



Australian Government

VET **Student** Loans

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# COMPLIANCE STRATEGY

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## Version control

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## Glossary

Term	Definition
ACCC	Australian Competition and Consumer Commission
ASQA	Australian Skills Quality Authority
Department	Department of Employment and Workplace Relations
Minister	Minister for Skills and Training
RTO	Registered Training Organisation
Secretary	Secretary of the Department of Employment and Workplace Relations
VET	Vocational Education and Training
VET Student Loans	VET Student Loans program
VSL	VET Student Loans
VSL Act	<i>VET Student Loans Act 2016</i>
VSL Rules	VET Student Loans Rules 2016

## Overview

The Department of Employment and Workplace Relations (the department) is responsible for administering the VET Student Loans program.

The VET Student Loan (VSL) program commenced on 1 January 2017 and provides support for students to access Vocational Education and Training (VET) that meets workplace needs in areas of national skills priority and improves their employment outcomes; protecting students and taxpayers; and ensuring integrity to Australia's VET system and the reputation of quality training providers. To achieve these objectives, the department aims to encourage, strengthen and enforce the compliance of approved course providers (providers) with the regulatory requirements of the VSL program.

This document provides approved providers with an overview of the department's compliance strategy for the VET Student Loans program.

## Compliance requirements

The *VET Student Loans Act 2016* (the VSL Act) and the VET Student Loans Rules 2016 (the VSL Rules) set out the legislative requirements that underpin the VET Student Loans program.

The VET Student Loans legislation provides the department with extensive monitoring and regulatory powers, including civil penalty provisions, the ability to immediately suspend a VSL provider's approval or freeze provider payments for potential non-compliance or poor performance.

The civil penalty provisions for certain compliance breaches are administered and enforced by the department in accordance with the *Regulatory Powers (Standard Provisions) Act 2014*. The VSL Act also contains criminal offence provisions.

## Compliance goals and objectives

In taking actions to encourage, strengthen and enforce compliance with the law, the department aims to:

- protect the interests of VET students, and maximise the educational experience of students
- ensure the appropriate spending of public monies
- protect the reputation of the VET Student Loans program.

With these goals in mind, the department will take action to:

- deter and prevent non-compliance by giving VSL providers guidance and information to support compliance with the requirements of the VET Student Loans program
- detect potential non-compliance at the earliest possible opportunity (including through a rolling program of data analytics, student surveys, desktop monitoring, compliance audits and investigations)
- take action against VSL providers (including through suspension and revocation of approval, issuing infringement notices, seeking civil penalties and, in the most serious cases, referring matters for prosecution) for non-compliance with the requirements of the VET Student Loans program.

The department works closely with the Australian Skills Quality Authority (ASQA) and other stakeholders to deal with matters involving providers. This may involve the exchange of information, or more direct engagement in joint compliance activities.

**Note:** ASQA’s interest is in assessing providers’ behaviour against the requirements of the Registered Training Organisations standards made under the National Vocational Education and Training Regulator Act 2011.

## Risk-based compliance approach

The department takes a risk-based approach to compliance that identifies providers at risk of non-compliance, ranging from unintentional to wilful non-compliance. This risk-based approach allows the department to direct its resources towards the areas of non-compliance that pose the greatest threat to students, providers, the reputation of the VET sector, the Australian Government and the public.

The department also monitors provider behaviour to identify practices that present a risk to the outcomes or integrity of the VET Student Loans program (such as opportunistic targeting of the program or other “sharp practices”). The department is committed to continually improving the administration of the VET Student Loans program and will take action to address any identified gaps or weaknesses.

**Diagram 1 – Risk-based compliance approach**



## Prevention strategies

The department acknowledges that most providers are willing and able to comply with the requirements of the VET Student Loans program. Accordingly, a key aspect of the department's compliance strategy is to support providers to maintain voluntary compliance and minimise the compliance burden on providers where possible.

However, breaches may result in compliance action (such as, depending on the nature of the non-compliance, issuance of infringement notices, revocation of provider approval, or the imposition of civil and/or criminal sanctions by a court).

### Eligibility, suitability and conditions

Providers must satisfy strict eligibility and assessment criteria to become and maintain approved course provider status under the VSL Act. The VET Student Loans program has restricted course eligibility, capped loan amounts payable for particular courses and the setting of payment caps on providers.

Critically, providers **must** remain compliant with their legislative and regulatory requirements and maintain the organisational capacity and administrative resources to comply with these requirements in order to maintain their approval under the VET Student Loans program. Other requirements include (but are not limited to):

- a provider must be a Registered Training Organisation (RTO)
- a provider must meet suitability requirements such as satisfying requirements around financial performance, management and governance, experience and course offerings, student outcomes and workplace relevance
- a provider must be a fit and proper person (as defined in the VSL Act and VSL Rules).

Providers may also have conditions imposed on their approval. These conditions may include (but are not limited to) loan caps for a particular period or for an approved course, or that an approved course be delivered in a particular way or address particular content or skills.

The department will monitor and enforce the ongoing compliance of providers with these requirements and conditions, as an important mechanism for promoting voluntary compliance and preventing non-compliance with other requirements of the VET Student Loans program.

### Education and resources

The department works collaboratively with providers to enhance their knowledge of, and adherence to, VSL program requirements, including through the provision of resources and guidance material, and advice on systems and procedures. However, it is the provider's responsibility to ensure it has effective governance, risk and compliance structures.

Providers are encouraged to monitor their own compliance using the **Compliance Checklist** at Appendix L of the [VET Student Loans Manual for Providers](#), which summarises VSL program administrative and publishing requirements.

### Publication of information

Under section 103 of the VSL Act, the department may publish information that would assist a student in determining whether to enrol in a course provided by a provider, or in relation to their eligibility for a VET student loan, or that would encourage compliance by a provider with the VSL Act. The department may also require the provider to release or publish such information.

This may include (but is not limited to) the publication of completion rates for students, enrolment numbers, courses offered, tuition and other fee arrangements, modes of course delivery and compliance action that has been taken under the VSL Act.

## Detection strategies

Risk-based compliance monitoring and detection activities assist the department in targeting its resources and detecting potential instances of non-compliance at the earliest possible opportunity. The department undertakes a rolling program of audits – supported by data analysis, information exchange with other agencies and regulators and monitoring of complaints – to detect risks, issues, trends and assess the compliance of providers with their requirements.

### Payments

Providers are paid monthly in arrears, based on data provided, and then verified, by the provider. The department analyses this data (and other data sources) to assess potential anomalies or instances of non-compliance.

### Audits

The department undertakes a variety of audits to address emerging risks, issues and concerning trends in the VET Student Loans program. These include:

- **Compliance audits:** Compliance audits are conducted under audit powers in the VSL Act. The purpose of audits is to assess whether providers are complying with the VSL Act and whether students enrolled by providers are genuine students. Providers may be selected for audit randomly or on a risk-based approach. Depending on circumstances, the audit and assessment of student files and IT systems may be conducted remotely or through site visits.
- **Other compliance monitoring activities:** These activities include reviewing publicly available information about providers, including the provider's website and media reports, as well as seeking information about a provider's compliance, either directly from the provider through information request powers in the VSL Act or from other persons.

### Surveys and complaints

The department undertakes proactive student surveys to ascertain students' experiences and feedback on course marketing and enrolment practices (amongst other things). The department also monitors complaints made through the National Training Complaints Hotline and departmental channels for potential compliance issues. The National Training Complaints Hotline can be accessed by calling 13 38 73.

Since 1 July 2017, the VET Student Loans Ombudsman (VSLO) has been responsible for assessing and managing student complaints about the VET Student Loans program. The VSLO has its own legal powers to investigate and deal with complaints, as well as provide advice to students, and report to the department on systemic issues identified through its investigations.

### Intelligence and information sharing

The department also gathers and analyses relevant information and intelligence to assist in detecting potential non-compliance from a number of sources including:

- information sharing with other agencies and regulators
- review of media and other open-source information.

Where there is information suggesting potential non-compliance with the Standards for Registered Training Organisations, the department may refer the matter to ASQA. Where a matter does not otherwise fall within the department's regulatory remit, it may be referred to another agency such as the Australian Competition and Consumer Commission (ACCC) or Australian Tax Office.

## Response strategies

Although the department places a strong focus on the prevention and deterrence of non-compliant behaviour by providers, the department will take a proportionate response to non-compliance. The department's response will take into account the available information and evidence, the seriousness of the potential non-compliance and the provider's attitude to compliance. In responding to non-compliance, the department adheres to its legal obligations and procedural fairness.

### Investigations

Investigations may be undertaken to address issues of serious non-compliance or potential fraud and corruption. Investigations include the compilation and collection of statutory declarations, witness statements, evidence gathering and enforcement action.

Investigations may also include the use of monitoring or investigatory powers under the *Regulatory Powers (Standard Provisions) Act 2014*. These powers include entering premises by consent or under a warrant and performing actions such as searching, examining or seizing evidential material, and asking the occupier to answer relevant questions or produce relevant documents.

### Compliance actions

The department has a range of compliance actions that may be taken under the VSL Act.

**Table 1 – Compliance actions under the VSL Act**

Section	Description
Section 20	<b>Withholding Loan Payments</b> The Secretary is not required to pay loan amounts to providers in certain circumstances, including where the Secretary has reasonable grounds to suspect a provider is not complying with the VSL Act or where the provider's approval has been revoked, suspended or has expired
Section 34	<b>Conditions on Approval</b> The Secretary may impose or vary conditions on a provider's approval (including imposing fee limits, paying loan amounts only for specified approved courses, or requiring that an approved course be delivered in a particular way or address particular content or skills)
Section 35	<b>Automatic Revocation of Approval</b> If a provider is wound up, the provider's approval is revoked when the winding up commences
Section 36	<b>Revocation or Suspension of Approval</b> The Secretary may revoke or suspend a provider's approval if the Secretary is satisfied that the provider is not complying with the VSL Act
Section 37	<b>Immediate Suspension of Approval</b> The Secretary may suspend a provider's approval without first giving a notice of intention to suspend where the Secretary suspects on reasonable grounds that the provider is not complying with the VSL Act and is satisfied that the circumstances require urgent action
Section 43	<b>Compliance Notice</b> The Secretary may issue a provider with a compliance notice that sets out actions that the provider must take (or refrain from taking) and the associated timeframe to address potential non-compliance, where the Secretary is either satisfied that the provider is not complying with the VSL Act or is aware of information which suggests that the provider may not be complying with the VSL Act
Section 45	<b>Compliance Audit</b> The Secretary may require a provider to be audited for the purposes of determining whether the provider is complying with the VSL Act and/or whether one or more students enrolled by the provider are bona fide students

Section	Description
Section 53	<b>Request for Information</b> The Secretary may require a provider to give the Secretary information or documents that relate to the provision of vocational education and training by the provider or the provider's compliance with the VSL Act
Section 103	<b>Publishing Information</b> The Secretary may publish information or require a provider to publish such information, including to encourage compliance by a provider. This could include information about compliance action undertaken under the VSL Act in relation to the provider
Section 104	<b>Requiring Provision of Information about Compliance</b> The Secretary may require a person to provide information about compliance with the VSL Act, where the Secretary believes on reasonable grounds the person has relevant information or documents

### Civil penalties

The department may enforce any of the following civil penalty provisions under the *Regulatory Powers (Standard Provisions) Act 2014*. This means the department can seek civil penalty orders for pecuniary penalties, issue infringement notices, receive enforceable undertakings from providers or seek injunctions in relation to the following civil penalty provisions.

**Table 2 – Civil penalty provisions under the VSL Act (for conduct occurring from 1 January 2017)**

Section	Description	Penalty Units
Subsection 12(3)	Assisting a student to complete anything required for the purposes of determining whether the student is academically suited to undertake an approved course	120
Subsection 17(5)	Completing any part of a VET Student Loan application that a student is required to complete	120
Subsection 17(6)	Providing VET Student Loan information to the Secretary that omits a material particular or is incorrect in a material particular	120
Subsection 43(4)	Failure to comply with a compliance notice	60
Subsection 45(5)	Failure to cooperate fully with an auditor in relation to a compliance audit	60
Section 46	Failure to cooperate fully with a listed body in ensuring compliance with, and the efficient and effective administration of, the VSL Act	60
Subsection 48(5)	Failure to have processes and procedures in accordance with the VSL Rules	60
Subsection 49(1)	Use of a broker or agent for certain purposes	60
Subsection 50(2)	Failure to provide information to students in accordance with the VSL Rules	60
Subsection 51(3)	Failure to retain documents and information in accordance with the VSL Rules	60
Subsection 52(4)	Failure to comply with ongoing information requirements	60
Subsection 53(4)	Failure to comply with a notice to give the Secretary information	60
Subsection 55(3)	Failure to comply with the requirements of the VSL Rules in relation to tuition fees for approved courses	120
Subsection 56(4)	Requiring a student to pay for covered fees	120



Section	Description	Penalty Units
Section 57	Failure to publish tuition fees on the provider's website for a course on the day before a student is enrolled in that course	60
Subsection 58(6)	Failure to determine or publish a census day in accordance with the VSL Rules	60
Subsection 58(7)	Varying a census day other than in accordance with the VSL Rules	60
Subsection 59(1)	Failure to cancel a student's enrolment, at the student's request, before the end of the relevant census day	120
Subsection 59(2)	Charging a fee for cancelling a student's enrolment	120
Subsection 59(3)	Engaging in conduct that prevents or unnecessarily inconveniences a student from cancelling their enrolment	120
Section 60	Representing that a VET Student Loan is not a loan or does not have to be repaid	240
Subsection 61(1)	Offering or providing benefits to induce a person to apply for a VET Student Loan for a course	120
Subsection 62(1)	Engaging in cold-calling to market, advertise or promote a course and mentioning the availability of a VET Student Loan for the course	60
Subsection 63(1)	Use of third party contact lists to market, advertise or promote a course, or enrol a student in a VET Student Loan course	60
Subsection 64(2)	Failure to comply with the requirements of the VSL Rules in relation to marketing of courses	60
Subsection 102(2)	Failure to comply with the requirements of the VSL Rules in relation to electronic communication between providers and the Commonwealth and/or students	60
Subsection 103(5)	Failure to release or publish information as directed by the Secretary	60
Subsection 104(4)	Failure to provide information or documents about compliance with the VSL Act, in accordance with a requirement by the Secretary under subsection 104(1)	60
Subsection 106(3)	Giving false or misleading information to a VET officer <sup>1</sup> or otherwise under, or for the purpose of the VSL Act	240

### Criminal offences

In addition to civil penalty provisions, the VSL Act provides that certain conduct is a criminal offence of strict liability. This means that where the department pursues a criminal prosecution of the offence, the prosecution will need to prove that the offence occurred, but will not be required to prove fault on the part of the defendant. The penalty for the offences listed below is limited to the imposition of penalty units.

**Table 3 – Strict liability offences under the VSL Act**

Section	Description	Penalty
Subsection 50(3)	Failure to provide information to students in accordance with the VSL Rules made under subsection 50(1) of the VSL Act	60
Subsection 51(4)	Failure to retain documents and information as required under section 51 of the VSL Act	60

<sup>1</sup> VET officer means a Commonwealth officer; an officer of a Tertiary Admission Centre; an officer of an approved course provider; an officer of a tuition assurance scheme operator that is a party to an approved tuition assurance arrangement; or an officer of an approved external dispute resolution scheme operator.

Section	Description	Penalty
Subsection 52(5)	Failure to comply with the ongoing information requirements set out in the VSL Rules made under subsection 52(1) of the VSL Act	60
Subsection 53(5)	Failure to comply with a notice given under section 53 of the VSL Act to give the Secretary information or documents	60
Subsection 104(5)	Failure to provide information or documents in accordance with a requirement by the Secretary under subsection 104(1) of the VSL Act	60

The VSL Act also contains some criminal offences in relation to the misuse of personal information, which are punishable with imprisonment for up to two years.

**Table 4 – Offences for misuse of personal information under the VSL Act**

Section	Description	Penalty
Subsection 99(1)	Unauthorised use or disclosure of personal information obtained by a VET officer in their capacity as a VET officer	Imprisonment for 2 years
Subsection 100(1)	Use of personal information disclosed to an agency, body or person under section 95 of the VSL Act, where the use of the information is not for a permitted purpose	Imprisonment for 2 years
Subsection 100(3)	Disclosure of personal information, disclosed to an agency, body or person under section 95 of the VSL Act, where the disclosure is not for a permitted purpose; or the disclosure is to a person who is not an officer or employee of, or engaged by, those specified agencies, bodies or persons	Imprisonment for 2 years
Subsection 101(1)	Unauthorised and intentional access to, or modification of, personal information that is VET information, held on a computer to which access is restricted by an access control system and where the information is either held on the computer or on behalf of a provider or a Tertiary Admission Centre	Imprisonment for 2 years

The department may also pursue other criminal offences (such as under the *Crimes Act 1914* or the *Criminal Code Act 1995*) for criminal and/or fraudulent activities committed by VSL providers. These offences may be punishable by fines and/or terms of imprisonment.

### Personal liability for executive officers

The VSL Act provides for personal liability for executive officers of providers, for civil penalties and criminal offences committed by the provider in certain circumstances. Executive officers of providers may be held liable where:

- the provider contravenes a civil penalty provision or commits an offence against the VSL Act
- the officer knew the contravention would occur or the offence would be committed
- the officer was in a position to influence the conduct of the provider in relation to the contravention or the commission of the offence
- the officer failed to take all reasonable steps to prevent the contravention or the commission of the offence.

The maximum penalty for this contravention or offence is one-fifth of the penalty for the civil penalty or offence committed by the provider.

### Further information

Information on the VSL Act, VSL Rules, information for providers and students and a list of eligible courses is available on the department's [VET Student Loans](#) page.