

# Answers to frequently asked questions by VET FEE-HELP approved providers

This factsheet provides answers to the most frequently asked questions by VET FEE-HELP providers.

## How does the VSLO process VET FEE-HELP complaints?

If a person is recorded as having a VET FEE-HELP debt but believes they should not be liable for the debt, they may complain to the VET Student Loan Ombudsman (VSLO). The VSLO may undertake a formal investigation and/or assess the complaint under the VET FEE-HELP Student Redress Measures.

The VSLO will often make a preliminary inquiry with the relevant VET provider under s 7A of the *Ombudsman Act 1976* to determine whether or not to investigate a complaint. Based on the response received from the VET provider, the VSLO may decide not to investigate but instead assess the complaint under the VET FEE-HELP Student Redress Measures.

A VSLO assessment under the VET FEE-HELP Student Redress Measures will consider the student's complaint against the matters set out in the legislation that underpins the Student Redress Measures. The VSLO may identify no misconduct by the provider, or identify inappropriate conduct or unacceptable conduct by the provider. If any of the conduct identified may lead to a decision by the Secretary (or delegate) of the Department of Employment and Workplace Relations (DEWR) to recover monies from the VET provider, the VSLO will afford that provider a further opportunity to supply information and/or comment before concluding its assessment.

At the conclusion of its assessment, the VSLO may make a recommendation to the Secretary of DEWR that the debt be re-credited or not be re-credited. The Secretary (or delegate) of DEWR will make the decision on whether a re-credit will or will not be made.

## What are the VET FEE-HELP Student Redress Measures?

The Student Redress Measures came into effect on 1 January 2019 to provide a remedy for students who incurred debts under the former VET FEE-HELP scheme due to the inappropriate conduct of their training provider or its agents. Units are only eligible for consideration under the Student Redress Measures if the student has not, or is taken to have not, completed the requirements for the unit.

### Contact us

[VET.ombudsman.gov.au](http://VET.ombudsman.gov.au)  
1300 362 072

GPO Box 442  
Canberra ACT 2601

### The Ombudsman has offices in:

- » Adelaide
- » Brisbane
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- » Melbourne
- » Perth
- » Sydney

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## Who makes the final decision on whether to re-credit a VET FEE-HELP debt?

The Secretary (or delegate) of the Department of Employment and Workplace Relations (DEWR) will make the decision on whether to re-credit or not re-credit a student's VET FEE-HELP debt. The VSLO may make a recommendation to DEWR that will help inform the Secretary's decision.

Re-credits are based on the amounts charged for units of study as entered by the provider into the Higher Education Information Management System (HEIMS).

## How is assessment under the VET FEE-HELP Student Redress Measures different from a VSLO investigation?

Assessment under the Student Redress Measures is restricted to the identification of specific matters described by the *Higher Education Support (VET) Guideline 2015*. Options for resolving a complaint through assessment under the Student Redress Measures are limited to the VSLO making a recommendation to the Secretary of the Department of Employment and Workplace Relations on whether to re-credit or not to re-credit a student's VET FEE-HELP debt. If the Secretary (or delegate) decides to re-credit a student it will be for the full amount of the VET FEE-HELP debt associated with the relevant unit/s of study.

In performing their functions under the *Ombudsman Act 1976*, the VET Student Loans Ombudsman may conduct an investigation in relation to a complaint made about a broader range of matters as well as on their own initiative. There is also a broader range of options available to resolve the complaint. The investigations process will involve a formal examination under s 8 of the *Ombudsman Act 1976*.

## What matters does the VSLO consider when assessing a complaint under the VET FEE-HELP Student Redress Measures?

The Ombudsman can recommend that the Secretary of the Department of Employment and Workplace Relations (DEWR) or the Secretary's delegate re-credit a complainant's VET FEE-HELP balance under cl 46A or 46AA of Schedule 1A to the *Higher Education Support Act 2003* (HESA).

To make a recommendation to re-credit due to unacceptable conduct under cl 46A of sch 1A to HESA, the Office must be satisfied on the balance of probabilities that:

- the complainant had been enrolled in the VET unit of study (unit) with the VET provider; and
- the complainant did not complete the requirements for the unit; and
- the VET provider (or an agent of the VET provider) engaged in unacceptable conduct in relation to the complainant's request for Commonwealth assistance relating to the unit or the VET course of study of which the unit forms a part.

To make a recommendation to re-credit due to inappropriate conduct under cl 46AA of sch 1A to HESA, the Office must be satisfied that it is reasonably likely:

- the complainant has not, or is taken to have not, completed the requirements for the unit; and
- the VET provider (or an agent of the VET provider) engaged in inappropriate conduct towards the complainant in relation to the unit or the VET course of study of which the unit forms a part.

The *Higher Education Support (VET) Guideline 2015* lists matters that must be considered when assessing whether inappropriate or unacceptable conduct took place. For example, the VSLO will consider whether the provider:

- engaged in conduct that involved treating the student as being entitled to VET FEE-HELP assistance when they

were not

- failed to issue VET FEE-HELP invoice notices and/or Commonwealth Assistance Notices (CANs) on time, in the manner required by the VET Guidelines, or failed to include information required under the VET Guidelines
- failed to action a written pre-census date withdrawal request in relation to enrolment or VET FEE-HELP assistance
- on or after 1 January 2016, did not charge fees in accordance with Part 7 of the VET Guidelines (failed to apportion tuition fees appropriately or misquoted / underestimated tuition fees for the VET course)
- used physical force, harassment or coercion
- made unsolicited contact with the student and suggested that VET FEE-HELP assistance might be available (however described) for a VET course if the person were to enrol, and it is reasonably likely that the suggestion induced the person to enrol and request VET FEE-HELP assistance
- offered or provided a benefit which is reasonably likely to have induced the person to enrol and apply for VET FEE-HELP assistance
- failed to comply with Australian Consumer Law provisions relating to unsolicited consumer agreements
- had barriers preventing the student from fulfilling an expressed intention to withdraw before the census date
- engaged in unconscionable conduct
- engaged in misleading or deceptive conduct
- had a history of non-compliance with:
  - HESA and regulations made under HESA; and
  - the VET Guidelines; and
  - any conditions imposed on the provider's approval as a VET provider; and
  - the *National Vocational Education and Training Regulator Act 2011*;

in relation to the provider's (or the agent's) conduct towards any student.

Whether the student was a vulnerable person must also be considered.

## How is provider conduct categorised as either recoverable or non-recoverable under the VET FEE-HELP Student Redress Measures?

### Recoverable

Where the Secretary (or delegate) of the Department of Employment and Workplace Relations (DEWR) is satisfied that the provider treated the student as entitled to VET FEE-HELP assistance when they were not or that the provider engaged in unacceptable conduct towards the student, they may make a decision to seek cost recovery from providers, administrators or liquidators in relation to the amount re-credited.

Where the VSLO intends to make a recommendation to DEWR that may result in a decision to seek cost recovery, the provider will be notified and afforded the opportunity to make comment and supply further information to the VSLO before the recommendation is finalised.

### Non-recoverable

Where a recommendation concerns inappropriate conduct by a provider (in relation to issues other than the student's entitlement to the loan), recovery from the provider will not be pursued.

For further information on matters that must be considered in relation to inappropriate and unacceptable conduct, please see the answer to the question 'What matters does the VSLO consider when assessing a complaint under the Student Redress Measures?'

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## What can a VET provider do to resolve a complaint once the VSLO has commenced inquiries or an investigation?

A VET provider may choose to resolve the dispute with the complainant. This resolution may involve the provider re-crediting the VET FEE-HELP debt that was the subject of the dispute. If the VSLO receives notification from the provider that the dispute has been resolved, it will confirm this with the complainant and cease its assessment/investigation of the matter.

## When does the VSLO notify the VET provider of the outcome of its complaint handling processes?

The VSLO will send a letter to each provider prior to making any request for information. The letter will outline the following notification arrangements.

If the Ombudsman intends to recommend that the Secretary (or delegate) of the Department of Employment and Workplace Relations (DEWR) re-credit a student's VET FEE-HELP debt under a provision that involves a cost recovery mechanism, the provider will be notified and afforded procedural fairness (an opportunity to supply the VSLO with further information or comment relevant to its assessment). The VET provider may make a written submission within 28 days about why the proposed recommendation should not be made or, if the recommendation is to be made, why any of the reasons should be reconsidered.

If the Ombudsman decides to recommend that DEWR does not re-credit the student or that DEWR re-credit the student under a provision that does not involve a cost recovery mechanism, the VSLO will not notify the provider unless previously agreed.

## Why might the VSLO contact a provider again after previously advising that no action would be taken?

In rare instances, the VSLO may have previously determined investigation or further investigation of a complaint was not warranted. Such complaints may now be eligible for assessment under the VET FEE-HELP Student Redress Measures. In these circumstances, the VSLO may make additional inquiries to inform its decision regarding resolution of the complaint under the Student Redress Measures. Where this occurs, the VSLO will coordinate with the provider to avoid duplication of effort.

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More information is available at [VET.ombudsman.gov.au](https://vet.ombudsman.gov.au).

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