



Australian Government  
Department of Education and Training

# Regulation Impact Statement

Changes to the VET FEE-HELP Scheme

August 2015

*Opportunity through learning*



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# Regulation Impact Statement

## Changes to the VET FEE-HELP Scheme 2015-16

### Executive Summary

The VET FEE-HELP (VFH) scheme provides income contingent loans to students studying higher level Vocational Education and Training (VET) qualifications.

There has been strong growth in provider and student participation in the VFH scheme between 2009 (the first year that VFH loans were made available to the students of VFH approved providers) and 2014:

- the number of VET providers approved to participate in the VFH scheme has risen from 39 in 2009 to 224 in 2014
- the number of students accessing VFH loans has risen sharply from 5,262 in 2009 to 202,766 in 2014
- as a consequence of the growth in students accessing VFH loans and the rise in tuition fees charged by VFH approved providers, the total annual value of VFH loans provided to students has increased from \$25.6 million in 2009 to \$1.76 billion in 2014.

An inadequate regulatory regime has resulted in the proliferation of unethical actions by a small number of unscrupulous training providers or their agents. These behaviours include the offering of items such as iPads, cash and vouchers to prospective students as inducements to enrol in a course and request VFH. Numerous complaints reveal that marketing brokers, agents or third parties representing approved providers cold-call or door knock neighbourhoods of low socio-economic status (SES), focusing their efforts on vulnerable people who may be influenced by the inducements on offer. Often the people who sign up for a course do not have the academic capability to complete the course and do not understand the loan must be repaid.

The issues to be addressed with regard to the VFH Scheme are serious in nature and expose students, the taxpayer and the VET Sector to a high level of risk. The regulatory regime underpinning

the Scheme has not kept pace with the dynamic nature of the VET market and is not currently sufficient to ameliorate the negative effects of the unscrupulous activity being undertaken by a number of VET providers. Consequently a regulatory approach is considered the only way to address the serious nature of the issues at hand.

As a result, the government is acting decisively to stamp out bad behaviour, moderate student and loan growth in VFH, and improve both the quality and effectiveness of VFH in order to enhance its long term outcomes. To this end, the government has already introduced tough new standards for registered training organisations; given the national regulator, the Australian Skills Quality Authority (ASQA), more funding to implement the new standards; and introduced new laws that will enable regulators to act more swiftly when addressing quality concerns. Changes to VFH programme legislative guidelines were introduced in April and July 2015, and further reforms to the VFH programme are set to be introduced in the Spring sitting for implementation in January 2016. These reforms will improve the quality of VET and protect vulnerable students and taxpayers. These outcomes are important to the reputation of Australia's high quality VET system.

The measures will strengthen the administration of the scheme and improve the quality of outcomes for students by:

- ensuring provider, agent and student behaviour is consistent with the intent of the scheme
- guaranteeing students and providers have accurate and up-to-date information on the scheme, including on rights, responsibilities and obligations and the nature of the scheme
- safeguarding the reputation of the scheme
- supporting excellent student outcomes including course completions
- protecting students' consumer rights
- providing students with information on provider quality employment outcomes.

Action is needed now. Potential to damage industry confidence in the role of VFH in quality VET outcomes is high. Improvement in the regulatory framework which underpins VFH continues to be a priority, allowing the programme to respond to changes in the skills environment.

The government will work with stakeholders, including education and training peak bodies, students, employers, training providers, ASQA, state and territory governments and the community, to ensure these measures are implemented effectively.

The net regulatory saving impact of the reform of the VFH scheme, which includes an estimated regulatory reduction across the sector with moderated growth, is estimated at \$26.4 million a year

once fully implemented. While providers will face increased regulatory burden, as some reduction in overall student enrolments is expected there will be associated savings across the sector and the proposed reforms have been welcomed by a sector keen to rid itself of some unscrupulous providers focussed on monetary gain at the expense of VET quality.

## Background

### What is VET FEE-HELP

The VFH Assistance Scheme (the scheme) was introduced in 2008 (commencing from 2009) to provide eligible full fee paying students with access to income contingent loans to cover the cost of undertaking a VET diploma, advanced diploma, graduate certificate or graduate diploma course. The scheme was extended to state-subsidised students in jurisdictions that agreed to skills reforms to their VET sector. In 2009 Victoria agreed to skills reforms, with other states joining in under the 2012 National Partnership Agreement on Skills Reform (NPA). The NPA also extended the scheme to state and territory government subsidised students undertaking a limited range of Certificate IV courses on a limited trial basis (the Trial). The Trial will run until the end of 2016. VFH is a part of the Higher Education Loan Programme (HELP) and is enabled by the *Higher Education Support Act 2003* (the Act) and administered by the Department of Education and Training (the department).

### How VET FEE-HELP works

To be eligible for a VFH loan, a student must meet certain requirements under the Act. On meeting these requirements, the student becomes entitled to access a VFH loan for any or all units contributing to their course. Students have until the end of each census date for each unit to access the loan. A census date must be set not less than 20 per cent of the way through each unit. The amount of the loan in each case will be the amount of any tuition fees not paid upfront for the unit as at the end of the census date.

The entitlement requirements include:

1. studying an approved higher level VET qualification (that is, diploma level or above (or a certificate IV qualification that is part of the Trial))
2. meeting citizenship and residency requirements – that is, being either an Australian citizen or a permanent humanitarian visa holder who is a resident in Australia for the duration of the unit of study.

Eligible students can take out a VFH loan to cover part or all of their tuition fees. When students take out a VFH loan, the Government pays the loan amount directly to the provider on the students' behalf. Students then repay the loan through the Australian tax system once their taxable repayment income is above the compulsory repayment threshold set by the Australian Taxation Office (ATO).



For the 2015-16 income year, the repayment threshold is \$54,126. Students can make voluntary repayments of their HELP debt at any time.

Students in full fee paying places (sometimes referred to as 'fee for service students') accessing VFH are required to pay a loan fee equivalent to 20 per cent of the value of the VFH loan. This loan fee has been determined by the government to adequately take account of public debt interest expense, consumer price index, and fair value impairment of loans. Students who are subsidised by their state or territory government ('subsidised students') who access VFH loans do not pay a loan fee; instead, the costs associated with the impairment value of the subsidised loans and the public debt interest is shared equally between the Government and relevant state or territory jurisdictions as set out in the NPA.

### **Who Can Offer VET FEE-HELP?**

To be approved to offer VFH to eligible students, registered training organisations (RTOs) (ie, organisations that are registered by ASQA, or the Victorian or Western Australian registration bodies) must apply to the department and satisfy a range of eligibility requirements under the Act. RTOs must:

1. be a body corporate that has a principal purpose that is, or is taken to be, to provide education
2. be an RTO as listed on the [National Register](http://training.gov.au) at <http://training.gov.au>
3. be financially viable and likely to remain financially viable
4. carry on business in Australia with central management and control in Australia
5. offer a VET accredited diploma, advanced diploma, graduate certificate and/or graduate diploma course
6. be a member of an approved tuition assurance scheme under the VET Guidelines, or hold exemption from tuition assurance arrangements
7. meet quality and accountability requirements
8. have certain administrative procedures and the capacity to meet reporting requirements.

The process for assessing applications for provider status under the Act is necessarily rigorous. It requires an applicant to demonstrate that it is willing and able to comply with certain legislative requirements for the protection of students and access to Commonwealth monies. All applications are treated in-confidence and must be considered on receipt of submission according to legislative timeframes. As at 31 July 2015, there were 269 public and private training providers approved by the Minister for Education and Training to offer VFH loans (224 providers reported data for 2014).

## Description and Scope of the Problem:

### *Overview*

As a demand-driven measure, the VFH scheme has experienced significant growth since its inception, some of which can be attributed to strong early growth in an area previously unassisted by Commonwealth loans. However, the ready availability of low cost student loans, while an important enabler of education and skills development, appears to have dampened price sensitivity among potential students in this sector. It is necessary to address this dampened price sensitivity by making full, accurate and adequate information available to students.

Opportunistic behaviour by some well-resourced but in some cases unconscionable operators has led to unethical, aggressive profit-driven student recruitment with rapid unanticipated growth in enrolments at those providers. Many of these students lack the academic skills and backgrounds to successfully undertake or complete these courses. This has led to a rapid increase in debt accrual, the burden of which has fallen on the Commonwealth. This rapid excessive growth in students (or equivalent full-time student load (EFTSL)) and increasing value of the loans is of concern fiscally. Along with the dampened price sensitivity, this has resulted in students not receiving adequate value of educational outcomes, as evidenced through low completion rates of VFH students. This is particularly concerning when data indicates that around 80 per cent<sup>1</sup> of VFH assisted course enrolments study full-time. Further, the programme has not had in place adequate monitoring and compliance measures to ensure provider governance and quality processes adequately manage this rapid growth.

Factors which have led to the emergence of these issues include historical policy decisions and changes to policy parameters, such as the removal of Credit Transfer Arrangements (CTA) discussed further below. Inadequate management of risks has resulted in the rise of aggressive marketing and sign up behaviour with very little concern for the interests of students, with an apparent focus by some providers on profit rather than on assisting potential students gain meaningful skills through vocational study. It has become evident that the VFH scheme lacks adequate protections and controls in the legislative framework, which has highlighted regulatory deficiencies and fiscal pressures associated with the inappropriate sign-ups. This has been exacerbated by the scheme's design whereby the Commonwealth carries all the financial risk should a student not complete the course or reach the payment threshold.

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<sup>1</sup> Australian Government Department of Education VET FEE-HELP data collection 2014, unpublished

This regulatory failure must be addressed in order to improve the scheme's quality and effectiveness. The programme's rate of growth will also need to be moderated as the way it is currently operating is not consistent with quality outcomes. In addition, the current legislative arrangements have failed to ensure students are provided with recruitment and education and training experiences that assist them to successfully achieve the qualifications. This failure has resulted in a number of deleterious outcomes, described below in greater detail.

***Unscrupulous conduct***

An essential challenge to the scheme has been dealing with many uninformed or misinformed consumers who may not understand their options or the implication of these options; as well as the involvement of large and small sophisticated entities (providers) keen to access the substantial financial flows associated with the programme.

The use of aggressive marketing practices has seen students enrolling in courses they may not need or be capable of successfully completing. These students are sometimes misled by the information provided, or indeed, intentionally or through poor practice, not provided with correct information regarding the cost of tuition for the VET course or their rights and obligations under the scheme. Some VET providers have facilitated persons to apply for VFH assistance prior to confirmation of enrolment or concomitant with the application to enrol. This practice, in conjunction with lack of accurate information on VFH, has led to people applying for VFH assistance without due consideration, consent or knowledge. As well as concerning behaviour directly by providers, there have been many complaints relating to the behaviour of providers' agents. Based on complaints drawn to the attention of the department during 2014 and 2015, the behaviour of providers and agents at issue includes:

- A. targeting low SES and vulnerable people who may be susceptible to inducements, such as 'free' iPads, cash and vouchers, to enrol
- B. not informing the person that VFH is a loan that needs to be repaid once a person's income reaches a certain threshold
- C. advising people the course is free
- D. advising people they probably never have to repay the loan as they are unlikely to reach the repayment threshold
- E. telling people they (the agents) are representing the government
- F. enrolling vulnerable people in multiple courses at multiple providers (with or without the students' knowledge or complete understanding)

- G. enrolling people close to the census date without adequate time, or capacity, for them to consider their study or payment options and the consequent impacts of the substantial debt to the Commonwealth
- H. enrolling people for online courses who are not computer literate or do not own a computer or do not have internet access
- I. creating barriers to withdrawal prior to the census date.

As a result of these activities, some people have been making impulsive decisions to enrol in a course without adequate and accurate information about their obligations regarding VFH, or adequate and accurate understanding of the commitment involved to move through the course to successful completion of the qualification.

From information obtained from complaints received by the department about the behaviour of agents, in some cases, people have been unaware they had agreed to take out a loan. In many cases people are unaware of the name of the provider with whom they are enrolled. Some who attempt to withdraw are informed they have already incurred the debt without ever having engaged with the course or the provider. Some lack the skills to follow the grievance process through.

From 30 May 2014 to 1 July 2015, 789 complaints, including in relation to the activities of agents, had been received by the department via ministerial correspondence, the department's Complaints Hotline and Study Assist enquiry system, and referrals from state consumer affairs bodies. There have also been a number of adverse media events detailing people's experiences with inappropriate marketing activities by brokers representing approved providers. Much has appeared in the media regarding VFH issues, and in December 2014 NSW Fair Trading released information warning consumers about scammers and training marketers posing as government officials. In April 2015 the Australian Competition and Consumer Commission published updates on its website warning consumers about concerning practices. Such publicity serves to bring the scheme and the sector generally, into disrepute. The extent of the need for regulatory improvements is evidenced from these examples.

***“A ‘free’ gift could cost you thousands***

*Before you sign up for a Vocational education and training (VET) course, the ACCC is encouraging you to understand exactly what you are committing to, what it will cost and what the course will deliver....”<sup>2</sup>*

***“Warning on scam offer of free computers 15 December 2014***

*NSW Fair Trading is warning consumers about scammers and training marketers posing as government officials to get residents to hand over their personal information.*

*Fair Trading Commissioner Rod Stowe said NSW Fair Trading had received reports from consumers in Yeoval following an approach from two men offering free computers when the consumer signed up to free computer lessons.*

*“A Yeoval family were visited by two men telling them they were eligible for a free computer and lessons as part of a government program for people who earn less than \$50,000,” he said.*

*“They took photos of the consumer’s driver’s licence, birth certificate and details of her tax file number and the consumers haven’t received any follow up or any free computer.”...<sup>3</sup>*

***Actual Complaint:***

*A group of elderly Chinese Australians were approached by an agent acting on behalf of a number of registered training organisations. The agent informed the group that for a limited time they could enrol in a free computer course, they would also receive a free lunch, a transport allowance and either \$1000 or an iPad. The elderly group were keen to learn computer skills so they enrolled. On the scheduled enrolment date, the group were met at the train station by another agent and escorted to their colleges. Each group member was asked for a copy of their passport and tax file number. The agent completed some forms without any explanation or translation about the content of the forms. Some of the group members became suspicious when the classrooms did not contain any computers and the classes were taught in English. One member of the group found out that the document they had signed was in fact a request for VET FEE-HELP assistance. Upon contacting the college to withdraw from the courses, some of the group members were informed that they need not worry as they would never have to repay the loan. Others were informed they didn’t have to attend the classes and that the money/iPad they received was a “reward from the Government”.*

***Poor student outcomes<sup>4</sup>***

Courses favoured by agents for marketing purposes are predominately in the field of business, delivered online and have no entry requirements according to the relevant training package. In 2014, around 30 per cent of students accessing VFH were enrolled in either a diploma of business

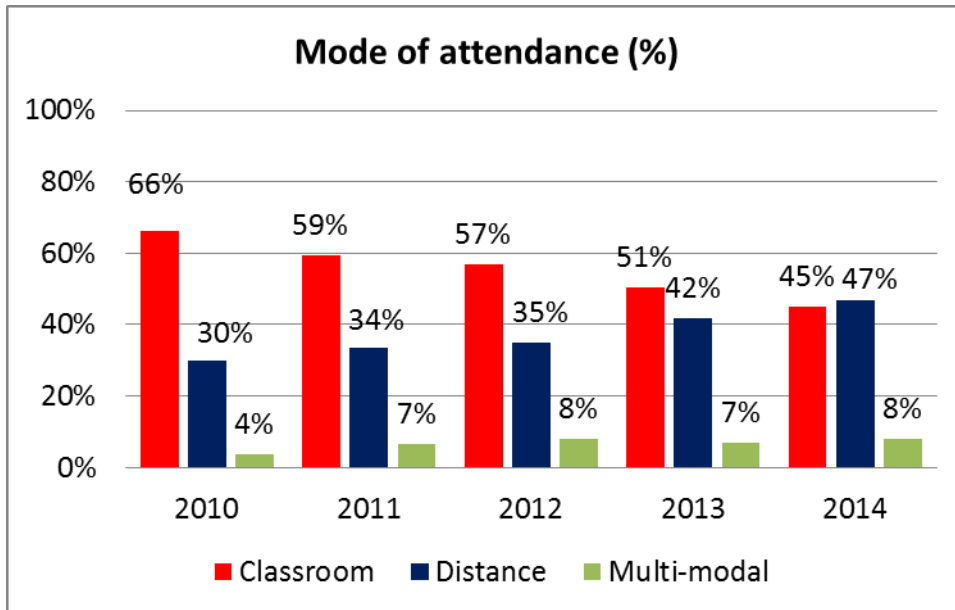
<sup>2</sup> [Australian Competition and Consumer Commission](https://www.accc.gov.au/update/a-free-gift-could-cost-you-thousands), 2 April 2015, <https://www.accc.gov.au/update/a-free-gift-could-cost-you-thousands>

<sup>3</sup> [NSW Fair Trading](http://www.fairtrading.nsw.gov.au/sites/ftw/About_us/News_and_events/Media_releases/2014_media_releases/20141215_warning_on_scam_offer.page), 15 December 2014  
[http://www.fairtrading.nsw.gov.au/sites/ftw/About\\_us/News\\_and\\_events/Media\\_releases/2014\\_media\\_releases/20141215\\_warning\\_on\\_scam\\_offer.page](http://www.fairtrading.nsw.gov.au/sites/ftw/About_us/News_and_events/Media_releases/2014_media_releases/20141215_warning_on_scam_offer.page)

<sup>4</sup> Actual 2014 data cited in this statement is unpublished.

(17 per cent of enrolments) or a diploma of management (14 per cent of enrolments)<sup>5</sup>. The increase in online delivery (refer Figure 1) has contributed to the already disturbingly low completion rates. The take-up of online delivery of courses has increased from 30 per cent in 2010 to 47 percent in 2014<sup>6</sup>. The three year completion rate (2011 to 2013) for units undertaken online was only seven per cent<sup>7</sup>.

**Figure 1: Time series of VET FEE-HELP students (%) by mode of attendance– 2009 to 2014\***



\* Totals may not add to 100% due to missing data or rounding. Distance includes online delivery.

Across all modes of delivery, of students who commenced a course in 2012, only around 22 per cent of VFH assisted students complete their course by the end of 2014.<sup>8</sup> This is well below the 42 per cent of students in government-funded diploma courses according to the National Centre for Vocational Education Research’s national estimated completion rates in 2013<sup>9</sup>.

### **Rapid growth in students and loans**

Inappropriate and unconscionable marketing techniques by agents have contributed to the rapid growth in the number of students taking out VFH loans. The number of students accessing VFH loans increased by around 103 per cent between 2013 and 2014, from just over 100,000 students to more than 203,000 (Figure 2).

<sup>5</sup> Australian Government Department of Education VET FEE-HELP data collection 2014, unpublished.

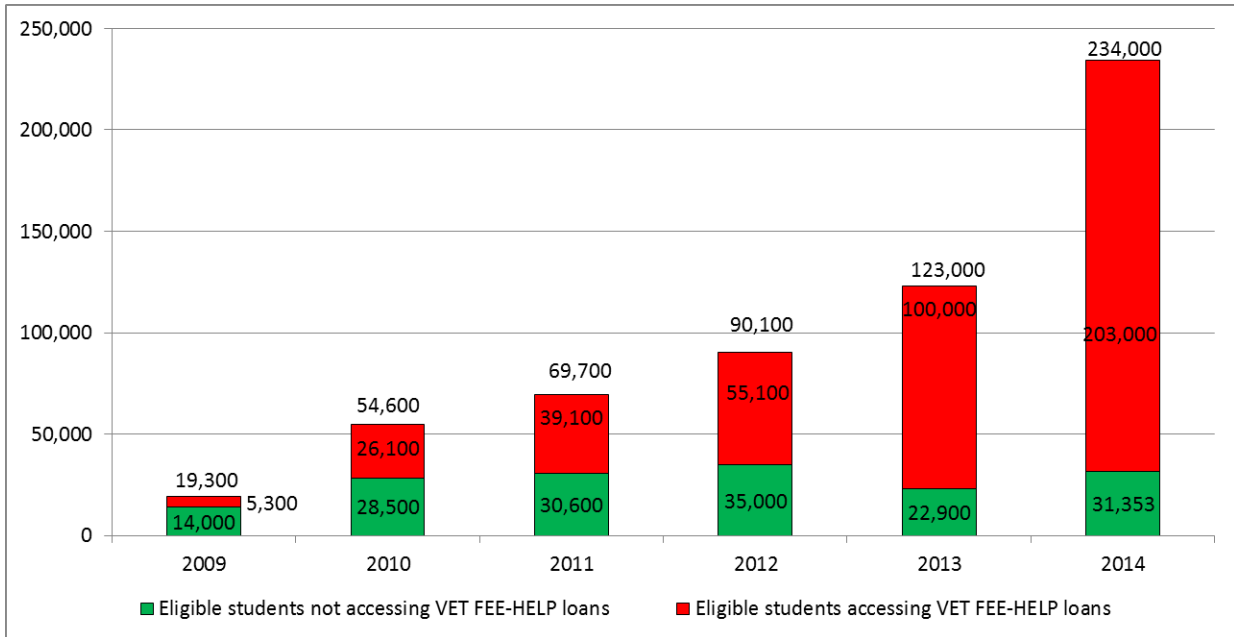
<sup>6</sup> 2014 VET FEE-HELP Statistical Report – Summary, Department of Education and Training, unpublished.

<sup>7</sup> VET FEE-HELP Statistical Report 2013, Department of Education and Training.

<sup>8</sup> 2014 VET FEE-HELP Statistical Report – Summary, Department of Education and Training, unpublished.

<sup>9</sup> National Centre for Vocational Education Research, Likelihood of Completing a Government-funded VET Program 2009-2013, 2015.

**Figure 2: Number of students eligible for VET FEE-HELP, 2009–2014**



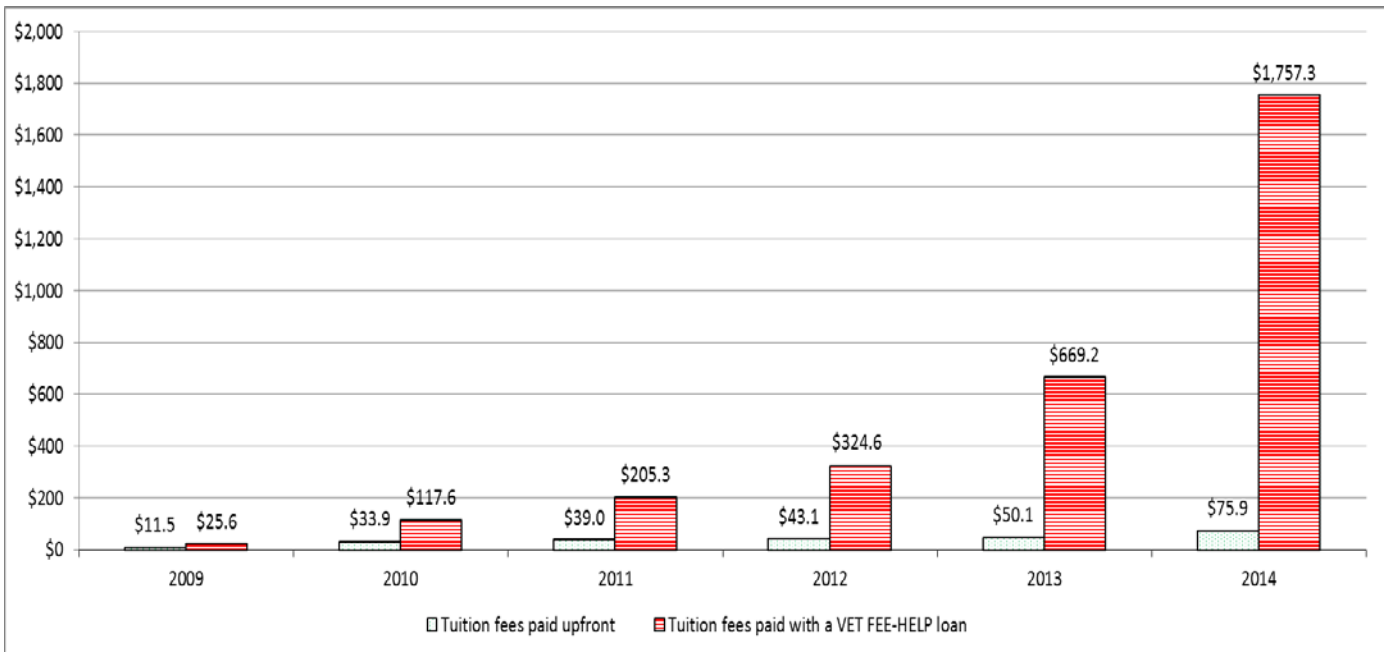
Source: Australian Government Department of Education VET FEE-HELP Data Collection.

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.<sup>10</sup> The average value of these loans is relatively modest when compared with the profile of loans for full fee paying students. However, the increase in subsidised students accessing loans has been less than expected, while the number of full fee paying students accessing a VFH loan has grown by an average of around 82 per cent each year for the four years to 2014. The average value of each loan has also grown by an average of around 18 per cent annually over the same period.

The total value of VFH loans accessed in 2014 (\$1.76 billion) was 2.5 times the amount accessed in 2013 (\$699.2 million) (Figure 3). In 2014, 96 per cent of all tuition fees charged to eligible students were paid using a VFH loan.

<sup>10</sup> 2014 VET FEE-HELP Statistical Report – Summary, Department of Education and Training.

**Figure 3: Tuition fees charged to students eligible for VET FEE-HELP, 2009–2014 (\$M)**



**Source: Australian Government Department of Education VET FEE-HELP Data Collection**

Substantial growth in the number of full fee paying students and the total value of loans was expected as VFH matured, however not to the extent and in the short period of time that it has occurred. This rapid increase in access to VFH loans for higher level VET qualifications led the Government to have significant concerns about the quality outcomes of the programme and the growth in the public borrowing requirement arising from the growth in loans under the scheme and the ability of VFH debtors to meet their obligations to repay the loans. Loans provided through the scheme represent a significant and growing budgetary outlay for the Commonwealth. Growth in public borrowing requirements arising from increases in the number and amount of loans from VFH has the capacity to increase fiscal pressures to the budget and undermine public support for continuation of the scheme where there is concern about aggressive recruitment, doubt about the quality outcomes of the programme, and loans for ‘inactive’ students.

**Attachment A** – Summary of VFH loans and students since the inception of the programme, 2009 to 2014, shows the expected growth in student numbers and total loans as VFH matured from 2009 to 2012, as well as evidence of the unexpected rate of growth since 2013.

**Growth in Providers**

Some providers have prospered from their participation in the scheme in ways that are inconsistent with the intent of the scheme. Some providers have been able to rapidly grow their businesses through the application of undesirable business approaches such as generating high volumes of



student enrolments through aggressive marketing with low rates of student engagement and completions.

There are around 4,600 RTOs registered in Australia – 4,000 registered by ASQA and the remaining 600 registered by either the Victoria Registration and Qualifications Authority (VRQA) or Training Accreditation Council Western Australia (WA TAC). In 2014 there were 1.4 million state and territory government subsidised VET students. There are currently 436 accredited VET courses at the diploma level and above delivered across 1,955 ASQA registered RTOs. While approved providers currently represent a small proportion of the total RTO cohort, nearly half of the RTOs registered by ASQA offer a diploma qualification and may therefore be eligible to apply to offer VFH at any time, and there are a large number in the pipeline to seeking approval. As at 3 August 2015, the department had 102 new VFH provider applications undergoing assessment. The total number of RTOs seeking approval to offer VFH increased from 101 for the whole of 2013 to 131 in 2014 (an increase of almost 30 per cent). 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. The department anticipates that, in the absence of any change to existing policy settings, there is still significant scope for further growth in VFH.

RTO quality across the VET sector is variable and the broadening of the scheme from 2013 has contributed to the emergence of providers focussed solely on VFH. Early analysis of complaints data indicated that of the six per cent of providers that had been the subject of two or more complaints, almost all delivered only to full fee-paying students, at least 90 per cent of their revenue was sourced from VFH, and those providers accounted for almost a third of the total VFH assisted EFTSL in 2014. Although there is an application process for VFH approval, a strengthened framework with adequate policy structures supporting quality outcomes for all stakeholders is required.

#### **Likely contributing factors to current problems**

The regulatory framework and risk management has not kept pace with or adequately assessed the likely impact of policy changes in the context of the substantial financial assistance offered to students through VFH loans, as well as through changes to the structures of state and territory based subsidy platforms.

From 1989 the Higher Education Loan Programme (HELP, formerly called HECS) has provided income contingent loans to eligible higher education students studying at Australian public universities and a small number of private higher education providers. In 2005, HELP was extended to full fee paying higher education students (FEE-HELP) at both public and private 'not for profit' and 'for profit' higher

education providers. From 2009, HELP was further extended to the VET sector (VFH) for full fee-paying students in higher level VET courses (diploma and above) nationally. The legislative framework mirrored the FEE-HELP provisions, by the addition of Schedule 1A to the Act. One of the requirements for VFH provider approval, however, was that credit transfer arrangements existed between the RTO and a higher education provider providing a pathway for graduates to progress from diploma and advanced diploma courses to higher education courses, with credit granted towards the higher education award. Subsequently VFH was extended for state-subsidised students in jurisdictions that agreed to skills reforms to their VET sector. In 2009 Victoria agreed to skills reforms, with other states not joining until after the agreement to the NPA in 2012. The intention of these changes was to increase the take up of the scheme among providers so as to allow more vocational students to access further education.

#### ***VET FEE-HELP in the skills reform context***

From 1 July 2009, through a bilateral agreement with the then Victorian Government, VFH was extended to Victorian Government subsidised diploma and advanced diploma students as part of the then Australian Government's support for Victoria's VET reforms (the Victorian extension). In addition to the widening of the eligibility for VFH to subsidised students in Victoria, those students were not required to pay the loan fee, and in addition the credit transfer arrangements were removed as a pre-requisite requirement for provider participation. As a condition under the bilateral agreement, the Victorian Government was required to open the VET sector to contestable funding in Victoria. As a result of the Victorian extension there was a significant increase in the number of approved providers as well as an increase in the proportion of eligible students accessing loans. By 2012 there was a total nationally of 101 approved providers, 43 in Victoria (43 per cent). The total value of VFH loans accessed by students nationally more than tripled from \$25.6 million in 2009 to \$117.6 million in 2010. In 2009, the number of students accessing VFH assistance was 5,262, which was 27 per cent of those eligible (19,273). This take-up rate nearly doubled in 2010, to 48 per cent of those eligible. In 2010, the majority of eligible course enrolments were in Victoria (42,122 of the total 59,172 enrolments in Australia or 71 per cent). In 2011, Victorian government subsidised student EFTSL accounted for 27 per cent of the VFH assisted course enrolments.<sup>11</sup> In 2014, and with more states offering VFH for subsidised students, subsidised student EFTSL in all states accounted for only 14 per cent.

Full fee-paying students are more likely to access loans, with the take-up rate around 76 per cent in 2014 for subsidised student EFTSL, but around 98 per cent for full fee-paying student EFTSL. Further

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<sup>11</sup> DEEWR VET FEE-HELP Data Collection. Actual student liability data reported by approved VET providers.

contributing to growth in loans, average loans are higher for full fee-paying students. The number of full fee-paying student enrolments accessing a VFH loan (EFTSL) has grown by an average of around 83 per cent each year for the three years to 2014. The average value of each loan has also grown by an average of around 17 per cent annually over the same period, with a peak 23 per cent increase in 2013 alone.<sup>12</sup> These changes have occurred with very little adjustment to the compliance regime or risk management activities undertaken or the regulatory structures underpinning the scheme.

### ***The National Partnership Agreement (NPA)***

The NPA was agreed by the Council of Australian Governments (COAG) in April 2012 to drive reform of the national training system. All state and territory governments signed the NPA and began implementing the reforms between 2012 and 2015. For VFH, the reforms mirrored those implemented under the Victorian extension. As part of the NPA, VFH would be made available to state and territory government-subsidised students upon each state or territory meeting its obligations agreed to in accordance with their implementation plans under the NPA. As of January 2015 VFH has been available to eligible subsidised students in all states and territories. However, rather than showing the same trends as with the Victorian extension in 2009 to 2010, to date the number of subsidised students accessing VFH and the proportion of loans represented, only represents a modest increase. With less loans for subsidised delivery, the regulatory regime needs to be adjusted to support the changed profile.

Under the NPA the state and territory governments agreed to make the VET sector fully contestable, by allowing private, for profit RTOs to compete for state and territory government funding to offer subsidised training places to eligible students. The Interim Report of the inquiry into *The operation, regulation and funding of private vocational education and training providers in Australia*, published in 2 March 2015 reflects a concern by the Senate Committee in 'the increased volume in VFH funding to for-profit VET providers who retain a substantial amount of the loan as profit'. In exploring the regulation of VET in Australia the committee hoped to focus on 'the quality of private VET provision, the competence of graduates, the recruitment of students and regulatory enforcement'.

In its submission to the Inquiry, the Victorian Government indicated the consequences of opening the VET sector to contestable funding in Victoria:

*The Victorian Government acknowledges expanding access to public funding for training to both public and private providers has increased competition. Unfortunately, in order to attract students many providers have competed on price rather than the provision of quality training. They have either reduced training quality or enrolled excessive numbers of students into courses with the goal of maximising their government revenue rather than focussing on the*

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<sup>12</sup> DEEWR VET FEE-HELP Data Collection. Actual student liability data reported by approved VET providers.

*employment outcomes of students....The availability of funding for both public and private providers changed the incentive structure for a number of training providers, distorting their behaviour. The instances of providers putting increased government revenue over the interests of students increased.*<sup>13</sup>

### **Removal of the 'credit transfer arrangement' requirement**

One of the challenges of the scheme from its inception was to encourage participation in the VET sector by ensuring VFH was more widely accessible to students, with a choice of providers and competitive tuition costs. However, in the early years of implementation the scheme had taken off more slowly than originally anticipated, except in Victoria. To be approved to offer VFH to students, an RTO needed to have at least one CTA in place with a higher education provider for every diploma and advanced diploma it offered. This disadvantaged smaller providers and those offering 'niche' courses from applying to be approved providers. Removing CTA requirements was intended to provide a level playing field and encourage more RTOs to seek approval under the scheme.

In February 2009 and as part of approving the VFH extension in Victoria, the then Prime Minister, the Hon Kevin Rudd MP, requested a post implementation review (PIR) of the VFH scheme<sup>14</sup>. The purpose of the PIR was to critically analyse the strategic objectives of the scheme, the profile of providers, courses and students under the scheme, areas where the scheme had worked well, lessons learned and areas which may require further policy development. Throughout 2011, all RTOs that offered diploma or above qualifications, state and territory governments and peak sector bodies were consulted as part of the PIR. The *Post Implementation Review of the VET FEE-HELP Assistance Scheme Final Report* published in September 2011 noted the removal of the credit transfer requirement under Victorian extension in 2009 was perceived by stakeholders in other jurisdictions as inequitable for the VET sector and having the CTA requirement in place in all other jurisdictions was a major barrier to the Scheme's uptake in that the smaller numbers of approved VFH providers in other states limited course offerings and provider choice with consequent inequities.<sup>15</sup>

On 13 April 2012 at COAG all jurisdictions signed a new NPA. Under Schedule 4 of the NPA, the Commonwealth agreed to remove the CTA requirement for all jurisdictions from 1 January 2013. Since the removal of CTAs in 2013 which extended eligibility to many more RTOs, VFH has

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<sup>13</sup> Victorian Government, [The operation, regulation and funding of private vocational education and training \(VET\) providers in Australia](#), Submission 80, 15 February 2015, p. 1.  
[http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Education\\_and\\_Employment/vocational\\_ed/Submissions](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Education_and_Employment/vocational_ed/Submissions)

<sup>14</sup> [Post Implementation Review of the VET FEE-HELP Assistance Scheme Final Report 30 September 2011](#) p. 6  
<http://industry.gov.au/skills/About/Documents/PIrofVFHFinalReport.pdf>

<sup>15</sup> *Ibid*, p. 10.

experienced substantial growth in the number of providers approved to offer VFH loans, the number of full fee-paying students taking out VFH loans and the value of those loans. The actual increase of over 85,200 fulltime student loads from 2012 to 2014 was more than eight times the growth that had been anticipated in early 2013.

In addition, and though not necessarily the intention, it is now apparent that CTAs acted as an informal quality assurance measure. In many cases the CTAs were developed with public universities which were, arguably, an endorsement of the quality of a provider's courses. The removal of CTAs has served to extend the eligibility for private RTOs and the courses offered, thus contributing to the growth of the scheme.

### **Conclusion**

With the current problems and contributing factors, without also placing adequate protections in the regulatory framework, it is estimated that about one-third of the growth in EFTSL with associated loans is not delivering quality educational outcomes. The existing problem was caused by the interaction of a number of disparate factors, and adjustments to the existing controls should be made. While the scheme was established with the best of intentions and originally worked as designed, changes over the past few years have led to a number of unintended consequences that now need to be urgently addressed through the regulatory regime in order to maintain the scheme's viability and ongoing effectiveness in producing quality educational outcomes for the financial commitment. The scheme needs strengthening so that it can continue to provide eligible students with access to income contingent loans to cover the cost of undertaking their studies.

## The Need for Government Action

Existing undertakings to protect students' interests given by approved providers as part of the approved provider application process are not always being applied in practice. The administration of the scheme will therefore need to be strengthened, the growth of VFH loans moderated, students and taxpayers protected, and the quality of outcomes for students and effectiveness of the scheme improved. An enhanced compliance regime which includes infringement notices and civil penalties will also be required to manage provider behaviour quickly and effectively. Despite protections established in the Act, in the VET provider guidelines and under the Australian Quality Framework, some provider behaviours are inconsistent with good student outcomes. These providers have found ways to avoid their obligations or misrepresent the requirements of the scheme to prospective students. The VET student population has a significant cohort from disadvantaged backgrounds (around 25 per cent low SES).<sup>16</sup> 'It is clear' the Consumer Action Law Centre stated in its submission to the Inquiry into *The operation, regulation and funding of private vocational education and training providers in Australia*, 'significant reforms are needed to protect Australian students and ensure taxpayer funds are being invested appropriately.'<sup>17</sup>

In its submission the Australian Chamber of Commerce and Industry stated:

*Lessons learnt with the implementation of the Productivity Places Program, the Victorian Training Guarantee and VET FEE HELP clearly show the need for a compliance framework that is [sic] outcomes to ensure quality, and standards on how training providers can market courses, especially where government funding is subsidising the training.*<sup>18</sup>

In the Interim Report of the Inquiry, published in March 2015, the committee noted that an appropriate regulatory environment was key to ensuring consistent high quality standards of training and skills development in a competitive market. The committee was concerned that the current regulatory framework was not as effective as it could be.

The government agrees the current regulatory framework is unable to effectively deal with these issues. Current and historical compliance activity is reactive rather than proactive, and is weighted

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<sup>16</sup> 2014 VET FEE-HELP data, Department of Education and Training (unpublished).

<sup>17</sup> [Consumer Action Law Centre, \*The operation, regulation and funding of private vocational education and training \(VET\) providers in Australia, Submission 13\*, 12 February 2015, p. 1.](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Education_and_Employment/vocational/Submissions)  
[http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Education\\_and\\_Employment/vocational/Submissions](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Education_and_Employment/vocational/Submissions)

<sup>18</sup> [Australian Chamber of commerce and Industry, \*The operation, regulation and funding of private vocational education and training \(VET\) providers in Australia, Submission 36\*, 12 February 2015, p. 9.](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Education_and_Employment/vocational/Submissions)  
[http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Education\\_and\\_Employment/vocational/Submissions](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Education_and_Employment/vocational/Submissions)

heavily to the lower level of the enforcement pyramid, focusing on encouragement in the hierarchy of responses (that is, guidance, education and training in the main), with non-compliance taken to be due to lack of knowledge or misunderstanding of the Act and guidelines on the part of the provider. It is now apparent that this is not necessarily the case. While marketing agents have always been a feature of the international education space, the drive to enrol as many students as possible has been brought to the domestic student sector with dire consequences, particularly with policy parameters allowing full course debt accrual upfront. This, along with a lack of publicly available information about the quality of individual providers and the success (or lack of) that previous graduates have enjoyed from completing a course and employment outcomes, needs to be addressed. Doing so will assist students or potential students to make more informed choices about courses and providers. This will require legislative change and a supporting information campaign. Improved information on outcomes will also better guide students towards skills in need in the Australian economy, offering greater job prospects and therefore improved affordability of the scheme as graduates generate repayment from income above the threshold repayments. Individuals who obtain higher level VET qualifications are more likely to be employed, be in full-time employment, be in permanent employment, and have higher weekly earnings, than those holding only a Year 12 qualification.<sup>19</sup>

There remains no recourse under the Act for a student to dispute a VFH debt on the grounds that it was incurred unfairly because of the inappropriate marketing practices of a provider or its agent(s). As long as a provider continues to meet the governance, quality and accountability and financial viability requirements under the Act, there are no sanctions available to revoke a VFH approval, meaning that the Commonwealth bears the associated risk.

RTO quality is regulated by ASQA nationally, and the VRQA and WA TAC where jurisdictions have not referred their powers under the *National Vocational Education and Training Regulator Act 2011* (NVETR Act). The department may, under section 180-20 of the *Higher Education Support Act 2003* (the Act), refer information to the National VET Regulator relating to provider behaviour that may impact on students. Deregistration by ASQA would lead to automatic revocation of VFH provider approval. However, although such information relating to VFH may contribute to increased monitoring by ASQA, it is extremely unlikely that it would lead to deregistration of the RTO. Provider quality is monitored by ASQA in accordance with Standards under the NVETR Act, which may not be sufficient to deter a provider from participating in, or engaging agents that participate in,

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<sup>19</sup> National Centre for Vocational Education Research, [Analysis of private returns to vocational education and training, 2010](http://www.ncver.edu.au/publications/2221.html) <http://www.ncver.edu.au/publications/2221.html>

inappropriate marketing practices relating to VFH. Further, under the Act the Government will provide substantial and demand driven payments to providers and the supporting regulatory regime needs to be embedded in the legislation that provides the loan assistance. This further connects providers that are not regulated by ASQA, but rather are regulated by VRQA or WA TAC, which introduces further complications to the regulatory regime. The existing regulatory regime monitored by the three regulators is not therefore able to, nor should it, adequately address the problems associated with VFH, and strengthened provisions in the Act are needed.

Revocation or deregistration, if they were indeed likely options, would not produce the best outcome for students. The most appropriate way forward would be to strengthen the operating requirements of the scheme that provides the financial assistance to ensure people wishing to enrol in a course and access VFH may do so without fear of exploitation by the unscrupulous minority that currently exists in the VET sector. In a scheme that provides Commonwealth assistance to the sector of over \$1.7 billion for Australian students in 2014, and with the substantial majority of students accessing this financial assistance (over 86 per cent<sup>20</sup> of eligible students at VFH providers), it is essential that the legislative framework underpinning the scheme includes regulatory structures that go further in some respects than quality regulation catered for by the Australian and state government regulators.

In its submission to the Inquiry, the Consumer Action Law Centre argued the current regulatory system fails to protect Australians from unscrupulous education brokers and such 'failings' are affecting Australia's most vulnerable people. The role of the government now is to act quickly to address the issues described in this statement. The challenge and the purpose of the reforms is to implement policy that will ensure the scheme's viability and ongoing effectiveness so that eligible students can continue to access to income contingent loans, without the fear of exploitation and to the best outcome possible, to assist with the cost of undertaking their studies. VFH was designed to improve access to training for individuals who would otherwise not be able to afford it by removing the financial barriers. Stamping out poor provider behaviour and removing poor quality providers will help to restore confidence and longevity in the programme and will ensure that VFH continues to contribute to productivity growth for the economy.

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<sup>20</sup> Australian Government VET FEE-HELP Data Collection, 2014 (unpublished).



## Policy Options

A range of policy options were considered with the potential to improve the VFH programme's quality and effectiveness and hence moderate the growth in VFH loans. These were:

- A. no change
- B. a non-regulatory approach – to improve student awareness
- C. a regulatory reform and compliance package – regulatory changes to programme settings to address concerns about training provider behaviour
- D. loan capping – options to cap the overall value of VFH loans.

The preferred policy option will need to reduce inappropriate provider and agent behaviour without adverse impacts on students' educational experience; dampen growth in the scheme related to that inappropriate behaviour; improve quality outcomes for students with increased transparency and an improved compliance regime to ensure the involvement of providers focussed on quality outcomes and retention, rather than focussing on profit at the expense of quality outcomes for student.

The preferred policy option will need to be capable of addressing the following objectives:

1. **Poor training provider and broker behaviour** which has led to an increasing number of students:
  - o being enrolled in courses they are not capable of doing
  - o being misled about the nature of the VFH assistance
  - o accepting inducements when they have no intention of undertaking the training
  - o facing barriers to withdrawal from a unit prior to the relevant census date
  - o being forced to pay for significant fees levied at the start of the course
  - o paying for units of competency not required for the award of the diploma or above qualification.

All these issues give rise to an increasing incidence of students with substantial debts who have undertaken little or no training and have slim prospects of reaching the income level needed to commence repayment of their debt.

2. **Persistent reported issues with the quality and, in many cases, the quantity of training provided and providers involved in the scheme.** The scheme was originally implemented on the basis that neither the cost nor the duration or volume of learning were regulated. Evidence has emerged that some providers are offering short term diplomas at high cost, leading to poor quality educational outcomes for students and significant debts.
3. **To improve the quality of information available to support informed student choices about courses, providers and VFH loans.** While successive governments have made significant efforts

to ensure students are provided with high quality, timely information to help them make choices about study and training options, there is still room for improvement. In many cases students are not sufficiently aware of their obligations under the VFH scheme including that they will need to pay the debt back some time in the future. There is also a paucity of information about the quality of individual providers, course cost, and the success that previous graduates have enjoyed from completing a course. Addressing these issues with a regulatory package will assist students or potential students to make more informed choices of both course and provider and better guide them towards skills in need in the Australian economy, offering better job prospects.

4. **Protect the taxpayer** financially as a result of some providers and brokers using inducements, misleading marketing campaigns and inappropriate recruitment practices and poor quality outcomes which has led to rapid and unexpected growth substantially exceeding the Government's projected expectations, which adds to structural challenges for the Budget.

Components of the regulatory and non-regulatory options are suggested in a comprehensive suite of VFH reforms, which would be capable of systematically and comprehensively addressing the problem at hand. This can only be achieved by banning inducements, tightening VET marketing recruitment practices, protecting students' rights and spelling out their obligations, streamlining debt waiver and revocation processes, strengthening the assessment criteria for providers and ongoing obligations, ensuring continuous improvement and establishing minimum pre-requisite and prior education qualifications.

A summary of the measures considered is outlined in Table 1.

Table 1 Summary of measures considered<sup>21</sup>

	Measure title	Possible commencement	Legislation or regulation required	Changes to regulatory costs
<b>Option A</b>	A – No change.	Ongoing	No	None
<b>Option B</b>	B1 – Improve student awareness of how VFH operates and their rights and obligations under the programme.	1 July 2015	No	None
<b>Option C – 8 measures</b>	C1 – The banning of prohibited inducements to entice students to enrol under the VFH scheme.	1 April 2015 and Jan 2016	Yes	Decrease
	C2 – Tightening VET marketing and recruitment practices	1 July 2015 and Jan 2016	Yes, combination	Decrease
	C3 – Improving the understanding of how VFH operates, and students’ rights and obligations.	2015 and 2016-17	Yes, combination	Decrease
	C4 - Streamlining the debt waiver and revocation processes for students under VFH.	1 Jan 2016	Yes	Increase
	C5 – Strengthening the assessment criteria for, and ongoing scrutiny of, all VFH providers.	2016 - 2017	Yes	Decrease
	C6 – Ensuring student debt is incurred in line with course delivery and continued student participation.	1 Jan 2016	Yes	Decrease
	C7 – Establishing minimum pre-requisite and prior education qualifications, including demonstrated literacy and numeracy requirements.	1 Jan 2016	Yes	Decrease
	C8 – Enhancing training and outcomes information, allowing students to make more informed choices about training providers and courses.	2015 - 2016	Yes, combination	Increase
<b>Option D - Caps</b>	D1 – Introduce a capped average loan amount of \$10,000 in order to reduce the rate of growth of VFH loans	1 Jan 2016	Yes	Decrease
	D2 – Introduce a cap on the total value of loans that an individual provider can offer	1 Jan 2016	Yes	Decrease

<sup>21</sup> Note: Regulatory impacts are provided in the regulatory burden and cost offset estimate Table 4. Costs are indicative and on this basis have been agreed by the Office of Best Practice Regulation (OBPR).

## Option A - No change

Maintaining the status quo is not considered a viable option given recently identified concerns about the behaviour of some providers and their inability to respond under the current regulatory regime, and the potential negative impact on the Government's public borrowing requirement from enrolments and VFH loans resulting from the unscrupulous behaviour.

The department acknowledges the introduction of a Code of Practice by the Australian Council for Private Education and Training (ACPET) for members using the services of agents and brokers in response to concerns about the operation of education agents, both in Australia and overseas. In its submission to the Productivity Commission on 'International Education Services' December 2014, ACPET stated:

*Implementation of the Code is ACPET's way of demonstrating that its membership is serious about providing high quality services that students, their families and the community can feel confident will meet their expectations. Amongst other things, ACPET members will use the services of reputable agents/brokers who have a proven track record<sup>22</sup>.*

While this is welcome, the code alone will not address the complexity of the issues at hand, nor has it to date. This is consistent with stakeholder feedback that legislative reforms, rather than continuing to direct the few unscrupulous providers and their agents to operate in an ethical manner, are the most realistic and judicious way to address the issues currently facing the VET sector.

### ***Reasons for not supporting this option***

It was clear from the consultation process that Stakeholders recognised that changes needed to be made to the administration of the scheme. Despite the tightening of the RTO standards administered by the ASQA, stakeholders agreed this was not sufficient to address the issues at hand and some issues directly related to the financial assistance provided. Without legislative change addressing marketing and recruitment practices and scheme eligibility, change to market behaviour would be negligible. Without introduction of the new guideline and legislative provisions and an infringement/penalty regime for breaches of these provisions, enhanced compliance activities would be of limited benefit.

Without change, the cost to the Budget and the impact on the public borrowing requirement would be expected to continue rising beyond the forward estimates.

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<sup>22</sup> [Submission to the Productivity Commission on 'International Education Services', Australian Council of Private Education and Training](http://www.acpet.edu.au/uploads/files/ACPET%20Submission%20-%20Productivity%20Commission%20-%20International%20Education%20Services.pdf), December 2014, p. 7  
<http://www.acpet.edu.au/uploads/files/ACPET%20Submission%20-%20Productivity%20Commission%20-%20International%20Education%20Services.pdf>

Maintaining the status quo was not considered a viable option given continued questionable completions data for the programme, the potential negative impact on the Government's public borrowing requirement, and recently identified concerns about the behaviour of some providers. Without change, there would be limited opportunity to address quality outcome concerns of the programme and the concomitant cost to the Budget and impact on the public borrowing requirement. It is also noted that not all providers are ACPET members and therefore not all providers are subject to the Code.

## **Option B – Non-Regulatory Option**

### **B1 – Improve student awareness of how VFH operates and their rights and obligations under the programme**

The capacity to pursue a purely non-regulatory Commonwealth response to the problems identified is extremely limited. VET funding agreements for subsidised study are between VET providers and the relevant state or territory government. Teaching quality is monitored and assessed by the national VET regulator, ASQA, and by state regulators in Western Australia (WA TAC) and Victoria (VRQA). The Commonwealth's formal relationship with VET providers is solely through the VFH programme and its relationship with students is also through approved VET providers and reliant on data submitted by the providers.

Information products and explanatory information on the *StudyAssist* website have been produced since the inception of VFH in 2009. Further approaches aimed at ensuring students are aware of how VFH operates will be developed, as will information aimed at ensuring that prospective students and current students are aware of their rights and obligations under the programme and can operate as informed consumers or purchasers.

With appropriate information at their disposal, students will be able to make more informed decisions about the courses they undertake and providers they purchase from. They will have a better understanding of the risks and benefits of taking out a VFH loan, before they have incurred the debt from a provider. Providers will be faced with a more informed consumer, empowered to more critically question their product descriptions and marketing assertions.

Whilst implementing a range of communication initiatives to raise student awareness of the nature of a VFH loan, their obligations and their rights under consumer law, this will have limited effect without supporting regulations. The VFH guidelines provided no controls on the apportioning of debt across a course, marketing practices or inducements able to be offered to potential students. As a

result, increased compliance activity in these areas would not be possible without enhancement to the Commonwealth's VFH regulatory framework.

Potential non-regulatory action is therefore limited to improving the information available to students with upgrades to department websites, fact sheets and marketing materials, and making these products available to providers.

***Reasons for not supporting a solely non-regulatory approach***

Without reforms to the scheme to include provision for the regulation of how VFH is marketed to potential students across all providers, and the changes to recruitment practices, invoice delivery and progressive debt accrual, the current problems are likely to persist. Without regulatory reform, providers would not face any incentives to reform practices. Information provision would take some time to become broadly disseminated and with a suppressed price signal, the incentive on students to inform themselves would be limited.

In addition, a further complicating factor is the willingness of some individuals of low SES background, induced by the offer of a free laptop, to sign up for a course believing they will never have to repay the loan. This may also be influenced by other portfolio policy or programme settings which may require enrolment in study to be eligible to access benefits, such a Youth Allowance and Newstart Allowance.<sup>23</sup> Some brokers advise potential students that the course is 'free' for people who earn under \$50,000 and believe they are being offered this free no obligations opportunity by the government. Non-regulatory action would be limited to improving the information available to students, and making students as consumers more aware of their rights. However, this would not completely address the problem. The department has some evidence to suggest that some individuals induced by the offer of a 'free laptop', deliberately signed up for multiple courses at multiple providers to receive multiple inducements. Although done of their own free will, it is unlikely they would have done so had they not been approached by an unscrupulous agent or if the inducement was not available to them.

This measure may see some reduction in overall student enrolments, but should improve the quality of those enrolments, leading to better matching of courses to skill and employer need and higher rates of unit and course completion. Overall this will lead to improved value for money from the VET sector as a whole. Persistence with some aspects of the non-regulatory approach should be considered along with a regulatory approach. As this option has no additional regulation, the

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<sup>23</sup> [Employment website; http://www.humanservices.gov.au/customer/enablers/centrelink/youth-allowance/eligibility-for-youth-allowance#a3](http://www.humanservices.gov.au/customer/enablers/centrelink/youth-allowance/eligibility-for-youth-allowance#a3)

regulatory impact of this option will relate to government processes and will not have any regulatory costs to providers.

### **Option C – Regulatory reform and compliance package**

The regulatory reform and compliance package is centred around legislative changes planned for the 2015 Spring sittings.

#### **C1: Banning inducements to students under the VET FEE-HELP scheme**

Due to the concerning and continuing nature of inappropriate practices in the use of inducements to attract students by some providers, it was essential for the government to take immediate action. Therefore, in March 2015, the VET Guidelines 2013 were revoked and replaced by the VET Guidelines 2015. These guidelines were altered to include provision for the prohibition of inducement for the purposes of enrolling students in courses for which VFH is available. These amendments supported changes that were made for all RTOs through changes to the Standards for Registered Training Organisations 2015 (RTO Standards), which was the subject of a separate standard form RIS.<sup>24</sup>

For VFH students, this measure will see some loss of access to inducements as part of providers' offerings that may assist as legitimate learning tools. Students would need to purchase these separately, although providers may provide loans for legitimate items. The measure should prevent individuals taking out loans without the intention of studying or repaying debt. The level of course completions should be improved by helping to ensure enrolments reflect a genuine intent to study. Many VFH providers are not using prohibited inducements. Those that do; however, should see reduced uptake of VFH loans and lower revenue due to the loss of students who have little or no intention of undertaking the training; or those who would have been inappropriately enticed into enrolling without fully considering the costs and benefits of the study. Providers' marketing of courses will need to concentrate on course delivery and outcomes.

In response to this measure, all providers involved in the scheme will be required to be satisfied that students were not offered a prohibited inducement. The process by which providers meet this requirement is not prescribed, and regulatory costs imposed will therefore be minimal (although it would be expected that good practice would necessitate an internal process and training). It is expected however that there will be regulatory savings associated with the reduced student enrolments and reduced uptake of VFH. The net regulatory impact of this measure (a saving)

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<sup>24</sup> [link](#)

therefore includes the likely reduction in growth associated with the offering of inducements. The impact is likely to be confined to a smaller group of providers offering inducements that have experienced excessive undesired growth, which was directly associated with the offering of inducements. The reduction in students participating is of benefit to consumers, taxpayers and the students, with those students for whom the inducement was the sole/main reason for enrolment no longer enrolling.

The Government should see a reduction in public borrowing requirement and impact on the Budget. The measure should also improve the quality of workforce skills development and workforce participation in the economy through better targeting and quality of training activity. The combined impact of measures C1 and C2 is likely to be significant in terms of those providers that have featured with these practices and that have been the subject of complaints. It is estimated that when applied across the sector the reduction of growth for option C1 is estimated at around six per cent of student growth (EFTSL).

#### **C2: Tightening VET marketing and recruitment practices**

- including what is communicated about the loan scheme to prospective students, with more information about the role of the communicator; separating enrolment from loan sign-up; and provision of a VFH Invoice Notice to students.

Through this measure, the department will impose stricter requirements on marketing strategies of approved VFH providers and associated brokers who assist in the recruitment of students. The department has been informed that in some instances, brokers have been signing up students to VFH loans before they are enrolled in courses. In other instances, brokers and providers have been marketing VFH to individuals who are not in a position to undertake the required studies and in some cases are not even aware they have incurred a loan debt. This measure will help to reduce the take up of loans arising from marketing hype and assist in ensuring that individuals that are being signed up to VFH loans are capable of undertaking the training.

This measure will reduce the risk of individual students taking out loans for courses they are unlikely to complete. Students will be more aware of their rights and obligations. They will also be less likely to be misled into enrolling in courses that are inappropriate to their needs. Students will need to be enrolled in a course before incurring debt. Again, completion rates should improve with more likelihood that student enrolments reflect a genuine intent to study.

It is estimated around 70 percent of VFH providers, mostly the larger providers, use one or more agents. Amendment No. 1 to the VET Guidelines 2015 introduced from 1 July 2015 requires providers to revise their marketing and recruitment strategies and practices. The amendment



requires a provider to enter into written agreements with any agent who acts on the provider's behalf (for financial or other gain) in relation to marketing the provider's VET courses of study and the availability of VFH. The agreement requires an agent to act in accordance with the provider's legislative obligations (under the Act, the guidelines, and *the National Vocational Education and Training Regulator Act 2012* and the RTO Standards) – including providing accurate information to persons who may seek to enrol, to retain copies of their agreements with agents, as well as to publish a list of their agents in a readily accessible location on their website. Additionally, copies of agreements and details of agents will need to be provided, if required, to the Minister. The reforms provide that particular criteria be included in agent agreements, including processes the VET provider will use to monitor the agent's activities. From a sample of current agreements obtained by the department, it is highly likely that agreements will need to be redrafted or initiated to meet the requirements of the reforms. As the requirements are explained in detail in the VET Guidelines, the department contends that redrafting of agreements would be reasonably straight forward.

Increased obligations on agents include the requirement for them to disclose to a student the course and the name of the VET provider they represent as well as disclose that they will receive commissions if students enrol with the provider. Therefore, providers will be more focussed on training and monitoring agent behaviour to ensure compliance with the VET guidelines.

Providers are required to provide accurate and up to date information about a person's obligations and rights regarding VFH assistance. A provider is now required to include information on withdrawal from enrolment and explain that a VFH debt will be incurred if a student is still enrolled at the end of the census date for a particular VET unit of study. A withdrawal fee (which had acted as a barrier to withdrawal before the census date) is no longer permissible. For students that withdraw from study, providers are now required to have a process in place whereby the student must select, initiate or request enrolment in subsequent units, addressing issues of automatic re-enrolment of which the student was unaware, and providers must now develop withdrawal procedures and publish them on their websites.

Amendments, introduced in the Spring Sitting and coming into effect from 1 January 2016, will ensure students have time to make conscious rather than impulsive decisions about study and payment options. Providers will be required to separate the enrolment process from the loan request, with two full business days to be required between the student's enrolment and selection of VFH as a payment option. This amendment allows students a period to consider their payment options and financial implications as well as their intentions in regard to study. The amendment protects student decision-making by requiring two business days between enrolment and a loan

request, and not allowing enrolment on or immediately before a census date, ensuring all students have a period following receiving the required information about rights and obligations to then make informed choices as to whether to request a VFH loan.

The amendment will also require providers to give a student a VFH Invoice Notice at least 14 days prior to the census date for a VET unit of study listed in the invoice. The Invoice Notice must contain information about the course, student identification number, costs of VET units of study, census dates and withdrawal rights and obligations. The invoice will add transparency by ensuring students are aware of the loan commitment should they continue with their enrolment past the census date.

Changed practices which increase regulatory burden include: redrafting or establishing written agreements with agents with specific requirements to be included; associated liaison and discussion; legal advice and drafting and coordination of such; establishing processes to monitor the activities of agents; associated clearance and sign-off regarding agreements and processes; developing and publishing a list of agents on websites; increased record keeping; additional regulatory steps in recruitment processes to ensure a student is enrolled in a course two days before a VFH loan is initiated and sent invoice notices to a student's personal email or mail address for each census date.

Some providers will see lower revenue as a result of this measure due to a smaller number of students taking out VFH loans. Providers already operating appropriately will be less exposed to reputational and market risk from brokers/agents acting inappropriately on their behalf.

The government should see a reduction in loans that are unlikely to produce a positive training outcome for the student. Better targeting of students, quality of course provision and outcomes will improve skills development and workforce participation. The VET sector will deliver better value for money overall if the level of non-genuine enrolments is reduced.

When considering the increased regulatory burden with the reduced overall growth, a net saving is anticipated – although the reduced growth is more likely to be limited to providers that have seen excessive undesired growth in recent years, as well as those new providers that would have been participating in the scheme with similar strategies. The impact is estimated at six per cent across sector enrolments growth.

### **C3: Improve student awareness of how VFH operates and their rights and obligations under the programme**

This option takes option B1 further by imposing regulatory requirements and obligations on providers to ensure students are aware of their rights and obligations under the VFH programme. Under this option, the VET Guidelines amendments include specific requirements on all providers

relating to the provision of clear and accurate information to prospective students prior to enrolment and loan sign-up. Providers will incur costs in adjusting existing recruitment materials to include this information. Providers are required to retain a record of this information provided for a period of five years and be able to provide these records on request.

Providers must also make available to students information including total course cost and duration, as this information will now be required on the *Request for Commonwealth Assistance* form (the Request for a VFH Loan form). Although this information is consistent with that required by the RTO Standards, it will be required to be given to students for them to record on the Request for a VFH Loan form.

Amendments through the Act and VET Guidelines will ensure that students under the age of 18 have parental guidance in their decision making, with some exemptions allowed for students separately assessed as independent. In 2014, around six per cent of students accessing VFH were under the age of 18 years. It is estimated that around a quarter of these students may not receive parental consent to enrol in a diploma or above course, with therefore almost 1.5 per cent reduction in growth from this option.

Whilst hard copy forms are currently printed and distributed by the department, providers will be required to upgrade their recruitment processes and systems to support the form changes. It is estimated 30 per cent of providers have developed their own electronic Request for a VFH Loan forms, and they will be required to adapt their systems to these changes. Later in 2016 it is expected most providers will be required to transition to using a government-developed electronic Request for VFH Loan form for students wishing to access VFH, and will incur costs in upgrading their enrolment systems to accommodate the government electronic loan application. As the government will develop the system, Information Technology (IT) upgrades will be for connectivity and processes. This is most likely to impact full fee-paying students, which currently represent around 85 per cent of EFTSL, and providers that in the main only engage with the full fee-paying market, with a benefit to all students through increased security of personal information (Tax File Numbers), transparency and awareness of obligations and responsibilities.

#### **C4: Streamlining the debt waiver and revocation processes for students under VFH**

This option will provide a framework to assist a person who has unfairly incurred a VFH debt from 1 January 2016, as a result of inappropriate practices by VET providers, to have their debt remitted. There is limited provision under the Act by which students may seek remission of their debt. The

only option currently available to students is to apply to their provider to seek a debt remission where certain defined special circumstances apply, restricted to changed circumstances following a census date such as illness or accident. Students are able to apply to the Minister for Finance for a waiver of debt, but this is only granted in exceptional circumstances and would not lead to remission of the debt with repayment by the provider.

Unscrupulous activities by some VET providers and agents acting on their behalf have led to numbers of students incurring debts for study they have not undertaken and in some cases were unaware they had enrolled in or where they considered they were not given an opportunity to avoid incurring a debt before a course census date.

Streamlining these processes will have beneficial impacts for students and for the department with minimal regulatory impacts on providers. Students will experience less red tape when seeking to revoke a VFH debt that was inappropriately entered into. Their VFH debt will be cancelled on repayment by their provider. Overall, student debt levels will decrease if students are more readily able to access and pursue a process to have inappropriate VFH debts overturned.

Poorly behaved providers will be more accountable for repayment arising from poor practice. Provider performance and quality in the management of VFH loans will improve due to the implied threat of lost revenue, should they instigate inappropriate VFH loans.

This measure will strengthen the Government's capacity to manage the programme and deal with providers that instigate VFH loans that are not in their students' best interests.

Amendments to the Act and guidelines will enable the Secretary (or delegate) to remit the debt and re-credit a person's FEE-HELP balance if certain criteria and circumstances can be reasonably proved by the person. Systems developed by the department would make the process easier for people that may feel intimidated, unable or unwilling to participate in other grievance approaches. This measure is likely to advantage students of low SES backgrounds as well as students that have financial or other impairment who may lack the capacity to follow through existing grievance or problem-solving processes or the myriad of consumer avenues for redress. Providers will be required to modify grievance processes to accommodate the new processes.

Providers will be required to provide information to the department on request in response to remission requests made by students following these amendments. This is expected to impact a minority of providers that may continue inappropriate activity after commencement of these provisions, and will impact those students following the remission process.

**C5: Strengthening the assessment criteria for, and ongoing scrutiny of, all VFH providers**

This option will introduce additional assessment criteria and increase ongoing scrutiny in order to become or remain an approved VFH provider, ensuring robust financial credentials of RTOs seeking approval and reducing financial risk to the Commonwealth, with changes to the Act and guidelines to include:

- exclusion of corporate bodies that act as trustee for trusts. This would ensure consistency in the types of organisations that are able to apply for approval and ensures providers can comply with financial viability instructions.
- strengthening financial auditing requirements including requiring audits to be undertaken by a registered company auditor.

Changes will also be made to the Financial Viability Instructions under the Act involving certain financial statement requirements including that they be prepared by accredited accountants. These and other changes to the financial viability instructions and assessment criteria will improve the quality and transparency of financial information provided to the department, ensure competent persons are responsible for the audit of and preparation of financial statements, and further strengthen ongoing scrutiny of all VFH providers and the administration of the scheme. It is expected the more demanding financial and assessment criteria including adequate trading history for new applicants will expose poor performing providers, deter some RTOs from applying for provider status and result in approximately half of those potential applicants already in the system withdrawing their interest. This will reduce public borrowing requirements of government with a likely reduction in growth of two per cent.

The reform requires providers on a biennial basis and applicants for VFH provider approval on a one-off basis, to provide financial information of a higher integrity than that currently required. While the amount of information may not necessarily increase, the time taken to acquire the quality of information required would involve some regulatory burden.

Strengthening the financial viability requirements may have an impact on certain approved VET providers. It is difficult to estimate the variance of impact when comparing smaller or larger providers, as financial viability and reliance on VFH varies by provider. A transition period will be applied for strengthened financial viability compliance. Under the revised Financial Viability Instructions, small boutique providers receiving nearly 100 per cent revenue from government loans to students and/or delivering specialist courses in rural/remote areas may find it difficult to meet the new requirements. Strengthening the financial viability requirements will be staged and it is expected a number of providers may be required to establish additional credit facilities, however the

vast majority of approved providers are expected to be able to meet the updated requirements with little difficulty. Some organisational structural changes will be needed for providers or applicants currently operating as trustees for trusts (around six per cent of current approved providers).

A small number of providers may be unable to sufficiently reduce their costs to offset the reduction in revenue from reduced student recruitment and enrolment, that is they have contractual obligations (for example marketing agent costs), high liabilities, low equity and/or minimal access to sufficient contingency funds, or they may decide to no longer operate in the sector due to a reduction in profitability. This could lead to provider closures and in turn lead to tuition assurance provisions being implemented (which protect students – refer below). Conversely, with increased transparency of information on course costs, enhanced competition may result which will serve as a benefit to some providers. Providers that wish to distinguish themselves from those currently engaging in unacceptable practices may also benefit as a result.

Providers are required to meet tuition assurance scheme (TAS) requirements as outlined in the VET Guidelines 2015 in compliance with clause 7 of Schedule 1A to the Act. Under these requirements, should the VET provider cease to provide a VET course of study whilst a student is undertaking a unit of study the TAS administrator:

- makes all arrangements necessary to ensure that the VET student is enrolled in a similar VET course of study with another provider
- re-credits the VET student's FEE-HELP balance in respect of the VET unit of study as required under subclause 51(1) of Schedule 1A to the Act.

This option includes enhancements to disciplinary practices with a strengthened toolkit of actions and sanctions that may be taken to enforce or promote compliance. Currently, if there is evidence that a provider is in breach of the Guidelines' requirements, departmental officers may, through delegation under Schedule 1A Part 1 Division 5 to the Act, issue compliance notices or apply conditions, suspend or revoke the provider's approval. Following legislative change, these actions will be supported by an enhanced compliance regime strengthened with the addition of an infringement notice scheme and civil penalties, which will add immediate effective compliance options for dealing with poor provider practice including in relation to its marketing, inducements and recruitment practices.

The Government has provided \$18.2 million over four years from 2015 to 2016 (including \$3.6 million in capital funding) to implement the enhanced compliance regime for VFH (Table 2).

**Table 2: Funding for enhanced compliance regime for VFH**

	2015-16	2016-17	2017-18	2018-19	Total
Departmental expenses (\$m)					
Department of Education and Training	4.6	3.9	3.1	3.1	<b>14.7</b>
<i>Related capital – Department of Education and Training</i>	3.6				<b>3.6</b>
TOTAL					<b>\$18.2<sup>1</sup></b>

This funding will support increased targeted compliance activity. A new performance and risk based compliance strategy using data analytics and improved IT systems is being developed. An increase in compliance activities will include more targeted desktop and on-site audits. These onsite audits will be at the cost of the provider, however, the impact on providers may be ameliorated by harmonising with regulatory activity.

Capital funding on enhanced IT capability will allow the existing payment system to support multiple payment arrangements, including payment in arrears which may be an appropriate response to risk or an enforcement approach (imposed by way of a condition on approval).

With success through this measure in improving management and teaching practices, the reputation of sector overall and of the qualifications it offers will improved. Improved regulation and strengthened Government capacity to deal with poor providers, ensuring the integrity and lifting the quality, responsiveness and flexibility of individual providers will enhance the capacity of the sector to develop skills and lift workforce productivity.

Further changes to the Act will prohibit an RTO that has had its application for approval as a provider rejected by the Minister from submitting another application for approval until a minimum of six months has expired from the date on which the Minister or delegate notified the applicant of the decision to not approve the application. This change would serve to improve the quality of initial provider applications with attention paid by applicants to address all application criteria including corporate governance, finances and the quality and accountability requirements and ensure the applicant has had sufficient time to attend to their business, quality, governance or financial deficiencies in accordance with the Minister's non-approval of their application prior to submitting another application.

#### **C6: Ensuring student debt is incurred in line with course delivery and continued student participation**

Under this option, changes will be made to guidelines to require providers to ensure course tuition fees are charged as students progress through the course. Current arrangements do not specify arrangements for charging fees, other than requirements of what can and should be included in

tuition fees such as not allowing differentiation based on manner or timing of payment, and specifications for incidental fees. Guidelines also require that a course must have a unit and census date, which date must be set not less than 20 per cent of the way into the unit, and fees are charged on a unit basis. Current legislative provisions do not preclude the charging of the full course fee in one unit with one census date, meaning students may incur substantial VFH debts only 20 per cent into a course. Providers have therefore not been restricted in course design and associated fee charging. Where students become disengaged after this census date, they have incurred debts for the full cost of the course and providers are paid the full cost regardless of the fact that students no longer attend through to course completion. This is a flaw in the current policy and programme parameters.

Guidelines changes to be implemented from 1 January 2016 will require providers to adjust their course structures, tuition fee charging and timetables to ensure each VET course has four sequential fee-periods, with proportionate fee charging. There will be a minimum of one census date and one VET unit of study per fee-period. Each fee-period must be equivalent in duration to 25 per cent of the duration of the course, with fees charged and therefore debt incurred in proportion to duration and the student's progression through the course.

These changes will therefore be likely to impact all providers, as census dates must be spread across the course to allow progressive debt accrual. Providers will incur additional costs through course redesign and systems and process developments to align with the altered fee arrangements. Some providers will incur additional costs associated with enrolment processes and termination of enrolment. Providers may have limited ability to influence student attendance and will bear additional financial risk where students withdraw unexpectedly. However, financial incentives will be more closely aligned to ensuring teaching quality keeps students engaged and enrolments retained through to course completion, resulting in increased participation and outcomes. It is expected that these higher standards and compliance expectations may lead some providers to withdraw from the VET market.

Overall debt levels and public borrowing requirement will be reduced as students who drop out part-way through a course will have smaller VFH loans than if they had had to pay for the cost of the whole course as occurred under previous arrangements due to a single census date or 'stacked' units. This measure will impact many providers, with the benefits of reduced debt incurred for study not undertaken far outweighing costs. The impacts of the reduced EFTSL of this measure is estimated to reduce growth in the order of an estimated nine per cent, in line with available information on possible withdrawal rates.



**C7: Establishing minimum pre-requisite and prior education qualifications, including demonstrated literacy and numeracy requirements**

Recent evidence collected by the department suggests that in many instances individuals are signing up to undertake courses that they are not well prepared to do because they lack the necessary literacy and/or numeracy skills or have not achieved the necessary course pre-requisites.

To address these concerns, changes to the Act and guidelines will require approved providers to have in place Entry Procedure Requirements associated with higher level VET qualifications if students are seeking VFH assistance, and to undertake an accurate assessment of the capacity of individuals to complete a training course before enrolment and before the offer of a VFH loan. The detailed requirements to be included in the Entry Procedure Requirements, including any requirements with which the provider must comply in establishing the procedure and in assessing the student, will be set out in the VET Guidelines. This will include the requirements for students to have a year 12 certificate or be assessed as meeting a prescribed language, literacy and numeracy proficiency. There will be an explicit requirement for providers to undertake and document this assessment for future departmental or ASQA review or as part of an enhanced audit requirement. Providers will therefore be required to establish procedures, alter recruitment processes to require copies of year 12 certificates, be subject to ongoing costs of the assessment tools for those students without year 12, assess students in line with guidelines requirements, and maintain records of processes and assessments.

The changes will not preclude access to vocational study, and will not set a minimum standard for entry to the courses, which will remain the responsibility of the enrolling college or the relevant VET regulator. The changes will however ensure that VET providers do not allow access to VFH to persons who will incur substantial tuition fee debts even though they do not have the intent or capability to successfully undertake the higher level VET course of study. These changes will reduce the risk of prospective students responding to aggressive marketing tactics.

Given the number of students currently in the system the enhanced compliance regime will need to ensure monitoring of this measure is performed annually, and that audits are undertaken on the top 10 providers plus a random sample of other providers each year.

This measure will assist students to select courses that are a better match to their capability. Some students may experience frustration at additional entry barriers or being prevented from enrolling in a course they desire but are inadequately prepared for. This measure may impact those from low SES backgrounds and other impairment to a greater degree. However, enhanced pre-screening

should enable students to be directed to foundation or other preparatory or prerequisite courses to enable them to pursue their chosen – or a more suitable – study pathway.

Students with Year 12 have a greater likelihood of continuing with further study, particularly in higher education, as well as entering into the workforce.<sup>25</sup> Almost 80 per cent of 20–24 year olds have a Year 12 level of attainment.<sup>25</sup> These changes are expected to improve outcomes of diploma and above level enrolments, with data indicating the level of attainment of 20-64 year olds in post-school qualifications is likely to be higher with year 12 certificate completion,<sup>25</sup> and those students in diploma and above qualifications without year 12 educational attainment experience the lowest proportion of completions (four per cent) when compared with completions of Certificates III or IV (53 per cent) or Certificates I or II (43 per cent).<sup>26</sup> In addition, this will provide a substantial reduction in the number of enrolments and VFH loans which have been over-inflated by the enrolment of people who lack the intent and capacity to undertake to completion higher level VET courses, with consequent high drop-out rates as evidenced by low completions. This reduction is anticipated in the order of an estimated nine per cent of student growth (EFTSL).

This measure will impose additional regulatory requirement on providers and substantially reduce their potential pool of students willing or eligible to enrol in some courses. Overall, though, it should reduce unscrupulous behaviour by some providers. Better matching of student skills and capability to training enrolments will increase the quality of the student cohort undertaking courses. In turn this should deliver increased cost efficiency and less wastage for providers, with higher completions per investment in teaching and infrastructure resources.

For Government and the nation as a whole, this will mean better value for money for public investment in training and higher quality outcomes. Better matching of students to courses will improve skills development and workforce participation outcomes overall from VET.

### **C8: Enhancing training and outcomes information, allowing students to make more informed choices about training providers and courses**

Improving the availability, scope and quality of information on the employment and other outcomes flowing from training has been a goal of the VET system for some time. With the advent of reporting

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<sup>25</sup> Australian Bureau of Statistics (2011), '[ABS Australian Social Trends' 4102.0 March 2011, 'Year 12 Attainment'](#)', available at [http://www.ausstats.abs.gov.au/ausstats/subscriber.nsf/LookupAttach/4102.0Publication23.03.115/\\$File/41020\\_Year12\\_Mar2011.pdf](http://www.ausstats.abs.gov.au/ausstats/subscriber.nsf/LookupAttach/4102.0Publication23.03.115/$File/41020_Year12_Mar2011.pdf)

<sup>26</sup> Commonwealth of Australia (2013), '[Proportion of qualifications completed by total reported VET students and students in disadvantaged groups, by course level, 2010' in Annual National Report of the Australian Vocational Education and Training System 2011](#)', available at [http://www.industry.gov.au/skills/Resources/ANR\\_VET\\_System\\_2011/section\\_2.html](http://www.industry.gov.au/skills/Resources/ANR_VET_System_2011/section_2.html)

by all training providers delivering accredited training, including approved VFH providers, it will be possible to make substantial progress in meeting this goal over the next two to three years. Students and prospective students need access to outcome based information about training courses and training providers in order to make more informed decisions about what training they do and where they do it. To achieve this, more objective information will be required at the provider level, informed by feedback from students on the quality of their training experience and the outcomes that followed; and from employers who have taken on unit completers or graduates of training courses. Changes will be needed to the National Centre for Vocational Education Research's (NCVER) Student Outcomes Survey and Survey of Employer Use and Views, along with direct evidence collected from current and former students in the longer term and through links between data reported to government. The impact of this measure will largely fall on students through changes to existing surveys, targeted outcomes surveys and random collection of feedback from students, although additional data will be required to be reported by providers.

The Act and guidelines require providers to publish unit tuition fee information, with enhancements requiring unrestricted website access to this information, which will improve access and informed decision making for prospective students and current students and for officers of the department for monitoring and compliance activities. However, current legislative provisions do not require easy access to comparable course cost information. Further, completions data is only reported to the department once a year, with resultant time lags to analysis and publication. Completions data is not published at a provider level.

This measure will require future enhancements to regular reporting including on student completions, annual reporting of course fees, progression to the publishing of training outcomes at the provider level through the *MySkills* website and a move to realign some or all payments to providers following reported student data. As part of the process of ensuring that providers are acting in an appropriate manner, the department will call random samples of students to confirm student status in their course.

As a result of this measure, students will be more informed consumers, better able to judge the quality of providers, compare costs, and understand the employment outcomes experienced by graduates of the course/s they are considering. There will be some increase in the overall reporting burden of VET students as a result of enhancements to surveys and data collection on student experience and satisfaction with their training. No measurable reduction in growth is likely from this

measure – rather more informed consumers will make sensible study decisions shifting to appropriate higher quality providers rather than choosing not to study.

Providers will be more attuned to reputational implications of their operational practices through enhanced feedback available to the department. They will have greater incentive to address business and teaching practices that impact negatively on the published information. Stakeholders will be better informed about outcomes delivered for the significant resources invested in VET by Commonwealth, state and territory governments and students across Australia. Government will have greater assurance that students are in a position to make more informed choices and that the market for VET courses will operate efficiently to allocate training resources where they will have the most beneficial impact for students and for the economy.

### **Option D – Loan Capping**

Other policy options were considered to moderate the growth in VFH loans and achieve reductions in the Government's public borrowing requirement over the forward estimates and beyond. However these options do not adequately support the range of reforms detailed in the preferred policy options and which are required to fix the range of problems encountered.

#### **D1 – Loan Cap**

This option would introduce a capped average loan amount of \$10,000 in order to reduce the rate of growth of VFH loans.

The imposition of an average loan amount of \$10,000 would constitute a significant change to the VFH Scheme which currently does not impose limits on fees charged or loan amounts available, other than through the current imposition over FEE-HELP and VFH of one maximum lifetime limit available to borrow, of \$97,728 (2015 limit, indexed annually, is not re-set with repayments). A cap on average loan amounts would be expected to result in the need for the department to establish loan limits on all qualifications in scope for VFH. This could take the form of individual loan limits or loan bands for similar qualifications. Departmental and provider IT system changes and monitoring mechanisms would be required to ensure the average loan amount is not exceeded. The principal impact of this measure would be to reduce income for approved providers, require them to modify processes and systems, and potentially lead to the situation where, if policy settings allow, students would be required to pay any gap between fees charged and the loan limit set either by the department or approved providers to operate within the average loan cap, therefore potentially restricting access for students.

The principal benefit of this measure would be for the Government through a reduction and greater certainty in the level of public borrowing requirement attributable to VFH loans. It could also see a reduced number of providers in the VFH programme if some choose to withdraw rather than attempt to lower prices to meet the cap.

This option has been assessed as having an annual regulatory saving of \$21 million.

***Reasons for not supporting this option***

The existence of a loan cap may affect the flexibility of some providers to offer services at prices that reflect their specific circumstances and the preferences of their students and stifle innovation in course provision, including in relation to pathways qualifications and delivery models. The ability for some providers to differentiate themselves in the market by specialising in niche areas and pursuing excellence or by offering a particular kind of educational experience (for example, one focused on work integrated learning, or flexible delivery, or providing pathways, or with a more global outlook), or whatever they choose may be impacted. Some providers may be disadvantaged where the courses they offer are unable to be delivered at an average of \$10,000 or below. For example, providers delivering aviation courses may be disadvantaged as their tuition fees are determined by costs included in the delivery of a course that may be out of the provider's control. The Diploma of Aviation (Instruments) includes a flying component which requires the providers to factor in the cost of aviation fuel. Some diploma aviation courses have tuition fees of more than \$80,000.

The measure may also have the effect of driving up the tuition fees of currently low-cost courses in order for providers to subsidise the cost of more expensive courses. It may also influence the state and territory subsidy arrangements for higher level courses as providers attempt to take full advantage of the loan cap. Where providers have less capacity to cover costs of courses that are expensive to deliver some providers may be forced to exit the market for those types of courses that may actually drive innovation in delivery, for example, a greater focus on workplace delivery to leverage employer infrastructure and equipment. There is some potential for such a cap to lead to reduced quality of teaching, if providers seek to reduce the average cost of their courses to \$10,000 or below.

The Act does not currently provide for 'gap fees' where a student would have to pay the difference between the loan amount and the cost of the course. A loan cap is likely to, depending on the course and provider, compromise the intent of HELP, which is to promote further education by removing its most significant barrier – the requirement to pay tuition fees upfront.

In addition, the VET sector, it has been claimed, suffers from the unfairness of upfront fees with respect to lower (Certificate) level courses. Limiting the amount of VFH loans may appear to the public to be discriminating against VET students. It may also imply the government believes that students graduating with VET qualifications have little chance of earning above the compulsory repayment threshold – a lower loan amount means a lower risk for the government.

Despite the regulatory saving, it is likely the unintended consequences and potential stakeholder backlash would not be offset by the fulfilment of the purpose of the measure.

## **D2 – System Cap**

As an alternative to an average loan cap, the department could change the way it allocates funds to approved providers by determining a maximum loan amount that would be agreed each year for an individual provider, based on past performance and within the overall Commonwealth funding envelope for VFH each year. It would remain up to each provider to determine the number of students it would offer places to and the mix of fees it would charge, so there would be minimal regulatory impact. As with the option above, the government will see a reduction and greater certainty in the level of public borrowing requirement attributable to VFH loans.

This option has been assessed as having an annual regulatory saving of \$19.1million.

### ***Reasons for not supporting this option***

Students dependent on VFH in order to undertake their VET study may face restricted choice of provider and/or course. While providers would retain their flexibility to design courses and apply their fee structures to complement their business model, their ability to market a breadth of courses may be reduced. In addition, providers that experience naturally high growth will have reduced flexibility to respond to emerging demand and may need to cap enrolments. This would lead to restriction in choice for students, and may lead to unbalanced course offerings (more delivery of courses that are cheaper to deliver).

As with the previous capping option, limiting student eligibility in this way is likely to result in considerable public resentment. Both of these capping options would require further amendments to the Act.

Stakeholders were not requested to comment of the capping options. These options were dismissed early in the development of the reforms as they appeared to punish students for the behaviour of unscrupulous providers. One of the objects of the reforms is to protect students' interests rather than limit their opportunities by imposing barriers to study as a mechanism to control the behaviour of the few. Imposing these caps would therefore be completely contrary to the intention of the

scheme. The capping options would exacerbate current macro-economic conditions including the softening of the labour market and continued levels of non-participation by young people. Unlike the proposed reforms, they would therefore inhibit continued access to learning pathways for students.

## Reasons for supporting the preferred options

### Recent and proposed changes to the VET FEE-HELP legislative framework

The Commonwealth's formal relationship with providers is solely through the scheme. Increased compliance activity would not be possible without amendment to the VFH regulatory framework. In March 2015, the Assistant Minister for Education and Training announced a number of measures to prevent unscrupulous marketers targeting vulnerable Australians and exploiting the scheme and to moderate the scheme's growth. The reforms, which encompass all facets of Option C, as refined through the consultative process, are designed to protect students and taxpayers and restore the reputation of VFH. The list of reforms proposed is summarised as follows:

Measure 1 Banning inducements to students under the VFH scheme (Option C1)

Measure 2 Tightening VET marketing recruitment practices (Option C2)

Measure 3 Improving the understanding of how VFH operates and students' rights and obligations (Option C3)

Measure 4 Streamlining the debt waiver and revocation processes for students under VFH (Option C4)

Measure 5 Strengthening the assessment criteria for, and ongoing scrutiny of, all VFH providers (Option C5)

Measure 6 Ensuring continuous improvement in student participation and outcomes – ensuring student debt is incurred in line with course delivery and continued student participation (Option C6)

Measure 7 Establishing minimum pre-requisite and prior education qualifications, including demonstrated literacy and numeracy requirements (Option C7)

Measure 8 Enhanced outcome information for VFH students (Option C8)

The measures have been and will continue to be implemented through a multi-pronged approach of minor non-regulatory adjustments, guideline and legislative change as outlined below, the major decision points being the Government's announcement of its intention in March 2015, with changes to the Act to be introduced in the 2015 Spring sittings. These proposed legislative changes will provide the central structural change to implement essential elements of the reforms needed to address the problems. The announcement canvassed the issues in the sector and the need for Government action. Following announcement consultations occurred to address the policy options and likely impacts.

Minor decision points also addressed in this statement include the introduction of guideline changes in support of urgent adjustments needed. These, in the main, supported and were in line with



existing RTO standards (guidelines changes to ban inducements from April 2015, improved information for students on the VFH form from June 2015, guidelines changes from July 2015 to address transparency of information including aspects of the loans and fees, clarity of marketing, and barriers to withdrawal). Supported by the final decision point being the introduction of legislative change in the Spring sittings, further changes will occur later in 2015 and in 2016 to guidelines, forms, reporting and financial viability instructions, in part informed through extensive consultations which occurred in the lead-up to the introduction of the Bill. The regulatory impact of these further changes has been included in this statement. Any not specifically examined in this statement are matters with no regulatory impact or where the impact is minor or machinery in nature and therefore does not substantially alter existing regulatory arrangements.

### **Impacts on providers**

Inevitably, the introduction of measures to curb poor practices will increase the regulatory burden on all providers participating in the scheme, and it is acknowledged all providers' student management systems will require some upgrade to ensure compliance with the reforms. However, the impact of the measures will vary across the VFH provider sector. The factors likely to influence the level of regulatory burden on providers include provider size (that is, the number of students whom enrol each year), current business models (the use of agents) the level of automation in their administration systems and their general administration structures. For the purposes of these discussions, provider size is represented based on the proportion of students accessing VFH at each of the providers. 'Large providers' are providers that have total VFH assisted student numbers that equate to two per cent or more of overall participating VFH assisted student cohort. In 2014, large providers represent only three per cent of providers however account for approximately 54 per cent of participating students. 'Smaller providers' therefore represent around 46 per cent of participating students and 97 per cent of providers. Further, providers with a majority of rapid and excessive growth in fee-paying EFTSL featured more in complaints analysis. It is therefore anticipated that the offsetting savings with reduced EFTSL and loan growth will be experienced mainly by the larger providers with excessive growth rates.

It is anticipated these reforms will serve to increase competition for quality educational delivery. Competition is currently skewed to aggressive profit-driven high profile marketing with a lack of quality substance, which is detrimental to the scheme, students and the sector generally.

### **Impacts on courses and students**

In 2014, there were approximately 2,725 courses delivered by 224 approved VET providers. The changes will not target specific courses or students, but the improvements to the programme quality

and effectiveness and outcomes information are likely to improve quality delivery. Monitoring of course quality is, however, in the remit of ASQA and the Victorian and Western Australian regulatory bodies. With more quality providers approved and with existing providers taking up additional opportunities, it is not expected there would be a measurable impact on course offerings. Further, as noted in Figure 1, a substantial portion of VFH assisted delivery is online (47 per cent), with that increasing proportion reflected by the unexpected and excessive growth. However, this supports the contention that geographical location is little barrier in the current education and training sector to access to study, and therefore measures to curtail growth to more moderate levels is unlikely to impact the broad selection of course offerings available.

As previously noted, courses favoured by agents for marketing purposes are predominately in the field of business, delivered online and have no entry requirements according to the relevant training package and in 2014, 30 per cent of students accessing VFH were enrolled in either a diploma of business or a diploma of management. If some providers leave the market due to these reforms it would not impact on course offerings as these courses are widely available nationally.

The mandatory entry requirements, including demonstrated literacy and numeracy requirements, should result in fewer enrolments. However, post implementation, students undertaking study and accessing VFH will be better equipped to undertake and complete these courses. This will contribute to an increased percentage of completions.

### **Reasons for supporting the preferred option**

The preferred option, the comprehensive suite of reforms at Option C, is supported as it has the most appropriate net benefit to the sector as a whole as it best addresses all facets of the problem by:

- immediately addressing concerning behaviours
- improving quality outcomes and transparency
- supporting existing regulatory standards
- supporting existing and prospective students, consumers and taxpayers
- addressing regulatory inadequacies
- enhancing monitoring and compliance.

Care has been taken in the development of the reforms to provide clarity for providers and potential providers in the expectations of the government if they wish to participate in the scheme. The reforms may affect the business model of a small number of providers that rely largely on the scheme (in some cases completely) as their main revenue stream. It is these providers that represent

a significant proportion of the VET student cohort which have attracted the greatest number of student complaints. Implementation of the reforms will provide a mechanism for the government to rebuild the trust of the Australian community in the scheme and reinstate the reputation of the entire Australian vocational education and training sector.

Though the changes do not restore previous policy settings, such as by the reintroduction of CTAs which would be contrary to the outcome of the *Post Implementation Review of the VFH Assistance Scheme Final Report 30 September 2011* which followed extensive stakeholder consultations throughout 2011, the measures to be implemented will help drive improved provider behaviour and help to restore confidence in a scheme and ensure VFH continues to contribute to productivity growth.

The VFH reforms do not seek to duplicate existing standards regulated by the Australian and State Government regulators, but rather support their effective operation. The continued strengthening of the RTO standards and stronger enforcement by the regulators will continue to improve quality educational delivery. The VFH reforms do more than support the effective operation of RTO standards, such as by requiring adequate provision and transparency of information prior to making commitments, by ensuring students are provided time for considered decision making before signing up to a financial commitment. The VFH reforms then go further by introducing essential regulatory structures for student protection, such as ensuring student debts are incurred in line with course progression and imposing requirements for minimum educational pre-requisites.

While some growth in the scheme was expected and welcomed, the current regulatory failure is due to a number of unforeseen and unintended detrimental consequences, and regulatory change to moderate the current rate of growth is urgently required. The Australian community would expect that any growth in the scheme would reflect an increase in the number of engaged students enrolled in courses in which they have the capability to succeed, and for which they incur a VFH debt commensurate with the value of training they receive and a likelihood they will pay their debt in accordance with the legislated arrangements. The regulatory changes that are the subject of this option will help to stem the unwieldy growth and put an end to the exploitation of the scheme by a few to the detriment of the many while strengthening the overall framework for the protection of students.

Table 4 summarises the costs and offsets of this option by measure.

### Duplicate regulation

The VFH reforms complement reforms to the Standards applying to registered training organisations, and where applicable have not been duplicated (refer **Attachment B**). The VFH reforms add required elements related to the nature of the loans, and also specify additional requirements where deemed necessary for access to government assistance, such as requiring certain language, literacy and numeracy (LLN) proficiency. For example:

- under the RTO standards prospective students must be informed of course entry requirements and competency pre-requisites but no assessment is required, or where it is, the requirement is for RTOs to direct learning resources appropriately. Access to government loans is targeted to higher level qualifications and in those circumstances it is not a matter of directing learning resources but rather ensuring the student is able to meet a prerequisite standard signaling they are capable of successfully completing the higher level course.
- the RTO standards do not have any requirements for streamlining debt remittance or for debts to be incurred in line with course delivery and student progression.

### International Comparison

Similar issues have been experienced in the United Kingdom and the United States around the availability of government student loans through private or for-profit colleges and the marketing practices that appear to flow from such circumstances. For example in the United Kingdom, in its report of an investigation into the private St Patrick's International College in March 2015 the Quality Assurance Agency for Higher Education (QAA,) stated:

*The College's approach to student recruitment includes making cold contacts. Students accordingly reported having been approached by a representative of the College who described the programmes on offer, drawing attention to the potential availability of student loans... Current students met by the concerns team stated that they believed some students had joined only to secure the loan which was available and had submitted either no work or patently inadequate work.<sup>27</sup>*

The QAA made recommendations regarding St Patrick's International College including the College must:

- ensure that all information it publishes, both on its website and elsewhere in the public domain, is accurate and reliable particularly with regard to third parties

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<sup>27</sup> [Concerns about standards and quality in higher education: St Patrick's International College](http://www.qaa.ac.uk/en/ReviewsAndReports/Documents/St%20Patrick's%20International%20College/St-Patricks-concerns-15.pdf), March 2015, <http://www.qaa.ac.uk/en/ReviewsAndReports/Documents/St%20Patrick's%20International%20College/St-Patricks-concerns-15.pdf>

- give priority to updating information to accurately report current recruitment and admissions procedures
- take a more strategic and formal approach to programme approval, including approval of programmes operated with partners
- maintain a detailed record of inactive students to facilitate regular reviews of its admission procedures.

In the United States the Obama Administration took action in June 2015 on what was described as some of the most problematic practices in the for-profit industry, which saw students 'left saddled with debt in exchange for a worthless degree or certificate'. The Secretary of Education, Arne Duncan stated:

*While some for-profit career colleges play a critical role in helping students succeed in their educational and training pursuits, too often, bad actors in the sector have preyed on some of our nation's most vulnerable students and taken advantage of hard-working Americans who simply want a better future for themselves and their families... I will hold schools accountable for practices that undercut their students and taxpayers.<sup>28</sup>*

Reforms to address the problem included:

- introducing provisions in the law called "defense to repayment" or "borrower's defense" allowing borrowers to seek loan forgiveness if they believe they were defrauded by their college under state law
- extending debt relief eligibility to groups of students in order to receive loan forgiveness. Under a "defense to repayment", students must assert that a college's actions violated state law and affected their provision of educational services or their federal loans
- appointing a Special Master dedicated to borrower defense issues
- establishing a streamlined process to provide debt relief to groups of students
- developing new regulations to clarify and streamline loan forgiveness under the defense to repayment provision, while maintaining or enhancing current consumer protection standards and strengthening those provisions that hold colleges accountable for actions that result in loan discharges.<sup>29</sup>

The reforms to the VFH scheme now proposed are in line with responses to similar concerns experienced internationally.

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<sup>28</sup> [Fact Sheet: Protecting Students from Abusive Career Colleges](http://www.ed.gov/news/press-releases/fact-sheet-protecting-students-abusive-career-colleges), US Department of Education, <http://www.ed.gov/news/press-releases/fact-sheet-protecting-students-abusive-career-colleges>

<sup>29</sup> [Fact Sheet: Protecting Students from Abusive Career Colleges](http://www.ed.gov/news/press-releases/fact-sheet-protecting-students-abusive-career-colleges), US Department of Education, <http://www.ed.gov/news/press-releases/fact-sheet-protecting-students-abusive-career-colleges>

## Costing

### Financial impact

The reforms will help to ensure an increased focus on the quality of providers participating in the scheme and the quality of both the training provided and the student outcomes achieved, thus restoring the integrity of the scheme and the reputation of the sector generally.

The reforms will have a significant positive impact on the public borrowing requirement of Government but will be achieved through minor legislative changes with modest implementation costs. If successful, the reforms are expected to improve administration and strengthen compliance provisions to stamp out poor provider behaviour, and thereby curtail excessive growth in the scheme. It is estimated that by the end of 2018 the package of measures C1 to C8 will see an overall 33 per cent reduction in growth in annual student enrolment numbers and a significant reduction in loan growth, reducing the public borrowing requirements of Government by \$16.3 billion in VFH loans over the 10 years to 2024 to 2025.

There is no anticipated change to the number, average value or overall value of subsidised VFH loans from the proposed changes.

### Regulatory Burden and Cost Offset Estimates

The regulatory costs of all options preferred relate mostly to updating IT systems, altered processes including for recruitment, assessment and fee structures, updating publishing materials and websites and training staff on new methodology. These costs relate to the fact there is a change rather than the quantum of the change. The main impact will be in the savings associated with curtailing the unexpected and undesired 'hollow' growth in student EFTSL and associated loans, which will be of benefit to taxpayers, students, consumers, government, and also to providers with improved sector reputation and quality outcomes for students.

When implemented, the combined measures have been assessed as having an annual regulatory saving of \$26.41 million as outlined at Table 4 and summarised in Table 3.

The saving will occur owing to an estimated regulatory reduction across the sector due to the moderated growth in student numbers. That is to say, when taking into account the current growth trajectory of the scheme, the known value of loans in previous years, and subtracting the estimated proportion of those loans incurred by inappropriate means, an estimated one-third reduction in EFTSL is expected. This will result from: the removal of students due to the changes (students who will not now be induced to enrol and take out loans, do not have year 12 certificates, do not meet

the required literacy and numeracy levels, are not misled as to the nature of the assistance being a loan that must be repaid, who are not barred from withdrawing); the reduced EFTSL and associated debt which will be incurred only in line with students' progression through the courses; the reduced growth in the number of providers participating in the scheme due to application and financial changes. It is acknowledged that these are estimated impacts in the context of when issues were first identified, and changes through the consultative process (which includes input from key working group and stakeholder consultations including from consumer law advocates and providers) to commencement timelines, detailed policy structures as well as modified behaviours prior to introduction will impact on estimates.

**Table 3: Summary of regulatory burden and cost offset estimates**

<b>Average annual regulatory costs (from business as usual)</b>				
<b>Change in costs (\$ million)</b>	<b>Business</b>	<b>Community organisations</b>	<b>Individuals</b>	<b>Total change in cost</b>
<b>Total, by sector</b>	-\$26.646	\$0	\$0.233	-\$26.413
<b>Cost offset (\$ million)</b>				
<b>Cost offset (\$ million)</b>	<b>Business</b>	<b>Community organisations</b>	<b>Individuals</b>	<b>Total, by source</b>
<b>Agency</b>	-\$26.646	\$0	\$0.233	-\$26.413
<b>Are all new costs offset?</b>				
<input type="checkbox"/> Yes, costs are offset <input type="checkbox"/> No, costs are not offset <input checked="" type="checkbox"/> Deregulatory—no offsets required				
<b>Total (Change in costs – Cost offset) (\$ million) = -\$26.41</b>				

Costs and offsets are further summarised at Table 4.

**Table 4: Regulatory Burden and Cost Offset Estimates – Government’s proposed measures (additions to business as usual)<sup>30</sup>**

Change in costs (\$million)	Business	Community Organisations	Individuals	Total change in cost
A – No change.	0	0	0	0
B1 – Improve student awareness of how VFH operates and their rights and obligations under the programme.	0	0	0	0
C1 – The banning of prohibited inducements to entice students to enrol under the VFH scheme.	-\$5.706	0	0	-\$5.706
C2 – Tightening VET marketing and recruitment practices	-\$1.388	0	0	-\$1.388
C3 – Improving the understanding of VFH operates, and students’ rights and obligations.	-\$1.289	0	\$0.013	-\$1.276
C4 - Streamlining the debt waiver and revocation processes for students under VFH.	\$0.050	0	\$0.087	\$0.137
C5 – Strengthening the assessment criteria for, and ongoing scrutiny of, all VFH providers.	-\$1.883	0	\$0.000	-\$1.883
C6 – Ensuring student debt is incurred in line with course delivery and continued student participation.	-\$8.235	0	\$0.000	-\$8.235
C7 – Establishing minimum pre-requisite and prior education qualifications, including demonstrated literacy and numeracy requirements.	-\$8.207	0	\$0.128	-\$8.079
C8 – Enhancing training and outcomes information, allowing students to make more informed choices about training providers and courses.	\$0.012	0	\$0.004	\$0.017
<b>Total, by sector for all elements of C</b>	<b>-\$26.646</b>	<b>0</b>	<b>\$0.233</b>	<b>-\$26.413</b>
D1 – Introduce a capped average loan amount of \$10,000 in order to reduce the rate of growth of VFH loans	-\$21.009	0	0	-\$21.009
D2 –Introduce a cap on the total value of loans that an individual provider can offer	-\$19.138	0	0	-\$19.138
<b>Cost offsets (\$m)</b>	<b>Business</b>	<b>Community Organisations</b>	<b>Individuals</b>	<b>Total by source</b>
Agency	0	0	0	0
Within portfolio	0	0	0	0
Outside portfolio	0	0	0	0
Total by Sector	0	0	0	0
Are all new costs offset?				
Deregulatory – no offsets required				
<b>Total (Change in costs – Cost offset) (\$million) -\$26.413</b>				

<sup>30</sup> Note, figures are based on estimates. While there may be some overlap between categories, this has been considered but excluded from estimates. Source: Department of Education and Training



## Stakeholder Consultation

In November 2014, the Senate referred the inquiry into *The operation, regulation and funding of private vocational education and training (VET) providers in Australia* to the Education and Employment References Committee for inquiry and report by 16 September 2015. Eighty-nine submissions were received. The committee tabled its interim report to the Senate in March 2015. Some of the submissions referred directly to the education broker issues. This is an indication of the support for the need for reform in the VET sector and beyond, and an immediate response in amending the VET Guidelines to ban inducements was essential.

On 3 December 2014 the Higher Education and Research Reform Bill (which was the subject of a separate long form RIS<sup>31</sup>) was introduced, and debated during the period February to March 2015 in Parliament. During this period over 2014 and 2015 a range of issues were discussed and debated around options which included removal of limits currently applying to both FEE-HELP and VFH, as well as broad changes to higher education policy, including extending Commonwealth supported places to diploma level qualifications at private higher education providers. The Government remains committed to reintroducing the reforms. With extensive discussions occurring regarding broader sector policy issues, to ensure consistency and clear messaging to the sector, consultation and decisions regarding options which included placement of caps were therefore matters for government policy.

In 2014 Minister Macfarlane on behalf of the government led the process whereby aspects of the VET Quality Framework were reviewed under the auspices of the Council of Australian Governments Industry and Skills Council. This included review of the national standards for RTOs and for VET Regulators, which came into effect in the first few months of 2015 and which was the subject of a separate standard form RIS. In early 2015 legislation was introduced to amend the *National Vocational Education and Training Regulator Act 2011* to support ongoing VET reform measures, including reducing regulatory burden for RTOs and protecting the integrity of the VET system. These changes are part of a significant reform agenda for the VET sector associated with an extensive stakeholder consultative platform, and consultation with stakeholders following introduction and passage of these amendments are further complemented by reforms which address issues specific to VFH.

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<sup>31</sup> link

[http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22legislation%2Fems%2Fr5396\\_ems\\_ba07b637-175c-40c5-9320-34a5a7160762%22](http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22legislation%2Fems%2Fr5396_ems_ba07b637-175c-40c5-9320-34a5a7160762%22)

## **VET FEE-HELP Reforms Working Group**

The Assistant Minister for Education and Training established a Working Group to advise on the implementation of the VFH reforms (refer Attachment C for Terms of Reference). The VET FEE-HELP Reform Working Group, chaired by Mr John Hart, CEO of the national industry association Restaurant and Catering Australia, includes representatives from both large and small VET providers, students, industry group representatives and consumer law advocates. The Working Group met on 20 April 2015, 21 May 2015, 16 June 2015 and 11 August 2015 and will continue to meet into the latter part of 2015 to comment on implementation issues. The Working Group has also had the opportunity to receive and consider comments and feedback from consultation sessions which have occurred across the sector.

## **Provider 'Roadshows'**

During April and May 2015 the department undertook a consultation process to explain the rationale of the reforms. All providers were directly invited to participate in a series of consultations around Australia: Melbourne (21 April), Adelaide (23 April), Sydney (24 April), Brisbane (7 May), Perth (8 May), and Canberra (14 May). The sessions provided the opportunity for VET providers to discuss the eight measures with the Assistant Minister, and the department, including suggestions for implementation and how the reforms would impact on their businesses and students.

For those VET providers that did not attend the consultation sessions, the department hosted webinars in conjunction with peak bodies to ensure all VET providers had an opportunity to participate in the consultation process. TAFE Directors Australia (TDA) hosted a webinar for their members on 13 May, the Australian Council for Private Education and Training (ACPET) for their members on 15 May, and the department hosted a webinar on 20 May for the involvement of any approved VET provider or interested stakeholder.

## **Other key stakeholder consultation**

Details of other face-to-face consultation sessions and presentations with peak bodies/key stakeholders have been held or are to be held, with the NSW Department of Fair Trading (21 May 2015), ACPET Victoria (9 June 2015), the 2015 Higher Education Loan Programme Provider Forum (3 September 2015), and the ACPET and TDA National conferences (27-28 August 2015 and 10-11 September 2015 respectively) and the VELG conference (17-18 September 2015). The government will continue to consult the sector and encourage compliance with alerts as to the new requirements, responses to frequently asked questions, discussion sessions and training. Changes to guidelines in July 2015 also included measures that would not commence until January 2016 to allow

adjustments to business strategy and operations as well as to encourage feedback in time to allow modifications where needed. This is consistent with the staged implementation approach to components of the eight measures outlined in this statement.

## **Stakeholder Support for Reforms**

The Working Group has been in broad support of the measures and the implementation approach from the outset and agreed that, despite any requirements of the RTO standards, there needs to be extra requirements for VFH that is consistent across the sector. General, in principle support for the reforms was evident also among the provider representatives who attended the face to face sessions and participated in the webinars.

### **Issues addressed**

A key message from the stakeholder consultations related to the specific role of VET in the education system and its inherent characteristics that distinguish it from the higher education sector. Since the implementation of VFH, provider representatives (representatives) have been concerned that a higher education framework had been imposed on the VET sector. Any reforms that reinforce that framework were likely to cause concern among representatives. The main characteristic about which Working Group members (members) and representatives commented was the need to maintain flexibility in terms of course structure and delivery and to address individual students' capability and aspirations. Members and representatives agreed the VET student cohort is 'different'; learners require hands on management with often other considerations that providers need to take into account; VET structure is less rigorous than university, is more flexible in its delivery and takes into account a person's educational disadvantage. Given these general concerns, the reforms that attracted the most contention in this context were the requirements for a minimum of four census dates per course and the proposed mandatory entry requirements.

The feasibility of the four census date reform was questioned by the members on the grounds that it could potentially reduce flexibility for students to vary the length of their course, for example, if a student wanted to accelerate their progress through all the competencies, and that it would reduce flexibility in course design. While most representatives accepted the need for the reform, a small number argued the flexibility to set census dates should remain with providers as proportionate costs spread across census dates equally may not work and may cause losses for the provider.

The concerns around constraints on flexibility were reiterated in discussions regarding the mandatory entry requirements. Members agreed that mandated entry requirements should be

determined so as to take into account the types of courses in which a prospective student may apply to enrol; consideration should be given where practical skills may be more important than language and literacy courses, for example, in music and other performance based courses and information technology. In addition, the reforms should apply only where the training package and providers' own entry requirements were either non-existent or lower than the mandated requirements.

Representatives pointed out that VET is an avenue for further study for people who:

- are not capable (too low an Australian Tertiary Admission Rank (ATAR)) or have no interest in university study
- may have no training background beyond compulsory school education
- may have extensive work experience but no formal qualification
- are trying to make amends for not paying attention in class at school
- have been unemployed for extended periods.

Members and representatives were concerned that mandatory entry requirements may prevent a person with no previous formal training from applying, thereby stifling students' aspirations by making it too hard to enrol. However, the members and representatives were reminded the reforms only apply to students wishing to request VFH for higher level qualifications – diploma and above. Students that may not meet these requirements may enrol without access to VFH, or may enrol in lower level study which would place the students on a path to successful completion and in turn progression to higher level courses at a later time.

The two day gap was questioned on the grounds that it would complicate the enrolment process and confuse students. Members argued that other measures included in the reform package may alleviate the need for the gap between enrolment and loan request.

From an administration point of view, a small number of representatives commented there would be an administrative cost to implement the reforms and expressed concern that new policies may unfairly affect some representatives. However, the majority of representatives were of the view that administration of the reforms was second to the focus on the welfare of the student; and brokerage was not a good model for recruitment and providers need to be responsible for effectively assessing their prospective students, rather than relying on assessments conducted by brokers/third parties. Some members expressed the concern that some providers may find some of the measures difficult to implement and the risk of non-compliance was high and therefore an improved compliance and enforcement regime justified. Although there may be implementation issues for some providers, the transition period built into the reforms will allow providers time to adjust their systems where

required, restructure courses where appropriate and ultimately comply with these important and necessary reforms. While there may have been a difference of opinion on some of the reforms and the implications of their implementation, it was generally agreed by stakeholders that everyone needed to be aware of their responsibility: agents, providers, students and government. The reforms are designed to ensure this is the case.

In September 2015 the department sought advice from peak bodies, which represent all approved VFH providers, as to the likely impact of the reforms and the extent of the administrative burden associated with any decrease in revenue with reduced growth in the scheme and therefore reduction of students as a consequence of the reforms. These bodies agreed the administrative load associated in complying with VFH regulation is substantial, and therefore the calculations around the estimated savings have more than likely been understated.

### **Conclusion**

Clearly the issues that most concerned both members and representatives were what they saw as constraints on the way VET is delivered which may impact on the unique role it has in the Australian education system. However, this should be balanced with the in principle support for the reforms, the limitation of the reforms to only students accessing VFH for diploma and above level courses and the need for the government to respond to the public expectation that people accessing a loan from the government are only permitted to do so under the most appropriate of circumstances.

Although specific detail of the capping options covered in this statement were not canvassed in public consultations due to parliamentary decision making processes, the department has received very positive feedback from the sector that changes are proposed which will curb inappropriate behaviour and improve sector reputation. Considerable media and public concern about poor provider behaviour and marketing practices has brought the issues to the attention of the wider Australian community. The government expects the reforms will address the expectations of the Australian community with regard to the protection of vulnerable individuals. A restoration of confidence in the scheme will have a flow on effect for whole of sector reputation, which feedback to date has indicated is likely to override any implementation issues that may arise. The net support for the reforms from all stakeholders is expected to be positive as they act as a mechanism to decrease bogus enrolments that follow from inappropriate marketing activity and ensure the viability of the scheme into the future.

## Implementation

### Key issues and implementation risks

As these measures protect students and taxpayers by addressing high pressure recruitment tactics, unfair charging arrangements and lack of information to students it is expected there will be little or no negative feedback from prospective students and the public.

Whilst approved providers will need to adjust some practices and administrative processes to address the new requirements, many of these new requirements are standard practice (for example invoices and proportionate charging of fees across the duration of a course as well as minimum number of four census dates may already be the practice of some approved providers), with modifications to existing arrangements required to comply. Some of the new requirements are not standard in the sector and will require some additional changes to systems and practices (for example to allow a two-day cooling off period between enrolment and the student's decision to request a VFH loan and to require proportionate charging of fees over four fee-periods and mandated assessment of prescribed tests for LLN proficiency for loan eligibility). It is therefore expected that while generally the overall intention of the new requirements is supported by most providers, some of these new requirements may receive some pushback.

The requirement to issue an invoice 14 days prior to a census date may restrict short course activities and may slow student progression from enrolment to course commencement. These issues are seen as beneficial to the scheme. There is also the possibility that some VET providers will either not fully understand, or choose to not comply with the new requirements, with the improved compliance regime including infringement activities likely to assist compliance.

Finally, there is a risk that some VET providers may exit the VFH market following loss of revenue due to loss of student enrolments the measures seek to exclude which were previously secured through inappropriate marketing practices leading to enrolment of unsuitable and inactive students, as well as through altered pattern of accruing debts in line with course delivery. This is seen as beneficial to the scheme and the sector generally, noting that students are protected by tuition assurance requirements in the event of provider exit.

The proposed measures will require time to be allowed for VET providers to implement the administrative and technological changes which will underpin the requirements. A staged approach to implementing the measures in April and July 2015 and January 2016, and over later dates for

some data, forms and financial viability measures, will reduce the risk of there being insufficient time for VET providers to respond administratively and technologically to the new requirements.

In addition, there will be an increased emphasis on disseminating updated VFH information products to the wider Australian community.

The department will monitor the impact of these legislative changes on providers and students to ensure they meet their intended objectives. A key aspect of this monitoring will be whether the amendments reduce excessive EFTSL growth rates and whether the predicted savings in compliance costs have been realised. This will be able to be addressed in the planned Review in 2016-17.

### ***Staged commencement of VET Guidelines measures***

The proposed measures will require time to be allowed for VET providers to implement the administrative and technological changes which will underpin the requirements. Additionally, there will be an increased emphasis on disseminating updated VFH information products to the wider Australian community. These reforms will be implemented over a 12-month period.

The implementation has been divided into three phases based on the commencement date of the measures. The phases, including details of which measure will be addressed, are detailed below:

**Phase 1:** Reform announcement until implementation of some of the earlier measures – 11 March to 1 July 2015 (refers to Measures C1 and C3).

**Phase 2:** Measures introduction Tranche 1 – 1 July to late 2015 (refers to Measures C2, C3, C5 and C6).

**Phase 3:** Measures implementation Tranche 2 – late 2015 to mid 2016 (refers to Measures C2, C4, C5, C6, C7 and C8).

A staged approach to implementing the measures will reduce the risk of there being insufficient time for providers to respond administratively and technologically to the new requirements, and allowed immediate attention to minor adjustments to the policy framework to combat practices that could be responded to in the short term.

### **Risk assessment**

Some of the requirements on VET providers for marketing, recruitment and information provision are considered low risk as they overlap with requirements that providers must already meet. For example, RTOs are required under Standards 2, 4 and 8 of the *National Standards for Registered Training Organisations 2015* to have written agreements with third parties where services are provided on their behalf by a third party, with these changes adding some specific additional requirements responding to practices where loans were involved.

All VET providers agree in their application for approval to offer VFH assistance, and again prior to approval, that they will continue to comply with all requirements of the Act and the Guidelines if approved. VFH is an opt-in scheme for providers, and is contingent on their continued compliance with these requirements. VET providers must also ensure that their employees comply with these requirements and now, with these amendments, their agents. As the majority of VFH providers market their courses in an ethical manner, and as many of the requirements reflect good provider practice, and whilst it is acknowledged that the changes will increase regulatory burden in adjusting processes and systems, the amendments are not expected to significantly impact on the operations of the majority of providers. As RTOs gain access to VFH through an additional approval process, this VFH access should reflect an RTO of high quality with access to a Government assistance scheme for its students.

The two business day gap from enrolment to the student's decision to request a VFH loan reduces the risk to the student of making a decision to apply for a loan before he or she has had time to consciously (rather than impulsively) consider the obligations and consequences of such an application having full knowledge of the scheme's design, their obligations, the extent of their fees and the duration of the course. Students can therefore make their own value for money decisions. Good provider practice currently separates enrolment – which occurs first – from choice of payment option.

Changes to the Guidelines relating to a minimum number of census dates, fee periods, limits on amount and timing of charging of fees and issuing of an invoice are expected to impact the majority of providers with some changes to their administrative and information technology systems. These changes will impose a temporary financial and resourcing burden on some VET providers as they implement changes to business practices. In mitigating this risk and considering concerning practices and provider behaviour, the issue was widely consulted and a six-month period has been allowed for transition and, as the changes mirror good business practices, it is expected providers will be in a position to modify existing arrangements to comply.

VET providers that use inappropriate marketing, recruitment, information and tuition fee charging practices should see a reduced uptake of VFH loans and lower revenue due to the loss of students who may not enrol if given a full and accurate indication of the costs of the intended course and their obligations in relation to the loans. Additionally, the risk of a person incurring a full debt for a VET course of study at enrolment will be eliminated as the new provisions spread the timing of incurring debt across four equal fee-periods commensurate with progression through study. This



allows students that lose the commitment to study to therefore not carry debt for study they did not undertake, and will result in further reductions in EFTSL and debt across the sector.

In light of the current behaviour of some providers, the department expects that a small number of VFH providers will continue to seek to circumvent the new requirements. Accordingly, these measures will be supported by increasing the department's compliance monitoring and audit activity in line with a revised compliance strategy and enhanced compliance regime. Monitoring will target providers known to have used inappropriate marketing, recruitment, information provision and tuition fee charging practices. Compliance activity will include interactions with students (by phone and surveys), regular reviews of provider websites, information gathering on non-compliance from regulators such as ASQA, NSW Fair Trading and the Australian Consumer and Competition Commission.

In addition, sharing relevant information with those regulators and following up complaints and information received including from site audits will feature in an enhanced compliance regime.

The use of new infringement and penalty provision will support this compliance activity. Redress for students and the return of government monies will be enabled by simplified remission of debt requirements where breaches occur. Implementation of these measures will be another positive change to address some of the abuses of the scheme and, together with the whole package of reforms, is expected to reduce the overall scheme risk from high to medium.

## **Risk Mitigation**

The risk to the Commonwealth will be mitigated as the suite of changes will reduce the ability of some providers to claim Commonwealth monies for VFH assistance given to students who may have been enrolled inappropriately. Commonwealth monies will be managed through enhanced risk-based monitoring and auditing of providers to ensure payments made are justifiable according to accurate student data.

If a provider should exit the VFH sector still owing monies to the Commonwealth the outstanding amount can be pursued by the department through debt recovery action.

The risk to students enrolled and genuinely undertaking study with a particular VET provider that may exit the market will be mitigated by the provisions of the Act's tuition assurance requirements which provide protection for incomplete units for student monies paid up front as well as debts incurred under VFH, or provide for the students to enrol in a similar course with full credit for study already undertaken. Students who are not covered by the Act's tuition assurance provisions will

have tuition protection provided by the requirements of *the National Standards for Registered Training Organisations 2015*.

The VFH sector comprises a wide variety of VET courses for which VFH assistance is available. The majority of courses where inappropriate activities have occurred include business and community services fields of education. These courses are readily available at larger, more established providers – particularly TAFEs – and it is expected that the loss of a small number of VET providers will not impact greatly on a student’s ability to find a course suitable to their needs and for which VFH assistance is available.

The risk of VET providers not complying with the new provisions – either through lack of understanding or deliberate non-compliance – will be mitigated by the department strengthening its organisational capability in areas such as business analytics, compliance, audit and payment option functions.

## Evaluation

A full departmental review of the scheme is due to be undertaken in 2016-17 and the department will report the outcome of the review in the second quarter of 2017.

## Conclusion

The preferred option is Option C as it provides a comprehensive suite of reforms required to fix the range of problems encountered. This option has the most appropriate net benefit to the sector as a whole as it best addresses all facets of the problem by:

- immediately dealing with concerning behaviours
- improving quality outcomes and transparency
- supporting existing regulatory standards
- supporting existing and prospective students, consumers and taxpayers
- addressing regulatory inadequacies
- enhancing monitoring and compliance.

The preferred option will continue to provide students with access to study options without upfront fees and without imposing artificial price barriers which may limit course offerings and reduce flexibility. The preferred option will improve market competition for quality educational delivery, enhanced and improved by the ready availability and transparency of information.

While these reforms may increase regulatory burden on individual providers, the sector as a whole will experience a reduction in regulatory burden as only appropriately prepared and motivated students undertake their studies through reputable providers with the support of an income contingent loan scheme again operating as originally designed.

These reforms have been widely canvassed within the sector and have been acknowledged as timely and necessary in order to restore confidence in the scheme and sector reputation more generally. The increase in regulatory burden that may result for some providers is seen as a necessary requirement to safeguard an educational system strengthened with sufficient regulatory controls to once again focus on educational quality for all rather than rapacious financial advantage for an unscrupulous few.

The government is committed to ensuring the integrity of the VFH scheme and protecting vulnerable students from the unethical actions of a small number of unscrupulous providers and their agents. It is committed to the view that the important reforms outlined in this statement will result in a more resilient VFH scheme. A focus on the quality of student outcomes, with the financial risk more equitably shared between the Commonwealth, the sector and the students, where the students have the educational qualifications and resulting vocational skills which will create a work ready community primed to help power Australia's future economic prosperity.

## Attachments

### Attachment A - Summary of VET FEE-HELP loans and students since the inception of the programme, 2009 to 2014

	2009	2010	2011	Change 2010-2011	2012	Change 2011-2012	2013	Change 2012-2013	2014 (unpublished)	Change 2013-2014
Students accessing VET FEE-HELP	5,262	26,112	39,124	50%	55,115	41%	100,035	82%	202,776	103%
VET FEE-HELP Loans (\$m)	\$26	\$118	\$205	75%	\$325	58%	\$699	115%	\$1,757	151%
Average Loan / VFH student (\$) <sup>1.</sup>	\$4,861	\$4,503	\$5,247	17%	\$5,890	12%	\$6,990	19%	\$8,666	24%
VET FEE-HELP Places (EFTSL)	3,511	20,108	28,570	42%	37,716	32%	65,838	75%	133,155	102%
VET FEE-HELP Providers reporting <sup>2.</sup>	39	55	85	55%	105	24%	156	49%	224	44%

*Source:* Australian Government Department of Education VET FEE-HELP Data Collection, with 2014 data not yet published.

*Notes:*

1. Average VET FEE-HELP loans have been calculated as total VET FEE-HELP loans accessed in a year divided by the number of students accessing loans.
2. Provider numbers for the years 2009 to 2013 are the number of providers that reported having students eligible for VET FEE-HELP.
3. Data for 2014 has not been formally approved and published.
4. The EFTSL for VET FEE-HELP assisted students is the combined EFTSL for all VET units of study undertaken by a student enrolled in a course who accessed VET FEE-HELP in a least one VET unit of Study.

## Attachment B – Duplicate regulation

VFH Reform Measure	VET Provider Standards Requirements that are considered relevant	Comments and Conclusions
<p><b>C1: Banning of Inducements</b></p>	<p>Minimal reference to inducements in the standards.</p>	<p><b>Standards</b> provide little mention of 'inducements'. However Standard 5 requires that an RTO must not guarantee that a learner will successfully complete a training product on its scope.</p> <p><b>VFH Reform Measure</b> - the banning of prohibited inducements is: a) not inconsistent with the standards b) additional to the new Standards.</p>
<p><b>C2: Tightening VET marketing and recruitment practices.</b></p> <p>The enrolment process will be the sole responsibility of the VET provider to reduce the impact of some brokers who are effectively getting potential students to sign-up to courses and VFH loans before they even speak to an approved provider. The reform measure will reinforce the requirement for approved providers to take greater responsibility for the initial enrolment requirements, including the assessment of a potential student's skills, knowledge and experience.</p> <p>The Government will ban other inappropriate marketing practices. For example, a training provider or their agent/broker will not be able to market training as "free" or "government-funded". Training Providers or their agent/broker will need to make clear to</p>	<p><b>Standard 2:</b> The RTO is ultimately responsible for ensuring quality training and assessment within their organisation regardless of any third party arrangements where training and or assessment is delivered on their behalf. The RTO is to ensure that where training and assessment services are provided on its behalf by a third party the provision of those services is the subject of a written agreement.</p> <p><b>Standard 4:</b> RTOs must meet the requirement that information, whether disseminated directly by the RTO or on its behalf, is both accurate and factual; accurately represents the services it provides and training products on its scope of registration; makes clear where a third party is recruiting prospective learners for the RTO on its behalf. Information from the RTO is to contain details about any VET FEE HELP, government funded subsidy or other financial support arrangements associated with the RTO's provision of training and assessment.</p> <p><b>Standard 5:</b> To ensure that learners are adequately informed about the services they are to receive, their rights and</p>	<p><b>Standards</b> and proposed <b>VFH reform measure</b> are consistent and complementary in that:</p> <ol style="list-style-type: none"> <li>both make the provider responsible for the actions of a third party. <ul style="list-style-type: none"> <li>the standards make the RTO responsible for training and assessment and accurate and factual information. RTO must monitor services delivered on its behalf.</li> <li>the proposed VFH reform measures make the RTO responsible for initial enrolment and assessment of capacity to undertake the course.</li> </ul> </li> <li>both make the provider responsible for ensuring students have information to be informed consumers. <ul style="list-style-type: none"> <li>the standards focus on appropriateness of the course, delivery info eg duration and locations, learners rights, and fee and refund information;</li> <li>the proposed VFH reform measure will be consistent with standard 5.</li> </ul> </li> <li>both make the provider responsible for ensuring</li> </ol>

VFH Reform Measure	VET Provider Standards Requirements that are considered relevant	Comments and Conclusions
<p>prospective students that VET FEE-HELP is a loan that is expected to be repaid, and that it impacts on a student's credit rating.</p> <p>Additionally, training providers will be required to have a formal agreement in place with any education agent or broker they use, before they can enrol anyone referred by that education agent.</p>	<p>obligations, and the RTO's responsibilities under the Standards, the RTO must provide learners with information prior to enrolment or commencement of training and assessment including any third party arrangements affecting the delivery of training and/or assessment. This is to include providing the learner with advice about the training product appropriate to meeting the learner's needs, taking into account the individuals existing skills and competencies; the estimated duration of the course and the learners obligations in relation to the repayment of any debt to be incurred under the VFH scheme arising from the provision of services.</p> <p><b>Standard 8:</b> RTO ensures that where <b>services</b> are <i>provided on its behalf by a third party the provision of those services</i> is the subject of a written agreement. RTO must also have sufficient strategies and resources to systematically monitor any services delivered on its behalf, and uses these to ensure that the services delivered comply with RTO standards at all times.</p>	<p>students understand when a third party is involved and that there is a written agreement between the provider and third party. Duplication of this requirement does not require additional work by the provider.</p> <p>The proposed VFH reform measure will introduce a tighter process with the three step opt-in enrolment process and issuing of a VFH invoice prior to the census date.</p> <p>While the National VET Regulator Act prohibits making false or misleading representation in advertising, the proposed ban in the Guidelines on inappropriate marketing practices will provide greater clarity on what is considered false and misleading in the context of VET FEE-HELP eg the use of "Free" and "government funded".</p>

VFH Reform Measure	VET Provider Standards Requirements that are considered relevant	Comments and Conclusions
<p><b>C3: Improving the understanding of how VET FEE-HELP operates, and students' rights and obligations</b></p> <p>The measure will support a range of communication initiatives to raise student awareness of the nature of a VFH loan, their obligations and their rights under consumer law. The measure will also involve changes to the Commonwealth Assistance Form (CAF) to make more explicit that the student has had the VFH loan explained to them by the approved provider and that they have confirmed they understood that they are signing up to a HELP loan.</p> <p>As part of enhanced duty of care requirements, it is proposed that VET providers will be required to have a quality data management system that will enable effective information keeping for at least five years and that this information will be available for Departmental audit and review.</p>	<p><b>Standard 4:</b> RTO is ultimately responsible for ensuring transparent and accurate information about their services and performance is accessible to prospective and current learners and clients of the RTO, regardless of any arrangements to have this information distributed on behalf of the RTO. The information, amongst other matters, is to make it clear where a third party is recruiting prospective learners for an RTO on its behalf and, includes details of any VFH, government funded subsidy or other support arrangements.</p> <p><b>Standard 5:</b> To ensure that learners are adequately informed about the services they are to receive, their rights and obligations, and the RTO's responsibilities under the Standards, the RTO must provide learners with information prior to commencement to the services including any third party arrangements affecting the delivery of training and/or assessment. This is to include providing the learner with advice about the training product appropriate to meeting the learner's needs, taking into account the individuals existing skills and competencies; the estimated duration of the course and the learners obligations in relation to the repayment of any debt to be incurred under the VFH scheme arising from the provision of services.</p> <p><b>Standard 8:</b> RTO to co-operate with regulator by retaining; archiving, retrieving and transferring records.</p>	<p><b>Standards</b> and proposed <b>VFH reform measure</b> are consistent and complementary.</p> <p>the VFH reform measure is about raising student awareness of the nature of a VFH loan and the CAF is an opportunity to bring this information to the student's attention explicitly.</p> <p>Having a specific requirement for approved providers to have a quality data management system in place is complementary to standard 8 and will not require further work by the provider.</p>

VFH Reform Measure	VET Provider Standards Requirements that are considered relevant	Comments and Conclusions
<p><b>C5: Strengthening the assessment criteria for, and ongoing scrutiny of, all training providers</b></p> <p>This measure will impose extra assessment criteria for providers including more stringent financial viability requirements, trading history requirements</p>		
<p><b>C6: Ensuring student debt is incurred in line with course delivery continuous improvement in student participation and outcomes</b></p> <p>This measure will provide an increased focus on improving student participation and outcomes through strengthening the links between student progress and ongoing payment.</p> <p>This change is designed to ensure that the student is not charged for the whole course up front and is able to avoid a VFH debt if they decide not to pursue a full course or withdraw from a unit prior to a census date for the unit.</p> <p>The measure will also include the development of an outcomes - based performance framework for new and existing VFH providers in order to identify providers to be afforded 'Preferred Provider' status based on measures such as student satisfaction, student attainment and employment outcomes (where available).</p> <p>The length of course, and volume of training is to be in line with the AQF Volume of Learning</p>	<p><b>Standard 1:</b> RTO's strategies and practices to include that the amount of training is consistent with the relevant training package or VET accredited course. The RTO determines the amount of training they provide to each learner with regard to existing skills; mode of delivery; whether full or partial qualification.</p> <p><b>Standard 2:</b> This standard refers to the requirement for the RTO's operations to be quality assured. This covers the requirement to ensure constant compliance with the RTO standards, ongoing monitoring and evaluations to continually improve the RTO's training and assessment strategies and practices. The standard also covers the requirement for there to be a written agreement between the RTO and a third party where the third party is delivering services on its behalf.</p>	<p>The <b>VFH reform measure</b> is a VET FEE HELP specific requirement designed to reduce the incidence of students having to wear the full cost of a course whether they commence the training or not.</p>



VFH Reform Measure	VET Provider Standards Requirements that are considered relevant	Comments and Conclusions
Framework.		
<p><b>C7: Establishing minimum pre-requisite and prior education qualifications, including demonstrated literacy and numeracy requirements</b></p> <p>VFH providers will be required to undertake assessments of the capabilities of prospective students to meet training package pre-requisites stipulated for a qualification, or where there are no such requirements for entry in the training package, a minimum assessment framework for student entry will need to be established and published on the approved provider's website.</p>	<p><b>Standard 1:</b> The RTO must ensure that its training and assessment strategies and practices, including the amount of training they provide, are consistent with the requirements of training packages and VET accredited courses and enable each learner to meet the requirements for each unit of competency or module in which they are enrolled. The RTO is to determine the amount of training they provide to each learner with regard to the skills, knowledge and experience of the learner, the mode of delivery and the number of units and or modules being delivered as a proportion of the full qualification. The RTO must also determine the support needs of individual learners and provide access to the educational and support services necessary for the individual learner to meet the requirements of the training product.</p> <p><b>Standard 5:</b> the RTO must provide advice to the learner including any requirements the learner must meet to enter and successfully complete their chosen training product, and any materials and equipment that the learner must provide</p>	<p>The proposed <b>VFH reform</b> requirement for the approved provider to develop an assessment framework for a prospective student and for it to be applied prior to enrolment, is consistent with <b>Standard 1</b> but goes beyond the requirements set out in that standard.</p> <p>Under <b>Standard 1</b> providers are required to determine the amount of training they provide to each learner with regard to the skills knowledge and experience of the learner, the mode of delivery and where less than a full qualification is being delivered, the number of units and or modules being delivered.</p> <p><b>Standard 5</b> requires an assessment of a prospective student's capabilities but could be limited to the period post enrolment when the prospective student has become a "learner". (as defined in the Glossary to the Standard)</p> <p>The reform measure provides for more detailed assessment of the skills of prospective students as part of pre-enrolment processes, whereas the Standards tend to focus on assessing the needs of a student following enrolment. Both of these requirements are important to stop the practice of individuals being enrolled in courses they are not suited to or capable of doing.</p>

VFH Reform Measure	VET Provider Standards Requirements that are considered relevant	Comments and Conclusions
<p><b>C8: Enhanced outcome information for VET FEE-HELP students</b></p> <p>This measure seeks to improve the availability, scope and quality of information on the employment outcomes and student experience flowing from undertaking training funded through VFH.</p> <p>Data provided to the Department, including through NCVET surveys, phone surveys of students and from actuarial analysis of repayment trends will be published on the MySkills website, when available. The aim, over time, will be to have more information available at the provider level to inform student choices of courses and providers.</p>	<p><b>Standard 7:</b> RTO to provide accurate and timely information as required by the Data Provision Requirements.</p> <p><b>Standard 8:</b> The RTO is to be legally compliant at all times including by providing quality/performance indicator data and in the retention, archiving, retrieval and transfer of records, and complies with Commonwealth, State and Territory legislation and regulatory requirements relevant to its operations.</p>	<p>Approved VFH providers have data provision requirements under both HESA and Standards. Extra data required under HESA is scheme specific and therefore outside the scope of the reporting required under the Standard. To the extent possible VFH reporting will be consistent with the broader reporting of the VET sector. Some specific additional requirements will apply particularly specific requirements relating to performance which will inform the preferred provider regime.</p> <p>The information required for the Reform measure is not generally collected or available through administrative collections. Over time it will provide more provider specific information on provider performance and student outcomes to inform student choice. The Standards also have reporting requirements for RTO's relating to performance and quality indicators. A detailed assessment of the information collected by DET and ASQA is recommended to ensure there is no duplication of effort and to determine what information could and should be shared between the agencies.</p>

## **Attachment C – Working Group Terms of reference**

### **Preamble**

Since its inception in 2009, the VET FEE-HELP scheme has made study possible for over 428,000 students leading to improved job prospects. VET FEE-HELP provides access to training opportunities which would otherwise be out of reach for many students. The Australian Government will continue to support the growth of the VET FEE-HELP scheme and the announced reforms are vital to the long-term success of the program.

### **Purpose**

Important reforms will be made to the Australian Government's VET FEE-HELP scheme to prevent unscrupulous marketers targeting vulnerable Australians and exploiting the scheme.

Protecting students and taxpayers and restoring the reputation of the VET FEE-HELP scheme, and the national vocational education and training sector more broadly, are key goals for Government through these reforms.

The VET FEE HELP Reform Working Group will provide a vehicle for ensuring that stakeholder concerns are addressed throughout the implementation of the reforms.

### **Task**

The Working Group will be responsible for providing advice on approaches and plans for implementation of the eight measures approved by Government, and any complementary and consequential measures that may be required, to protect students and taxpayers as well as the entire national vocational education and training sector. The measures will seek to strengthen the administration of the scheme and improve the quality of outcomes for students by:

- ensuring provider, broker and student behaviour is consistent with the intent of the scheme
- guaranteeing students and providers have accurate and up-to-date information on the scheme
- safeguarding the reputation of the scheme
- supporting excellent student outcomes including course completions
- protecting students' consumer rights
- providing students with information on provider quality employment outcomes.

The Working Group will also be required to assist in the design of a comprehensive consultation process to support the reforms and the design of an effective evaluation strategy. The evaluation strategy will feed into the review of the scheme scheduled for 2016–17 and the effectiveness of reform measures in addressing concerns with the scheme.

### **Timing**

It is expected that the Working Group will meet monthly from April through to July 2015 and then on an as required basis with the initial meeting on 30 April 2015.