Department of Education and Training, Regulatory Impact Statement, Changes to the VET FEE-HELP Scheme, p. 15.

32 2014 VET FEE-HELP Statistical Report, Chapter 3, Table 5

1.34 Stories of price gouging are common. In the debate on this Bill in the House of Representatives, the Member for Lyne, Dr David Gillespie, cited one example:

There are two stories that I found particularly disingenuous and illustrated how crooked some of these people are. In Cairns there were two providers offering the same course. Funnily enough, they were registered at the same address. One charged \$12,750 on the VET FEE-HELP, but, for the same diploma of management from the same provider, you could get it direct if you paid up front \$3,420.³³

1.35 The Australian Education Union (AEU) notes that VET FEE-HELP students often pay more than university students:

Undergraduate students who are eligible for a *CSP* generally pay much less through their *HECS HELP* loans, than either category of *FEE-HELP* student.³⁵

1.36 Submissions have backed calls to control prices. The Australian Council for Private Education and Training (ACPET) recommended:

A review of the pricing and student contribution arrangements for VFH. ACPET considers the reforms may not give sufficient attention to the price insensitivity that has been identified with VFH.³⁷

1.37 The National Tertiary Education Union (NTEU) calls for an end to fee inflation:

The best way to prevent fee inflation is to put a cap on how much VET-FEE HELP assisted student can be charged for a course as is currently the case under HECS.³⁸

1.38 The Government still has a policy of deregulating university fees. The fate of VET under deregulation is surely enough of a cautionary tale to rule deregulation and \$100,000 degrees out as a serious policy option for the future.

1.39 Rather, as a number of submissions note, it is time to bring this aspect of VET FEE-HELP in line with HECS-HELP. In order to protect students and protect the Australian taxpayer it is time to put a ceiling on tuition fees able to be charged for courses paid for with VET FEE-HELP.

1.40 One other suggestion that was made to the recent Senate References Committee inquiry was to institute a lower loan limit. This suggestion has merit.

1.41 Labor Senators will propose and support an amendment in detail dealing with these issues.

33 Dr David Gillespie MP, House of Representatives Hansard, 9 November 2015, p. 70.

35 Australian Education Union, Submission 16, p. 10.

37 Australian Council for Private Education and Training, Submission 9, p. 5.

38 National Tertiary Education Union, Submission 1, p. 3.

Protecting the consumer through an industry ombudsman

1.42 Labor has proposed that an industry ombudsman be established for domestic VET students. This position has widespread support. Government actions to set up a National Training hotline are welcomed, but more can easily be done.

1.43 The Commonwealth Overseas Students Ombudsman (OSO), in its *Report on the first four years of operation*, notes the success of that scheme in acting as a vehicle for receiving/resolving complaints and as an educational resource for providers.

1.44 In the report the OSO says:

We have indicated we could take on complaints from domestic students about private education and training providers if our jurisdiction was extended and we were given funding to do so⁴⁰.

1.45 Protecting the consumer through an industry ombudsman has widespread support. ACPET says:

For some 12 months ACPET has been advocating the establishment of a National Training Ombudsman. This would provide a consumer-focused complaints handling process for students and providers to complement the National Complaints Training Hotline. The Training Hotline provides a vehicle to receive complaints - not deal with them.⁴¹

1.46 The Consumer Action Law Centre says:

Complaints by domestic students in Victoria must be taken to the Victorian Civil and Administrative Tribunal (VCAT). The VCAT process involves a court-like, adversarial hearing, which is much more formal and intimidating for a consumer than an ombudsman process. An ombudsman scheme remains informal and avoids some of the pitfalls of face-to-face dispute resolution where a power imbalance exists between the parties. An ombudsman process is more appropriate for the majority of disputes relating to private colleges.⁴²

1.47 The NTEU also supports the creation of an ombudsman:

In particular the NTEU strongly supports the ALP's recommendation to establish a student Ombudsman's office. The role of any such office however, should not be limited to VET or VET-FEE HELP, and should be extended to investigate complaints from any tertiary education domestic or overseas students whether they are enrolled in

40 Commonwealth Overseas Student Ombudsman, *Report on the first four years of operation*, p. 27

41 Australian Council for Private Education and Training, *Submission 9*, p. 4.

42 Consumer Action Law Centre, *Submission 24*, p. 2.

VET or higher education. This recommendation should be adopted independent of any other changes.⁴³

Banning brokers and dodgy marketing agents

1.48 The evidence is clear that the national standards which came into effect on 1 April 2015 have not been effective in stopping the activities of brokers or dodgy marketing agents.

1.49 The Australian Council of Private Education and Training says:

Advice from ACPET members suggests some agents and brokers are seeking more than 50% of student fees in commissions. ACPET is concerned that the rapid escalation in student fees and some unethical behaviour reflect these excessive commissions.⁴⁴

1.50 The majority report makes no observations or recommendations on this matter however Labor Senators are of the view that further action is required. We call on the Government to act decisively to either ban the use of brokers, or adopt the suggestion of the Consumer Action Law Centre and ban commission-based sales.⁴⁵

1.51 Alternatively, the Government could look at other options for regulation of third party agents, like caps on commissions or directly regulating third party agents such as migration agents or real estate agents.

Turn off the tap – further actions are needed

1.52 Recent actions by the ACCC have raised questions as to how effective the powers that the Minister and the Department of Education and Training officials (acting as the Minister's delegate) have to stop payments to providers or third party agents who are doing the wrong thing.

1.53 The inability of the Department to stop payments to providers who are subject to legal action by the ACCC, and subject to notices of intent to deregister by ASQA, is of concern. It suggests that the current powers are inadequate.

1.54 While the provisions of this Bill may go some way to improving the situation, the Government should commit to doing more.

1.55 Some submissions raised broader issues, such as questioning the validity of contestability for VET funding and the National Partnership on Skills Reform.

43 National Tertiary Education Union , *Submission 1*, p. 6.

44 Australian Council for Private Education and Training, *Submission 9*, p. 5.

45 Consumer Action Law Centre, *Submission 24*, p. 3

1.56 While there is a COAG review of the National Partnership scheduled, multiple reports and studies have reaffirmed the view that a strong, effective public TAFE sector is vital to underpin a vocational education system. That is why TAFE is not some sort of side issue and vocational education is not some sort of thing that you tack on. It is a fundamental, foundational responsibility of the Commonwealth to ensure that all people in Australia can gain access to vocational education and training in a way that allows them to develop their knowledge and skills and play a part in the future workforce.

1.57 Labor has announced that if elected it will develop a comprehensive National Priority Plan that defines the unique role of TAFE as our public provider and delivers on this by working with the states and territories to provide ongoing guaranteed TAFE funding, and to rebalance the contestable and non-contestable funding model to ensure it delivers the outcomes that are intended.

Recommendation 1

1.58 Labor Senators recommend that the Senate amend the Bill to deal with issues identified, namely tuition fees, loan limits and changes to strengthen student protection when entering into debt.

Senator Sue Lines

Deputy Chair