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1. Purpose

This Policy governs the ICAN Learn procedure for re-crediting tuition fees¹.

2. Application

This Policy applies to students enrolled in an ICAN Learn course approved for VET Student Loans.

3. Review

This Policy is reviewed on an annual and as needed basis along with associated financial policies and procedures.

4. Definitions

- **AAT** refers to the Administrative Appeals Tribunal
- **The Act** refers to the VET Student Loan Act 2016
- **Fee HELP balance** refers to the total of the VET Student Loan Debt
- **Impracticable** is defined as not practicable, that which cannot be put into practice with the available means and relates to the ability to continue a course or unit of competency
- **Reasonable grounds** means knowledge or evidence which would lead a reasonable person to come to the same conclusion
- **Re-credit** refers to a refund of tuition fees into the student's HELP balance
- **Special circumstances** are circumstances beyond the student's control; do not make their full impact on the student until on or after the census date for a unit of study for the relevant fee period; and make it impracticable for the student to complete the requirements for that unit of study
- **Special circumstances arising from pre-existing conditions** refer to circumstances that first occurred before the census date that may satisfy the special circumstances requirement, where it worsens after that date, or the full effect or magnitude does not become apparent until after that date
- **Tuition protection** refers to fee protection for VSL students in the event that ICAN Learn defaults (ceases delivering or does not commence a course)
- **Tuition Protection Scheme² (TPS)** is a scheme to protect students' financial interests where the provider defaults
- **Unacceptable conduct** refers to unacceptable conduct by ICAN Learn
- **Unit of Study** refers to units of competency clustered into a Unit of Study within a fee period.
- **VSL** refers to a VET Student Loan
- **VSL Tuition Protection Director** refers to a role within the Department of Education, Skills and Employment (**DESE**) that manages a provider's default and associated communication to and from the provider and the student

¹ VSL Act 2016

² VSL Act 2016

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5. Policy

This Policy implements the VSL Act 2016 (the Act) and all associated Rules³ to protect and manage students' financial interests.

5.1. ICAN Learn Default

ICAN Learn defaults in relation to a student if it:

- 5.1.1. does not abide by circumstances prescribed by the VSL Rules; and / or
 - 5.1.2. fails to start or ceases to provide a course or a part of a course to the student on the day on which the course or part of the course was scheduled to start; and
 - 5.1.3. has not withdrawn the student before that day; and
- either:
- 5.1.4. a VSL has been approved for the student for the course on or before that day; or
 - 5.1.5. the student is an eligible student for the course and has a HELP balance of greater than zero on that day.
 - 5.1.6. ICAN Learn has processes in place to manage default⁴.

5.2. Tuition Protection

If ICAN Learn defaults, the financial interests of a student who has a VSL and has paid tuition fees is protected.

- 5.2.1. The TPS assists a student issued with a VSL:
 - (a) to continue their course with a replacement provider in an equivalent or similar course; or
 - (b) if a suitable replacement course is not available, to receive a loan re-credit for parts of the course if they were unable to complete as a result of the default.

5.3. Re-crediting tuition fees

- 5.3.1. A student's HELP balance can be re-credited if an amount of a VSL has been used to pay tuition fees for a unit of study⁵.
- 5.3.2. A student may apply to have their HELP balance re-credited as a result of special circumstances⁶.
- 5.3.3. A student may apply to the Secretary for their HELP balance to be re-credited⁷ if ICAN Learn:
 - (a) engaged in unacceptable conduct in relation to the student's application for a VSL; and/or

³ VSL Rules

⁴ Re-Crediting Procedure

⁵ Part 6, VSL Act

⁶ (s68) VSL Act

⁷ (s71) VSL Act

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- (b) failed to comply with the VSL Act or an instrument under the Act and the failure has adversely affected the student.

5.4. Re-crediting by ICAN Learn for special circumstances

ICAN Learn will re-credit a student's HELP balance if the following applies:

- 5.4.1. The student has applied in writing; and
- 5.4.2. The Application was made within 12 months after the census date for the unit of study in the relevant fee period; and
- 5.4.3. Special circumstances can be applied⁸; or
- 5.4.4. A student applies to defer a unit or units of study if the 12-month application period applies from the end of the extended period for the course.

ICAN Learn provides the student with a written statement of its decision and reasons.

5.5. Re-crediting by the VSL Secretary

A student may apply to the VSL Secretary to re-credit a student's HELP balance⁹ if ICAN Learn:

- 5.5.1. is unable to act because it is being wound up or dissolved¹⁰; and / or
- 5.5.2. has failed to act in the interest of the student and the Secretary is satisfied that the failure is unreasonable¹¹; and / or
- 5.5.3. has engaged in unacceptable conduct in relation to the student's application for the VSL¹²; and / or
- 5.5.4. has failed to comply with the Act or an instrument under the Act and the failure has adversely affected the student.

5.6. Unacceptable conduct

If the student is affected by ICAN Learn unacceptable conduct or failure to comply with the Act, the student is entitled to apply to the VSL Secretary for a re-credit of their HELP balance¹³.

ICAN Learn does not¹⁴:

- 5.6.1. tell a student that they should enrol in an approved course because VSL is available for the course in the future when there is no basis for this; or
- 5.6.2. suggest that the fee limit or conditions of approval allow it to enrol a student in a course on the basis that a VSL will be available, when the fee limit or condition of approval does not allow this;
- 5.6.3. misrepresent information about fees, fee limits, limits of approval, future course availability and related circumstances.

⁸ Tuition Protection & Re-Crediting Procedure

⁹ (s68) VSL Act

¹⁰ Div 2, Part 6, VSL Act

¹¹ Div 2, Part 6, VSL Act

¹² (s71) VSL Act

¹³ (s71 & 72) VSL Act

¹⁴ 148(1)(c) VSL Rules

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5.7. Unconscionable conduct

Conduct is unconscionable when:

- 5.7.1. there is concern about the relative strengths of the student's bargaining position
- 5.7.2. the student was required to comply with conditions that were not reasonably necessary for the protection of the legitimate interests of another person; and / or
- 5.7.3. ICAN Learn fails to provide adequate information relating to the VSL and its application process and continues to allow the student to apply for a VSL; and / or
- 5.7.4. undue influence or pressure is exerted on, or any unfair tactics are used against the student or a person acting on behalf of the student; and / or
- 5.7.5. ICAN Learn or a person acting on its behalf, fails to disclose information relating to the course, tuition fees, timeframes, delivery, study requirements and expectations to the student; and / or
- 5.7.6. ICAN Learn or a person acting on its behalf, does not act in good faith.

A student has 5 years from the census date in any unit of study to apply to the VSL Secretary for a re-credit of their HELP balance¹⁵. The Secretary may extend this period.

5.8. Special circumstances beyond a student's control

From time-to-time a student may have special or extenuating circumstances beyond their control that affect their ability to continue their studies.

5.9. Special circumstances that do not make full impact until, on or after the census date

ICAN Learn may become aware of the full impact of a student's circumstances on or after the census date for the unit of study in a relevant fee period, if the student's circumstances occurred:

- 5.9.1. before the census date, but worsen after that date; or
- 5.9.2. before the census date, but the full effect or magnitude did not become apparent until after that date; or
- 5.9.3. on or after the census date.

Students do not need to demonstrate they were unable to withdraw from the course prior to the census date.

5.10. Special circumstances arising from pre-existing conditions

Where a student applies for special consideration due to circumstances that changed on or after the census date, ICAN Learn considers when the full effect or magnitude of the special circumstances became apparent, taking into account any additional circumstances, including continuation of a pre-existing condition.

¹⁵ (s71(3) & 71(4), VSL Act

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5.11. When it is impracticable for the student to complete a unit of study

In considering whether a student's circumstances made it impracticable for them to complete a unit of study, ICAN Learn considers whether the student could:

- 5.11.1. do enough private study, or attend training sessions and other activities, or engage online to meet course requirements; and / or
- 5.11.2. complete any required assessable work, or demonstrate competencies required; and / or
- 5.11.3. complete any other requirements arising from the student's inability to do the above.

Circumstances which make it impracticable for the student to complete the requirements for their course may include consideration of a variety of circumstances¹⁶.

5.12. Requirements for making decisions

ICAN Learn:

- 5.12.1. considers all aspects of the student's Refund Application; and
- 5.12.2. notifies the student of its decision and reasons; and
- 5.12.3. advises the students that they may have rights for a decision to be reviewed and the time limit.

5.13. Reviewable decisions

A decision not to re-credit a student's HELP balance is a reviewable decision under the Act.

5.14. Response to ICAN Learn decisions

- 5.14.1. A student may request a review of an original decision.
- 5.14.2. If a student requests a review of a reviewable decision it is reviewed by a review officer appointed by the Executive Officer or their delegate.
- 5.14.3. A review officer must not review a decision if they were involved in the original decision making and must occupy a position that is not lower than that occupied by the person who made the original decision¹⁷.
- 5.14.4. Each application for a decision review is examined and determined on its merits and includes a student's claims and independent supporting documentary evidence.

5.15. Review by the Review Officer

The Review Officer¹⁸:

- 5.15.1. confirms the decision; or
- 5.15.2. varies the decision; or
- 5.15.3. sets the decision aside and substitutes a new decision; and

¹⁶ Re-crediting Procedure

¹⁷ (s79) VSL Act

¹⁸ (s76) VSL Act

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- 5.15.4. provides a written notice including a statement of reasons for making the decision¹⁹.

If the Review Officer does not issue a notice to the student of the decision within 45 days, the original decision is confirmed²⁰.

ICAN Learn maintains an up-to-date register of appointments of Review Officers²¹.

5.16. Applications outside the time-period

If an application for review is made more than 28 days after the student was notified of the decision and ICAN Learn has not extended this time, the student is advised that the application has been refused on the basis that the student is out of time. ICAN Learn is not required to address the special circumstances in this case.

5.17. Review by the Administrative Appeals Tribunal

A student may apply to the AAT for a review of a reviewed decision and may supply additional information to the AAT that they did not previously supply to the review officer.

5.18. Reporting the remission decision to the department

Where an AAT decision results in the re-crediting of a student's HELP balance, ICAN Learn is notified by DESE and reports this outcome via a HEIMS revisions file.

ICAN Learn will repay to the Commonwealth any amounts of a VSL it received from the Commonwealth on the student's behalf through subsequent reconciliations, unless DESE decides to issue a separate invoice.

5.19. Treatment of students seeking review

ICAN Learn ensures a student is not victimised or discriminated against for:

- 5.19.1. seeking a review or reconsideration of a decision; and / or
- 5.19.2. using the ICAN Learn complaints and appeals procedures; and / or
- 5.19.3. making an application for re-crediting the student's HELP balance.

5.20. Applications

ICAN Learn provides appropriate information, documentation and support to assist students to apply for a re-credit.

The re-crediting application is assessed by the DESE.

¹⁹ (s75(5) & (6) VSL Act

²⁰ (s76(8)) VSL Act

²¹ VSL Reviewed Decisions Register