



Australian Government

VET **Student** Loans

Compliance Strategy

November 2023

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The document must be attributed as the VSL Compliance Strategy.

Version control

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0.1	January 2017	Skills Programs Compliance	Development of document
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1.1	October 2020	Skills Programs Compliance	Review
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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 or their Delegate
VET	Vocational Education and Training
VSL	VET Student Loans
VSL Act	<i>VET Student Loans Act 2016</i>
VSL Rules	VET Student Loans Rules 2016

CONTENTS

Version control	3
Glossary	3
Overview.....	5
Compliance Strategy goals	5
Risk-based compliance approach	5
Compliance model.....	6
Prevent	7
Prevention strategies	7
Eligibility, suitability and conditions	7
Education and communication.....	7
Publication of information.....	7
Detect	8
Detection strategies	8
Monitoring program data and VSL approved provider payments.	8
Audits.....	8
Student Surveys.....	8
Complaints.....	8
Intelligence and information sharing	9
Response	9
Corrective and Enforcement action	9
Investigations.....	9
Compliance actions.....	9
Civil penalties.....	11
Criminal offences.....	12
Personal liability for executive officers	13
Further information.....	13

Overview

The VET Student Loan (VSL) program commenced on 1 January 2017 and provides income contingent loans to (VET) students for training that improves employment outcomes and meets workplace needs in areas of national skills priority.

The Department of Employment and Workplace Relations (the department) is responsible for administering the VET Student Loans program through the [VET Student Loans Act 2016 \(the VSL Act\)](#) and the [VET Student Loans Rules 2016](#) (the VSL Rules) and associated supporting documentation. To achieve the objectives of the program, the department aims to encourage, strengthen, and enforce the compliance of VSL approved providers with the regulatory requirements of the VSL program.

The VSL Act and the VSL Rules set out the legislative requirements that underpin the VET Student Loans program and provide 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.

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

Compliance Strategy goals

The department's overall goal is to encourage, strengthen and enforce compliance by VSL approved providers with the legislative and regulatory requirements of the VSL program. Through this, the department aims to:

- protect the interests of VET students, and maximise the educational experience of students
- ensure the appropriate spending of public monies
- maintain the integrity of the VSL program, and
- support VSL approved providers to remain compliant.

The department's primary focus is on preventing and deterring non-compliance of VSL approved providers, through effective communication and outreach with VSL approved providers, while responding proportionality to instances of non-compliance.

The department works closely with the National VET Regulator, 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 is responsible for ensuring providers meet the requirements of *the Standards for Registered Training Organisations 2015 made under the National Vocational Education and Training Regulator Act 2011*.

Risk-based compliance approach

The department takes a risk-based approach to compliance to identify providers at risk of non-compliance. This risk-based approach allows the department to direct its resources towards the areas of potential 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 VSL program (such as opportunistic targeting of the program or other 'sharp practices').

The department is committed to continually improving the administration of the VSL program and will take action to address any identified gaps or weaknesses.

Diagram 1 outlines the department’s risk-based compliance approach.

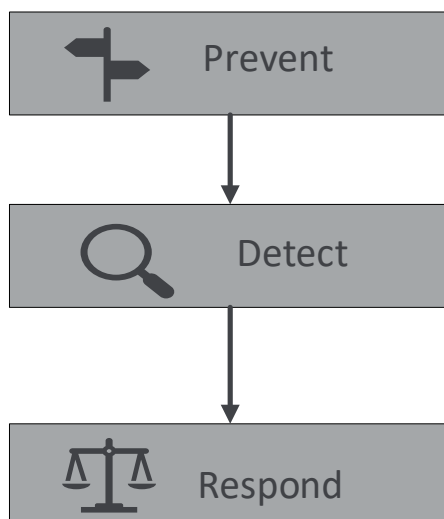
Diagram 1 – Risk-based compliance approach

Low Risk of non-compliance		High Risk of non-compliance	
Department’s compliance approach			
Support Ensure maintaining ongoing compliance is easy	Inform Provide information and resources, and assist providers to become and remain compliant	Correct Deter poor behaviours through accurate and thorough detection	Enforce Enforce compliance through legislated powers
Provider’s attitude to compliance			
Voluntary Compliance The provider has effective compliance systems and management is compliance orientated	Unintentional non-compliance Where the provider has ineffective/new compliance systems and management is compliance orientated but lack capability	Opportunistic non-compliance The provider is generally resistant to compliance, has limited or poor management systems and management is not compliance orientated	Wilful non-compliance The provider is deliberately non-compliant, or has no compliance systems and there may be criminal/fraudulent intent
“We are committed to doing the right thing”	“We are trying to do the right thing, but we don’t always succeed”	“We don’t want to comply, but we will if we are made to”	“We have made a conscious decision to be non-compliant”

Compliance model

Aiming to encourage voluntary compliance, the department will adopt a consistent, risk-based approach to compliance activities. In doing so, the department will openly engage with VSL approved providers throughout the compliance process. Decisions made will be fair and equitable, and any action taken to remedy non-compliance will be proportionate to the risks.

The model considers the nature of the behaviour being observed and recommends monitoring practices to prevent, detect and respond to non-compliance.



Prevent

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

Prevention strategies

Eligibility, suitability and conditions

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

Critically, VSL approved providers **must** remain compliant with their legislative and regulatory requirements and maintain the organisational capacity and administrative resources to comply with these requirements to maintain their approval under the VSL program. Other requirements include (but are not limited to), that a provider must:

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

VSL approved 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 VSL program.

Education and communication

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. The department also provides advice on systems and procedures and issues a provider newsletter every two months to keep providers informed on upcoming policy or procedural changes and trends and issues. However, it is the VSL approved provider's responsibility to ensure it has effective governance, risk, and compliance structures in place.

VSL approved 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 will assist a student in determining whether to enrol in a VSL approved provider's course or their eligibility for the VSL, or that will encourage compliance with the VSL Act by VSL approved providers.

Information published by the department includes (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.

The department may also require a VSL provider to release or publish such information as outlined in the VSL Act and the VSL Rules.

Detect

Risk-based compliance monitoring and detection activities assist the department to target its resources and detect potential instances of non-compliance at the earliest possible opportunity.

Detection strategies

Monitoring program data and VSL approved provider payments.

The department collects and analyses a wide range of data during program administration. The department analyses this data (and other data sources) to assess potential anomalies or instances of non-compliance.

Program data, including student loans, is analysed on an ad-hoc basis across the entire cohort of providers and trends in loans, complaints and enquiry information, student progression form data, Electronic Commonwealth Assistance Form (eCAF) data and other data sources are reviewed to identify any potential non-compliance.

Audits

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

Compliance audits

VSL approved provider compliance audits are conducted in accordance with section 45 of 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 through 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.

Desktop audits

Desktop audits of VSL approved providers conducted by the department may include:

- reviewing publicly available information about providers, including the provider's website and media reports, and
- seeking information about a provider's compliance, either directly from the provider through information request powers in the VSL Act or from other persons.

Student Surveys

The department undertakes regular student surveys to seek feedback on a students' VSL experiences and the VSL approved course, including the enrolment process (amongst other things).

Complaints

The department monitors complaints made through the National Training Complaints Hotline and other departmental channels for potential non-compliance issues.

Since 1 July 2017, the VET Student Loans Ombudsman (VSLO) has been responsible for assessing and managing student complaints about the VSL 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 several sources including:

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

Where there is information suggesting potential non-compliance with the Standards for RTOs, the department will 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 (ATO).

Response

The department will take a proportionate response to non-compliance where it is identified and substantiated. The department's response will consider:

- the available information and evidence,
- the seriousness of the potential non-compliance, and
- the provider's attitude to compliance.

The response to non-compliance, where it is identified and substantiated may include:

- education,
- corrective action, and/or
- enforcement action.

In responding to non-compliance, the department adheres to its legal obligations and procedural fairness.

Corrective and Enforcement action

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

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

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	Compliance action description
Section 20	<p>Withholding Loan Payments</p> <p>The Secretary is not required to pay loan amounts to providers in certain circumstances, including where the Secretary has reasonable grounds to suspect a VSL approved provider is not complying with the VSL Act or where the provider’s approval has been revoked, suspended or has expired.</p>
Section 34	<p>Conditions on Approval</p> <p>The Secretary may impose or vary conditions on a VSL approved provider’s approval. This can include 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.</p>
Section 35	<p>Automatic Revocation of Approval</p> <p>If a VSL approved provider is wound up, their approval is revoked when the winding up commences.</p>
Section 36	<p>Revocation or Suspension of Approval</p> <p>The Secretary may revoke or suspend a VSL approved provider’s approval if the Secretary is satisfied that the provider is not complying with the VSL Act.</p>
Section 37	<p>Immediate Suspension of Approval</p> <p>Where the Secretary suspects, on reasonable grounds, that the VSL approved provider is not complying with the VSL Act and is satisfied that the circumstances require urgent action, the Secretary may suspend the VSL approved provider’s approval without first giving a notice of intention to suspend.</p>
Section 43	<p>Compliance Notice</p> <p>Where the Secretary is either satisfied the VSL approved provider is not complying with the VSL Act or is aware of information which suggests the provider may not be complying with the VSL Act, the Secretary may issue a provider with a compliance notice setting out actions that the provider must take (or refrain from taking) and the associated timeframe to address potential non-compliance.</p>
Section 45	<p>Compliance Audit</p> <p>The Secretary may require a VSL approved provider to be audited for the purposes of determining whether they are complying with the VSL Act and/or whether one or more students enrolled by the provider are genuine students.</p>
Section 53	<p>Request for Information</p> <p>The Secretary may require a VSL approved provider to give the Secretary information or documents that relate to the provision of their vocational education and training or their compliance with the VSL Act.</p>
Section 103	<p>Publishing Information</p> <p>The Secretary may publish information or require a VSL approved provider to publish such information, including to encourage compliance by a VSL approved provider. This could include information about compliance action undertaken under the VSL Act in relation to the VSL approved provider.</p>
Section 104	<p>Requiring Provision of Information about Compliance</p> <p>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.</p>

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 VSL application that a student is required to complete.	120
Subsection 17(6)	Providing VSL 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 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 VSL 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 VSL for a course.	120

Section	Description	Penalty Units
Subsection 62(1)	Engaging in cold calling to market, advertise or promote a course and mentioning the availability of a VSL 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 VSL 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 ¹ 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 however it 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 Units
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
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

¹ 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.

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.