

Provider e-newsletter—October 2021

Welcome to the October edition of the VET Student Loans Ombudsman newsletter.

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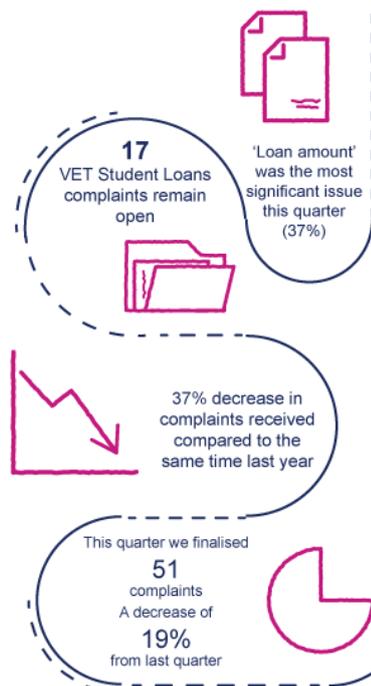
VET Student Loans quarterly update

Our updates provide information about the complaints we received and finalised during the quarter, as well as common issues raised in those complaints. Our quarterly updates for 1 January –31 March 2021 and 1 April–30 June 2021 are available on the Office’s website, [here](#).

Quarterly update at a glance

1 January—31 March 2021

VET Student Loans Complaints



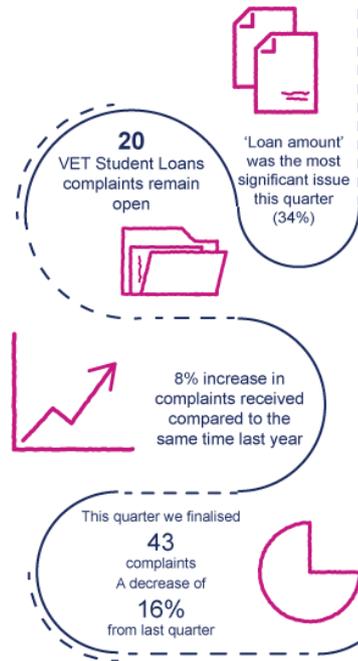
VET FEE-HELP Complaints



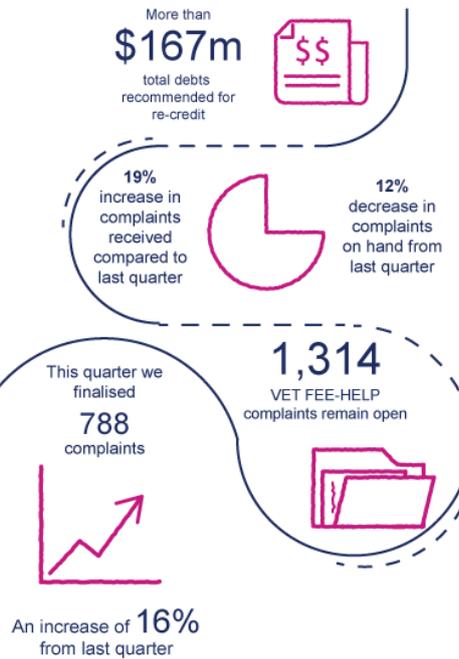
Quarterly update at a glance

1 April—30 June 2021

VET Student Loans Complaints



VET FEE-HELP Complaints



VET FEE-HELP Student Redress Measures—Extension

The Student Redress Measures were due to end on 31 December 2020, but the Australian Government decided to extend them to 31 December 2022. For complaints made after 31 December 2020, complainants need to explain the exceptional circumstances that meant they did not make a complaint earlier.

The term 'exceptional circumstances' is broadly defined and could include the following:

- The complainant did not know they had a VET FEE-HELP debt or did not know it could be cancelled under the measures.
- The complainant, or someone they were caring for, was impacted by COVID-19 or a disability or illness between 1 January 2019 and 31 December 2020.
- The complainant has trouble understanding or communicating in English.
- The complainant was under financial stress – such as homelessness or unemployment.
- The complainant tried to make a complaint earlier, but something went wrong.



We have updated our factsheet about the VET FEE-HELP Student Redress Measures (available [here](#)) to reflect these changes.

VET FEE-HELP Student Redress Measures—understanding the threshold for re-credit

The VET FEE-HELP Student Redress Measures were enacted through the *Higher Education Support Amendment (VET FEE-HELP Student Protection) Act 2018 (Cth)*. These measures apply retrospectively and enable the Secretary of Department of Education, Skills and Employment (the department) to re-credit VET FEE-HELP (VFH) debt incurred because of *'inappropriate conduct'* by a VET provider or agent.

Since January 2019, our Office's role in the Student Redress Measures has been to assess and make a recommendation to the Secretary of the department or their delegate about whether a student's loan should be re-credited, and the relevant debt removed. When assessing if a person's VFH debt is eligible under the Redress Measures, we consider whether it is *reasonably likely* that:

1. the student did not complete the requirements for the unit of study, regardless of whether the student is recorded as having completed the unit
2. a VET provider (or its agent) engaged in inappropriate conduct towards the student in relation to a unit of study or course of study of which the unit forms a part.

The *reasonable likelihood* standard of proof benefits complainants because it is easier to meet than the *balance of probabilities* standard of proof, which is the threshold that is usually used for administrative decisions.

This 'lower' standard of proof recognises it can be difficult to obtain definitive evidence of events that occurred 5 to 10 years ago in circumstances where written records were often not kept, and the education provider may no longer be operating.

The only circumstances in which a provider may be liable for the costs of a re-credit under the Student Redress Measures are where the student:

- was not entitled to VFH assistance, for example because they were not an Australian citizen, or
- incurred a VFH debt because of *'unacceptable conduct'* by a VET provider or their agent, as set out in the legislation. These provisions deal with specified conduct which occurred from 1 January 2016 and the *'balance of probabilities'* standard of proof applies.

VET FEE-HELP Student Redress Measures—promotion



In May 2021, we attended the Financial Counselling Australia Conference in Darwin and met with local organisations that provide services and support to Aboriginal and Torres Strait Islander communities.

In June 2021, in conjunction with the department, we released an awareness campaign which included:

- social media posts (Facebook and Twitter) targeting impacted students, and the parents of impacted students
- distributing updated posters, pamphlets, and fact sheets to government agencies, education peak bodies and community support organisations/groups who are likely to encounter and/or assist affected students.

The aim of both activities was to promote the extension of the Student Redress Measures, particularly in disadvantaged and remote communities, and to raise awareness of the Office's role in handling complaints about VFH debts.

VET Student Loans Case Study—loan caps

Our Office received a complaint from a student* who had incurred a VET Student Loan (VSL) debt with a provider that closed approximately 2 months after their course commenced. At the time provider closed, the student could not find a replacement provider who offered a payment plan for the gap fees and could not continue their studies.

Approximately 2 years later, the student enrolled in the same diploma with a provider who agreed to offer them a payment plan for the gap fee and they commenced the course again. The complainant engaged in studies with this provider for around 12 months and was close to completing their study when the provider wrote to advise they had exceeded the loan cap for the course and were now liable for an additional \$8,000 in gap fees.

The complainant was aware of the loan cap but believed that when their original provider closed, they would not incur a debt with that provider. When they enrolled to start the course again, the complainant did not mention the previous studies to the new provider or advise they had previously accessed VSL for the same course. Similarly, the provider did not ask whether the student had engaged in previous studies or accessed VSL for that course.

As a result, the complainant was in a situation where they had almost completed their studies and were financially vulnerable because they could not afford to pay the additional gap fees.

Our Office was not able to assist the complainant regarding the payment of gap fees to their current provider. However, we assessed the behaviour of the closed provider towards the student and referred the complainant to the Department of Education, Skills and Employment for consideration of a re-credit of the VSL debt incurred with the closed provider.

We suggest providers ask all students who apply for a VSL whether they have previously applied for a VSL for the same course with another provider. This creates an opportunity to discuss the impact of the loan cap early in the process and reduces the risk of the student and provider being placed in a difficult position.

*De-identified for privacy purposes.

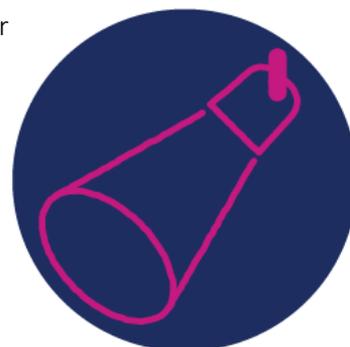
Spotlight on: Managing complainant expectations

When a student makes a complaint to their provider, they may expect or hope for an outcome that is unreasonable, inappropriate, or unattainable, such as financial compensation or having a staff member fired. To avoid disappointment and escalated complaints, it is best to manage a complainant's expectations as early as possible.

In the first contact with the complainant, clarify the issues the complainant is concerned about and the outcomes they are seeking. Explain the complaints process, what will happen next, timing, responsibilities of both parties and possible outcomes.

If it will not be possible to provide the complainant's desired outcome, be honest about this at the outset. One approach may be to say, 'So that you are not disappointed later, I should clarify that it is not possible to...because...but we may be able to...'

You can read more about complaint handling in the Commonwealth Ombudsman's [Better Practice Complaint Handling Guide](#) and the NSW Ombudsman's manual for [managing unreasonable conduct by a complainant](#), which are both available on the [Commonwealth Ombudsman website](#).



New Website Publication

Like other businesses, education providers do not always get things right and an effective apology can go a long way to rebuilding trust and confidence. To assist, we have recently published new guidance material for education providers on [how to deliver an effective apology](#).

Better Practice Complaints Management Workshops

Part of our Office's role is to provide support to education providers to develop and implement best practice approaches to complaint handling.

We can do this via a 3 hour interactive workshop on complaint management conducted at your premises or online. Ideal workshop groups are 12 to 20 participants and include staff who are directly involved in considering complaints, administrative staff who receive complaints, and staff who deal with complainants while their complaint is being considered.

If your organisation would like to schedule a workshop during 2021 or 2022, please contact us at VET.StudentLoans@ombudsman.gov.au. In your email, please provide an estimate of the number of staff who would like to attend the workshop.

VET Student Loans Code of Practice

On 30 June 2021 we released the VET Student Loans Code of Practice (the Code), which is available on our website [here](#). Thank you to all the education providers who contributed to our consultation activities.

The Code is intended as a practical resource and contains 10 better practice principles to target issues our Office has observed in complaints it receives about VET student loans and providers' handling of complaints about VET student loans. It includes practical guidance about how providers can apply each principle, as well as useful tips to help education providers and students resolve complaints.

To obtain further information about the Code, including how your organisation can become a signatory, please email VSL.codeofpractice@ombudsman.gov.au.

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