



27 August 2020

Mr Michael Manthorpe PSM
Commonwealth Ombudsman
Office of the Commonwealth Ombudsman
GPO Box 442
CANBERRA ACT 2601

Via email only: ombudsman@ombudsman.gov.au

Dear Mr Manthorpe

Submission on a Proposed Code of Practice for VET Student Loan Scheme Providers

Thank you for the opportunity for TAFE Directors Australia (TDA) to provide a submission in response to the proposed development by your Office of a code of practice for VET student loan (VSL) scheme providers.

TDA is the national peak body incorporated to represent Australia's public Technical and Further Education (TAFE) institutes and TAFE divisions of dual sector public universities. In addition to its six dual sector members, nine other TDA TAFE members are both VET and Non-University Higher Education Providers.

All TAFEs, as public providers, are accountable to their state or territory Parliament through their responsible Minister. TAFEs' strongest regulatory oversight is through their Parliament, Minister, and their state or territory department.

I am confident all TAFEs already have codes of practice in relation to students and to financial engagement with students. TAFEs have a long history in putting students first.

I understand under the *[Ombudsman Act 1976](#)* a function of the VET Student Loans Ombudsman is to develop and promote, and to review from time to time, a code of practice relating to:

- the provision of services to VET students by VET student loan scheme providers in relation to VET loan assistance; and
- the handling of complaints made by VET students to VET student loan scheme providers in relation to VET loan assistance.

In addressing this matter TDA acknowledge this is a legislated requirement on your Office.

As you are aware, VSL was introduced at the commencement of 2017 as a result of the administrative debacle of VET FEE-HELP (VFH). The administrative failings of VFH were well examined and were reported on in December 2016 by the Australian National Audit Office in its report [*Administration of the VET FEE-HELP Scheme*](#).

In the three years from 2017 through to end 2019, TDA and its member TAFEs undertook tremendous work in supporting and assisting thousands of displaced students from private providers whose intent was profit more than the interests of students. TDA, as the tuition assurance provider, went well beyond its responsibilities under the Commonwealth's governing legislation. This work, and the cost to TDA and its member TAFEs, is still largely unrecognised by the Commonwealth and has never been publicly acknowledged.

We are therefore very cognisant of the rationale during 2017 of bringing forward and legislating the concept of a code of practice for VSL scheme providers.

It is TDA's view the implementation of VSL and the over three years of experience since does not support such a code of practice at this time. At least for state owned public TAFEs to do so will impose further unnecessary regulatory burden on a sector currently undergoing constant and extensive review.

Based on Department of Education, Skills and Employment released data of VSL uptake by students by provider, of the 37 122 students accessing VSL for the [*six months to end June 2020*](#), 72.6 per cent of these VSL students (26,942) are enrolled with a TDA member institute. Only about 9,920 VSL students were with private providers (26.7 per cent).

Unless there is evidence to the contrary, of poor behaviour of TAFEs in their engagement with VSL students, and given the strong accountability already required of state government backed TAFEs as set out above, we are of the strong view TAFEs should be exempt from the requirement of any proposed Code of Practice for VET Student Loan Scheme Providers.

There is strong precedent for this:

- The [*VET Student Loans Act 2016*](#) (the Act), Section 66A, exempts Table A providers and providers of a kind prescribed by the rules from *Part 5A Tuition Protection* of the Act. Section 45 of the [*VET Student Loans Rules 2016*](#) (the Rules) provides for the exemption of registered training organisation owned by the Commonwealth, a State or a Territory; or established to provide vocational education or training under specified state or territory acts of their parliaments.
 - These exemptions from tuition protection were fully prescribed in legislation by the Parliament of Australia in late 2019, when the Australian Government expanded the Tuition Protection Service for international students to also cover domestic students with a Commonwealth student tuition loan.
- The requirements for tuition assurance for pre-paid fees in excess of \$1500 is set out in Standard 7.3 and Schedule 6 of the [*Standards for Registered Training Organisations \(RTOs\) 2015*](#) (the Standards).
 - Under Schedule 6, TDA members meet the requirements for protecting fees pre-paid by individual learners, or prospective learners, for tuition services through being a

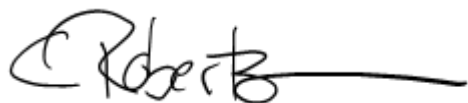
government entity and by *having implemented a policy addressing learner fee protection arrangements.*

We strongly argue TDA member TAFEs and TAFE divisions of dual sector universities should not have imposed on them further regulatory burden that will provide no additional protection of their students than that already provided by accountability through their Minister to their state or territory parliament.

The history of VFH, where the problems were not within public TAFEs; the overwhelming number of VSL students enrolled with TDA member institutes; and the precedent of legislative exemptions already in place that recognise the unnecessary need to impose further regulatory burdens on TAFEs, all calls for a re-think on a concept first considered in 2016 in reaction to the disaster of VFH.

Should you wish to discuss this matter I may be contacted on 0412 299 028 or at crobertson@tda.edu.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'C Robertson', followed by a long horizontal flourish line.

CRAIG ROBERTSON
Chief Executive Officer
TAFE Directors Australia