



National Tertiary Education Union

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Inquiry into the VET Student Loans Bill 2016, the VET Student Loans (Consequential Amendments and Transitional Provisions) Bill 2016 and the VET Student Loans (Charges) Bill 2016

Introduction

The National Tertiary Education Union (NTEU) represents the industrial and professional interest of some 28,000 staff working in tertiary education. While the bulk of our members work in higher education we also represent the interests of professional, administrative, clerical, computing and technical (PACCT) staff of TAFE Victoria as well staff working in cross-sectorial institutions.

Our interest in VET however, extends beyond the direct interests of our members because of the increasing overlap between the provision of VET and higher education and the extent to which the funding regulatory frameworks impacts on the nature of tertiary education more broadly.

Given the very tight time lines allocated to review the VET Student Loans Bill 2016 and associated legislation, the NTEU will restrict our submission to a limited number of issues, including:

1. The need for a consistent and coherent funding and regulatory framework across both higher education and VET; and
2. The process whereby courses are included as part of '**course and loan determination**' and thereby eligible for VET Student Loans.

Stronger registration and compliance

However, before addressing these issues, the NTEU gives qualified support for the measures contained within the Bill that significantly tighten the registration and regulatory aspects for determining eligible providers and/or courses. Our support remains qualified at this stage because the effectiveness of any new regulatory framework will depend on the monitoring and enforcement of any breaches.

The NTEU particularly welcomes the new application processes and criteria for determining a Registered Training Organisation's (RTO) eligibility to offer courses that attract new VET Student Loans. These include evidence of:

- industry links,
- satisfactory student outcomes,
- established three track road of operations,
- courses meeting appropriate Australian Qualifications Framework (AQF) guidelines, including intended mode of delivery,
- fees to be charged and whether these fees will be fully covered by VET Student loans or whether students will be required to pay a gap fee,
- sound financial position, and
- strong management and governance structures and process.

In addition the NTEU is particularly encouraged that the new framework will require each RTO to provide annual information in regard to:

- the number of courses to be offered, including mode of delivery,
- whether any courses 'nest' lower level AQF that are ineligible for new VET Student loans
- estimates of the number of student enrolments for the following year within each course being offered,
- course fees, and
- arrangements regarding the offering of multiple qualification and/or enrolments .

In addition, the capacity of the government to enforce and prosecute any breaches of the new framework and thus ensure that dodgy providers are driven out of the sector should also be enhanced by:

- stronger investigation, search and seizure powers,
- stricter record keeping and retention requirements,
- tighter controls on advertising and marketing activities,
- better information for students, and

- new powers to re-credit student debts and for these debts to be recovered from providers.

Higher Education and VET Funding and Regulatory Requirements

There is no question that the existing market based arrangements for the regulation and funding of VET in Australia have been a complete failure. The NTEU welcomes the significantly enhanced funding and regulatory arrangements included in the proposed legislation and, as outlined above, if appropriately monitored and enforced, the new registration and compliance arrangements should minimise the capacity of dishonest providers to exploit students and/or port public funding.

However, the NTEU remains concerned that opportunities to manipulate or game student loans and public funding will continue to exist as long as there remain fundamental differences in the way higher education and VET are funded and regulated.

As pointed out in previous NTEU submissions (for example, Senate Education and Employment Inquiry into the Higher Education Support Amendment (VET FEE-HELP Reform) Bill 2015) the need for a consistent framework was identified as early as the 2008 Bradley review of higher education, which noted:

Anomalies and inconsistencies exist between higher education and VET in areas such as funding and tuition financing. These potentially distort decisions about training and education. VET diplomas and advanced diplomas are planned and funded on a different basis from higher education diplomas and advanced diplomas even though VET and higher education graduates are in direct competition in the labour market.

A recent Organisation for Economic Co-operation and Development (OECD) review of VET in Australiaalso queried why higher education and higher level VET students should pay different amounts in different ways and the effect of these different funding regimes on incentives for education and training.

The effects of having two different regulatory and funding frameworks across tertiary education impact on decisions of:

- governments in relation to costs and which layer of government should pay and/or how much students should pay;
- providers in terms of course offerings to individual students, whether that be the level of course or whether it be a VET or higher education qualification, depending

on the level of subsidy on offer either through direct payment or indirect benefits such as the operation of income contingent loans schemes; and

- students in terms of what and where to what study and the costs associated with study and/or loans used to fund that study.

Therefore, in considering what impacts the introduction of the new VET and higher education regulatory frameworks will have on the broader tertiary education landscape, the government should be asking whether there will be any unintended (but not necessarily unpredictable) consequences, including, for example:

- the creation of gaps in the coverage, especially with regard to enabling or pathway courses for students who might qualify to enter upper level VET or higher education programs.
- providers seeking to register existing VET qualifications as higher education qualifications because of a lack of restrictions on what can be covered and/or the capacity to charge higher fees because of the higher loan limits applying to FEE-HELP loans (approximately \$100,000) compared to the \$5,000, \$10,000 or \$15,000 limits those being proposed for VET Student Loans.
- students that seek to enrol in higher education rather than VET simply because higher education offers a broader range of options than those that will be eligible for VET Student Loans.

Further education

One of NTEU's greatest concerns is that students needing to undertake preparatory or enabling course are in very real danger of falling between gaps.

Both the Federal and State/Territory governments must commit to ensuring that students who, for various reasons, are unable gain direct entry into either advanced VET or higher education qualifications, are in a position undertake to further education by having access to alternative entry pathways which do not put them at significant financial or educational disadvantage.

NTEU is concerned that some preparatory VET courses may be abandoned because they fail labour market criteria to be eligible for VET Student loans, and that students who would otherwise enrol may not have the resources to pay fees upfront. This, however, would create a problematic gap in the framework for entry to further studies.

Therefore, it is essential that governments ensure that both public universities and public TAFEs are in a position to offer disadvantaged students' alternative pathways to study that

does not require them to find large sums of money upfront to pay fees. As we have argued in relation to proposed changes to higher education, we do not believe that this support should be achieved by simply extending income contingent HECS or VET Student loans to preparatory or enabling courses, which would simply leave the most disadvantaged students with an even higher level student debt than those that gain direct entry into upper VET or bachelor's level qualifications.

The funding of alternative pathway or preparatory courses, should be specially addressed by the proposed Bill and should be consistent with any changes to higher education funding and regulatory framework.

Determination of eligible courses

One of the key features of the proposed VET Student Loan program, unlike in the demand driven higher education funding system, is that not all VET courses will automatically be eligible for VET Student Loan assistance. Indeed of the more than 800 listed upper level VET courses, fewer than half, 347, will be eligible for VET Student Loans.

When releasing the list of eligible qualifications on 10 October 2016, the Minister for Education and Training, Senator Simon Birmingham, said *“there are far too many courses that are being subsidised that are used simply to boost enrolments, or provide 'lifestyle' choices, but don't lead to work”* and that *“we want to ensure that the courses that Australian taxpayers are subsidising and that we are encouraging students to study, will optimise employment outcomes.”*

To be included on the list, eligible diploma-level or above qualifications had to be on at least two State and Territory skills needs lists. In addition, the list included the requirement that the government considered the skill to be of economic need, such as science, technology, engineering and maths as well as agriculture.

According to Part 2 Division 3 of the proposed Bill, for a course to be eligible to qualify for VET Student Loans, it must be included on the ***courses and loan caps determination*** (the ***determination***) and ***meet any other requirements set in the rules*** (the ***rules***). Both the ***determination*** and the ***rules*** are legislative instruments made by the Minister.

The NTEU's concerns about the process outlined for determining which courses are not eligible for VET Students Loans goes to questions of transparency and accountability.

The process outlined for determining what courses will be included on the ***course and loan caps determination*** also lacks transparency. Transparency is needed to ensure objectivity and accountability.

Division 3 of the proposed Bill requires that an approved course is a “structured and integrated program of vocational education or vocational training” that:

- leads to diploma, advanced diploma, graduate certificate or graduate diploma in the Australian Qualifications Framework that meets the guidelines for a VET award as set out in the Australian Qualifications Framework , and
- are specified by the rules.

The proposed Bill does not specify what, if any, factors the Minister must consider in either determining the rules or determining their decision. While the Minister has said that in determining the current list of approved VET courses he has taken into consideration courses covered by the skills needs lists of at least two of the States and Territories, this is not a requirement specified in the legislation. While this is highly objective criteria, this is not so for all the factors the Minister says he wants to take into consideration when considering what courses should or should not be included. For example, the Minister says he does not think it is appropriate to support so-called ‘lifestyle’ courses. What this Minister considers to be a ‘lifestyle’ might differ significantly overtime and depending on the Minister of the day.

The NTEU feels highly uncomfortable with this degree of subjectivity in the drawing up and application of the rules applying to VET Student Loans. A lack of clarity means courses that are or are not included may well change over time, leading to uncertainty for both providers and potential students. There is also no doubt that Ministers will come under considerable pressure from various provider or provider groups to have their courses included on the list.

The NTEU is recommending that rather than ruling individual courses in or out, the government enforce its much stricter rules in relation to eligible providers and levels of enrolment. The NTEU believes the best way for this to be achieved, as we have suggested in relation to the future funding and regulation of higher education, is that governments enter into public accountability agreements that place specific contractual obligations on both the government as funder and the providers of VET courses.

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