Protection of Student Fees paid in advance

The following publication was endorsed by the National Skills Standard Council (NSSC). The NSSC was dissolved by the COAG Industry and Skills Council on 3 April 2014. This publication remains current and applicable to the VET sector.
National Skills Standards Council (NSSC)

Protection of student fees paid in advance

Both the AQTF Essential Conditions and Standards for Registration and the Standards for NVR RTOs 2011 require that RTOs demonstrate financial viability at both initial and continuing registration. RTOs must comply with one of the following five options if they intend to or currently collect student fees in advance:

- **Option 1** – the RTO will be administered by a state, territory or federal government agency, or
- **Option 2** – the RTO will hold current membership of an approved Tuition Assurance Scheme (TAS) (see below), or
- **Option 3** – the RTO will not accept payment of more than $1000 from each individual student prior to the commencement of the course; following course commencement, the RTO may require payment of additional fees in advance from the student, but only such that, at any given time, the total amount required to be paid which is attributable to tuition or other services yet to be delivered to the student does not exceed $1,500, or
- **Option 4** – the RTO will hold an unconditional financial guarantee from a bank operating in Australia for no less than the full amount of funds held by the RTO which are prepayments from students (or future students) for tuition to be provided by the RTO to those students, or
- **Option 5** – the RTO will have alternative fee protection measures of equal rigour approved by the registering body (see below).

Approved Tuition Assurance Scheme (TAS) – Option 2

**CRITERIA TO BE AN APPROVED TUITION ASSURANCE SCHEME**

In June 2011, the former National Quality Council endorsed a set of criteria for an approved TAS, which requires an approved TAS to either:

- guarantee the students of TAS RTOs a suitable placement into a course or qualification that delivers the same outcomes/competencies for the individual, within a timely manner and with minimal disruption, in the event of the RTO being unable to provide the agreed training and assessment services and the RTO being unable to refund to the student the fees paid in advance for the training and assessment services it is unable to deliver (note: what is deemed to be an acceptable timeline and minimal disruption is to be based on predetermined benchmarks defined under the TAS, approved by the TAS approving body, and agreed to by the TAS RTOs under their contractual arrangements), or
- if the TAS is unable to guarantee placement, it must demonstrate that it has the capacity to refund each individual student the fees that the student has paid in advance but for which the agreed tuition and assessment services have not been received.

**APPROVAL OF TUITION ASSURANCE SCHEMES**

The NSSC received instruction from Ministers in February 2012 that it is responsible for approving TAS under the national standards for the regulation of VET (i.e. both the AQTF and the Standards for NVR RTOs).
There are currently no Tuition Assurance Schemes approved under the standards for the regulation of VET.

The NSSC will not be considering applications for approved Tuition Assurance Schemes (TASs) under AQTF Condition 5 / SNR 11/22 of the Standards for NVR RTOs 2011 at this point in time, subject to the outcomes of the upcoming review of the standards for the regulation of VET. If taking student fees in advance, RTOs are required to comply with one of the remaining four options under AQTF Condition 5 / SNR 11/22 of the Standards for NVR RTOs 2011.

The NSSC has been exploring different models for approving and monitoring TASs such that a domestic VET student’s tuition is appropriately protected. It has become clear that for TASs to provide an appropriate level of assurance in relation to the tuition of domestic VET students, significant investment is required from both any potential TAS operators as well as RTOs. In light of this significant investment required, the NSSC does not wish to proceed with arrangements for approving and monitoring TASs that could potentially need to be changed following the standards review, thereby placing a burden on the VET sector.

A decision on the approval of TASs will therefore be deferred until after the review, to take into account any possible changes to the regulation of the protection of student fees paid in advance.

For RTO enquiries related to your responsibilities under AQTF Condition 5 / SNR 11/22 of the Standards for NVR RTOs 2011, please contact your regulator.

Alternative fee protection measure – Option 5

Option 5 provides the regulators of VET (i.e. registering bodies) with the power to approve alternative fee protection measures. This ensures that the regulator has the flexibility to consider and endorse alternative fee protection measures based on their individual merits. In the spirit of national consistency and transparency, the NSSC requests that upon approving an alternative fee protection measure, the regulator informs all other regulators and the sector more broadly of the alternative measures approved for use by the RTOs.

A series of principles were endorsed by the National Quality Council in mid 2011 to underpin the approval of an alternative fee protection measure of equal rigour.

An alternative fee protection measure:

- Must have the primary purpose of protecting student fees paid in advance.
- Must apply when the agreed training and assessment for which the student has paid for in advance is not provided and the RTO is unable to refund the student the fees paid in advance for the agreed training and assessment that the RTO is unable to provide, no matter the reason (note: the definition of ‘not provided’ must be based on pre-determined benchmarks described in the alternative fee protection measure application to the registering body, and agreed to by RTOs that are covered under the protection measure)

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• Must be of equal rigour with at least one of Option 3 or Option 4 (ie the two options specific to fee protection), such that students are no worse off than if they received training and assessment from an RTO covered under Option 3 or Option 4.
• Is unable to be changed without the prior approval of the registering body.
• Is accompanied by appropriate communication to students undertaking courses/qualifications covered by the alternative fee protection measure.
• Is independent from RTO policies that dilute, or that can be changed to dilute, the level of fee protection offered to students
• Must apply in the case of external administration or similar arrangements of either the RTO or the body to which the risk applies (eg parent companies).
• Must be willing to provide information and data to the registering body upon request.
• Must ensure that funds are available and/or held in such a way that they can refund individual students the fees paid in advance for agreed training and assessment services not provided, at short notice and when required.
• Must be underpinned by appropriate legal arrangements, which are expressed formally and have the force of a contract.

The approval of an alternative fee protection measure can be revoked by the regulator at any time. In doing so, the regulator must have regard to any transitional arrangements that may be required for RTOs to transition to alternative measures to comply with the standard.