



20 July 2015

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Senate Education and Employment Committees  
PO Box 6100  
Parliament House  
Canberra ACT 2600

Dear Committee Members,

### **Supplementary submission on private VET providers**

The Consumer Action Law Centre (**Consumer Action**) welcomes the opportunity to provide a supplementary submission on the operation, regulation and funding of private vocational education and training (**VET**) providers in Australia.

Since our initial submission to the Committee on 12 February 2015, a number of reforms have been introduced by the Federal Government to protect students with VET FEE-HELP loans. These reforms will help to stamp out some of the most unscrupulous practices that have resulted in complaints to our centre.

However, it is important that these reforms are rigorously enforced and extended to all VET courses to ensure that students have appropriate consumer protections regardless of how they choose to pay for their study. It is also critical that the financial burden of poor sales and enrolment practices is shifted from students and taxpayers to the offending training providers. The establishment of a free and effective external dispute resolution scheme, and an appropriate remediation framework, will help to achieve this goal.

Our comments are detailed more fully below.

### **1. About Consumer Action**

Consumer Action is an independent, not-for profit consumer organisation based in Melbourne. We work to advance fairness in consumer markets, particularly for disadvantaged and vulnerable consumers, through financial counselling, legal advice and representation, and policy work and campaigns. Delivering assistance services to Victorian consumers, we have a national reach through our deep expertise in consumer law and policy and direct knowledge of the consumer experience of modern markets.

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## 2. Summary of recommendations

1. Extend recent reforms to the VET FEE-HELP scheme to all VET courses, including those provided by third parties.
2. Improve the way VET regulators report on their enforcement work to the community.
3. Improve VET regulators' use of the media to increase the deterrence value of their enforcement actions and to gain maximum educative value from enforcement outcomes.
4. Ensure the effectiveness of the regulatory framework, including regulators themselves, is regularly reviewed.
5. Ensure that VET regulators are provided with appropriate resources and powers, including providing responsibility for the regulation of the VET FEE-HELP scheme to the Australian Skills Quality Authority as the national VET regulator.
6. The National Training Complaints Hotline inform complainants about how to resolve individual complaints.
7. The Federal Government increase awareness of the National Training Complaints Hotline, perhaps by requiring training providers to notify students of its availability.
8. Regulators and other relevant departments work more closely together to improve compliance and enforcement outcomes, and reduce the complexity of the complaints process.
9. Student remediation be retrospective, and the Federal Government ensure that the process for seeking VET FEE-HELP debt refunds is simple and effective.
10. Training providers be required to notify students of their right to seek VET FEE-HELP loan refunds and the process for doing so.
11. Students who incur a VET FEE-HELP debt but do not start their course (or failed to participate) be prima facie entitled to a refund.
12. The student remediation framework include compensation by training providers for consequential losses following enforcement action.
13. Establish a national industry ombudsman to resolve disputes between domestic students and training providers.

### 3. Recent VET FEE-HELP reforms

The Federal Government has introduced a range of reforms to the VET FEE-HELP student loan scheme, with the first tranche of reforms coming into effect on 1 April 2015. We have welcomed these reforms,<sup>1</sup> which are intended to improve the quality of VET and to protect vulnerable students and taxpayers.<sup>2</sup>

The reforms address some of the most predatory practices we have seen in our casework, particularly measures to:

- ban inducements to students;
- remove withdrawal fees and other administrative barriers to withdrawal;
- ban the marketing of VET FEE-HELP-supported training as 'free' or 'government-funded';
- prohibit acceptance of VET FEE-HELP applications until two business days after enrolment to restrict quick or pressure selling; and
- ensure students no longer incur a VET FEE-HELP debt for a whole course upfront.

In our view, these important reforms should be extended to all VET courses to ensure that students have the same protections regardless of how they choose to pay for their course. It is also critical that these new regulations are actively and publicly enforced by relevant regulators.

#### *Extending reforms to other VET courses*

Students who choose to pay for their study with VET FEE-HELP loans now have far greater consumer protections than those who choose to pay from their own pocket. However, many of the poor practices that led to the VET FEE-HELP reforms are also seen in non-VET FEE-HELP courses.

Of particular concern are courses, including those comprising multiple years of study, where students are liable for the full cost of a course upfront, even if they never attend a class. This is in stark contrast to university, where you incur liabilities incrementally. From 1 January 2016, tuition fees for VET FEE-HELP courses will also have to be spread evenly over four periods for each course. Students will receive invoices two weeks before each census date. The Federal Government said this is 'effectively banning the practice of the VET FEE-HELP loan debt for the whole qualification being levied on a student in one hit upfront.'<sup>3</sup>

The disparity in protections between VET FEE-HELP and non-VET FEE-HELP students is not only unfair, but also significantly reduces competition between non-VET FEE-HELP training providers as students are unable to move between providers.

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<sup>1</sup> Consumer Action Law Centre, 'New protections for VET students welcomed', 1 July 2015, available at: <http://consumeraction.org.au/new-protections-for-vet-students-welcomed>.

<sup>2</sup> Department of Education and Training, 'VET FEE-HELP Reform', undated, available at:

[https://docs.education.gov.au/system/files/doc/other/ed15-0168\\_vet\\_fee\\_help\\_reforms\\_factsheet\\_update\\_05\\_acc.pdf](https://docs.education.gov.au/system/files/doc/other/ed15-0168_vet_fee_help_reforms_factsheet_update_05_acc.pdf)

<sup>3</sup> Ibid.

### **Carrie's story**

Carrie recently moved from country Victoria to Melbourne with Centrelink relocation assistance. Carrie enrolled in a two year Certificate IV in Allied Health Assistance with a private training provider on 30 April 2015. The course was due to commence on 30 May 2015. The course cost \$6,090 payable in weekly instalments of \$62.39. Carrie enrolled over the phone, and says she felt pressured by the salesperson to sign up quickly. Carrie contacted the training provider in mid-May 2015 and explained that she could not commence the course as she was unable to afford the course payments. The training provider informed Carrie that she would be required to pay the full amount, as the five day cooling off period had expired. Carrie has not yet resolved her dispute with the training provider.

### **Brenda's story**

Brenda found an Interior Design course online and contacted the private training provider to find out more information. The training provider interview her briefly over the phone. Brenda was told that it would be a difficult course to complete, the salesman said that Brenda could manage it. Brenda enrolled in a two year course at a cost of \$8,000 payable by weekly instalments of \$55. Brenda started the course but after 6 months she decided that she couldn't afford to continue and the course was too difficult for her.

Brenda discontinued the course but the weekly instalments continued to be withdrawn from her account. Brenda successfully cancelled the direct debit order, but had already paid the training provider approximately \$3,500. The training provider insisted that Brenda was liable for the full amount.

We have also seen non-VET FEE-HELP training providers offer inducements to students, and placing administrative barriers to withdrawal from courses. While these practices are now banned for VET FEE-HELP courses, training providers offering non-VET FEE-HELP courses are free to continue these practices.

### **Jim's story**

Jim says that he applied for a job working on the mines in South Australia via an online job board. Jim says he received a call from a recruiter, who told Jim that there was a fly in-fly out job available at the mines and invited him to an interview at their offices. Jim says that at the interview he was told that his application was successful and that he had got a position. However, he was told that he needed to complete a six month course in Fabrication Engineering, which included a welding kit, before he started.

Jim says that he paid an administration fee and attended an orientation day at the training provider's premises, where he was given a piece of paper to sign saying that he had not been given any promise of a job. Jim says he realised that there was no job available. Thankfully, Jim says that he did not sign a contract so does not believe his is liable for the course fees.

It is imperative that the recent Federal Government reforms are extended to non-VET FEE-HELP courses, so that students who choose to pay without student loans are not disadvantaged. We note that some VET courses are delivered by organisations that are not registered with ASQA. Some registered training organisations (**RTOs**) establish 'alliance partnerships' whereby they provide national recognition to training provided by non-RTOs. For example, the National Training Services Pty Ltd (**NTS**) website states:

*National Training Services Pty Ltd is an Australian registered training organisation regulated by the Australian Skills Quality Authority. NTS works with Alliance Partners to provide recognition of the training they provide, award Nationally Recognised certification and maintain the records and documentation required by State and Federal Government regulatory and funding authorities.<sup>4</sup>*

It is sometimes unclear from the training provider's website that it is not an RTO, and that these services are being delivered by a third party.<sup>5</sup> This is understandably confusing for many students, and it may be unclear from which training provider the student should seek a remedy in the event of misconduct. We recommend that in extending recent reforms to all VET courses, the obligations and liability of third party providers be clarified.

**Recommendation 1:** Extend recent reforms to the VET FEE-HELP scheme to all VET courses.

### *Enforcement*

It is also critical that the recent Federal Government reforms are actively and publicly enforced by relevant regulators. In 2013, Consumer Action published a report titled *Regulator Watch*,<sup>6</sup> which was conceived in the absence of a public mechanism to determine how much enforcement work was undertaken by various regulators. This report recommended that all consumer protection regulators significantly improve the way they report on their enforcement work to the community. We also recommended that regulators use the media to increase the deterrence value of their enforcement actions and to gain maximum educative value from enforcement outcomes. We reiterate these recommendations in this submission.

Unfortunately, we have already seen breaches of the new VET FEE-HELP reforms, which has highlighted the need for prompt and effective enforcement action.

### ***Jennifer's story***

Jennifer says that she received a unsolicited phone call in April 2015 on her landline from a person who claimed to represent 'Australian Vocational Training'. The caller offered Jennifer a laptop if she enrolled in one of their courses. Jennifer says that she is registered on the Do Not

<sup>4</sup> National Training Services, accessed 17 July 2015, available at: <http://www.nationaltrainingservices.edu.au/>.

<sup>5</sup> For example, see: <http://melbournefashioninstitute.com.au/>.

<sup>6</sup> Gordon Renouf, Teena Balgi and Consumer Action Law Centre, 'Regulator Watch: The Enforcement Performance of Australian Consumer Protection Regulators', March 2013, available at: <http://consumeraction.org.au/wp-content/uploads/2013/04/CALC-Regulator-Report-FINAL-eVersion.pdf>.

Call register. Jennifer was aware of the ban on offering inducements for enrolments, and says that she did not enrol in the course.

### ***Lesley's story***

We have received reports of door-to-door salesmen in a rural township offering inducements for enrolments in VET FEE-HELP courses from Lesley, a community worker. Lesley says that in one case she was called by her clients, who both have intellectual disabilities, while a salesman was in their home as her clients were wondering whether they should enrol in the course. Lesley says that she spoke to the salesman and explained that neither of her clients would be able to complete the course due to their disabilities, but was told by the salesman that it was their decision and hung up on her. Lesley says that the salesmen were targeting public housing areas in the town.

We note that to perform well, regulators must have appropriate resources. We need to equip the regulators in this sector not only with appropriate funding, but also the staff and investigative tools required to ensure the maximum public benefit can be obtained from investigations and enforcement actions. Regulators also need to be provided with the powers and jurisdiction to address complaints holistically, which would also help to reduce complexity for consumers.

In this regard, it seems counter-intuitive that the regulator for the VET FEE-HELP scheme is the Federal Department of Education and Training,<sup>7</sup> rather than the Australian Skills Quality Authority (ASQA). The Department of Education and Training may be able to revoke VET FEE-HELP registration,<sup>8</sup> but it appears ill equipped to undertake broader enforcement action and investigations. In contrast, under the *National Vocational Education and Training Regulator Act 2011* (Cth), ASQA can seek criminal and civil penalties, issue infringement notices and accept enforceable undertakings, among other things.<sup>9</sup> In our view, as the national VET regulator, ASQA should be responsible for the regulation of the VET FEE-HELP scheme. At the very least, we recommend the Department of Education and Training improve its reporting on VET FEE-HELP compliance activities.

The effectiveness of the regulatory framework, including regulators and relevant government departments, needs to be regularly reviewed. The *Regulator Watch* report noted some good practice frameworks that apply to regulators, including for the need for strong feedback loops between consumer organisations, consumer dispute resolution services, and regulators. We would encourage regular reviews of relevant regulators and the regulatory framework to ensure it is in fact ensuring compliance with regulatory obligations.

**Recommendation 2:** Improve the way VET regulators report on their enforcement work to the community.

**Recommendation 3:** Improve VET regulators' use of the media to increase the deterrence value of their enforcement actions and to gain maximum educative value from enforcement outcomes.

<sup>7</sup> The VET FEE-HELP scheme is largely governed by the *Higher Education Support Act 2003* (Cth) and *VET Guidelines 2015* (Cth).

<sup>8</sup> Division 5 of the *Higher Education Support Act 2003* (Cth).

<sup>9</sup> *National Vocational Education and Training Regulator Act 2011* (Cth).

**Recommendation 4:** Ensure the effectiveness of the regulatory framework, including the regulator itself, is regularly reviewed.

**Recommendation 5:** Ensure that VET regulators are provided with appropriate resources and powers, including providing responsibility for the regulation of the VET FEE-HELP scheme to the Australian Skills Quality Authority as the national VET regulator.

#### 4. Complexity of the regulatory framework

ASQA has jurisdiction over most VET providers, but Victoria and Western Australia also have their own regulators for VET providers that only deliver courses in these states. In Victoria, contraventions of the Australian Consumer Law are handled by the Australian Competition and Consumer Commission (**ACCC**) and Consumer Affairs Victoria. Victorian Government-funded course providers are regulated by the Victorian Department of Education & Training, while VET FEE-HELP is regulated by the Federal Department of Education & Training. Overseas students also have access to the Overseas Student Ombudsman. This complex regulatory regime makes it understandably difficult for students to know where to turn if they have a problem.

The establishment of the National Training Complaints Hotline (**the Hotline**)<sup>10</sup> has been a positive step towards reducing this complexity. We recommend that the Hotline not only refer complaints to the appropriate regulator, but inform complainants about how to resolve individual complaints. This could be as simple as explaining the role of regulators and referring students to local community legal assistance services for advice. We also recommend that the Federal Government increase awareness of the Hotline, perhaps by requiring training providers to notify students of its availability.<sup>11</sup>

We acknowledge that the complexity of the current regulatory framework is a difficult problem to solve, but believe improvements can be made to simplify the regulatory system from a consumer perspective. Regulators and other relevant departments must work more closely together to improve compliance and enforcement outcomes, and the complaints process. This co-operation should include, at a minimum, appropriate information sharing arrangements, transparent referral arrangements and the development of student portals to ensure the regulatory system is simple and effective from a consumer perspective. We also need to ensure that regulators are clear about their responsibilities, and that consumers are not being passed from regulator to regulator when making a complaint.

**Recommendation 6:** The National Training Complaints Hotline inform complainants about how to resolve individual complaints.

**Recommendation 7:** The Federal Government increase awareness of the National Training

<sup>10</sup> Department of Industry and Science, 'National Training Complaints Hotline', accessed 11 February 2015, available at: <http://www.industry.gov.au/skills/nationaltrainingcomplaintshotline/Pages/default.aspx>.

<sup>11</sup> For example, Australian credit licensees are required to include information in credit guides about the licensee's procedure for resolving disputes with a consumer, including contact details for a consumer to access the licensee's internal dispute resolution procedure and the approved external dispute resolution scheme of which the licensee is a member - section 126(2)(e) of the *National Consumer Credit Protection Act 2009* (Cth).

Complaints Hotline, perhaps by requiring training providers to notify students of its availability.

**Recommendation 8:** Regulators and other relevant departments work more closely together to improve compliance and enforcement outcomes, and reduce the complexity of the complaints process.

## 5. Remediation

We welcomed the Federal Government's announcement that it plans to introduce legislation that from 1 January 2016 will make it easier for students to remove VET FEE-HELP debts that have been unfairly applied. The Hon Senator Simon Birmingham says that these reforms will make it easier for the Government to cancel student debts that have been generated by training providers or brokers who breach the new guidelines, and require the training provider to reimburse taxpayers for the cost.<sup>12</sup>

The proposed framework for remediating students should be retrospective, and ensure that the process for seeking refunds is simple and effective, with a clear contact point for students. Training providers should also be required to notify students of their right to seek a refund and the process for doing so. This should not only encourage students to seek redress, but also encourage training providers to ensure that debts are appropriately incurred. Students who incur a VET FEE-HELP debt but do not start their course (or failed to participate) should be *prima facie* entitled to a refund. Based on Commonwealth Department of Education figures, the 3-year completion rate (2011-2013) for external attendance students relying on VET FEE-HELP loans was only 7%, which is simply not good enough.<sup>13</sup>

Complaints data analysis will be critical. The data collected through this framework must result in systemic investigations into particularly problematic providers. These investigations could result in wiping debts for other students.

The framework should also consider student outcomes following enforcement action. For example, we have seen examples in Victoria where enforcement action has resulted in a training provider closing its doors, meaning that our client was unable to seek a remedy for losses incurred as a result of the provider's misconduct. We have also seen examples where training certificates have been revoked following compliance action, without appropriate compensation being offered to students.

### **Julia's story**

Julia obtained a qualification in child care, which was recalled following enforcement action against her training provider. Julia had already begun full time work when she received notification of the qualification recall from the training provider. In order to obtain her

<sup>12</sup> Senator the Hon Simon Birmingham, 'Media Release: Government targets VET FEE-HELP scammers', 12 March 2015, available at: <https://ministers.education.gov.au/birmingham/government-targets-vet-fee-help-scammers>; Department of Education and Training, 'VET FEE-HELP Reform', undated, available at: [https://docs.education.gov.au/system/files/doc/other/ed15-0168\\_vet\\_fee\\_help\\_reforms\\_factsheet\\_update\\_05\\_acc.pdf](https://docs.education.gov.au/system/files/doc/other/ed15-0168_vet_fee_help_reforms_factsheet_update_05_acc.pdf).

<sup>13</sup> Department of Education and Training, 'VET FEE-HELP statistics - Course completion tables 2013', 2014, available at: <http://www.education.gov.au/vet-fee-help-statistics>.



qualification, Julia would be required to undertake a number of additional modules of study.

Although Julia was not required to pay for this additional study, she was not offered any compensation for losses that she may have suffered as a result of having to complete the additional modules (such as lost wages during time in retraining), or as a result of losing her qualification. The letter of notification also mentioned the training provider had established a dedicated service to answer student queries, but Julia says that she was unable to contact anyone on the number provided. Julia eventually chose to enrol in a different course with another provider.

While the course fees for retraining are covered, other losses incurred by the student are not. Such losses may relate to lost employment, lost opportunity or lost wages due to time in retraining. In Victoria, while students will have their Victorian Training Guarantee funding reinstated they may not necessarily be refunded other course fees. Students can also be left in limbo while waiting to be informed of the extent of retraining they will require.<sup>14</sup> We recommend that the Federal Government ensure that any student remediation framework includes compensation by training providers for these types of consequential losses should ASQA conduct similar enforcement action.<sup>15</sup>

**Recommendation 9:** Student remediation be retrospective, and the Federal Government ensure that the process for seeking VET FEE-HELP debt refunds is simple and effective.

**Recommendation 10:** Training providers be required to notify students of their right to seek VET FEE-HELP loan refunds and the process for doing so.

**Recommendation 11:** Students who incur a VET FEE-HELP debt but do not start their course (or failed to participate) be *prima facie* entitled to a refund.

**Recommendation 12:** The student remediation framework include compensation by training providers for consequential losses following enforcement action.

## 6. External dispute resolution

While regulators accept complaints from students about private VET providers, these regulators do not respond to or resolve individual complaints. At present, disputes between private colleges and international students can be heard by the Commonwealth's Overseas Students Ombudsman, but no such process exists for domestic students. Complaints by domestic students in Victoria must be taken to the Victorian Civil and Administrative Tribunal (**VCAT**).

The VCAT process involves a court-like, adversarial hearing, which is much more formal and intimidating for a consumer than an ombudsman process. The process remains informal and avoids some of the pitfalls of face-to-face dispute resolution where a power imbalance exists

<sup>14</sup> Josie Taylor, 'Hundreds of Vocation private training college graduates forced to hand back qualifications', ABC News, 22 April 2015, available at: <http://www.abc.net.au/news/2015-04-22/private-training-college-graduates-stripped-of-qualifications/6412318>.

<sup>15</sup> Under section 52 of the *National Vocational Education and Training Regulator Act 2011* (Cth), ASQA can cancel the accreditation of a VET accredited course.

between the parties. An ombudsman process is more appropriate for the majority of disputes relating to private colleges.

We recommend levelling the playing field for all students studying in Australia by establishing a national industry ombudsman to resolve disputes between students and training providers.

### *Recommendations of other reviews*

The Review of Quality Assurance in Victoria's VET system recently recommended that, in the absence of a national VET complaints system, that the Victorian Government establish a body responsible for ensuring the resolution of student complaints. It was also recommended that the Victorian Government pursue the establishment of an appropriate VET Ombudsman function 'through national fora'.<sup>16</sup> We strongly support this recommendation. This recommendation was also supported by the Australian Council for Private Education and Training (ACPET).<sup>17</sup>

We note that the Overseas Student Ombudsman was established following the Baird Review, which recommended that international students have access to an ombudsman service, agreeing that 'international students should have access to the highest standard of complaints handling'.<sup>18</sup> We see no reason why our domestic students should not also have such access.

### *Benefits of industry ombudsmen*

Consumer Action believes that effective, accessible dispute resolution, particularly in the areas of consumer and business matters, not only benefits individuals in terms of access to justice, but contributes to the functioning of competitive markets thus supporting broader economic and social outcomes. The Productivity Commission has made the case that allowing market misconduct to occur without redress can actually be anti-competitive in that it gives legally non-compliant traders an anticompetitive advantage over those that do comply.<sup>19</sup>

In our view, industry ombudsmen contain a number of useful features which contributes to strong justice outcomes, including:

- industry ombudsman schemes are typically a condition of holding a relevant licence or registration, so all businesses in an industry must participate in the scheme;
- industry ombudsman schemes are funded by industry, so industry has a financial incentive to minimise consumer disputes;
- industry ombudsman schemes typically have independent boards with 50 per cent representation from consumers so the dispute resolutions processes are fair and balanced;

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<sup>16</sup> Victorian Department of Education and Training, 'Review of Quality Assurance in Victoria's VET System', May 2015, available at: <http://www.education.vic.gov.au/Documents/training/learners/vet/reviewQAreport.pdf>.

<sup>17</sup> Australian Council for Private Education and Training, 'ACPET Submission to the VET Funding Review', April 2015, available at: <http://www.acpet.edu.au/uploads/files/ACPET%20submission%20VET%20Funding%20Review.pdf>.

<sup>18</sup> Australian Government, 'Stronger, simpler, smarter ESOS: supporting international students', February 2010, available at: [https://internationaleducation.gov.au/Regulatory-Information/Education-Services-for-Overseas-Students-ESOS-Legislative-Framework/ESOS-Review/Documents/ESOS\\_REview\\_Final\\_Report\\_Feb\\_2010\\_pdf.pdf](https://internationaleducation.gov.au/Regulatory-Information/Education-Services-for-Overseas-Students-ESOS-Legislative-Framework/ESOS-Review/Documents/ESOS_REview_Final_Report_Feb_2010_pdf.pdf).

<sup>19</sup> Productivity Commission, Review of Australia's Consumer Policy Framework—Inquiry Report 45 (volume 2), April 2008, available at: <http://www.pc.gov.au/projects/inquiry/consumer/docs/finalreport>, p 193

- the ombudsman scheme process provides flexible solutions to disputes but also has ‘teeth’ because the ombudsmen can make findings binding upon the trader;<sup>20</sup>
- ombudsmen are typically required to investigate and report on systemic problems, meaning that they not only provide solutions for individual disputes but also help bigger problems be solved at their source; and
- ombudsmen keep detailed records and make detailed reports that assists the advancement of consumers’ interests.

Consumer Action has significant experience in supporting and acting on behalf of consumers with disputes considered by industry ombudsman schemes (such as the Financial Ombudsman Service, the Credit Ombudsman Service, the Energy & Water Ombudsman Victoria, and the Telecommunications Industry Ombudsman). We believe that, in providing access to justice, the establishment of these schemes has been one of the most significant advances in consumer protection of the past 30 years. Without industry ombudsman schemes, hundreds of thousands of people would have been left with no avenue for redress other than courts, or more likely, because of cost and other access barriers, would have been left with nowhere to turn.

### *Features of industry ombudsmen*

The below table provides some further detail about certain features of industry ombudsman scheme, and compares them with government ombudsmen:

|  | <b>Government Ombudsman</b>                             | <b>Industry Ombudsman</b>   |
|--|---|---|
| <b>Power to make a binding decision in an individual dispute</b> | Generally, no   | Yes – can make a decision binding on industry member (although encourages settlement)   |
| <b>Quality assurance</b>   | Subject to government oversight (i.e. Auditor-General)  | Reviews and evaluations are reported publicly or to Boards  |
| <b>System issues</b>   | Yes, can report to Parliament or through annual reports | Report systemic issues arising from cases to the relevant regulator and publish de-identified outcomes  |
| <b>Outcome expectations</b>                                      | No power to make binding decisions so not applicable.   | Binding determinations may be published. Case studies also published in annual reports etc or in bulletins can give parties a guide to likely outcome |

It is critical that such a scheme be independent from industry. One of the main benchmarks of the Key Practices for Industry-Based Consumer Dispute Resolution, published by the Federal

<sup>20</sup> The recommendations of the Office of the Training Advocate in South Australia are not binding on providers. For more information see: <http://www.trainingadvocate.sa.gov.au/Complaints/Overview>.

Government, is independence.<sup>21</sup> Any industry-based ombudsman will be expected to comply with the key practices set out in that publication.

Complaint or dispute resolution (such as through an ombudsman scheme) and compliance, monitoring and enforcement of standards (by a regulator) are related, but separate functions. Regulators with responsibility for compliance monitoring and enforcement do need to be aware of areas of consumer complaint in order to prioritise activities and deal with industry problems. However, effective dispute resolution (such as through ombudsman schemes) has a primary objective of resolving individual complaints efficiently and effectively for both parties—this may not be the primary objective of regulators.

### *Implementation*

In order to ensure all VET providers are members of the ombudsman scheme, such membership should be a condition of registration as an NVR training organisation under Division 1 of the *National Vocation Education and Training Regulator Act 2001* (Cth). As noted above, industry ombudsman schemes are typically a condition of holding a relevant licence or registration, so all businesses in an industry must participate in the scheme.

**Recommendation 13:** Establish a national industry ombudsman to resolve disputes between domestic students and training providers.

Please contact Katherine Temple on \_\_\_\_\_ or at \_\_\_\_\_ if you have any questions about this submission.

Yours sincerely

**CONSUMER ACTION LAW CENTRE**

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<sup>21</sup> The Treasury, 'Key Practices for Industry-based Consumer Dispute Resolution', February 2015, available at: [http://www.treasury.gov.au/~media/Treasury/Publications%20and%20Media/Publications/2015/key%20pract%20ind%20cust%20dispute%20reso/Documents/PDF/key\\_pract\\_ind\\_cust\\_dispute\\_resol.ashx](http://www.treasury.gov.au/~media/Treasury/Publications%20and%20Media/Publications/2015/key%20pract%20ind%20cust%20dispute%20reso/Documents/PDF/key_pract_ind_cust_dispute_resol.ashx).