

Administration of the VET FEE-HELP Scheme

Department of Education and Training

Australian Skills Quality Authority

Australian Competition and Consumer Commission

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Canberra ACT
20 December 2016

Dear Mr President
Dear Mr Speaker

The Australian National Audit Office has undertaken an independent performance audit in the Department of Education and Training, the Australian Skills Quality Authority and the Australian Competition and Consumer Commission titled *Administration of the VET FEE-HELP Scheme*. The audit was conducted in accordance with the authority contained in the *Auditor-General Act 1997*. Pursuant to Senate Standing Order 166 relating to the presentation of documents when the Senate is not sitting, I present the report of this audit to the Parliament.

Following its presentation and receipt, the report will be placed on the Australian National Audit Office's website—<http://www.anao.gov.au>.

Yours sincerely



Grant Hehir
Auditor-General

The Honourable the President of the Senate
The Honourable the Speaker of the House of Representatives
Parliament House
Canberra ACT

AUDITING FOR AUSTRALIA

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Summary and key learnings

Background

1. The VET FEE-HELP (VFH) scheme was a component of the Australian Government's Higher Education Loan Program. Under the program, eligible students could access Government income contingent loans, which removed up-front cost barriers to tertiary education and training. VFH loans were incurred by the student and the course fees paid directly to the education provider. Students are required to repay the loan(s) once their income reaches a threshold.

2. The VFH scheme was established in June 2008, primarily¹ to increase participation in vocational education and training (VET).² Initially designed to support pathways to higher education, the scheme was subsequently expanded by allowing all eligible students to access a VFH loan, and abolishing the requirement for a pathway to higher education. These changes resulted in significant growth in the uptake of the expanded VFH scheme, particularly from 2012 to 2015, but legislative and policy changes implemented from 1 April 2015 substantially reversed the growth. At its peak in 2015, the total value of VFH loans was \$2.9 billion (up from \$25.6 million in 2009). The value of VFH loans not expected to be repaid is significant. As at 30 June 2016, the Australian Government Actuary estimated that \$1.2 billion in loans issued inappropriately by VFH providers in 2014 and 2015 would not be recovered. The Actuary also estimated that a further \$1.0 billion in VFH loans would not be repaid, largely relating to loan recipients not expected to meet the income repayment threshold for new debts raised in 2015–16.

3. The VFH scheme was administered by the Department of Education and Training. The Australian Skills Quality Authority manages risks to the quality of VET outcomes for students. The Australian Competition and Consumer Commission, (and state and territory counterpart Australian Consumer Law regulators), has economy-wide responsibilities in relation to consumer protection, and can address misleading or unconscionable conduct of VFH providers.

4. In October 2016, the Minister for Education and Training announced that the VFH scheme would cease on 31 December 2016, and a new program, VET Student Loans, would commence from 1 January 2017. The Minister stated that the new program 'would return integrity to the vocational education sector and deliver a win-win for students and taxpayers through a range of protections'.³ Legislation supporting the new scheme was passed by Parliament on 1 December 2016.

-
- 1 Broader objectives are to: build a more highly skilled workforce; support quality, value and sustainability of the vocational education and training sector; provide equity to students in the vocational education and training sector with higher education students; and effectively protect consumers.
 - 2 Australia's VET sector delivers training in workplace specific and technical skills to approximately 4.5 million students annually. As at 30 June 2016, there were 4632 registered training organisations operating in the VET sector, of which 282 were approved VFH providers.
 - 3 Senator the Hon Simon Birmingham, Minister for Education and Training, 'New VET Student Loans a win-win for students and taxpayers', media release 5 October 2016, available from <https://ministers.education.gov.au/birmingham/new-vet-student-loans-win-win-students-and-taxpayers>, [accessed 18 October 2016].

5. As the VFH scheme is scheduled to cease shortly after this audit report is tabled, the report focuses on the lessons learned from the administration of the scheme. The aim is to inform debate about the proposed replacement VET Student Loans program and support other Commonwealth entities in designing and implementing policies and programs.

Audit objective, criteria and scope

6. The objective of the audit was to assess the effectiveness of the design and administration of the VET FEE-HELP scheme. To form a conclusion against the audit objective, the Australian National Audit Office adopted the following high-level audit criteria:

- the design and implementation of the VFH scheme supported the achievement of the scheme's objectives; and
- administrative arrangements safeguarded the operation of the VFH scheme, including by supporting students to understand their rights and obligations.

Conclusion

7. The VFH scheme was not effectively designed or administered. Poor design and a lack of monitoring and control led to costs blowing out even though participation forecasts were not achieved and insufficient protection was provided to vulnerable students from some unscrupulous private training organisations.

8. The design of the expanded VFH scheme in 2012 was weighted heavily towards supporting growth in the VET sector, but an appropriate quality and accountability framework addressing identified risks was not put in place. As the responsible department, Education did not establish processes to ensure that all objectives, risks and consequences were managed in implementing the expanded scheme. In effect, the department's focus on increasing participation overrode integrity and accountability considerations that would have been expected given the inherent risks. The department inadequately considered the implications of the changed incentives facing providers and students in the expanded scheme and its role in ensuring effective regulation in conjunction with other regulators—principally the Australian Skills Quality Authority and the Australian Competition and Consumer Commission. There was also a lack of data analytics capability in Education and little internal management reporting or analysis of the VFH scheme to identify emerging problems. The department did not develop measures to assess broader objectives of the scheme (beyond growth) including those related to value and quality in the VET sector. In redesigning the VFH scheme, insufficient regard was given to relevant experiences in other jurisdictions, particularly Victoria, and the risks identified in a Regulation Impact Statement.

9. The administration of the VFH scheme did not safeguard its operation, and did not support the achievement of objectives relating to integrity, quality, value and sustainability. Similar to the scheme's design and implementation failures, there were weaknesses in Education's administrative processes for: approving VFH providers; developing and undertaking risk, fraud and compliance activities; controlling payments to providers; making information readily available to students about their rights and obligations under the VFH scheme; and managing and resolving student complaints. While improvements were made to many of these processes in 2016, the initiatives were in place for a relatively short period of time prior to the cessation of the VFH scheme from 31 December 2016.

Supporting findings

Design and implementation of the VET FEE-HELP scheme

10. Strategic and operational risks were identified in the expansion of the VFH scheme in 2012, but were not adequately addressed in the legislative and policy design that significantly changed the requirements for participation in the scheme. While concerns about the application of legislative arrangements designed for higher education were identified in 2012, the expanded VFH scheme did not include adequate controls to manage risks specific to vocational education. Weaknesses included insufficient safeguards for students from misleading or deceptive conduct, and inadequate monitoring, investigation and payment controls for poor or non-compliant providers. The recommendation in a Regulation Impact Statement for a staged approach over three years did not occur, and the expanded scheme did not incorporate adequate controls over the risks identified in the statement.

11. Arrangements were not in place between Education and the regulation agencies to effectively monitor and address risks to the implementation of the expanded VFH scheme, particularly in relation to integrity, quality and sustainability. There was poor engagement by Education with the Australian Skills Quality Authority and the Australian Competition and Consumer Commission to exchange information and intelligence about low quality or unscrupulous VFH providers. Within Education, until 2016 there was little analysis or internal management reporting of the VFH scheme to identify emerging problems.

12. The VFH scheme did not achieve many of its stated objectives, and is to be replaced by the VET Student Loans program from 1 January 2017. While achieving increased participation in vocational education and training as intended following the expansion in 2012, Education did not provide evidence that the scheme achieved objectives relating to quality, value and sustainability of the VET sector, consumer protections, or support for the productivity and skills agenda. In analysing the performance of the scheme, Education did not develop measures to assess broader objectives of the scheme, including those related to value and quality in the VET sector, and did not revise the key objectives and outcomes following expansion of the scheme.

Administration of the VET FEE-HELP scheme

13. There was no evidence of adequate consideration of risk in the development of the approval process for registered training organisations to achieve VFH provider status, or that the process effectively safeguarded the VFH scheme at this early stage of provider engagement. Education did not analyse the results of the process to understand the behaviour and motivation of organisations seeking access to the VFH loan scheme, and how best to strengthen the approval process.

14. VFH providers were not effectively monitored and regulated by Education. The department acknowledges that there was not an effective compliance framework for the scheme, noting the serious limitations in its compliance powers under the VFH legislation. In effect, there was very limited and reactive compliance activity, including of the expanded VFH scheme from 2012. Education did not act promptly at that time to clarify the roles and regulatory powers of the department and other regulators, to ensure a sound regulatory framework for VFH. From mid-2015, compliance and regulatory activities increased in response to the identified risks. Education initiated several major compliance audits, began the development of a new risk-based compliance

framework, and worked with Australian Consumer Law regulators in taking a number of established VFH providers to court under the prevailing VFH legislation.

15. Payments to approved VFH providers were calculated on data submitted by VFH providers and not effectively controlled. Education had little visibility of the students entering into a loan arrangement through their VFH providers; and relied on self-reporting by providers. There were also weaknesses in departmental guidance provided to staff processing the payments, and in evidence supporting delegate approval of the payments.

16. Information provided by Education was not easily accessible to students to help them understand their rights and obligations under the VFH scheme, including access to information regarding the cost, quality and reputation of VFH providers. The department had a limited level of assurance that students understood (through accessing the available information or being properly informed by the VFH provider) that they had entered into a VFH loan arrangement. Outreach initiatives by Australian Consumer Law regulators, and additional information provided by Education in early 2015, sought to warn students about inappropriate marketing practices by VFH providers. The department launched its main campaign, *savvy student*, in September 2015, and could have acted sooner.

17. Until mid-2015, the department had limited focus on managing and resolving student complaints about the VFH scheme. Until September 2016, the department's websites had not provided clear information on the types of complaints that it would investigate, and encouraged students to contact other agencies without outlining the types of complaints these other agencies were able to investigate. Improvements from mid-2016 to Education's complaints handling mechanisms included three additional staff dealing specifically with VFH complaints and the development of a new Feedback and Complaints System that would enable the department to view complaints that students had submitted directly to their VFH providers. Information about how to lodge a complaint is readily available on the VET regulator websites, and through the Australian Competition and Consumer Commission's website. Education had not effectively collected and analysed VFH complaints data, and the information held on complaints had been of limited use in monitoring the VFH scheme.

Key learnings

18. The VFH experience again⁴ underlines how critical sound program design and implementation practices are to achieving policy outcomes. The audit identified key learnings of relevance to the introduction of the proposed VET Student Loans program and to other Commonwealth entities responsible for the design or implementation of Government programs.

19. Key learnings include the importance of:

- thoughtfully considering the critical differences between a new program and any existing program on which it had been modelled, including how different incentive structures for key participants (including financial incentives) will create risks to the achievement of

4 Other ANAO audits that have key learnings relating to program design and implementation practices are:

- ANAO Audit Report No.8 of 2015–16, *Administration of the National Rental Affordability Scheme*; and
- ANAO Audit Report No.12 of 2010–11, *Home Insulation Program*.

program objectives. Similarly, in revising an ongoing program, recognising how substantially altered incentive structures will change behaviours and risks;

- learning from comparable experiences in other agencies or jurisdictions, and carefully considering supporting program documents, such as regulation impact statements, when designing and implementing programs;
- integrating risk management principles and processes into the design, implementation and administration of a program, to effectively manage risks to the achievement of the objectives and outcomes of programs;
- placing emphasis on achieving all program objectives and outcomes, rather than excessively focussing on the prime objective (such as participation in a program). Integrity, quality and sustainability are often intrinsically linked to the primary objective and need to be achieved;
- developing key performance indicators to measure the success of the program against all key objectives and outcomes. This will help focus attention on achieving all objectives and prevent entities from overlooking key risks. Evaluating programs with a focus on understanding their impact will indicate whether the underlying policy approach is an effective intervention;
- establishing a strong data analytics capability and management reporting processes to identify emerging threats and promote understanding and visibility of the outcomes of the scheme. In demand driven programs, modelling and sensitivity analysis should be undertaken to forecast demand, and monitoring both uptake and cost can provide early warnings of potential threats to the effective and efficient implementation of programs;
- clarifying roles and responsibilities and introducing effective mechanisms for information sharing and engagement with all entities with a role in design or implementation. Where other regulators have a role, the key implementation agency should consult with those regulators to analyse the strength of the regulatory environment and address any notable shortcomings, including by drawing these to the attention of the Government as early as possible; and
- ensuring fraud, risk and compliance arrangements are operational from the commencement of a program, and reflect program risks and requirements.

Summary of entity responses

20. The summary responses to the report of the Department of Education and Training, the Australian Skills Quality Authority and the Australian Taxation Office are provided below, while their full responses are at Appendix 1.

Department of Education and Training response

The Department of Education and Training (the department) acknowledges the work conducted by the ANAO and thanks the review team for the collaborative way in which the audit was conducted.

While the department notes the proposed report does not make any specific recommendations, the ANAO has identified significant areas of concern. The department has acted to address and

strengthen a number of administrative processes and practices in these areas and will continue to do so through the new VET Student Loans program.

Since 2015 the department has strengthened its administration of the VET income contingent loan scheme by increasing available resources in this work area; providing compliance training to staff; strengthening record keeping practices; recording student and provider enquiries and complaints and the actions taken to resolve these; instigated improved payment processes; increased the availability of course costs and broader information for students; increased data sharing with regulators (ASQA and ACCC) and improved monitoring and investigation of compliance issues.

On 5 October 2016, Senator the Hon Simon Birmingham, Minister for Education and Training, announced the commencement of VET Student Loans program from 1 January 2017. The Minister also announced that the VET FEE-HELP scheme will cease on 31 December 2016. These changes are subject to the passage of the *VET Student Loans Bill 2016* through parliament.

The design of the proposed new program is intended to address significant issues with the operation of the previous scheme, including a clearer articulation that the program is designed to link training with employment outcomes; a new provider application process with a higher bar for entry based on track record; banning of brokers and curtailing the use of third party training providers; loan caps on eligible courses to put downward pressure on fees and protect students from rising debts; ensuring that payments to providers will be in arrears based on actual student numbers; requiring students to demonstrate genuine engagement in their training to continue to access their loan; and introducing stronger powers to allow the department to rapidly address matters of compliance or poor performance.

Information on the new VET Student Loans program and the transition from VET FEE-HELP, including fact sheets for students and new providers applying to participate in VET Student Loans, and arrangements for current VET FEE-HELP students and providers, is available on the department's website at www.education.gov.au/vet-student-loans.

Australian Skills Quality Authority response

The Australian Skills Quality Authority (ASQA) welcomes the report and its findings which documents the roles and responsibilities of the Australian Department of Education and Training, the Australian Skills Quality Authority and the Australian Competition and Consumer Commission (ACCC). The report accurately describes the role of the Department of Education and Training as the administrator of the VET FEE-HELP scheme, including its role in approving, monitoring and ensuring the compliance of VET FEE-HELP providers.

The report accurately describes ASQA's role in the regulation of Registered Training Organisations and the consultation that has occurred with ASQA in relation to the operation of the VET FEE-HELP Scheme, since ASQA's establishment in July 2011 and the scheme's expansion in 2012. During this period, ASQA has increasingly adopted a risk based approach to its regulatory task. This approach enabled ASQA to identify (in late 2014) and respond to the heightened risk within its legislative jurisdiction posed by a number of VET FEE-HELP providers and to work co-operatively with other agencies to share regulatory intelligence and co-ordinate regulatory activity.

Australian Taxation Office response

The ATO welcomes this review and considers the report supportive of our overall approach to administering loans and repayments under the Vocational Education and Training (VET) FEE-HELP scheme on behalf of the Government.

The ATO's role under the VET FEE-HELP scheme is to receive these loans from the Department of Education and Training and then manage the loan and repayments of it. The ATO undertook this role in accordance with the legislative framework.

Following the review, and at the request of the Department of Education and Training, the ATO amended the process for accessing VET FEE-HELP loans and ceased providing Tax File Numbers (TFNs) directly to VET providers from the end of September 2016.

Audit Findings

1. Background

VET FEE-HELP scheme

1.1 The VET FEE-HELP (VFH) scheme was a component of the Australian Government's Higher Education Loan Program.⁵ Under the Higher Education Loan Program, eligible students could access Government income contingent loans, which removed up-front cost barriers to tertiary education and training. VFH loans were incurred by the student and the course fees paid directly to the education provider. Students are required to repay the loan(s) once their income reaches a minimum threshold.⁶

1.2 The VFH scheme was established in June 2008 under an amendment to the *Higher Education Support Act 2003*—the *Higher Education Support Amendment (VET FEE-HELP Assistance) Act 2008*.⁷ The legislative amendment and authorising *VET Provider Guidelines*:

- extended Commonwealth loan provisions, available to students in higher education, to full-fee paying students in the vocational education and training (VET) sector studying VET Diploma, Advanced Diploma, Graduate Diploma and Graduate Certificate courses;
- required that the Diploma and Advanced Diploma courses be credited towards a higher education qualification (credit transfer requirement); and
- established criteria for VET providers wishing to offer VFH loan places to be 'approved' VFH providers under the scheme.

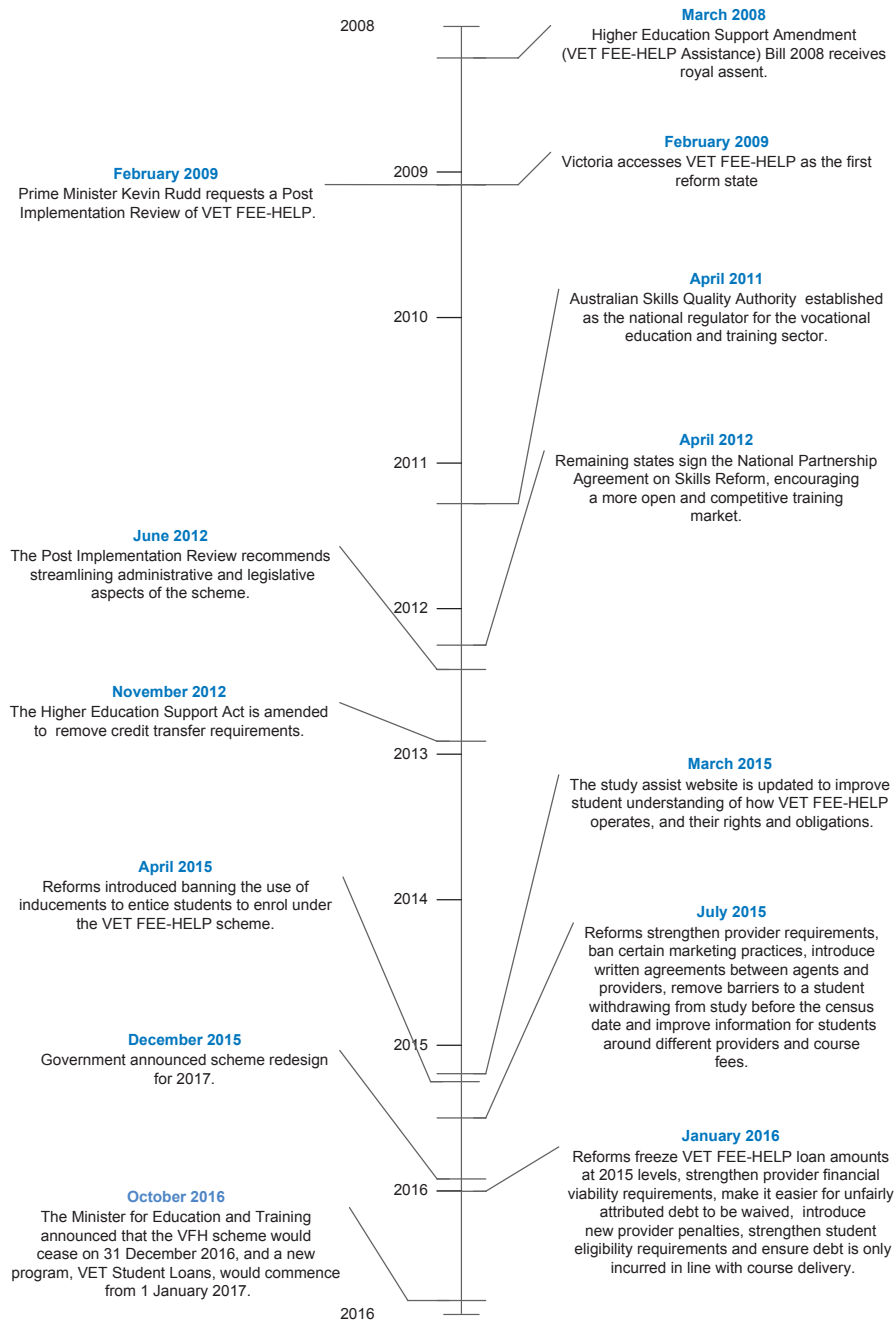
1.3 The focus of the VFH scheme on full-fee paying students was in line with the existing FEE-HELP scheme (that assists higher education students pay tuition fees), and was designed to offer financial support to those students who would not otherwise receive subsidies from state and territory governments to undertake a VET qualification. The credit transfer requirement regulated the standard of the VET course. Criteria for VET providers to be 'approved' under the VFH scheme included that they were a registered training organisation in the relevant jurisdiction. Figure 1.1 outlines the key developments in the introduction and operation of the VFH scheme.

5 Components of the Higher Education Loan Program are: VET FEE-HELP and FEE-HELP that assist eligible students with paying their tuition fees for higher level vocational, tertiary and higher education courses respectively; HECS-HELP for student contributions in the higher education sector; SA-HELP for higher education student services and amenities fees; and OS-HELP for overseas study expenses.

6 The compulsory repayment threshold for 2016–17 was an income of \$54 869 or above. There was a set maximum amount a student can borrow through VET FEE-HELP (and FEE-HELP) over their lifetime: in 2016 the FEE-HELP limit was \$99 389 for most students and \$124 238 for medicine, dentistry and veterinary science students (as defined in the *Higher Education Support Act 2003*).

7 The VFH scheme was initially supported through the *Higher Education Support Amendment (Extending FEE-HELP for VET Diploma, Advanced Diploma, Graduate Diploma and Graduate Certificate Courses) Act 2007*, but further amendments were enacted in 2008 to both the *Higher Education Support Act 2003* and the authorising *VET Provider Guidelines* to help ensure that students in Graduate Certificate and Graduate Diploma qualifications could access VET FEE-HELP as intended.

Figure 1.1: Key developments in the VET FEE-HELP Scheme



Source: ANAO analysis.

1.4 Initially designed to support pathways to higher education, amendments to the *VET Provider Guidelines* in 2009 expanded access to the scheme by allowing all eligible students to access a VFH loan and abolishing course credit transfer requirements.⁸ Access to the expanded VFH scheme was initially only available to students in the VET sector in Victoria. Victoria was then the only jurisdiction deemed a ‘reform’ state by the Australian Government, on the basis of VET sector reforms underway at that time.⁹

1.5 The extended VFH scheme was subsequently available (from 2012) in all other states and territories as they agreed to reform their VET sector, and were also deemed ‘reform’ states by the Australian Government, through the Council of Australian Government Reform Agenda. From 2013, a trial to extend VFH loans to students in selected Certificate IV courses was also implemented (trial to end 31 December 2016), further increasing the number of students who could access a VFH loan.

1.6 These changes, and other measures to streamline administrative requirements of the scheme, resulted in significant growth in participation and cost. As shown in Figure 2.1 (in Chapter 2), almost 200 000 (full time equivalent) students accessed a VFH loan in 2015, to a total loan value of \$2.9 billion (up from \$25.6 million in 2009). Much of the growth occurred following the extension of the scheme in 2012, when \$325 million in loans were issued. Growth reversed in 2016, following legislative and policy changes to the operation of the scheme, introduced from 1 April 2015.

1.7 The VFH scheme, within the broader Higher Education Loan Program, was administered by the Department of Education and Training from 2014, following several machinery of government changes over the life of the scheme (Appendix 2). The department was responsible for administering the VET FEE-HELP program under the *Higher Education Support Act 2003* and the *Higher Education Support (VET) Guidelines 2015*. As such, it was responsible for provider approvals and payments, and various powers to undertake a range of compliance actions against VET FEE-HELP providers. Higher Education Loan Program debt is indexed annually, with repayments collected by the Australian Taxation Office.

Issues with the operation of the VFH scheme

1.8 Issues with the operation of the VFH scheme are well documented within the public domain, including through the:

- Higher Education Support Amendment (VET FEE-HELP and Tertiary Admission Centres) Bill 2009, Parliamentary Digest Services, Bills Digest No.32¹⁰;
- *Discussion Paper, VET FEE-HELP Redesign 2012*, Department of Industry, Innovation, Science, Research and Tertiary Education¹¹;

8 *Amendment No.1 to the VET Provider Guidelines*, 24 June 2009.

9 VET sector reforms in Victoria included the introduction of contestability in VET funding with the aim of creating a more responsive and efficient training market.

10 Department of Parliamentary Services (Cth), *Bills Digest*, No.32 of 2009–10, 15 September 2009, available from <http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/bd/bd0910/10bd032?print=1>.

11 Department of Industry, Innovation, Science, Research and Tertiary Education, *Discussion Paper, VET FEE-HELP Redesign 2012* [Internet], 2012, available from <http://www.tda.edu.au/cb_pages/files/VET%20FEE-HELP%20Redesign%20Discussion%20Paper%20Final.pdf> [accessed 12 August 2016].

- Higher Education Support Amendment (VET FEE-HELP Reform) Bill 2015, Parliamentary Digest Services, Bills Digest No.60¹²; and
- *Redesigning VET FEE-HELP Discussion Paper 2016*, Department of Education and Training.¹³

1.9 The VFH scheme also featured in an inquiry by the Senate Education and Employment References Committee. The final report of the inquiry, *Getting our money's worth: the operation, regulation and funding of private vocational education and training (VET) providers in Australia*, October 2015, included 16 recommendations to strengthen the scheme's regulatory and administrative provisions.¹⁴

1.10 In 2015, the ANAO audit *Administration of Higher Education Loan Program Debt and Repayment* found: there was limited measurement of the sustainability of the Higher Education Loan Program, including the VFH scheme; and 'of particular significance is that the Department of Education and Training does not include in its reporting information about VFH debt, which is the fastest growing component of Higher Education Loan Program debt'.¹⁵

1.11 VET sector peak bodies, in their publicly available submissions¹⁶ to the *Redesigning VET FEE-HELP Discussion Paper 2016*, commented on unethical actions of some providers continuing to overshadow the reputation of ethical VET providers and the sector generally. Concerns raised about the operation of the VFH scheme included the:

- rapid growth of the scheme (the number of loans that could be accessed each year was uncapped) placed considerable pressure on the tuition assurance schemes provided by the peak bodies (TAFE Directors Australia and the Australian Council for Private Education and Training), with a heightened risk of large providers collapsing and displacing students¹⁷;
- unregulated use of brokers, agents and other intermediaries to enrol students; and
- added regulatory and administrative burden placed on all VET providers, with the introduction of measures (from 1 April 2015) intended to strengthen regulation of the scheme.

12 Department of Parliamentary Services (Cth), *Bills Digest*, No.60 of 2015–16, 30 November 2015, available from <http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/bd/bd1516a/16bd060>.

13 Department of Education and Training, *Redesigning VET FEE-HELP Discussion Paper* [Internet], 2016, available from <https://docs.education.gov.au/system/files/doc/other/redesigning_vet_fee_help_-_discussion_paper_0_0.pdf> [accessed 12 August 2016].

14 Commonwealth of Australia, Senate Standing Committee on Education and Employment, *Getting our money's worth: the operation, regulation and funding of private vocational education and training (VET) providers in Australia* [Internet], October 2015, available from: <http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Education_and_Employment/vocational/Final_Report> [accessed 18 August 2016].

15 ANAO Audit Report No.31 2015–16, *Administration of Higher Education Loan Program Debt and Repayments*, p. 58, noted that from 2013–14 to 2014–15, VET FEE-HELP debt increased by \$1.1 billion (84.1 per cent).

16 Submissions provided by TAFE Directors Australia, Australian Council for Private Education and Training, and Community Colleges Australia are available on the respective websites.

17 Under the *Higher Education Support Act 2003* a VFH provider must have a tuition assurance arrangement in place to protect students in the event their provider ceases to provide a course of study for which a student is enrolled. There are two approved schemes, run by the Australian Council for Private Education and Training and TAFE Directors Australia. From 1 January 2016, legislative and policy amendments were introduced to strengthen tuition assurance requirements.

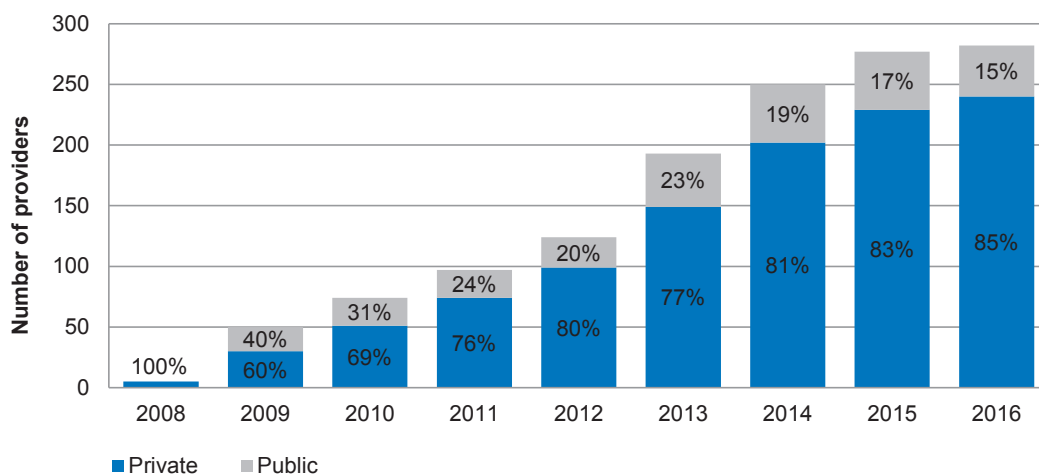
1.12 In October 2016, the Minister for Education and Training announced that the VFH scheme would cease on 31 December 2016, and a new program, VET Student Loans, would commence from 1 January 2017. The Minister stated that the new program ‘would return integrity to the vocational education sector and deliver a win-win for students and taxpayers through a range of protections’.¹⁸ Legislation for the new scheme was passed by Parliament on 1 December 2016.

Vocational education and training sector

1.13 Through a mix of public and private providers, Australia’s VET sector delivers accredited training in workplace specific and technical skills to approximately 4.5 million students annually. The sector is represented by: TAFE Directors Australia, the peak national body incorporated to represent Australia’s 58 government owned Technical and Further Education (TAFE) institutes and university TAFE divisions, and the Australia-Pacific Technical College; the Australian Council for Private Education and Training; and Community Colleges Australia, the peak body that represents and provides services to community owned, not-for-profit education and training providers.

1.14 The total number of registered training organisations operating in the VET sector from 1 July 2011 to 30 June 2016 decreased from 4947 to 4632.¹⁹ Registered training organisations that were approved as VFH providers (public and private) from 2008 to 30 June 2016 increased from five to 282, with the largest increase in private sector providers (Figure 1.2).

Figure 1.2: Approved VET FEE-HELP providers, 2008 to 30 June 2016



Source: Department of Education and Training *Provider Details* report.

18 Senator the Hon Simon Birmingham, Minister for Education and Training, ‘New VET Student Loans a win-win for students and taxpayers’, media release 5 October 2016, available from <<https://ministers.education.gov.au/birmingham/new-vet-student-loans-win-win-students-and-taxpayers>>, [accessed 18 October 2016].

19 Information provided by the Australian Skills Quality Authority.

Regulation of the vocational education and training sector

1.15 The Australian Skills Quality Authority is responsible for managing risks to the quality of vocational education and training outcomes for students, employers and the community. Throughout 2011–12, the Australian Skills Quality Authority assumed regulatory functions for the VET sector (through the Council of Australian Governments reform agenda) from most state and territory jurisdictions.²⁰ From 1 July 2012, except for Victoria and Western Australia, the Australian Skills Quality Authority has had responsibility for registration and regulation of:

- vocational education and training providers;
- accredited vocational education and training courses; and
- the Commonwealth Register of Institutions and Courses for Overseas Students providers, including those delivering English Language Intensive Courses to Overseas Students.

1.16 Victoria and Western Australia have maintained their own regulators, the: Victorian Registration and Qualifications Authority; and Training Accreditation Council Western Australia. However, the Australian Skills Quality Authority retains regulatory functions in Victoria and Western Australia for registered training organisations that offer: courses in any state or territory other than Victoria or Western Australia, including by offering online courses; and courses to overseas students.

1.17 All VET providers (irrespective of the jurisdiction in which they operate) are regulated through the VET Quality Framework²¹, which aims to achieve greater national consistency in the way registered training organisations are registered and monitored, and how standards in the VET sector are enforced. In addition, the Australian Competition and Consumer Commission (and state and territory counterparts), having economy wide responsibilities in relation to consumer protection, can address misleading or unconscionable conduct of VFH providers.

Audit objective, criteria and scope

1.18 The objective of the audit was to assess the effectiveness of the design and administration of the VET FEE-HELP scheme.

1.19 To form a conclusion against the audit objective, the ANAO adopted the following high-level audit criteria:

- the design and implementation of the VFH scheme supported the achievement of the scheme's objectives; and
- administrative arrangements safeguarded the operation of the VFH scheme, including by supporting students to understand their rights and obligations.

20 The Australian Skills Quality Authority was established on 1 July 2011 through the enactment of the *National Vocational Education and Training Regulator Act 2011*, *National Vocational Education and Training Regulator (Consequential Amendments) Act 2011* and *National Vocational Education and Training Regulator (Transitional Provisions) Act 2011*. The Australian Skills Quality Authority is an independent statutory agency.

21 The VET Quality Framework comprises the: Standards for Registered Training Organisations 2015; Australian Qualifications Framework; Fit and Proper Person Requirements; Financial Viability Risk Assessment Requirements; and Data Provision Requirements.

1.20 The audit focused on administration of the VFH scheme by the Department of Education and Training. The Australian Skills Quality Authority and the Australian Competition and Consumer Commission were also designated in the audit.

1.21 In light of the announcement in October 2016 that the VFH scheme would cease on 31 December 2016, the audit report focuses on the causes of the key problems with the design and administration of the scheme. The aim is to inform debate about the proposed replacement VET Student Loans program, together with analysis and review of the VFH scheme undertaken by other entities. The lessons outlined in the report are also relevant to other Commonwealth entities in designing and implementing policies and programs.

Audit methodology

1.22 The ANAO reviewed records and information technology systems used by the Department of Education and Training to manage the VFH scheme, and interviewed departmental officers and key stakeholders in the VET sector.

2. Design and implementation of the VET FEE-HELP scheme

Areas examined

This chapter examines the design and implementation of the VET FEE-HELP (VFH) scheme and assesses if the scheme had met its objectives.

Conclusion

The design of the expanded VFH scheme in 2012 was weighted heavily towards supporting growth in the VET sector, but an appropriate quality and accountability framework addressing identified risks was not put in place. As the responsible department, Education did not establish processes to ensure that all objectives, risks and consequences were managed in implementing the expanded scheme. In effect, the department's focus on increasing participation overrode integrity and accountability considerations that would have been expected given the inherent risks. The department inadequately considered the implications of the changed incentives facing providers and students in the redesigned scheme and its role in ensuring effective regulation in conjunction with other regulators—principally the Australian Skills Quality Authority and the Australian Competition and Consumer Commission. There was also a lack of data analytics capability in Education and little internal management reporting or analysis of the VFH scheme to identify emerging problems. The department did not develop measures to assess broader objectives of the scheme (beyond growth) including those related to value and quality in the VET sector. In redesigning the VFH scheme, insufficient regard was given to relevant experiences in other jurisdictions, particularly Victoria, and the risks identified in a Regulation Impact Statement.

Were strategic and operational risks identified and addressed in the design of the expanded VET FEE-HELP scheme?

Strategic and operational risks were identified in the expansion of the VFH scheme in 2012, but were not adequately addressed in the legislative and policy design that significantly changed the requirements for participation in the scheme. While concerns about the application of legislative arrangements designed for higher education were identified in 2012, the expanded VFH scheme did not include adequate controls to manage risks specific to vocational education. Weaknesses included insufficient safeguards for students from misleading or deceptive conduct, and inadequate monitoring, investigation and payment controls for poor or non-compliant providers. The recommendation in a Regulation Impact Statement for a staged approach over three years did not occur, and the expanded scheme did not incorporate adequate controls over the risks identified in the statement.

2.1 The VFH scheme commenced in 2008, through amendments to legislative arrangements supporting loans to students in the higher education sector. The overarching objective of the scheme was to increase participation in vocational education and training. A Post Implementation

Review²² of the VFH scheme released in June 2012, noted that the scheme had ‘taken off more slowly than anticipated’ and that:

- it was administratively complex, hindering participation rates;
- some elements of the scheme, based on a higher education model, were inappropriate; and
- the extension of the scheme in Victoria had translated into much higher registered training organisation (RTO) participation levels, resulting in significantly higher numbers of eligible courses and student enrolments.

2.2 The Post Implementation Review made ten recommendations to further improve take-up of the scheme by RTOs and students, including that credit transfer requirements be removed, and administrative and legislative aspects of the scheme be streamlined. In response to the review, the department’s *Discussion Paper VET FEE-HELP Redesign 2012*²³, sought submissions from stakeholders (by 22 July 2012), on proposed changes to the scheme. The discussion paper included that the scheme required redesign to ensure that it better met the needs and operational realities of the VET sector, in order to:

- improve student access and participation in VET;
- simplify, streamline and improve the suitability of the scheme in the VET sector without compromising its quality and integrity;
- improve the take up of VFH by states and territories and quality RTOs; and
- improve stakeholder’s experience with the scheme.

2.3 Changes to the scheme were subsequently implemented later that year, through legislative amendments (with further minor amendments in 2013)²⁴ and changes to the *VET Provider Guidelines* that removed many of the barriers to RTO and student participation, including by:

- abolishing the credit transfer requirements (to higher education), which allowed more RTOs to become VFH providers and increased the range of courses for which a VFH loan could be accessed;
- extending the loan facility to state or territory subsidised students outside Victoria, which increased the number of students who were eligible for a VFH loan; and
- streamlining many of the administrative requirements (for example, more flexible arrangements associated with the setting and reporting of census dates²⁵), which simplified the compliance requirements for approved VFH providers.

22 Grosvenor Management Consulting: *Post Implementation Review of the VET FEE-HELP Assistance Scheme*. Commissioned by the Prime Minister, the Hon Kevin Rudd MP, on 17 February 2009, the final report was approved and released by the Minister for Tertiary, Skills, Jobs and Workplace, Senator Chris Evans MP, on 19 June 2012.

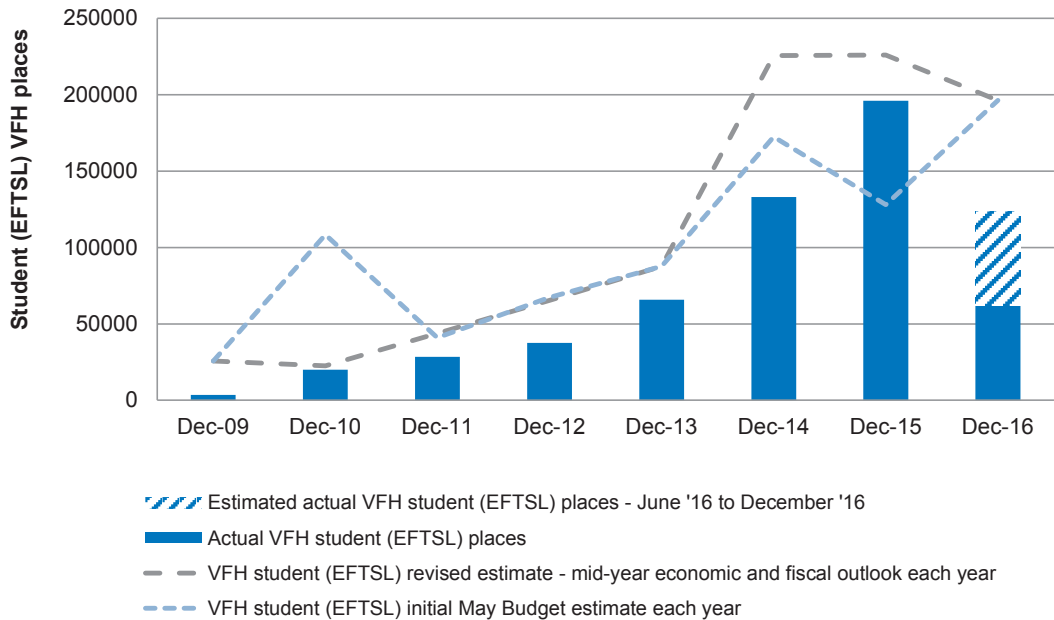
23 Department of Industry, Innovation, Science, Research and Tertiary Education, *Regulation Impact Statement, VET FEE-HELP Redesign 2012*, p. 3.

24 *Higher Education Support Amendment (Streamlining and Other Measures) Act 2012* (assent 28 November 2012); and *Higher Education Support Amendment (Further Streamlining and Other Measures) Act 2013* (assent 28 March 2013).

25 The census date is the last day a student can submit their enrollment, or withdraw their enrolment from the course without incurring a VFH debt.

2.4 The growth in the number of students accessing a VFH loan between 2009 and 2016, and the estimate and mid-year revision of the estimate for each year is shown in Figure 2.1. The data reflects the initially slow take up of the scheme prior to 2012, and large variations between estimates and actual numbers as the expanded VFH scheme was fully implemented from 2013 to 2015, when student numbers and the value of loans peaked. The estimated reduction in participation in the scheme in 2016 is a result of further legislative and policy amendments, implemented from 1 April 2015, to address issues with the operation of the expanded scheme (discussed later in this report).

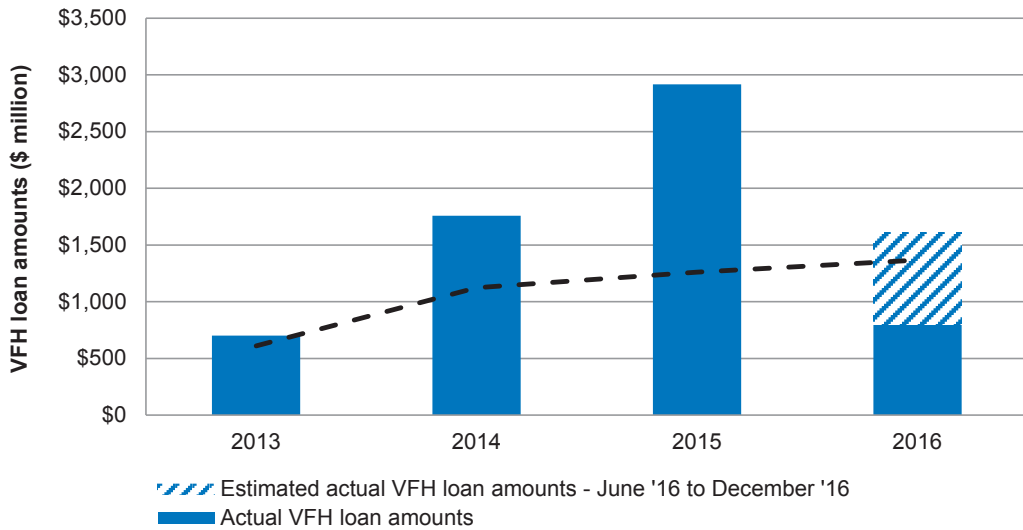
Figure 2.1: Estimated and actual VFH student places, 2009 to 2016



Note: EFTSL, equivalent full-time student load for one year.

Source: ANAO analysis of estimated and actual EFTSL for which VFH loans were paid, published in the annual reports of the departments with responsibility for administration of the VFH scheme 2009 to 2015 (refer Appendix 2); and Portfolio Budget Statements 2016 and 2017. Actual and estimated actual places to December 2016 provided by Education.

2.5 As a result of rapidly increasing course fees, the value of loans issued under the expanded VFH scheme significantly exceeded forecasts in departmental modelling conducted in March 2013 (Figure 2.2). This was contrary to the number of students accessing VFH loans not reaching forecasts as shown in Figure 2.1.

Figure 2.2: Forecast and actual value of VFH loans, 2013 to 2016

Source: ANAO analysis of forecast VFH loan amounts from an internal Education Costing Model of March 2013, and data as to actual and estimated (to December 2016) VFH loans paid provided by Education in 2016.

Strategic and operational risks associated with the expanded VFH scheme

2.6 Strategic and operational risks associated with the expanded VFH scheme were identified in the *Regulation Impact Statement VET FEE-HELP Redesign 2012* that accompanied the Higher Education Support Amendment (Streamlining and Other Measures) Bill 2012.

2.7 The Regulation Impact Statement, commenting on the initial design of the VFH scheme (that included credit transfer requirements with higher education providers) and on aspects of the functioning of the expanded scheme in Victoria from 2009, included, p. 7:

VET FEE-HELP's requirements for participating RTOs are rigorous to ensure there are effective safeguards for students and public monies. However, the administrative burden imposed by the Government is proving to be a barrier to participation for most RTOs. Thus competing interests exist between reducing barriers to increase participation in VET FEE-HELP, while maintaining the HELP scheme's integrity.

The quality of RTOs across the VET sector varies. As VET FEE-HELP will be progressively extended to state and territory subsidised VET diploma and advanced diplomas nationally, it is vital that VET FEE-HELP is underpinned by a framework supporting quality outcomes for all stakeholders. Current mechanisms in place to ensure quality under VET FEE-HELP should be enhanced to protect students and public monies through the:

- improvement of suspension and revocation provisions;
- introduction of safeguards for students from misleading or deceptive conduct; and
- improvement of transparency and the ability to share information.

If the limitations identified with VET FEE-HELP's quality and accountability framework are not addressed, the potential to damage industry confidence in the quality of VET qualifications and the role of VET FEE-HELP is high. As VET FEE-HELP continues to grow, improvements to the

quality framework underpinning the HELP schemes are key to ensuring its agility and robustness in a dynamic skills environment.

2.8 The Regulation Impact Statement included (p. 8) that the Government's ability to reduce the administrative and compliance burden on RTOs, while maintaining the quality and integrity of the scheme, was limited by a number of legislative and regulatory arrangements (applicable at that time). These limitations included: the lack of provisions (in the *Higher Education Support Act 2003*) 'to prohibit a person or body corporate from misrepresenting or misleading potential students', referring to complaints to the Government that had identified instances where people with an intellectual disability had been targeted for enrolment, or gifts had been offered to students as an incentive to enrol in courses; and that there were no legislative provisions to enable the Government to deter or stop such actions from occurring.

2.9 The Regulation Impact Statement recommended a staged implementation of the redesign of the VFH scheme over a three-year period (to 2014–15), noting that such an approach aligned with the Council of Australian Governments National Partnership and implementation could 'occur with sufficient lead times, thereby minimising the cost and disruption to RTOs and the Government'.

Issues with the design and control of the expanded VFH scheme

2.10 The purpose of the amendments in the *Higher Education Support Amendment (Streamlining and Other Measures) Act 2012* reflected the risks identified in the Regulation Impact Statement:

The purpose of the amendments are to strengthen the integrity and quality framework underpinning the HELP schemes, improve information sharing and transparency with the national education regulators, improve arrangements for the early identification of low quality providers, and position the Government to better manage risk to students and public monies.

2.11 The legislation sought to balance measures to allow increased access to quality vocational education and training, while maintaining the integrity of the VFH scheme. The amendments significantly changed the dynamics of a scheme that had been implemented (in 2008) to align 'as much as possible with the FEE-HELP scheme operating in the higher education sector, and a high bar was set to ensure only quality [RTOs] were approved to effectively manage the risks to students and public monies'. The substantive changes to the VFH scheme were acknowledged in the recommendation in the Regulation Impact Statement for a staged implementation, but this did not occur.

2.12 Rather, with an emphasis on increasing participation in vocational education and training, insufficient consideration was given to the design of the expanded VFH scheme to achieve a balance between streamlining requirements for participation in the scheme, and maintaining an effective regulatory framework that would have addressed a range of risks, including those associated with:

- the incentives available to VFH providers operating in an environment where payment of a loan was based on student enrolment in an eligible VFH course, with no controls as to the capacity of the student to participate in, or to complete the course; and little

protection for students as consumers of vocational education and training, particularly those with lower levels of education and financial literacy²⁶;

- the financial incentives, and low barriers to entry, which influenced the quality and usefulness of VET courses, as some VFH providers based their course offerings on training that attracted the highest subsidy, benefit or profit, at the lowest cost. Consequently, lower standard training was provided to students in areas where skill shortages did not exist;
- reduced sensitivity to pricing among students accessing VFH loans that allowed providers to substantially increase their course fees²⁷; and
- lack of clarity about the roles and regulatory powers of the department and those of VET regulators, where Education had responsibility for VFH provider approvals and payments, and various powers to undertake a range of compliance actions against VFH providers.

2.13 Consequently, within two years of the implementation of the expanded VFH scheme, measures were being developed to address loopholes in the regulatory framework that were being exploited by some VFH providers and undermining the reputation of the VET sector. Some measures were implemented quickly through the *VET Guidelines*, while others required legislative changes.²⁸ The full list of guideline and legislative changes to the VFH scheme, introduced in three tranches in: 1 April 2015, 1 July 2015 and 1 January 2016, are shown in Appendix 3 (as listed in the *Redesigning VET FEE-HELP: Discussion Paper 2016*, p. 50). Of note, are the measures introduced to protect vulnerable students, identified as a risk in the 2012 Regulation Impact Statement.

2.14 The integrity and quality framework underpinning the expanded VFH scheme in 2012 would have been stronger if greater emphasis had been placed on addressing the risks outlined in the Regulation Impact Statement. There was also the opportunity for the design of the expanded scheme to have paid greater attention to the lessons learned from the expansion of the VFH scheme in Victoria (as discussed in the Regulation Impact Statement), where similar issues to those that affected the expanded VFH scheme had emerged earlier in Victoria, as it was the lead state in implementing the expanded VFH reforms.

26 The *Redesigning VET FEE-HELP Discussion Paper 2016* (p. 14) includes that: while data indicates significant growth in VET FEE-HELP take up across all student cohorts, the growth in disadvantaged students is markedly higher compared to non-disadvantaged students. In itself, this is one of the objectives of the scheme. However... it has been accompanied by poor outcomes in some aspects. One explanation for this is the proliferation of unethical actions by a small number of providers offering inducements such as iPads, cash and vouchers to prospective students to enrol in a course and request VET FEE-HELP. These behaviours specifically targeted vulnerable people through cold calling or door knocking neighbourhoods of low socio-economic status. Those targeted are signed up to a course which they may not have the academic capability to complete and may not understand the loan must be repaid.

27 Course tuition fees increased from an average of \$4060 to \$13 911 between 2009 and 2015, and the cost of the same course sometimes varies significantly between providers. For example, as at April 2016, the fees for the: Diploma in Graphic Design (course code CUV50311) were \$5492 with one provider and \$59 860 with another; and Diploma of Aviation (instrument flight operations, course code AVI50408) ranged from \$32 330 to \$96 000.

28 *Higher Education Support Act (Vet FEE-Help Reform) Bill 2015*.

Levels of loan debt

2.15 The new measures also aimed to address the levels of VFH loan debt to the Commonwealth. The ANAO audit *Administration of Higher Education Loan Program Debt and Repayments* included that the value of total HELP debt was projected to grow to approximately \$67.6 billion by 2017–18. At that time, VFH was the fastest growing component of the program and the repayment prospects for this debt were relatively unknown. The audit also found that the ATO, which has responsibility for monitoring and managing HELP debt, did not differentiate between debt associated with the higher education and VET sectors, and consequently repayment information was not available by loan type. The report also noted that Education was unable to demonstrate that it routinely monitored and analysed factors affecting the repayment of HELP debt.²⁹

2.16 The Australian Government Actuary models the HELP doubtful debt for the purposes of financial reporting on the HELP asset. The report of the Australian Government Actuary to Education, 18 August 2016, estimated that \$1.2 billion relating to loans issued inappropriately by VFH providers in 2014 and 2015 would not be recovered. The Actuary also estimated that a further \$1.0 billion in VFH loans would not be repaid, largely relating to loan recipients not expected to meet the income repayment threshold for new debts raised in 2015–16.³⁰

2.17 In November 2015, the department received Government approval to develop an expanded HELP debtor database, to improve the understanding and management of loan debt. The database will match demographic and educational data from the department and income and occupation-related information from the Australian Taxation Office, and will contain actuarial analysis on the likelihood of debt repayment from the Australian Government Actuary. Education expects that an initial version of the database will become available by mid-2017.

Were arrangements in place between agencies to monitor implementation risks?

Arrangements were not in place between Education and the regulatory agencies to effectively monitor and address risks to the implementation of the expanded VFH scheme, particularly in relation to integrity, quality and sustainability. There was poor engagement by Education with the Australian Skills Quality Authority and the Australian Competition and Consumer Commission to exchange information and intelligence about low quality or unscrupulous VFH providers. Within Education, until 2016 there was little analysis or internal management reporting of the VFH scheme to identify emerging problems.

29 ANAO Audit Report No.31 2015–16, *Administration of Higher Education Loan Program Debt and Repayments*, pp. 17–18, 62.

30 A report prepared by the Australian Government Actuary in 2013 identified risks associated with the expanded scheme. The report included that: VFH debts are likely to be repaid more slowly than other categories of debts in the Higher Education Loan Program, have a higher 'debt not expected to be repaid' component; and if the trends identified in the report persist, the level of debt not expected to be recovered 'may turn out to be substantial'. Australian Government Actuary, *Report on VET FEE-HELP as at 30 June 2012*, August 2013, p. 14.

2.18 Education had responsibility for administering the VFH scheme under the *Higher Education Support Act 2003*³¹, and other agencies interacted with it in important ways:

- registration as a RTO with the Australian Skills Quality Authority, or the state regulatory bodies, (the Victorian Registration and Qualifications Authority, and Training Accreditation Council Western Australia), was a pre-condition to being approved as a VFH provider (from April 2015, RTO status was renewed every seven, previously five, years);
- Australian Consumer Law regulators³², provide protection to consumers across all sectors of the economy and can address misleading or unconscionable market behaviour of VFH providers;
- the National Centre for Vocational Education Research (a not-for-profit company owned by the Commonwealth and state and territory ministers with responsibility for vocational education and training) provides research and statistics about the VET sector; and
- the Australian Taxation Office collects debt incurred by students accessing loans through the Higher Education Loan Program.

2.19 Legislative amendments establishing the expanded VFH scheme included to improve information sharing and transparency with the national education regulators, and improve arrangements for the early identification of low quality providers.

Information sharing with other agencies

2.20 Prior to early 2015, there is little evidence that Education had engaged with other agencies to exchange information, data or intelligence about the operation of the VFH scheme, other than in relation to the assessment of applications from RTOs for VFH provider status.³³ Consequently, these agencies had limited visibility of the levels of proposed and/or actual funds paid to providers, or the growth in student numbers, that would have been relevant to their regulatory and compliance functions.

2.21 There is also little evidence that Education, in its administration of the VFH scheme, gave due consideration to information and/or intelligence gained by those agencies. For example, the report of a national strategic review conducted by the Australian Skills Quality Authority, *Marketing and advertising practices of Australia's registered training organisations* (published September 2013) was initiated 'because of the serious and persistent concerns raised within the training sector about registered training organisations and other bodies providing misleading

31 The department with responsibility for the administration of the Higher Education Loan Program (including the VFH scheme) from 2008 (and portfolio responsibility for the Australian Skills Quality Authority) is at Appendix 2.

32 Australian Consumer Law regulators operate under a 'single law; multiple regulator' collaborative model that includes the: Australian Competition and Consumer Commission; Australian Securities and Investments Commission (albeit with more limited provisions relating to the regulation of financial services); and eight state and territory agencies.

33 During the VFH provider assessment process Education requested information from the Australian Skills Quality Authority as to whether it had any concerns regarding the provider's ability to comply with the VET Quality Framework. The question was in a standard format.

information in the marketing and advertising of training services'.³⁴ The review examined the websites of 480 organisations and their online marketing and advertising of training services. Of these 480 websites, 421 belonged to RTOs and 59 to organisations that were not RTOs, and the review found that:

45.4 per cent of RTOs investigated could be in breach of the national standards required for registration as an RTO under the *National Vocational Education and Training Regulator Act 2011* and of the Australian consumer law and/or state and territory fair trading laws with respect to their marketing and advertising. These potential breaches range from relatively minor concerns that can and should be rectified quickly and easily, to more serious breaches that could involve major sanctions being applied, including a loss of the RTO's registration.³⁵

2.22 An internal Education minute of 10 June 2014 sought approval to forward information about the VFH scheme, collected under the *Higher Education Support Act 2003*³⁶ (including funding amounts, number of students, course costs and completions) to the Australian Skills Quality Authority 'annually, intermittently or as requested'. The purpose was to determine if issues concerning the behaviour of some VFH providers were present under the Australian Skills Quality Authority legislation. The provision of information to the Australian Skills Quality Authority was made in response to Education's concerns about VFH provider growth (refer Table 3.1):

... occurring now and in recent years, of thousands of percent over a period of 24 months, 12 months or less is untenable and we hold serious concerns regarding the level of quality of training, student support available and the risk of minimal beneficial outcomes for students.

2.23 The delegate approved the provision of data, with instructions that a Memorandum of Understanding be developed to support the arrangement. The Memorandum of Understanding between the Australian Skills Quality Authority and Education was not established until June 2016, although the Australian Skills Quality Authority had been provided with data from early January 2015.

2.24 As at September 2016, Education advised that it was revising the current Memorandum of Understanding with the Australian Taxation Office (on HELP administration) in relation to HELP debt, and developing a separate agreement with the Australian Government Actuary.

Monitoring of the VFH scheme by the Department of Education and Training

2.25 Advice from Education was that it had not realised the extent of the problems with the operation of the VFH scheme until late 2014, when verified data of the number of students accessing a VFH loan in the first six months of the year was available (Figure 2.1). This data

34 As previously discussed, the lack of provisions (in the *Higher Education Support Act 2003*) 'to prohibit a person or body corporate from misrepresenting or misleading potential students', was identified in the 2012 Regulation Impact Statement. Concerns specific to marketing VFH loans were not identified in this report, most likely due to the timing of the report.

35 Australian Skills Quality Authority, *Marketing and advertising practices of Australia's registered training organisations*, September 2013, p. v111. Available from <http://www.asqa.gov.au/verve/resources/Strategic_Reviews_2013_Marketing_and_Advertising_Report.pdf>, [accessed 20 October 2016].

36 Provisions in the *Higher Education Support Act 2003* allow for the exchange of information among Commonwealth Officers; and provisions in the *Higher Education Support Amendment (Streamlining and Other Measures) Act 2012* provide that the Minister may seek information from the Tertiary Education Quality and Standards Agency, or a relevant VET regulator in taking a decision to approve, revoke or suspend a higher education or VET provider's eligibility for the purposes of FEE-HELP or VET FEE-HELP.

showed extremely rapid growth in uptake of the scheme in that period, requiring a 30 per cent variation to the budget estimates for 2014–15 (increased from 172 300 students in May 2014 to 225 500 in February 2015).³⁷

2.26 The expanded VFH scheme had been designed to increase participation in vocational education and training, but there was little evidence that trends in key aspects of the scheme had been monitored, analysed or reported, in light of the risks identified in the 2012 Regulation Impact Statement, and to support the early identification of low quality providers and better manage risk to students and public monies. Education advised that departmental executive reporting on the VFH scheme had typically been provided through quarterly briefs prepared for meetings of Senate Estimates committees and in periodic briefs on individual matters.

2.27 It would have been prudent for Education to have monitored scheme participation against estimated cost from the outset of the expanded scheme, as the higher cost per student would have provided it with an earlier appreciation of the impact of VFH course fee price increases on the sustainability of the scheme (see Figures 2.1 and 2.2). Analysis of characteristics of the scheme such as trends in uptake in disadvantaged and remote communities, including type of courses (such as business administration), and completion rates would also have provided the department with an earlier appreciation of problems with the implementation of the scheme.

2.28 In mid-2015 the lack of a strong data analytics capability was identified by Education as a significant issue in the administration of the VFH scheme. Problems identified included: a general lack of priority allocated to VFH data production; higher than acceptable error rates; expertise gaps; inconsistent reporting; and a significant backlog of data requests resulting in an over-reliance on other teams in the broader HELP program. There was very limited capability to utilise data analytics to identify emerging and existing risks, develop new policy ideas and prepare for the redesign of the program. In 2016 the department increased its internal capability and capacity to collect and analyse data³⁸, and new standards of executive reporting are being developed.

Did the VET FEE-HELP scheme achieve its objectives?

The VFH scheme did not achieve many of its stated objectives, and is to be replaced by the VET Student Loans program from 1 January 2017.

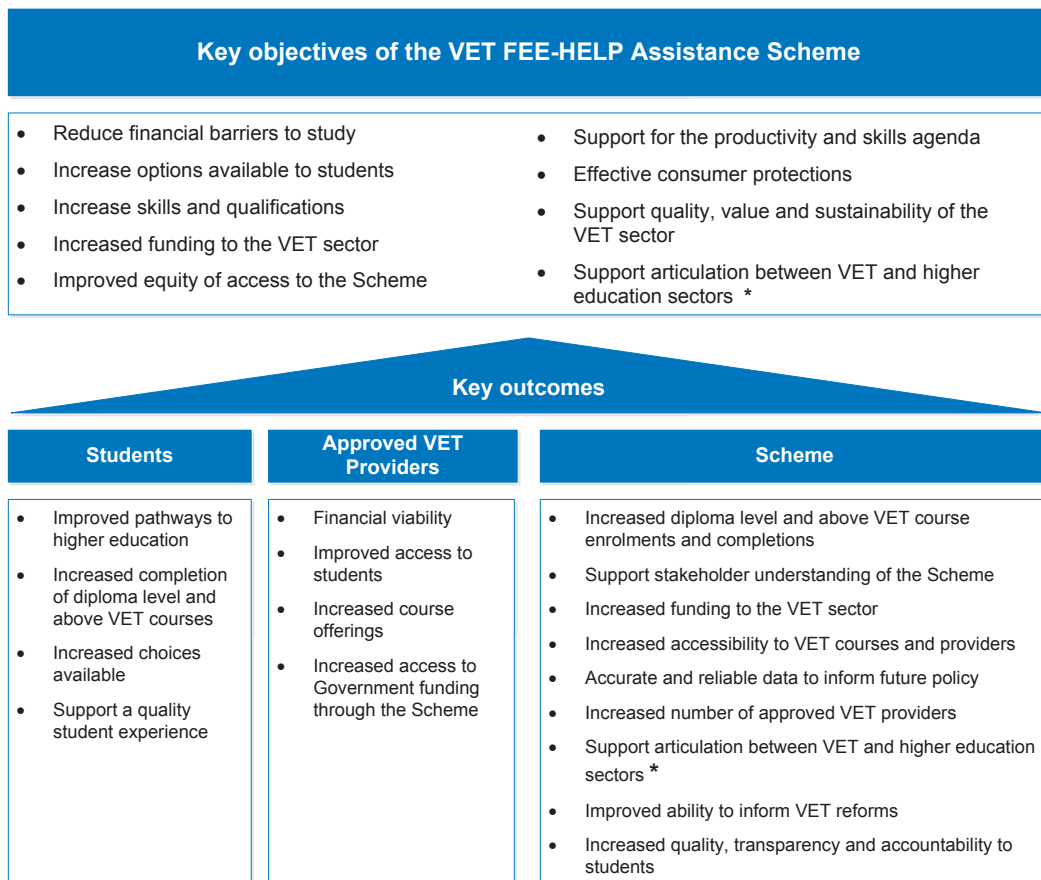
While achieving increased participation in vocational education and training as intended following the expansion in 2012, Education did not provide evidence that the scheme achieved objectives relating to quality, value and sustainability of the VET sector, consumer protections, or support for the productivity and skills agenda. In analysing the performance of the scheme, Education did not develop measures to assess broader objectives of the scheme, including those related to value and quality in the VET sector, and did not revise the key objectives and outcomes following expansion of the scheme.

37 Education and Training Portfolio, *Portfolio Additional Estimates Statements 2014–15*.

38 In late 2015, the VFH branch expanded the data team and produced a draft *Data Road Map* strategy, setting out a six-month plan to address data analytics issues within the administration of the scheme, and to create various ‘dashboards’ to track and monitor student and provider levels, as well as general trends in the scheme.

2.29 The broad objectives of the VFH scheme, developed through the Council of Australian Government *National Agreement for Skills and Workforce Development* (revised April 2012), and *National Partnership Agreement on Skills Reform* (April 2012 to June 2017), were to: build a more highly skilled workforce; provide equity to students in the VET sector with higher education students; and support reform of the VET sector across state and territory jurisdictions.³⁹ More detailed objectives and outcomes of the scheme are illustrated in Figure 2.3.

Figure 2.3: VET FEE-HELP scheme: key objectives and outcomes



Note: * relate to the VFH scheme before the credit transfer requirement to higher education was abolished.

Source: ANAO, adapted from the Post Implementation Review (2011) of the VET FEE-HELP Assistance Scheme.

2.30 The expanded VFH scheme achieved increased participation in vocational education and training, but measuring the success of the VFH scheme against other objectives, including those

39 The stated objective of the *National Agreement for Skills and Workforce Development* is a VET system that delivers a productive and highly skilled workforce and which enables all working age Australians to develop the skills and qualifications needed to participate effectively in the labour market and contribute to Australia's economic future; and supports the achievement of increased rates of workforce participation.

relating to quality and value in the VET sector, is more challenging. The report of a review commissioned by the Victorian Department of Education and Training included that (p. 6)⁴⁰:

A demand driven VET sector, like Victoria's, is vulnerable to a range of market failures and equity issues that can lead to sub-optimal quality outcomes. This is in part due to the:

- structure of the VET market, which has a large number of providers and a diverse range of qualifications, which can lead to overwhelming choice;
- cohort of VET consumers, which includes young students, those with low levels of education and financial literacy and other vulnerabilities;
- nature of VET, which by its very nature is: (1) an 'experienced good', making quality difficult to assess until after completion; and (2) competency based, encouraging flexibility but reducing comparability between individual services or outcomes.

2.31 While recognising the challenges in measuring the success of the VFH scheme against objectives other than growth and participation, Education did not provide evidence that the scheme achieved many of its objectives, including those relating to quality, value and sustainability of the VET sector, consumer protections, or support for the productivity and skills agenda. Education did not develop performance measures, or draw on information from other regulators, such as the Australian Skills Quality Authority, to assess the broader outcomes of the scheme.

2.32 In addition, the objectives and outcomes shown in Figure 2.3 reflect the design of the scheme before the credit transfer requirement (to higher education) was abolished and have not been subsequently revised. In external reporting, Education reports only on the number of VFH loans accessed each year, against Portfolio Budget Statements estimates.⁴¹

VET Student Loans program

2.33 Irrespective of reforms implemented in 2015 and 2016 (as set out in Appendix 3), the *Redesigning VET FEE-HELP Discussion Paper 2016* reported that the Government considered the VFH scheme was not sustainable in its current form. On 5 October 2016, the Minister for Education and Training announced cessation of the VFH scheme and implementation of a new program, VET Student Loans, from 1 January 2017.

2.34 The objectives of the new VET Student Loans program are yet to be finalised, with the current focus on arrangements to strengthen administration of loans to provide value for money to both students and taxpayers via tougher barriers to entry for providers. The program will include:⁴²

40 Victorian Department of Education and Training, *Review of Quality Assurance in Victoria's VET system*, May 2015, available from < <http://www.education.vic.gov.au/training/learners/vet/Pages/gareview.aspx>>, [accessed 30 September 2016].

41 The ANAO, in Report No.31 2015–16, *Administration of Higher Education Loan Program Debt and Repayments*, noted (p. 7) that the [overarching] Higher Education Loan Program does not have a robust program of evaluation and review based on rigorous analysis of sound data. Program performance measures and reporting reflect a primary focus on access and there is limited measurement of the sustainability of the program.

42 Senator the Hon Simon Birmingham, Minister for Education and Training, 'New VET Student Loans a win-win for students and taxpayers', media release 5 October 2016, available from <<http://www.senatorbirmingham.com.au/Latest-News/ID/3227/New-VET-Student-Loans-a-win-win-for-students-and-taxpayers>>, [accessed 18 October 2016].

properly considered loan caps on courses, stronger course eligibility criteria that aligns with industry needs, mandatory student engagement measures, a prohibition on the use of brokers to recruit students and a stronger focus on students successfully completing courses.

Characteristics of the new scheme are set out in Box 1.

Box 1	Characteristics of the VET Student Loans program to be implemented from 1 January 2017
	<ul style="list-style-type: none">• Limit courses eligible for VET Student Loans to those that align with industry needs and are selected based on analysis of employer, state and territory and Commonwealth data to provide a high likelihood of leading to good employment opportunities.• Include three bands of loan caps at \$5000, \$10 000 and \$15 000 that will be set for courses depending on their delivery cost. The Minister can review the cap rates at any time in the first 12 months of the scheme and there will be a compulsory review after the first 12 months of VET Student Loans to ensure it is working as intended.• Require students to access and engage with the VET Student Loans online portal to ensure they are active and legitimate enrolments.• Feature a new application process for providers wanting to access VET Student Loans that includes a much higher bar to entry by assessing their relationships with industry, their student completion rates, the employment outcomes of their courses and their track record as education institutions.• Introduce strengthened legislative, compliance and payment conditions, including paying providers in arrears, the ability to cap provider loan amounts and student numbers and to limit course scope, powers to suspend poor performing providers from the scheme, cancel their payments and revoke their approval.• Prohibit approved providers from using 'brokers' or directly soliciting prospective students (including 'cold calling' or so-called 'lead generation') and limiting the subcontracting of training.

Source: Announcement by Minister for Education and Training, media release, 5 October 2016.

3. Administration of the VET FEE-HELP scheme

Areas examined

This report preparation paper examines administrative arrangements to safeguard the operation of the VET FEE-HELP (VFH) scheme.

Conclusion

The administration of the VFH scheme did not safeguard the operation of the VFH scheme, and did not support the achievement of objectives relating to integrity, quality, value and sustainability. Similar to the scheme's design and implementation failures, there were weaknesses in Education's administrative processes for: approving VFH providers; developing and undertaking risk, fraud and compliance activities; controlling payments to providers; making information readily available to students about their rights and obligations under the VFH scheme; and managing and resolving student complaints. While improvements were made to many of these processes in 2016, they were in place for a relatively short period of time prior to the cessation of the VFH scheme from 31 December 2016.

Did the approval process for VET FEE-HELP provider status effectively mitigate risks to the scheme?

There was no evidence of adequate consideration of risk in the development of the approval process for registered training organisations to achieve VFH provider status, or that the process effectively safeguarded the VFH scheme at this early stage of provider engagement. Education did not analyse the results of the process to understand the behaviour and motivation of organisations seeking access to the VFH loan scheme, and how best to strengthen the approval process.

3.1 To become an approved VFH provider in the VFH scheme, a training organisation had to first be registered as a registered training organisation (RTO) by the regulator within the relevant jurisdiction. The RTO then registered for access to Education's Higher Education Loan Program information technology system (a high level view of the systems used for administering the program, including the VFH scheme, is at Appendix 4), which enabled it to lodge an online application to Education to be assessed for VFH provider status. Once approved, VFH providers were not required to re-apply for VFH status, as long as their RTO registration remained valid.

3.2 The 2012 post implementation review of the design of the VFH scheme recommended streamlining the application process to encourage greater participation by RTOs within the VET sector. The post implementation review included that, in the previous year, some 562 RTOs commenced an application to become a VFH provider, but did not finalise and submit their applications:

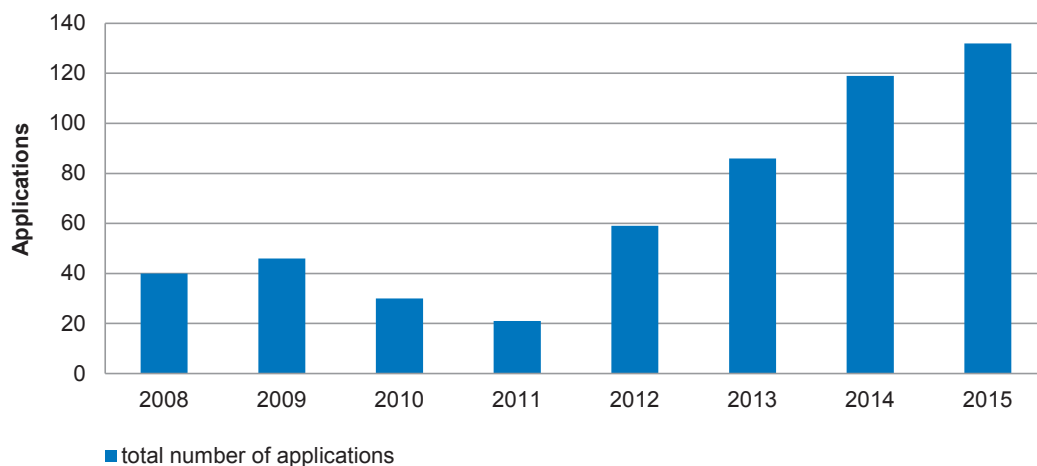
Some of the more significant issues experienced by RTOs was the substantial support required during the application process, particularly in regards to an RTO's ability to meet the financial

viability, principal purpose, credit transfer and tuition assurance requirements. This meant that many applicants withdrew or were not approved under the Scheme.⁴³

3.3 Credit transfer requirements were abolished in 2012, but other components of the application process were retained, and the extent of the assessment process for VFH provider status (over and above the requirements for RTO registration⁴⁴) remained substantial, as would be expected for a scheme that provided access to considerable public funds.

3.4 The financial viability requirements⁴⁵, for example, were reviewed and strengthened at various times since commencement of the scheme and included consideration of 26 financial viability risk indicators, supported through the provision of accounts and financial reports. Applicants for VFH provider status were also assessed in terms of the *Fit and Proper Person Specified Matters 2012* instrument⁴⁶ that focuses on the person’s record of honesty, financial management and compliance with relevant regulatory schemes. Nevertheless, the number of applications for VFH provider status increased from 2012 to 2015 (Figure 3.1).

Figure 3.1: Applications received from registered training organisations seeking approved VET FEE-HELP provider status, 2008 to 2015



Source: ANAO analysis of the Department of Education and Training applications data.

3.5 There is no evidence that adequate consideration of risk was undertaken in developing the approval process, and that the process effectively mitigated risks to the VFH scheme at this early stage of provider engagement.

43 Grosvenor Management Consulting, *Post Implementation Review of the VET FEE-HELP Assistance Scheme*, 2011, p. 8.

44 Specifically, the financial viability tests applied by Education were considerably more rigorous than those applied by the Australian Skills Quality Authority, with Education requiring applicants to support their application by submitting a number of financial documents.

45 Department of Education and Training, *Financial Viability Instructions for Applicants and Providers of FEE-HELP and VET FEE-HELP Assistance*, May 2015.

46 *Fit and Proper Person Specified Matters 2012* is a legislative instrument in which the Minister sets out the criteria to be considered in assessing whether a body corporate or an individual is ‘fit and proper’ to be approved as a VFH provider.

3.6 Data on applications lodged with Education from 1 January 2009 to 17 August 2016 showed that of the 1538 applications commenced by RTOs over the period, at 17 August 2016, 925 had been withdrawn or discarded. The number of applicants who commenced but subsequently withdrew or discarded their application may indicate that aspects of the application process were working effectively (by deterring potentially non-compliant providers). The additional requirements for VFH provider status, introduced from 1 January 2016 (including that RTOs seeking approval as VFH providers must have been trading since at least 1 January 2011) would also have reduced the number of RTOs that applied. However, Education did not routinely report on or analyse data on the status and outcomes of applications to support an understanding of the behaviour and motivation of organisations seeking access to the VFH loan scheme. Such analysis could have been considered in strengthening the approval process to help ensure that only suitable RTOs gained access to the scheme.

Were approved VET FEE-HELP providers effectively monitored and regulated?

VFH providers were not effectively monitored and regulated by Education. The department acknowledges that there was not an effective compliance framework for the scheme, noting the serious limitations in its compliance powers under the VFH legislation. In effect, there was very limited and reactive compliance activity, including of the expanded VFH scheme from 2012. Education did not act promptly at that time to clarify the roles and regulatory powers of the department and other regulators, to ensure a sound regulatory framework for VFH. From mid-2015, compliance and regulatory activities increased in response to the identified risks. Education initiated several major compliance audits, began the development of a new risk-based compliance framework, and worked with Australian Consumer Law regulators in taking a number of established VFH providers to court under the prevailing VFH legislation.

3.7 Prior to 2012, Education's approach to providing assurance for the VFH scheme was largely reactive, responding on a case-by-case basis to risks emerging among existing providers; and, as previously discussed, with little reference to data and or information from the VET or Australian Consumer Law regulators. Following legislative amendments in 2012, the department initiated a number of measures to develop a risk-based approach⁴⁷ but these were not effectively implemented. Measures included:

- 2012, commissioning the development of a *Risk Assessment Tool* to assess the levels of risks associated with each provider;
- 2013, developing the *HELP Program Assurance Strategy, 2013–14* (not VFH specific);
- 2014, commissioning a high-level review of the department's VFH compliance framework, finalised in December 2015.⁴⁸ The report of the review included that the: risk indicators in the *Risk Assessment Tool* were not reliable in assessing provider risk,

47 Measures to streamline the administration of the VFH scheme, supported through the *Higher Education Support Amendment (Streamlining and Other Measures) Act 2012*, included: 'implement a risk managed approach to provider approvals and administrative compliance, including consideration of reports by the national education regulators' (explanatory memorandum to the Bill).

48 ORIMA Research, *High-level review of the department's VFH compliance framework, December 2015*.

providing 'false comfort' to the overall level of compliance risk within the VFH scheme; and the department discontinue use of the *Risk Assessment Tool* and build a new compliance framework; and

- 2015, separating the compliance approach for VFH from the broader strategy and developing the *VET FEE-HELP Compliance Strategy 2015-2017*, but the strategy lacked detail and was never implemented.

3.8 The department was able to provide only limited detail of compliance activities⁴⁹ relevant to the VFH scheme (conducted from commencement of the scheme to 2016), advising that information may be available regarding some compliance audits undertaken in 2014 and 2015 in the department's electronic record management system (TRIM) but may be difficult to identify. Information regarding compliance activities and audits underway in 2016 is further discussed below.

3.9 The *Redesigning VET FEE-HELP Discussion Paper 2016* acknowledged that there had not been an effective compliance framework, noting that there continued to be serious limitations in the department's compliance powers, irrespective of new measures introduced from 1 January 2016. Key limitations included:

- significant non-compliance by a provider with the *Higher Education Support Act 2003* and the *VET Guidelines* does not necessarily undermine a provider's right to payment;
- audit and information gathering powers are currently weak and do not enable the department to search and seize documents and image computer systems. Rather, the powers principally rely on the cooperation of the VFH provider; and
- limited capacity for the department to take compliance action against a provider where the provider's RTO status had been cancelled by the Australian Skills Quality Authority, and the cancellation is subject to a merits review.

3.10 The ANAO also notes that elements of the VFH operating environment were conducive to designing an effective compliance strategy. In particular, there was a relatively small number of providers (282 in June 2016), with ready opportunities for the department to identify the smaller number of providers at greater risk of non-compliance, in terms of likelihood and consequence, to direct its compliance activities. For example, Education could have focussed on larger, newer and more rapidly expanded private providers, and those with higher rates of disadvantaged students and lower course completion rates, if it had applied a risk-based compliance approach commonly employed across Australian Government programs.

New compliance activities in 2016

3.11 In the May 2015 Federal Budget, Education received \$18.2 million in additional funds over the four year forward estimates for the implementation of an enhanced compliance regime for VFH, including to develop a new performance and risk management framework, and to improve the data collection and reporting capability of the department. Of the total amount, \$3.6 million

49 The department provided: a list of 34 Online Compliance Checks conducted in 2014; and a list of Clause Notices conducted from 2010 to 2015—of 201 activities recorded, 155 related to a request for information.

was allocated for capital costs to enhance the information technology systems supporting administration of the scheme and broader Higher Education Loan Program.

3.12 As at August 2016, Education had seconded (from November 2015) a Senior Executive Officer from the Australian Competition and Consumer Commission to: lead a new focus on major compliance under the current arrangements for the VFH scheme; and develop a new compliance framework and strategy, complaint handling strategy and a new records management plan, to support the redesigned scheme when it commences in 2017.

Compliance activities

3.13 Education is working with regulators (the Australian Skills Quality Authority, the Australian Competition and Consumer Commission and state and territory counterparts) to: identify VFH providers at the higher end of inappropriate business practices, non-compliance, and perceived fraudulent activity; and initiate appropriate action. Student surveys (commissioned by Education) showed that around 25 per cent of enrolments submitted to Education by these VFH providers were for students who were unaware they had been enrolled in a course, or had entered into a loan arrangement. The extent of this problem beyond the surveyed VFH providers is unknown.⁵⁰

3.14 As at 29 August 2016, audits of 28 VFH providers were underway, of which: 19 were compliance and payment audits, and nine were primarily focussed on payment issues. The department had received some initial draft audit reports and was analysing these. The preliminary findings of the draft audit reports appear to provide a basis for the department undertaking compliance action against a number of providers, and for withholding and potential reduction of payments to a number of providers.⁵¹

3.15 The department also advised that it has joined as a party to the Australian Competition and Consumer Commission Federal Court action against four VFH providers for alleged misleading and unconscionable conduct, in breach of the Australian Consumer Law when marketing VFH funded courses.⁵² The department joined the Australian Competition and Consumer Commission's court action primarily to assist in seeking to recover payments the Commonwealth made to the VFH providers if the Australian Competition and Consumer Commission is successful in getting a student's debt cancelled due to breaches of consumer law.

3.16 As discussed in Chapter 2 (paragraph 2.12), there was a lack of clarity about the roles of Education and other regulators following the expansion of the VFH scheme in 2012. As the agency

50 The Minister for Education and Training, Senator the Hon Simon Birmingham, referred to these student surveys and compliance audits in his opening address to the Australian Council for Private Education and Training (ACPET) National Conference 2016 (Thursday 25 August 2016): 'Nothing can hide the reality that the unethical behaviour of some training providers and their agents has tainted the reputation of others doing the right thing'. Available from <<https://ministers.education.gov.au/birmingham/opening-address-acpet-national-conference-2016>>, [accessed 26 August 2016].

51 The Australian Skills Quality Authority advised that, together with Education, it identified 19 providers of concern and in 2016 is undertaking a program of regulatory scrutiny of these providers based on the level and type of risk presented by their behaviour.

52 The Australian Competition and Consumer Commission advised that in 2016, together with the NSW Office of Fair Trading, it investigated up to 20 VFH colleges, culminating in Federal Court actions against four VFH providers. The Australian Competition and Consumer Commission advised that it had also taken Federal Court action in a related case, and accepted an enforceable undertaking from another VFH provider in relation to misleading representations.

with primary responsibility for administering the scheme, it was the role of Education to assess the strength of the regulatory environment and take steps to address any notable shortcomings. Accordingly, Education should have more promptly informed government of the need for additional regulatory controls to ensure higher quality training, contract management and market oversight, as the government was providing a significant financial investment. Education should also have increased its own compliance activity more promptly following the expansion of the scheme in 2012, notwithstanding limitations to its compliance powers.

3.17 Issues with the integrity of the VFH scheme had substantial implications for the workload of regulators. The Australian Skills Quality Authority advised in September 2016 that the amount of resources devoted to the regulatory scrutiny of RTOs that were also VFH approved providers was significant and in excess of the proportion of the total number of RTOs within the regulator's responsibility—less than 6 per cent of the 4000 plus providers regulated by the authority.⁵³ The Australian Competition and Consumer Commission also advised that it had dedicated considerable resources and fast tracked its actions in the VFH area. Investigations included in the order of 10 per cent of the commission's consumer protection investigators through the life of the matters, being more than any other consumer protection issue in the period; and in 2015–16, five of 19 cases commenced in the Federal Court concerned VFH.

Were payments to approved VET FEE-HELP providers effectively calculated and controlled?

Payments to approved VFH providers were calculated on data submitted by VFH providers and not effectively controlled. Education had little visibility of the students entering into a loan arrangement through their VFH providers; and relied on self-reporting by providers. There were also weaknesses in departmental guidance provided to staff processing the payments, and in evidence supporting delegate approval of the payments.

Establishing a VFH loan

3.18 The process of enrolling in a VET course and applying for a VFH loan was conducted between a student and the VFH provider, using the Commonwealth Assistance Form: *Request for a VET FEE-HELP loan* form that was only available from the provider.⁵⁴ The form was to be completed and signed by the student applying for the loan.

3.19 Education had no visibility of students accessing a VFH loan, even though the critical consideration for determining payments to VFH providers was whether or not the students enrolling with a VFH provider had an entitlement to VFH. The application process for enrolling in a

53 Department of Education and Training, *Review of Higher Education Regulation Report*, August 2013, noted (p. 33) that in 2013–14, the regulator for the higher education sector, the Tertiary Education Quality and Standards Agency, would have responsibility for about 170 higher education providers, an average staffing level of 99 and a budget of \$20 million. In contrast, in 2013–14 the Australian Skills Quality Authority would have regulatory responsibility for about 4000 RTOs, an average staffing level of 211 (excluding three Commissioners), and a budget of \$38 million. In October 2014, the Australian Skills Quality Authority received \$13.7 million in additional appropriations over four years for enhanced regulatory activity. *Education and Training Portfolio Additional Estimate Statements 2014–15*, p. 65.

54 Commonwealth Assistance Forms are paper based applications for assistance with study in higher education and vocational education and training courses.

VET course and accessing a VFH loan is outlined in Appendix 5. It shows the limited role of Education in the process, and indicates the department's reliance on identification processes of the Australian Taxation Office.

3.20 All applications for VFH loans must include the student's tax file number (TFN). Through 'authorised contact' arrangements, the Australian Tax Office supplied VFH providers with the TFNs of students enrolled in a VET course, where the TFN had not been provided by the student.⁵⁵ The arrangement was also in place for higher education providers. The Australian Tax Office estimates that, since 2009, it has responded to thousands of requests from VFH providers for student TFNs, with some requests listing up to 200 students. As at 29 August 2016, Education advised that:

... the department has become aware that authorised representatives of VET FEE-HELP providers can obtain, confirm or clarify an individual's tax file number (TFN) directly with the Australian Taxation Office (ATO). The VET FEE-HELP Branch's compliance team were made aware of this when people had stated in their statutory declarations that they had either not given a TFN, or had suspected it was a scam and provided a broker with a made up TFN. However, subsequently these people have been recorded in [Education's information technology systems] as being enrolled with a VET FEE-HELP provider and having a VET FEE-HELP debt.

The Branch has asked the ATO about the level of identification required by the VET FEE-HELP provider to confirm the individual is in fact enrolled with that provider and therefore giving some authority to ask for this TFN. While we were advised that the name and date of birth must be given, there was no actual documentation that appears to be used (such as a Commonwealth Assistance Form (CAF)) proving that the individual has agreed to having a VET FEE-HELP debt.

3.21 As at 23 September 2016, Education advised that the practice by the Australian Tax Office had now been terminated, at the request of the department. The Australian Tax Office will not provide this information to providers. Providers will need to seek TFNs from students only.

VFH loan payments to VFH providers

3.22 Student VFH loan payments were incurred by the student and paid by Education in advance⁵⁶ to VFH providers (based on providers' estimates of the number of students to be enrolled in the coming calendar year).⁵⁷ The estimates were submitted to Education in October each year, using the department's *HELP Information Technology System* (although later submissions were accepted by the department).

3.23 Factors taken into consideration by the department in assessing the payment estimates included the number of courses, student load, course cost, financial viability assessment, compliance activity underway and prior year data. A minute listing the recommended payment amounts (to be paid in 12 monthly instalments) was prepared for delegate approval, and a letter sent to the provider confirming the department's decision (the payment amount may be equal to

55 The authority for the ATO to provide TFNs to authorised representatives of VET providers is contained within Division 15 of schedule 1A of the *Higher Education Support Act 2003*.

56 Under clause 61 of schedule 1A of the *Higher Education Support Act 2003*, the Secretary (or delegate) always had the power to determine if a provider, for risk purposes, should be paid in arrears. Education advised that in calendar year 2016, as at 14 September, one VFH provider had been paid in arrears.

57 The estimate was based on a formula that calculates the number of equivalent full time students, the number of students estimated to take a VFH loan and the average course cost.

or less than the VFH provider's estimate). After the initial payment estimate was approved, throughout the calendar year VFH providers were:

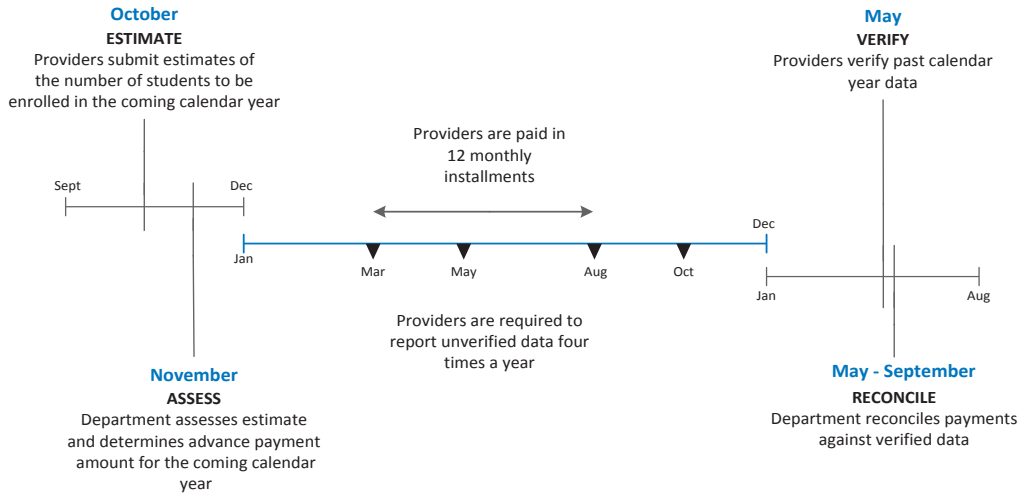
- allowed to submit⁵⁸ up to four variations to the monthly payments that may increase or decrease the payments where fewer or more students are expected to enrol than was initially estimated. Variations were assessed and listed in a minute prepared for delegate approval;
- required to submit four tranches of 'live' data⁵⁹ of student enrolments. The department could act upon this data to encourage the provider to submit a variation for an increase or decrease in their payment schedule, depending on the updated level of enrolments. However, this data had not yet been 'verified' by the provider, and was not readily acted upon by the department; and
- (from May 2013) required to submit a justification if their estimate reflects a higher than 10 per cent increase from the previous year's payment.

3.24 VFH providers 'verify' their own data in October of that year (for January-June data) and April the following year for whole year data. Using the verified data, the department conducted a reconciliation of estimated and verified student numbers. The reconciliation may have resulted in additional payments to the provider or a recovery of funds by the department (discussed later in this chapter). Additional payments or recoveries were made through future payment schedules, unless the sum was too large in which case the department would issue a debt notice to the provider. An overview of the timeline for VFH provider payments is shown in Figure 3.2.

58 Student data was provided to the department through its Higher Education Provider Client Assistance Tool and stored in the Higher Education Information Management System (Appendix 4).

59 Education refers to 'live' and 'verified' data, where 'verified' means that the VFH provider's chief executive officer had signed a statutory declaration that the number of students for which the provider had claimed a loan, was accurate. The requirement to submit a statutory declaration was introduced from 1 April 2016: prior to this the VFH provider could 'tick a box' in the system to confirm that the data had been 'verified'.

Figure 3.2: Timeline for VFH provider payments



Source: ANAO analysis of the payments process.

Growth in VFH loan payment amounts

3.25 From commencement of the VFH scheme in 2008, there was an increase in the value of VFH loan payments to providers that, as previously discussed (paragraph 2.22), were identified as a concern by the department in June 2014, raising questions about providers’ capacity to deliver quality training and the adequacy of support for students. Examples of the VFH loan payment increases over a 12 month period are shown in Table 3.1.

Table 3.1: Increases in VFH loan payments to providers

Provider legal name	RTO status	VFH status	Year	Payment	Year	Payment	Change %
MEGT (Australia) Ltd	1995	Aug 2009	2012	\$6675	2013	\$1 038 000	15 451
Gurkhas Institute of Technology Pty Ltd	2008	Aug 2011	2012	\$5342	2013	\$5 558 412	103 951
Careers Australia Education Institute Pty Ltd	2010	Jun 2011	2012	\$14 084 894	2013	\$73 953 917	425
Pharmaceutical Society of Australia Limited	2009	Sept 2012	2013	\$6994	2014	\$253 609	3526
Kal Multimedia Training Pty Ltd	2000	Nov 2011	2013	\$67 174	2014	\$1 207 929	1698
Strategix Training Group Pty Ltd	2006	June 2013	2013	\$162 500	2014	\$10 423 470	6314

Provider legal name	RTO status	VFH status	Year	Payment	Year	Payment	Change %
Australian Institute of Personal Trainers Pty Ltd	2011	Apr 2013	2013	\$256 185	2014	\$20 531 374	7914
Merage Group Pty Ltd	2011	Aug 2013	2013	\$22 779	2014	\$5 299 924	23 167
Royal Rehab	2006	Dec 2012	2014	\$7670	2015	\$830 000	10 721
Phoenix Institute of Australia Pty Ltd	2005	Nov 2009	2014	\$2 489 235	2015	\$106 667 172	4185
Australian Vocational Learning Institute Pty Ltd	2003	Mar 2013	2014	\$3 503 545	2015	\$44 586 600	1173

Note: As at September 2016, 2015 payments may still be subject to reconciliation.

Source: ANAO analysis of Department of Education yearly payments data, extracted 16 August 2016.

3.26 Justifications for a greater than 10 per cent increase from a VFH provider's previous year payments included: opening of a new campus; a new strategic marketing initiative; additional modules added to courses; only having held VFH status for a small portion of the previous year; the current enrolment rate indicated steady growth for the coming period; and the current student numbers already higher than initial estimate.

3.27 A report prepared by the Australian Government Actuary, August 2016, stated that 14 problem⁶⁰ providers accounted for almost 55 per cent of the \$1.65 billion of VFH loans issued in 2014, despite representing less than six per cent of registered VFH providers; and that, 'given the increase in VFH loans between 2014 and 2015, it could be expected that these problem providers accounted for a larger proportion of the debt in 2015'.

Reconciliations

3.28 Reconciliations of advance payments (based on VFH provider estimates) were made against verified numbers of students reported to the department, and may have been conducted at any time throughout the year (where verified data was available), at the end of the year (for whole year data), and for previous years if student numbers were found to have changed.

3.29 The department used the reconciliation process to provide a level of assurance that VFH providers only received payments for students who had legitimately enrolled with them in a VFH eligible course. However, the reconciliation was based on self-verified data submitted by the provider, with the department conducting few checks as to the legitimacy of the students for whom providers were accessing a VFH payment.⁶¹ The total value of reconciliations in each year

60 The report refers to providers identified as 'problematic' by the Australian Skills Quality Authority and subject to regulatory review, including four that were also subject to action by the Australian Competition and Consumer Commission.

61 The department advised that in 2015, surveys of students of selected providers have been conducted to verify the veracity of submitted data.

indicates little variation to payments, as a percentage of the total payment amounts (Table 3.2). Amounts in brackets show additional payments to VFH providers.

Table 3.2: Reconciliation payments to VFH providers

Year	Advanced payments	Actual loans	Reconciliation amounts	Reconciliation amounts as a percentage of advanced payments
2009	\$24 650 140	\$24 629 729	\$20 411	0.08%
2010	\$114 416 158	\$114 383 275	\$32 883	0.03%
2011	\$202 871 756	\$202 635 435	\$236 321	0.12%
2012	\$320 834 638	\$320 471 059	\$363 579	0.11%
2013	\$686 630 940	\$681 576 161	\$5 054 779	0.74%
2014	\$1 745 066 241	\$1 706 348 745	\$38 717 496	2.22%
2015*	\$2 573 862 142	\$2 901 305 027	(\$327 442 885)	(12.72%)

Note *: Education is yet to finalise the reconciliations for 2015.

Source: ANAO analysis of yearly Reconciliation data, extracted 16 August 2016.

3.30 Problems with the operation of the VFH scheme were well recognised by the time additional payments were made to VFH providers for the 2015 end-of-year reconciliation payment. As previously discussed, through court cases currently underway, Education is testing the powers under the *Higher Education Support Act 2003* regarding whether there is a legal requirement for the department to pay money based on a record of student enrolment, rather than proof that the student is actually studying. The redesign of the VFH scheme intends to provide the option to pay VFH providers in arrears.

Review of the payment process

3.31 The ANAO reviewed the department's arrangements supporting loan payments to VFH providers.

Guidance material

3.32 Departmental guidance for the assessment and processing of payments consisted of a *VET FEE-HELP and FEE-HELP Payments and Variation Guide, 2014* (with attached Variation Assessment Tool). As at August 2016, the Guide had not been updated to reflect changes relevant to payments introduced from 1 January 2016. The department relied heavily on the knowledge of one staff member who had worked in the VFH scheme payments area since September 2010.

Delegate approval and supporting documentation

3.33 Payments to providers were listed in minutes, prepared for delegate approval. The minutes were prepared as required (there were no separate preparatory calculations or work sheets), and approval could be sought at any time during the year for variations to monthly payments and/or reconciliations.

3.34 Education advised that, over the years, different delegates have required different standards of evidence. At the commencement of the VFH scheme, there were fewer providers

and a detailed minute would be supplied for each payment, containing a full provider profile and the calculations used to reach the recommended payment amount. By 2013, minutes to the delegate covered multiple provider payments with minimal detail about how these payment estimations were assessed.⁶² In 2015, details regarding the assessment of a payment were only outlined for high risk payments, with low risk payments listed in a spreadsheet format covering more than 20 payments at a time, with very little information regarding how the recommended payment amounts were calculated.⁶³

Was information easily accessible to students to help them understand their rights and obligations under the VET FEE-HELP scheme?

Information provided by Education was not easily accessible to students to help them understand their rights and obligations under the VFH scheme, including access to information regarding the cost, quality and reputation of VFH providers. The department had a limited level of assurance that students understood (through accessing the available information or being properly informed by the VFH provider) that they had entered into a VFH loan arrangement. Outreach initiatives by Australian Consumer Law regulators, and additional information provided by Education in early 2015, sought to warn students about inappropriate marketing practices by VFH providers. The department launched its main campaign, *savvy student*, in September 2015, and could have acted sooner.

Information for students about study options

3.35 Education maintains online publicly available information for students and potential students of vocational education and training, including those seeking to access a VFH loan. The websites for VFH are:⁶⁴

- *MySkills.gov.au*: designed to act as a comparative tool to aid students⁶⁵ in comparing VET courses and providers, as course costs are unregulated and vary widely (refer footnote 27). The site identifies whether a RTO is an approved VFH provider. Information on costs is uploaded and maintained by the providers. Education reported that 91 per cent of VFH courses offered did not have pricing entries as at April 2016; and 23 per cent as at September 2016. In November 2015, Education issued a Clause 24 Notice⁶⁶ to all VFH providers, requiring them to report course cost information on the site. Breach of a clause notice can result in a civil penalty. As at September 2016, no penalties had been issued;

62 Based on ANAO review of draft documents. Final signed versions stored offsite.

63 One payment examined by the ANAO was the result of payment activities listed in six different minutes to the delegate, the initial payment, two variations and three reconciliations.

64 These websites may be accessed directly, or through links in the *training.gov.au* website.

65 A review by Wallis Consulting, *MySkills 3.0 Evaluation Research Report—September 2015*, found that 18 per cent of students surveyed were aware of the site.

66 The *Higher Education Support Act 2003* (Schedule 1A) contains a number of clauses that facilitate compliance action. A 'notice' issued under a particular clause may require a provider to take specified action, including to provide information.

- *studyassist.gov.au*: provides information about government assistance for financing tertiary study, including the VFH scheme, and houses the *VET FEE-HELP information* booklet. The *VET FEE-HELP information* booklet provides detailed information on a VFH loan, for example how to apply and keep track of a loan, repayment information and options for withdrawal.

3.36 The *VET FEE-HELP Redesign Discussion Paper 2016* commented on the information available to support students:

Students experience substantial challenges accessing suitable information regarding the cost, quality and reputation of VET FEE-HELP providers, particularly when seeking to compare and differentiate between the various courses and charging models among different providers. This is compounded by the lack of easily comparable information about student outcomes regarding completions and employment outcomes. It is also clear that some students have not been sufficiently engaged in their commitment to research information available to inform their decision making.

While some information is available online regarding completion rates, tuition fees and other factors that are likely to influence student choice (including through *MySkills*), this data is spread across multiple websites and can be difficult to navigate. The lack of accessible information to support student choice reduces the incentive for providers to strive for, and increase, the quality of their performance. It also arguably provides an incentive for unethical practices as students can be more easily confused with marketing claims that are not easily verified or challenged.

3.37 The VET regulators' websites⁶⁷ support information for VET providers, and include updates regarding reforms to the VFH scheme and changes to the *VET Guidelines* that affect RTOs under their respective jurisdictions.

Consumer protection for students accessing a VET FEE-HELP loan

3.38 The role of the Australian Consumer Law regulators is to help consumers understand their rights when buying goods and services and to inform consumers of what they should do if they are unhappy. These bodies also regulate the activities of businesses and help them understand their rights and responsibilities under Australian Consumer Law.

3.39 In September 2014, through the analysis of their complaints data, NSW Fair Trading became concerned about patterns of behaviour among some VFH providers relating to the inappropriate targeting of vulnerable consumers for VFH loans, noting that Education's *studyassist* website did not provide clear guidance for consumers about the processes to follow if they encountered problems with their provider and sought to cancel their enrolment and VFH debt.

3.40 The issues were discussed with Education at a joint meeting with VET regulators and Australian Consumer Law regulators on 13 November 2014⁶⁸ (having been raised by NSW Fair

67 The websites of the: Australian Skills Quality Authority; Victorian Registration and Qualifications Authority; and Training Accreditation Council Western Australia.

68 Attendees to the 13 November 2014 Round table were the: Australian Skills Quality Authority; Australian Competition and Consumer Commission; Australian Securities and Investments Commission; Australian Government Department of Industry; Australian Government Department of Education; NSW Department of Finance and Services (represented by NSW Fair Trading); and Victorian Department of Education and Early Childhood Development.

Trading the previous month), to consider options for possible intervention by government to strengthen the operation of the VFH scheme. Advice from NSW Fair Trading⁶⁹ included reference to this meeting, to the effect that Education was advised to act urgently to prevent more vulnerable consumers from being targeted by unscrupulous marketers.

3.41 Key communication initiatives targeting students accessing the VFH scheme included, in:

- November 2014, in a brief to the Minister for Education, the department identified the need to strengthen communication for students, and developed a number of consumer videos, available through the *studyassist* website;
- February 2015, NSW Fair Trading in collaboration with the Australian Competition and Consumer Commission launched a national campaign to raise awareness of inappropriate marketing practices within the VET sector: *A free gift could cost you thousands*⁷⁰, promoted through their respective websites, with service providers, educators and community based organisations encouraged to distribute and share the available posters and fact sheets; and
- September 2015, Education: launched its *savvy student*⁷¹ campaign, presented in fact sheets and videos, and accessible through the *studyassist* website; and a *VET FEE-HELP anti-scam* brochure that was distributed through Centrelink offices.

3.42 As previously discussed, Education had no visibility of the process for students to enrol in a VET course and apply for a VFH loan. Students applied for a VFH loan by completing a *Request for a VET FEE-HELP loan form (Commonwealth Assistance Form)*, only available from the VFH provider (or their agent or broker) with whom they enrol. The *Request for a VET FEE-HELP loan form* encouraged students to access departmental sites for information about a VFH loan; and required them to declare (by signing the form) that they had read and understood the information contained in the *VET FEE-HELP information* booklet. The department had no oversight as to whether this occurred.⁷²

69 Letter from the Commissioner of NSW Fair Trading to the ANAO, 26 July 2016.

70 The *A free gift could cost you thousands* campaign warned students to: research course options; not sign up for training on the spot, and beware of 'free' offers; and to check if they had been signed up for a VFH loan.

71 The *savvy student* webpage provides a number of alerts to students about the importance of census dates and tax file number privacy, as well as warnings around scammers offering free laptops or cash.

72 The department plans to introduce an electronic version of the loan form in 2017. This will include a short online test to help ensure students are aware of the financial impacts of signing up for a loan.

Did complaint mechanisms support students and the monitoring of the VET FEE-HELP scheme?

Until mid-2015, the department had limited focus on managing and resolving student complaints about the VFH scheme. Until September 2016, the department's websites had not provided clear information on the types of complaints that it would investigate, and encouraged students to contact other agencies without outlining the types of complaints these other agencies were able to investigate. Improvements from mid-2016 to Education's complaints handling mechanisms included three additional staff dealing specifically with VFH complaints and the development of a new Feedback and Complaints System that would enable the department to view complaints that students had submitted directly to their VFH providers. Information about how to lodge a complaint is readily available on the VET regulator websites, and through the Australian Competition and Consumer Commission's website. Education had not effectively collected and analysed VFH complaints data, and the information held on complaints had been of limited use in monitoring the VFH scheme.

Managing student complaints

3.43 Education had responsibility for administering the VFH scheme, but there was no provision under the *Higher Education Support Act 2003* that required it to receive and manage student complaints. Until mid-2015, the department had limited focus on managing and resolving complaints about the VFH scheme.

3.44 Students could submit a complaint to the department through a number of channels⁷³, however the *VET FEE-HELP Redesign Discussion Paper 2016* noted that students were unaware of potential avenues available to them to register complaints. As at August 2016: the department's websites did not offer clear information on the types of complaints that the department would investigate and provided limited guidance on which other complaint handling bodies may be more suited to handle a complaint; and the main 'student grievances' page on the *studyassist* site did not outline that the department accepted student complaints, and instead encouraged students to contact other agencies. By 28 September 2016, the department had significantly improved online information regarding how to lodge a VFH related complaint.

3.45 Complaints received by Education relating to the VFH scheme were channelled into the department's electronic *TSenquiries* inbox. The complaints were then manually entered into a database and: assessed for substance (they may have been responded to with a simple return email or forwarded to the appropriate area of the department for more specialised response); and assigned a category from a discrete list of types of complaints, for example 'marketing' or 'debt dispute'.

3.46 The complaints database is a manual, stand-alone system, with limited tracking and reporting capability (including no alerts that a complaint has not been attended to), and there is no ability to link complaints to providers within the department's systems. ANAO analysis of

73 The channels include the: enquiry page on the department's home website; National Training and Complaints Hotline (established in 2014); Student HELP Loan Enquiry Form on the *studyassist* website; and 1800 number to the department's call centre.

839 VFH related complaints reported by the department as received in 2015, found 703 complaints (as at 28 April 2016) had no follow up action or outcome recorded, and 32 had no status recorded as to whether the complaint was open or closed. Advice from Education was that it considered a complaint to be handled adequately if it did not hear back from a student.

Reporting and analysing VFH complaints

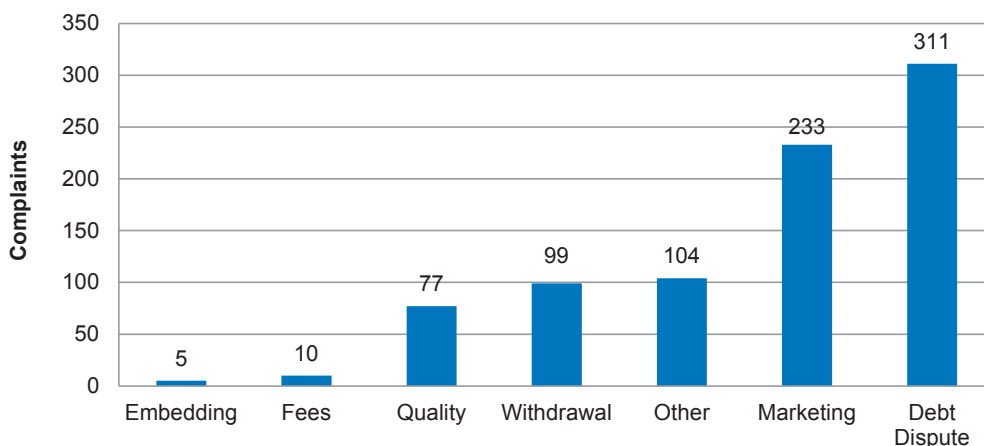
3.47 Education did not routinely report on VFH complaints, aside from quarterly updates through briefs prepared for Senate Estimates committees, and was unable to provide a comprehensive list of VFH complaints for any time prior to July 2014.

3.48 In May 2016, Education reported to a Senate Additional Estimates committee, information about complaints related to the VFH scheme received in the period July 2014 to April 2016 (the data is also referred to in the *VET FEE-HELP Redesign Discussion Paper 2016*). The ANAO analysed the 839 complaints received in 2015 and found that:

- 93 (11 per cent) related to a different loan scheme (for example Student Amenities HELP or Overseas Study HELP), or were incorrectly recorded as a VFH complaint; and
- 75 (9 per cent) were the result of a duplication or follow up by the student.

3.49 The department also did not record whether VFH complaints were substantiated and consequently the reported total may have included complaints that were found to be vexatious or incorrect after investigation. As previously discussed (paragraph 3.45) complaints were allocated to one of ten categories in a discrete list, with each complaint marked as falling under one category. Education’s reporting of the categories relating to the 839 complaints is shown in Figure 3.3.

Figure 3.3: VET FEE-HELP complaints reported by Education in 2015



Source: ANAO from VET FEE-HELP overview provided to 2014–15 Senate Additional Estimates May 2016.

3.50 The department had no standard operating procedures to provide clarity and consistency in the management of VFH complaints. ANAO analysis of the complaints data found no evidence of a consistent approach to assigning category labels to complaints: most VFH complaints, by their nature, could fall under multiple categories. For example a complaint categorised as a ‘debt

dispute' could also be related to how the scheme was marketed, and the department's use of the results (including in the *VET FEE-HELP Redesign Discussion Paper 2016*) to identify where reforms to the scheme are having an impact, may not have been justified.

3.51 VFH complaints were not recorded in departmental information management systems⁷⁴ that were connected to providers' profiles. Students must first have exhausted their provider's internal grievance procedures before making a complaint to the department, and Education did not have oversight of VFH complaints made to providers. Consequently, Education had no visibility of the full extent of student complaints and problems within the scheme, and had not consistently used 'complaints' in VFH provider risk assessments and compliance activities.

3.52 Education identified the weaknesses in its capacity to manage and report complaints to the VFH scheme. A high level review of the VFH compliance framework in December 2015 (refer paragraph 3.7) concluded that without oversight of the levels of complaints received by providers, the full extent of problems within the VFH scheme would remain relatively unknown. Improvements to the department's complaints handling capability (previously discussed) aimed to provide visibility of complaints made directly to providers and to improve the department's analysis and reporting.

3.53 From mid-2016, the department advised of improvements to its VFH complaints handling mechanisms that included: three additional staff dealing specifically with VFH complaints; improved recording of the department's handling of a complaint; and management reporting that included the number and outcomes of complaints received, and totals of debt remitted in relation to complaints for that week. Education also advised it was developing a new Feedback and Complaints System that would include a student, provider and department portal, allowing it to view complaints that students had submitted directly to their VFH providers.

Regulators' complaints handling processes

3.54 The websites of the Australian Skills Quality Authority and the Victorian and Western Australian VET regulators⁷⁵ all provide a logical path for students wishing to make a complaint, and clear guidance as to which complaints the regulator is able to investigate, with information on other agencies that might be more suited to deal with a specific type of complaint.

3.55 The majority of students accessing a VFH loan studied with VFH providers regulated under the Australian Skills Quality Authority. The ANAO reviewed the authority's complaints management framework, and considered that it was efficient and well managed, including that complaints were marked as active or closed, could be easily and accurately reported to the executive and directly influenced the risk rating of a provider. Through the investigations of complaints, the Australian Skills Quality Authority assesses whether a complaint is substantiated or not, and uses complaints data in its risk analysis for targeted compliance activities.

74 VFH complaints were stored in a database separated from the Higher Education Loan Program Information Technology System, used for payments, and the Higher Education Information Management System used to store student and course data.

75 Australian Skills Quality Authority: <<http://www.asqa.gov.au/complaints/complaints.html>>; Victorian Registration and Qualifications Authority: <<http://www.vrqa.vic.gov.au/complaints/Pages/default.aspx>>; Training Accreditation Council Western Australia: <<http://www.tac.wa.gov.au/students/Pages/Complaints-against-RTOs.aspx>>.

3.56 The Australian Competition and Consumer Commission's website provides clear instructions for consumers who wish to make a complaint, with information on where a consumer should go for help if the commission is not the appropriate agency to handle a complaint.⁷⁶ On 25 August 2016, NSW Fair Trading introduced a publicly available Complaints Register that lists businesses that are the subject of 10 or more (substantiated) complaints to NSW Fair Trading in a particular calendar month, strengthening consumer information and choice.

Remittal of student debt

3.57 For more serious complaints, a student may seek the remission of the VFH debt.⁷⁷ Before reforms to the legislation in December 2015, the only option available to students was to apply to their provider to seek a remission of their debt where certain defined special circumstances applied, for example in the event of illness. If a student was not satisfied with the provider's decision, they could appeal to the Administrative Appeals Tribunal and as a last resort apply to the Minister for Finance for a waiver of debt. A waiver of debt granted by the Minister for Finance is only ever approved in exceptional circumstances and does not require the provider to repay any funds. Since 2009 there have been 36 appeals to the Administrative Appeals Tribunal and no applications to the Minister for Finance for a waiver of debt.

3.58 Reforms from 1 January 2016 streamlined VFH debt waiver and revocation processes for students. Students may now apply to Education for a remission of their VFH debt where they feel there has been unacceptable conduct (as defined by the *VET Guidelines*) by a provider or a provider's agent. These legislative reforms only apply for students who have been signed up for a VFH debt after 1 January 2016. For students enrolled prior to 2016 who have requested to have their debt remitted, there is no recourse other than the measures already available.



Grant Hehir
Auditor-General

Canberra ACT
20 December 2016

76 Australian Competition and Consumer Commission, available from <http://www.accc.gov.au/consumers/complaints-problems>, [accessed 20 October 2016].

77 Students have up until the census date to remove themselves from a course without incurring a VFH debt. Once the census date has passed if they wish to withdraw from the course, they can only have their debt remitted under certain circumstances.

Appendices

Appendix 1 Entity responses



Australian Government
Department of Education and Training

Secretary
Dr Michele Bruniges AM

Ms Michelle Kelly
Group Executive Director
Performance Audit Services Group
Australian National Audit Office
GPO Box 707
CANBERRA ACT 2601

Michelle
Dear Ms Kelly

Administration of the VET FEE-HELP Scheme Proposed Audit Report

I write in response of your email of 28 October 2016, providing me with a copy of the proposed audit report on the Administration of the VET FEE-HELP Scheme.

Please find the Department of Education and Training's (the department) summary response to the proposed report provided at [Attachment A](#). In addition, please find enclosed a table of editorial matters at [Attachment B](#) which the department would like the Australian National Audit Office (ANAO) to consider incorporating, where appropriate, in the text of the final report.

The performance audit was helpful and gave the department the opportunity to reflect on the design of the current VET FEE-HELP scheme and administration arrangements, in its development of the new VET Student Loans Program.

I would like to thank the review team of the ANAO for their work and also recognise the officers within the department who provided assistance.

If you would like further information on the department's response, please contact Mr James Hart, Group Manager, Skills Programs Group on (02) 6240 6850.

Yours sincerely

Michele Bruniges

Dr Michele Bruniges
25 November 2016

Opportunity through learning

50 Marcus Clarke Street, Canberra ACT 2601
GPO Box 9880, Canberra ACT 2601 | Phone (02) 6121 6000

Ms Michelle Kelly
Group Executive Director
Performance Audit
Australian National Audit Office
19 National Circuit
BARTON ACT 2600



Australian Government
Australian Skills Quality Authority

By email to: Michelle.Kelly@anao.gov.au

Dear Ms Kelly

ANAO Proposed Audit Report on *Administration of the VET FEE-HELP Scheme*

Thank you for your letter of 28 October 2016 inviting comments on the proposed Australian National Audit Office (ANAO) Proposed Audit Report on *Administration of the VET FEE-HELP Scheme*.

I note that there are no recommendations directed at the Australian Skills Quality Authority (ASQA).

As requested, please find attached ASQA's response for inclusion as an appendix to the final report and a short summary of ASQA's response for inclusion in the summary section of the final report.

I would like to thank the ANAO audit team for the cooperative and professional approach they have adopted in working with ASQA on this matter.

Further information and assistance

If you require further information or assistance in relation to this matter, please contact Ms Bronwen Griffiths on (07) 3223 1137 or by email to: bronwen.griffiths@asqa.gov.au

Yours sincerely

A handwritten signature in black ink, appearing to read 'Chris Robinson', written over a light blue horizontal line.

Christopher Robinson
Chief Commissioner and
Chief Executive Officer

23 November 2016

Australian Skills
Quality Authority
ABN 72 581 678650
GPO Box 9928
Melbourne VIC 3001
Info line 1300 701 801
www.asqa.gov.au

**ASQA's Formal Response
Administration of the VET FEE-HELP Scheme**

The Australian Skills Quality Authority (ASQA) welcomes the report and its findings as an important contribution to reviewing and documenting the risks that emerged as a result of the VET FEE-HELP scheme's expansion in 2012 and, as a result, helping to inform the development of the VET Student Loans program.

The report accurately describes ASQA's role in the regulation of Registered Training Organisations (RTOs) and the consultation that has occurred with ASQA in relation to the operation of the VET FEE-HELP Scheme, since ASQA's establishment in July 2011 and the scheme's expansion in 2012.

During this period, ASQA has increasingly adopted a risk based approach to its regulatory task, leading it to identify (in late 2014) and respond to the heightened risk within its legislative jurisdiction posed by a number of VET FEE-HELP providers and to work co-operatively with other agencies to share regulatory intelligence and co-ordinate regulatory activity.

A summary of the two regulatory projects targeting VET FEE-HELP approved providers that ASQA has conducted since late 2014 is set out below.

2015 Targeted VET FEE-HELP audit project

In September 2014 ASQA undertook its first environmental scan which identified concerns with diploma-level qualifications from the Business Services Training Package. An analysis of complaints associated with these diplomas identified that many complaints included a VET FEE-HELP component. VET FEE-HELP was also receiving increasing media attention and increasing attention from consumer law agencies and the Department of Education and Training.

ASQA subsequently analysed these complaints and identified 17 RTOs to audit based on the following criteria:

- ASQA had received two or more VET FEE-HELP related complaints about the provider; or
- ASQA had received at least one complaint about the provider, and there was an association with another provider that had received two or more VET FEE-HELP related complaints.

A further five large RTOs were selected – as a control group – that had not received any VET FEE-HELP related complaints to take part in the 2015 VET FEE-HELP project.

Prior to the audit activities, ASQA sought further information from the Department of Education and Training to focus of the audit in the greatest areas of risk including with consideration to student demographics.

Of the 22 RTOs audited:

- Four RTOs were found to be critically non-compliant with the relevant requirements of the VET Quality Framework and ASQA cancelled the registration of all four RTOs. However, each of the RTOs has sought a review of ASQA's decision by the Administrative Appeals Tribunal (AAT). As at 23 November 2016, two of these matters remain before the AAT with two matters being dismissed by the AAT and ASQA's decisions to cancel registration affirmed;
- Ten RTOs were found compliant with the relevant requirements of the VET Quality Framework. However, ASQA determined that the imposition of certain conditions on their registration was warranted based on the issues examined during the audit and the commitments made by the RTO to address these issues; and
- Eight RTOs were found compliant with the relevant requirements of the VET Quality Framework

ASQA has worked with other agencies, including the Australian Competition and Consumer Commission and the Department of Education and Training, to share regulatory intelligence and coordinate regulatory action to ensure non-compliant RTOs are penalised to the full extent of the respective laws.

ASQA has issued a number of public statements relating to these outcomes:

- Release of findings from VET FEE-HELP audit project;
http://www.asqa.gov.au/verve/resources/VET_FEE-HELP_audit_report.pdf
- Statement regarding Phoenix Institute of Australia Pty Ltd;
<http://www.asqa.gov.au/news-and-publications/statement-regarding-phoenix-institute-of-australia-pty-ltd1.html>
- Update on targeted audits of VET FEE-HELP providers;
<http://www.asqa.gov.au/news-and-publications/update-on-targeted-audits-of-vet-fee-help-providers1.html>
- Statement re: Australian Institute of Professional Education;
<http://www.asqa.gov.au/news-and-publications/national-training-regulator-cancels-registration-of-australian-institute-of-professional-education-pty-ltd.html>
- ASQA cancels registration of Cornerstone Investment Aust Pty Ltd
<http://www.asqa.gov.au/news-and-publications/regulator-cancels-registration-of-cornerstone-investment-aust-pty-ltd.html>

2016 VET FEE-HELP regulatory strategy

The 2015-2016 environmental scan has continued to identify current systemic risks about learner protection particularly in relation to the inappropriate use of VET FEE-HELP and entitlement funding. There is particular concern regarding learners who are enrolled in courses where learners do not have the required prerequisite skills. Some RTOs are failing to provide accurate and comprehensive

information to learners prior to enrolment, taking advantage of those VET learners—and potential VET learners—who lack knowledge about their rights and obligations in relation to entering and exiting training contracts.

To develop a regulatory strategy to target this systemic risk, ASQA has established a dedicated working group with the Department of Education and Training. The purpose of this working group is to direct and guide the sharing of intelligence and data between ASQA and the Department to align the risks identified by each party. This alignment is informing the regulatory work undertaken by both agencies under the auspices of the *National Vocational Education and Training Regulator Act 2011*, (NVR Act) and Schedule 1A of the *Higher Education Support Act 2003* (HESA).

A key outcome of this interagency cooperation has enabled coordination of regulatory work, especially where the concerns about the RTO lies wholly or partially outside ASQA's regulatory jurisdiction. To this end, ASQA and the Department have worked together in a coordinated effort to:

- develop agreed cross-agency protocols and processes to facilitate the sharing of information about VFH providers, and those applicant VFH providers registered with ASQA;
- regularly share current data and information between the Department of Education and Training and ASQA about all VET FEE-HELP providers, at agreed intervals;
- share current data and information between the Department of Education and Training and ASQA about individual VET FEE-HELP providers, where specific concerns are raised by either party;
- identify VFH providers who are a concern to the Department of Education and Training or ASQA because they demonstrate the characteristics of identified unscrupulous behaviour which impacts on compliance with HESA and its associated Higher Education Support (VET) Guideline 2015 and/or the VET Quality Framework;
- co-ordinate regulatory and program responses to those identified providers of concern including ASQA-conducted audits; and
- suggest improvements to the regulation and administration of the VFH loan scheme; and
- suggest improvements to the regulation of VFH providers through their obligations as registered training organisations under the NVR Act.

The working group operates under a Memorandum of Understanding which is designed to govern the relationship between the respective agencies in relation to the VET FEE-HELP program.

ASQA reviewed all RTOs that were approved for VFH and identified 19 providers of concern using a risk-intelligence led approach that combined information held by ASQA and Department of Education and Training. ASQA commenced a program of regulatory scrutiny that is based on the level and type of risk presented by the behaviour of these RTOs. This was announced in April 2016.

Since the identification of the 19 providers of concern, ASQA has continued to gather information and data (including complaints) about VET FEE-HELP approved RTOs. Currently, ASQA is undertaking regulatory scrutiny of a further seven providers of concern that are approved VET FEE-HELP providers.

It should also be noted that, at any point in time, other VET FEE-HELP approved providers may be subject to ASQA regulatory scrutiny. The application of ASQA's risk model, its analysis of changes in data sets and its response to provider reports means that ASQA may apply regulatory scrutiny to any provider if the data and information indicates a heightened risk.

ASQA's audits test compliance with the VET Quality Framework and are conducted under the NVR Act. The audits focus on behaviours of concern exhibited by the RTOs, including RTOs compliance with the requirements of the VET FEE-HELP scheme where these overlap with or are otherwise relevant to the VET Quality Framework.

The audits have involved significant preparatory work ahead of the site visit, including the commissioning of student surveys by the Department of Education and Training. The surveys are designed to assist the Department of Education and Training and ASQA to identify students who may have been inappropriately recruited and not received appropriate training.

As at 23 November 2016, ASQA has issued notices of intent to impose an administrative sanction against eight VET FEE-HELP providers, including three notices of intent to cancel registration. The affected providers are in the process of responding to these notices.

Additional regulatory scrutiny

ASQA has established an internal Steering Committee which has met on a regular basis since September 2015 to manage the completion of the 2015 VET FEE-HELP project and to develop and implement the 2016 VET FEE-HELP regulatory strategy. This Steering Committee has endorsed the approval of additional regulatory scrutiny to be applied on RTOs approved for VET FEE-HELP in particular circumstances outside of the two regulatory project RTOs.

ASQA has continued to coordinate regulatory work with the ACCC to share regulatory intelligence and co-ordinate regulatory responses in relation to these providers.

PO Box 9977, CIVIC SQUARE, ACT, 2608, AUSTRALIA



Australian Government
Australian Taxation Office

29 November 2016

Ms Michelle Kelly
Group Executive Director
Performance Audit Services Group
Australian National Audit Office
GPO Box 707
CANBERRA ACT 2601

Dear Ms Kelly

**AUSTRALIAN NATIONAL AUDIT OFFICE PERFORMANCE AUDIT OF THE ADMINISTRATION
OF THE VET FEE-HELP SCHEME**

Thank you for your letter dated 28 October 2016 and for the opportunity to provide comments on the proposed report on *Administration of the VET FEE-HELP Scheme*.

The ATO acknowledges that the ANAO did not make any recommendations for the ATO in the section 19 report.

Attached is the ATO response (Annexure 1) and summary of our comments to be included in the report (Annexure 2).

I would like to thank the Australian National Audit Office audit team for the cooperative and professional manner they have adopted in working with us on this matter. I look forward to continuing the good working relationship developed in this performance audit.

If you require further information on this matter, please contact Assistant Commissioner, Frances McMorro on (02) 62161179.

Yours sincerely

A handwritten signature in black ink, appearing to be 'MS' or similar initials.

Melinda Smith
Chief Service Delivery Officer
Australian Taxation Office

Appendix 2 Administration of the Higher Education Loan Program and the Australian Skills Quality Authority, 2009 to 2016

Date	Portfolio responsibility for the Higher Education Loan Program	Portfolio responsibility for the Australian Skills Quality Authority
December 2007 to December 2011	Department of Education, Employment and Workplace Relations	Department of Education, Employment and Workplace Relations (from ASQA's establishment on 1 July 2011)
December 2011 to May 2013	Department of Industry, Innovation, Science, Research and Tertiary Education	Department of Industry, Innovation, Science, Research and Tertiary Education
May 2013 to September 2013	Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education	Department of Industry, Innovation, Climate Change, Science, Research and Tertiary Education
September 2013 to December 2014	Department of Education	Department of Industry
December 2014 to current	Department of Education and Training	Department of Education and Training

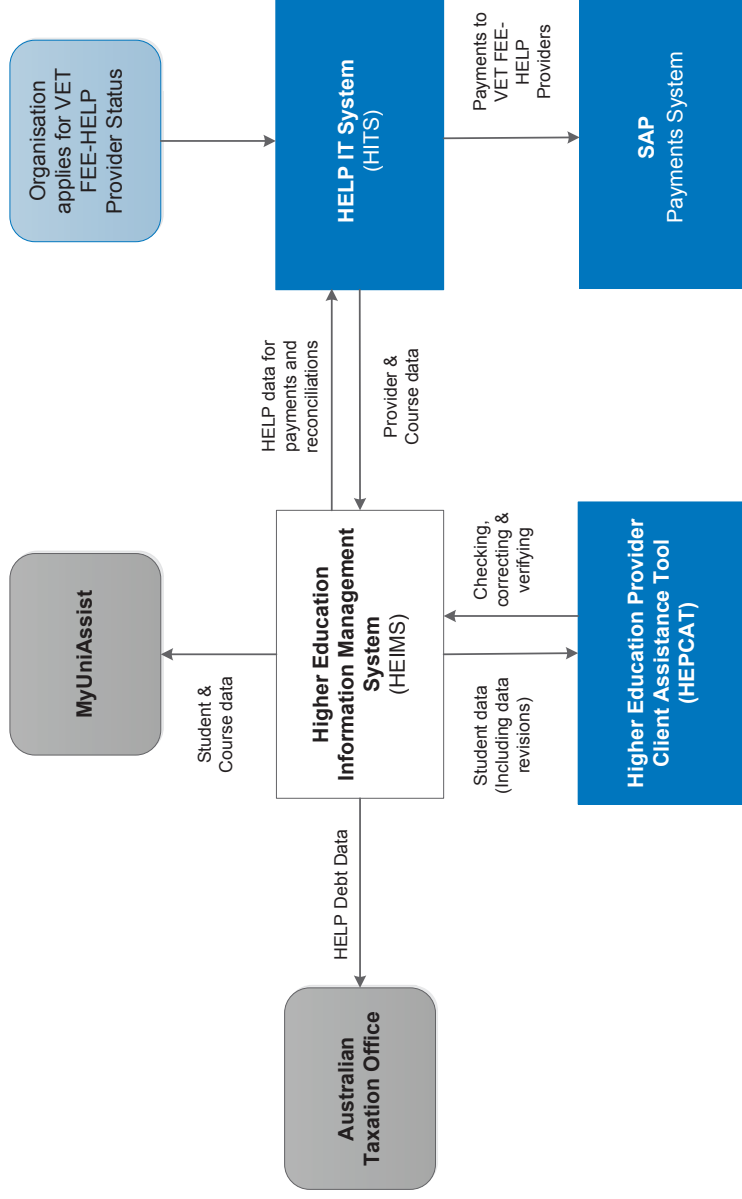
Source: Administrative Arrangements Orders.

Appendix 3 VET FEE-HELP reforms, 2015 and 2016

Implemented 1 April 2015
The banning of prohibited inducements to entice students to enrol under the VFH scheme.
Implemented 1 July 2015
Tighter VET marketing and recruitment practices, including what is communicated about the loan scheme to prospective students, with more information available about the role of the communicator.
Improving the understanding of how VFH operates, and students' rights and obligations.
VFH providers must not charge students a fee to withdraw from a unit of study.
Implemented 1 January 2016
Providers must apply a student entry procedure to ensure a prospective student is academically suited to the course.
Providers must issue a student with a VET FEE-HELP Invoice Notice at least 14 days prior to each census date for a VET unit study.
Providers must determine at least three fee-periods for charging purposes for each course it delivers for which VFH is available to ensure the debt is incurred in line with progress.
Providers must not accept a <i>Request for a VET FEE-HELP loan</i> form from a person who is under the age of 18 unless a parent or guardian has co-signed the form (limited exceptions apply).
Providers must not accept a <i>Request for a VET FEE-HELP loan</i> form from a student until at least two business days after enrolment.
A person may apply to the department for a remission of their VFH debt where the person was subject to inappropriate behaviour by a provider or its agent or associate that occurs from 1 January 2016.
The total loan limit for existing providers will be frozen at 2015 levels.
Certain providers will be paid in arrears.
Where there are concerns about a provider's performance, payments will be paused for new enrolments.
Infringements or civil penalties will apply where a provider breaches certain requirements.
More stringent financial assessment criteria for providers and applicants for VET provider approval.
Registered training organisations seeking approval to offer VFH will require a minimum of five years trading as a registered training organisation and must have delivered the relevant courses for five years or more.
Trustees of a trust cannot be approved as a VFH provider.
Providers must generate a minimum of 20 per cent of total revenue through non-HELP sources.
Applicants and providers may be required to provide evidence of access to cash or cash equivalent assets equalling a certain proportion of their annual expenses.
Unsuccessful applicants for VFH provider status will not be able to re-apply for six months.

Source: Department of Education and Training, *Redesigning VET FEE-HELP Discussion Paper 2016*, p. 50.

Appendix 4 Information technology systems supporting the Higher Education Loan Program

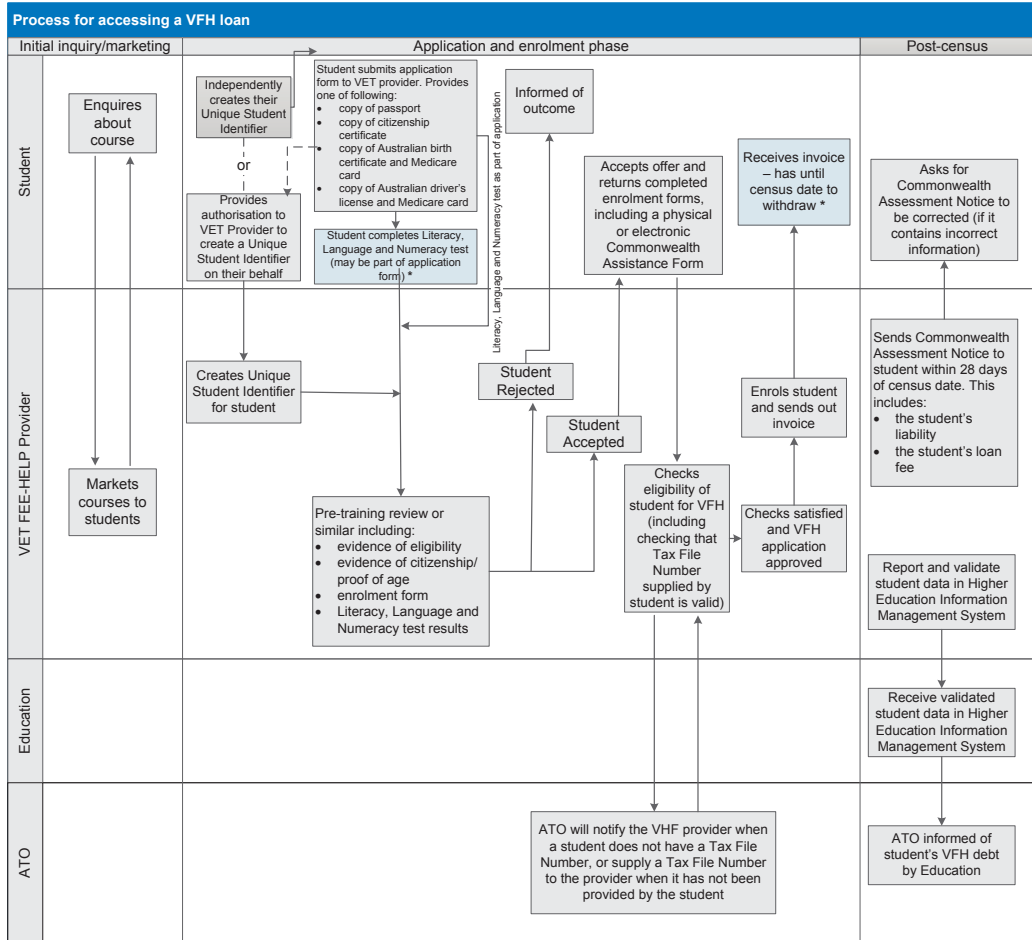


Notes: Higher Education Information Management System (HEIMS): a system that collates information submitted by VFH providers. Through different levels of access, the system is used by: Education, for programme management; VFH providers to review and validate the information provided to the department; and students (online via training.gov.au) to review the status of their enrolment. Through HEIMS' data on established student loans is transmitted to the ATO in four batches each year. Higher Education Provider Client Assistance Tool (HEPCAT): an application that Education supplies to approved VFH providers to install in their own systems. The tool is used to prepare and submit a number of electronic files (that are compatible with the department's Higher Education Information Management System). Student information provided through HEPCAT includes the names and addresses for all students enrolled in VFH courses.

HELP Information Technology System (HITS) is used to manage information about approved providers. HITS was introduced in May 2013, replacing the previous system, the VET FEE-HELP IT System (VITS).

Source: Department of Education and Training.

Appendix 5 Process for accessing a VET FEE-HELP loan



Source: ANAO analysis from Department of Education and Training documentation.

