



# VSL Program Improvement

## Provider consultation November 2022

The VET Student Loans (VSL) program assists eligible students, enrolled in approved higher level (diploma and above) VET courses at approved course providers, to pay their tuition fees. The program is designed to provide financial support to students undertaking higher level training in courses that address workplace and industry needs, creating better opportunities for employment.

The Department of Employment and Workplace Relations (the department) is making improvements to administrative, business and regulatory elements of the program to streamline processes and reduce participation requirements.

### What has happened so far

During 2022 we have implemented a range of practical improvements to VSL administrative processes, making the program easier to navigate for training providers and students. Some key changes implemented under Tranche 1 include:

- removing the **statutory declaration** requirement for data reporting, reducing administrative requirements for providers
- improving the **eCAF** support materials to help improve the rate of successful completion and reduce the amount of assistance needed from providers
- improving the look, feel and functionality of the **student progression form**, making it easier for students to complete
- moving to a **no approval rounds** approach, which allows providers to submit applications at a time when it is most suitable to them
- introducing an eligibility **self-assessment quiz** that helps providers to understand eligibility requirements before applying to be a VSL provider and
- introducing new **virtual information sessions** to assist providers to learn about the VSL program, with topics informed by providers.

## Where we are now

We are continuing with our program improvement work and are interested to hear from providers about several proposed changes planned for Tranche 2 (Stage 3). Proposals under Tranche 2 are improvements that will require amendments to the VET Student Loans Rules 2016 (the Rules).

The following is a visual representation of how we are tracking with the work.

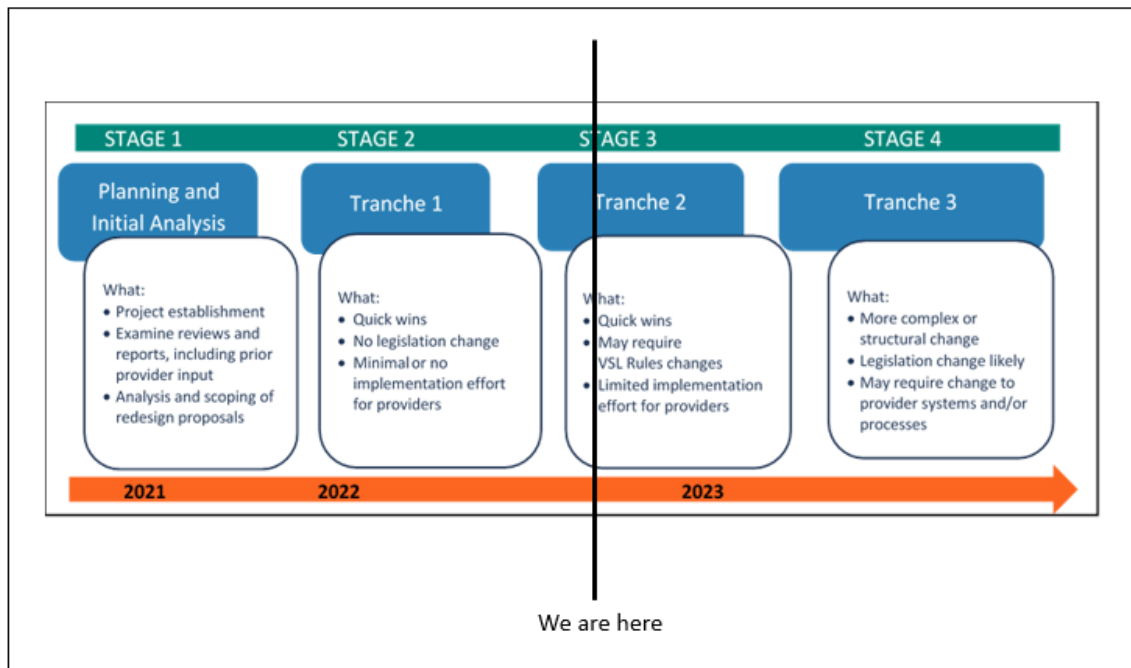


Figure 1: VSL program improvements stages

## How to have your say

We would like your feedback on the proposals outlined in this paper. We want to hear about any implications, including any practical operational issues that may be relevant, and cost or administrative matters that should be considered.

At the end of the paper there is an attachment which includes questions and free text boxes where you can enter responses. There is also space for you to submit any other views that you would like to put forward about the VSL Program.

Please submit your feedback to us via [VSLredesign@dewr.gov.au](mailto:VSLredesign@dewr.gov.au) either in written form, using the attachment at Appendix A of this paper, or alternatively by submitting an accessible audio-visual file.

Submissions to this paper, including issues and questions, are encouraged by **18 November 2022**. Please let us know if you need more time. All comments will be considered as the improvement work progresses. A summary of submissions will be posted on the department's 'Simplifying VET Student Loans' page<sup>1</sup> in due course. Providers will not be identified in this process.

<sup>1</sup> <https://www.dese.gov.au/simplifying-vet-student-loans>

## Proposals for feedback

### Provider suitability requirements – financial performance

Providers are required, under section 26 of the *VET Student Loans Act 2016* (the Act), to demonstrate that they are, and continue to be, suitable for approval to participate in the VSL program. This includes demonstrating financial viability by meeting certain financial performance requirements.

Good financial performance is one factor that underpins a provider's ability to continue to effectively deliver courses and to support students through their study and training.

### Dividends

One of the financial performance requirements for the VSL program is that a provider's total dividend distributions during a financial year not exceed the provider's after-tax profit for the previous financial year.<sup>2</sup> This is because the treatment of dividends can play a key role in the financial performance of an organisation, including the ability to continue to fund ongoing operations.

We are reviewing this requirement to determine whether it remains suitable. There may be legitimate reasons for dividend distributions, during a financial year, exceeding profits for the previous year, for example a dividend may not have been paid in a previous year.

We are considering a more flexible requirement which provides that dividends may only be paid where the distribution does not materially prejudice the company's ability to pay its creditors. This requirement is more closely aligned with requirements under other legislation, such as the *Corporations Act 2001*.

### Questions

1. What legitimate reasons are there for an organisation to make a dividend distribution that exceeds their after-tax profit for the previous financial year? More examples will help support the case for change.
2. Do you perceive any issues with moving to a more flexible dividend requirement? Please explain.
3. What benefits might there be for providers if we adopt a more flexible approach?

### Related party transactions

Provision 24 of the Rules also includes requirements regarding related party transactions. The requirement is that providers can only make payments to key personnel and related parties for goods and services that are reasonably necessary for the provider's operations and on terms that comply with the Australian Accounting Standards.<sup>3</sup> This is because inappropriate related party transactions can undermine financial viability and the ability of organisations to continue to fund ongoing operations.

A review of s24(2) indicates that the scope of this provision (in dealing only with payments for goods and services) is too narrow. Rules in the Australian Accounting Standards dealing with related party

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<sup>2</sup> s 24(1) VET Student Loans Rules 2016

<sup>3</sup> s 24(2) VET Student Loans Rules 2016

transactions talk about such transactions being a transfer of resources, services or obligations between a reporting entity and a related party, regardless of whether a price is charged.<sup>4</sup>

We propose to expand the requirement for related party transactions beyond goods and services to include other types of transactions, such as payments to related parties for loans. Consideration would be given to using a general test, such as transactions needing to be on terms that a reasonable person would agree to, or something similar. This would allow for consideration of a broader range of transactions when assessing provider's financial performance for related party transactions.

#### Questions

1. Do you perceive any issues in moving to a new test for related party transactions that better aligns with other financial frameworks? Please be specific in your response.
2. What benefits might flow from making the proposed changes to related party transactions?

### More time to submit annual financial statements

Non-listed (private) providers are required under section 113 of the Rules to submit audited general purpose financial statements within 3 months after the end of the financial year. We use financial statements to assess a provider's ongoing financial viability and suitability to continue as an approved provider.

We propose to change the timing of the requirement so that the submission of financial statements can occur within 4 months of the end of the financial year, allowing an additional month for submission.

The proposed change will better align with timing requirements under other regulatory frameworks, such as the *Corporations Act 2001*, and give providers more time to have statements prepared and submitted to the department.

#### Questions

1. Do you perceive any issues in extending the time for submission of financial statements? Please explain.
2. How would extending the time for submission of financial statements assist your organisation?

### Relaxing social media restrictions

Under current arrangements, providers are prohibited from using social media to mention the availability of VSL for students undertaking a course<sup>5</sup>. This requirement stemmed from the serious misuse of social media platforms under the Government's previous income contingent loans program.

Given the prevalence of social media today, and that social media platforms are an important business tool, particularly for small businesses, consideration is being given to allowing providers to reference the availability of VSL on social media.

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<sup>4</sup> Accounting Standard AASB 124 - Related Party Disclosures

<sup>5</sup> s 143 of the Rules

The intention is that the broader marketing rules under section 142 of the Rules, which set out a range of requirements as to form and substance, will continue to apply. Subsection 142(c) effectively provides that if the marketing is online, the information covered by subsection 142(a) must be on the same webpage as the other marketing of the course. We appreciate that it may be difficult to comply with this requirement for social media posting, much of which is viewed on smart phones, owing to the size of both the post area and screen. Instead, we propose to make it a requirement that any social media post that mentions VSL must include a link directly to the area on the provider's website where the information required under subsection 142(a) can be viewed.

The offences and associated penalties relating to non-compliant marketing practices would continue to apply, such as misrepresentation and offering inducements<sup>6</sup>.

To complement this change, we are also considering introducing a requirement for approved VSL providers to report, most likely as part of the Annual Forecast process, which social media platforms they are utilising for marketing purposes. This will require minimal effort for providers but will help support our compliance team in their work checking adherence to the marketing rules.

#### Questions

1. If this change were implemented, would you take up the opportunity to make greater use of social media for marketing purposes? If not, why? If yes, what platforms might you use?
2. What proportion of your website traffic is directed from social media?

### Reduced reporting for providers

An objective of program improvement is to reduce unnecessary administrative burden associated with participating in the program. One of the ways we are looking at doing this is to reduce the amount of information for the Annual Forecast and for some approval processes.

#### Listed provider approval process

As public entities, listed providers are owned or financially backed by governments, making them lower risk from a viability and stability perspective. Also, public organisations have additional governance and accountability legislative requirements which provide assurance for the satisfaction of a range of VSL course provider requirements.

We are considering making amendments to the Rules to increase the number of course provider requirements that do not apply to listed providers. This would be for certain requirements which are not relevant in the public sector context, such as the financial record of the organisation and key staff, and the payment of commissions to staff.

### Annual Forecast

We are considering significant changes to the Annual Forecast process for all lower risk providers. Under current arrangements, providers need to submit a range of information each year, largely about their VSL approved courses for the purpose of setting fee limits and course offerings for the next year. However, providers can apply for condition variations, such as fee limits, at any time of the year which means that the Annual Forecast process does not need to be used for this purpose.

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<sup>6</sup> Part 5, Division 5 of the Act

Instead, we want to refocus the Annual Forecast process to be more about collecting targeted information to support program monitoring and compliance. This will provide for more efficient and effective collection of information supporting a risk-based approach to program management.

Under this approach, we would **not** use the Annual Forecast to collect the following information:

- a list of the approved courses offered by the provider
- the mode of delivery for each approved course
- the duration of each approved course
- the proposed census days for each of the approved courses offered by the provider
- the expected number of students for each approved course to be offered by the provider in the next financial year
- the expected amounts of VET student loans to be used for each approved course to be offered by the provider in the next financial year, based on the expected number of students and the courses and loan caps determination
- the tuition fees for each approved course to be offered by the provider in the next financial year.

Instead, we would ask for information that better supports our monitoring and compliance activities, including things like:

- information about any arrangements in place with third parties to deliver training, including the approved course name and code, the third party and whether the third party is VSL approved
- information about the links the provider has with industry and other bodies as required under s35 (retaining existing provision)
- information about the social media platforms the provider uses to promote its provision of VSL approved courses and the URL address of the provider's website (premised on the expected removal of the social media marketing restriction) and
- information about student satisfaction for each of its courses as required by ss34(2).

We would also retain the existing provision (s116(1)(l)) that allows the Secretary to request other information in the Annual Forecast process. In line with a more risk-based approach to program operation, that provision could be used to require more information from certain providers who are presenting as higher risk in the program, for example due to reporting or compliance concerns.

Any changes to the Annual Forecast would not take effect until the 2023 calendar year once amendments to the Rules are completed.

#### Questions

1. What would be the impact or effect on your organisation, in terms of a change in focus for the Annual Forecast process as proposed above?
2. Do you perceive any issues with the proposed approach?

## VSL student entry pathway requirements – academic suitability

VSL providers are required, under section 12 of the Act, to assess a student as academically suited to undertake a VSL approved course. Further, the Rules set out requirements for assessing academic suitability, with the key element being that academic suitability is met by one of the following<sup>7</sup>:

- a) the provider obtains a copy of the student’s Year 12 certificate (that is, an Australian Senior Secondary Certificate of Education)
- b) the provider obtains a copy of a diploma that has been awarded to the student for the student’s completion of the International Baccalaureate Diploma Programme
- c) the student is assessed as displaying competence at or above Exit Level 3 in the Australian Core Skills Framework (as in force from time to time) in both reading and numeracy using an approved language, literacy and numeracy (LLN) assessment tool and the provider reasonably believes that the student displays the competence or
- d) the provider obtains a copy of the student’s certificate of a Level 4 or above qualification in the Australian Qualifications Framework and the course for the qualification was delivered in English.

The prescribed academic suitability requirements under VSL are intended to ensure that students are enrolled in courses they have the capability to complete. Given the passage of time, we are reviewing the suitability of the current approach, as well as the role of LLN testing within the VSL program.

A key part of this analysis will be to better understand how providers use LLN testing in their organisation, not just for VSL purposes, but more broadly. As part of this work, a new field was added to the VSL electronic Commonwealth Assistance Form (eCAF) earlier this year. This new data is expected to provide some insight into student entry pathways within the program. Analysis of the data will be undertaken as this work continues.

The questions below are aimed at gaining a better understanding of the use of LLN testing. We are also interested in how providers assess academic suitability for their students more broadly.

### Questions

1. What experiences have you had using one of the VSL approved LLN tests for VSL approved course entry requirements? What feedback have you had from your students about the test? Are there any cohorts of students that are uniquely impacted by the testing or that have a particular type of experience completing the testing? Please explain.
2. If your organisation has the information available, on average, what proportion of your VSL students have been required to undertake an LLN test to establish academic suitability?
3. Do you use other LLN tests, in addition to the VSL prescribed tests, to assess academic suitability? If so, why or in what circumstances, do you use another test?

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<sup>7</sup> S80 of the Rules

### Questions (continued)

4. Have you required students to take a VSL approved LLN test where they had already met one of the other academic suitability requirements (for example, completed high school, or other studies)? If so, what is the reason for requiring the test in addition to another pathway being met? please specify the requirement.
5. Are you required by other legislation or government programs (including by state or territory governments) to apply specific academic entry requirements, including specified LLN tests? If yes, please specify the requirement.
6. What kind of activities (for example, LLN testing, interviews, other assessments) form part of your student suitability assessment procedure, (that is, help you meet the requirements of clause 5.1 of the RTO Standards on providing advice to learners about courses that are suitable to their skills and competencies)?
7. Do you think academic suitability requirements set out in the VSL Act and Rules are easily understood? If not, what could be done to promote better understanding for providers?

## Appendix A: Table for provider responses/Feedback to questions

Please use this written template to provide your submission feedback/responses to the proposals and questions in this paper.

### Dividends

Proposal: to adopt a more flexible requirement which provides that dividends may only be paid where the distribution does not materially prejudice the company's ability to pay its creditors.

Questions	Response/Feedback
1. What legitimate reasons are there for an organisation to make a dividend distribution that is inconsistent with the existing requirement in s24(1) of the Rules? More examples will help support the case for change.	
2. Do you perceive of any issues with moving to a more flexible dividend requirement? Please explain.	
3. What would be the key benefits for providers if we adopt a more flexible approach?	



## Related party transactions

Proposal: to expand the requirement for related party transactions beyond goods and services, to include other types of transactions, such as payments to related parties for loans. Consideration would be given to using a general test, such as transactions needing to be on terms that a reasonable person would agree to, or something similar. This would allow for consideration of a broader range of transactions when assessing provider's financial performance for related party transactions.

Questions	Response/Feedback
1. Do you perceive any issues in moving to an improved test for related party transactions that better aligns with other financial frameworks? Please be specific in your response.	
2. What benefits might flow from making the proposed changes to related party transactions?	

## Annual financial statements

Proposal: to change the timing of the requirement so that the submission of financial statements can occur within 4 months of the end of the financial year, allowing an additional month for submission.

Questions	Response/Feedback
1. Do you perceive any issues in extending the time for submission of financial statements? Please explain.	
2. How would extending the time for submission of financial statements assist your organisation?	

## Social media marketing

Proposal: to allow providers to reference the availability of VSL on social media. It is also intended that broader marketing rules under section 142 of the Rules, which set out a range of requirements as to form and substance, will continue to apply.

Questions	Response/Feedback
1. If this change were implemented, would you take up the opportunity to make greater use of social media for marketing purposes? If not, why? If yes, what platforms might you use?	
2. What proportion of your website traffic is directed from social media?	

## Reduced reporting for providers

Proposal: to reduce the amount of information for some Annual Forecast or approval processes for lower risk providers.

Questions	Response/Feedback
1. What would be the impact or effect on your organisation, in terms of a change in focus for the Annual Forecast process as proposed above?	
2. Do you perceive and issues with the proposed approach?	

## Academic entry requirements

Proposal: to better understand how providers use LLN testing in their organisation, and how providers assess academic suitability for their students more broadly.

Questions	Response/Feedback
1. What experiences have you had using one of the VSL approved LLN tests for VSL approved course entry requirements? What feedback have you had from your students about the test? Are there any cohorts of students that are uniquely impacted by the testing or that have a particular type of experience completing the testing? Please explain.	
2. If your organisation has the information available, on average, what proportion of your VSL students have been required to undertake an LLN test to establish academic suitability?	
3. Do you use other LLN tests, in addition to the VSL prescribed tests to access academic suitability? If so, why or in what circumstances, do you use another test?	
4. Have you required students to take a VSL approved LLN test where they have already met one of the other academic suitability requirements (for example., completed high	

Questions	Response/Feedback
<p>school, or other studies)? If so, what is the reason for requiring the test in addition to another pathway being met?</p>	
<p>5. Are you required by other legislation or government programs (including by state or territory governments) to apply specific academic entry requirements, including specified LLN tests? If yes, please specify the requirement.</p>	
<p>6. What kind of activities (for example, LLN testing, interviews, other assessments) form part of your student suitability assessment entry procedure, (that is, help you meet the requirements of clause 5.1 of the RTO Standards on providing advice to learners about courses that are suitable to their skills and competencies)?</p>	
<p>7. Do you think the academic suitability requirements set out in the VSL Act and Rules are easily understood? If not, what could be done to promote better understanding for providers?</p>	

## General feedback

Please provide any other comments you would like to make about the VSL program: