

Attachment A – Exemption Conditions

The following conditions are imposed on the Exemption:

1. Cooperation with the Service Provider

- 1.1 The Provider acknowledges that the Department may itself, or may engage a consultant to perform some or all of the following services (the **tuition assurance management services**) if the Provider ceases to provide a course of study:
- (a) attending meetings with students enrolled with the Provider in a unit of study forming part of a course of study, which the Provider ceases to provide before the students complete the course (**affected students**);
 - (b) dealing with enquiries from affected students including organising a telephone service where appropriate;
 - (c) liaising with each affected student to discuss and assess options for a replacement course or whether the student wishes to apply for a re-credit of their HELP balance;
 - (d) liaising with higher education providers to find a replacement course for affected students choosing the course assurance option, and organising the replacement providers to provide the replacement courses for those students;
 - (e) ensuring it is practical for the affected student to finish the course or an equivalent course having regard to whether the replacement course meets the requirements specified in clause 1.5 of these Exemption Conditions;
 - (f) providing the affected student with a replacement tuition offer being an offer of enrolment in a replacement course or notifying the student there is no replacement course or that the student may alternatively apply for a re-credit of their ;
 - (g) providing the affected student with a right to request a review of whether or not there is a replacement course that meets the requirements for replacement courses specified in clause 1.5;
 - (h) where it is impractical for the affected student to finish the course or an equivalent course, or the student wishes to apply for a re-credit, notifying the student that:
 - i. the student may apply to the Provider for a re-credit of their HELP balance for units of study commenced but not completed, under section 104-25 of the Act because of special circumstances and the time by when the application must be made;
 - ii. special circumstances are circumstances that:
 - are beyond the student's control;

- do not make their full impact on the person until on or after the census date for the unit of study in question; and
 - make it impracticable for the student to complete the requirements for the unit in the period during which the person undertook, or was to undertake the unit; and
- iii. the student may nominate in writing for the Service Provider to act on the student's behalf in making the application to the Provider.
- 1.2 For the purposes of these Exemption Conditions, the Service Provider is the party performing the tuition assurance management services and includes the Department and/or the consultant engaged by the Department to perform some or all of these services.
- 1.3 The Provider is required to cooperate fully with and assist the Service Provider to perform the tuition assurance management services if the Provider ceases to provide a course of study. The Provider *ceases to provide a course of study* if any of the matters listed in paragraph 2.1.25 of the *Higher Education Provider Guidelines 2012* (HEP Guidelines) occur.
- 1.4 The Service Provider may request the Provider to provide information and assistance relevant to the discharge of the Service Provider's role in providing tuition assurance management services (including providing student enrolment and course progression information, as defined in paragraph 7(a)) and the Provider must comply with such a request as soon as is practicable or within such other period specified in these Exemption Conditions.
- 1.5 Replacement courses must meet the following requirements:
- (a) the course leads to the same or a comparable qualification as the original course;
 - (b) the mode of delivery of the replacement course is the same as or, with the student's consent, similar to the mode of delivery of the original course;
 - (c) the location where the replacement course for a student is primarily delivered is reasonable, having regard to the costs of, and the time required for, the student's travel;
 - (d) a student who enrolls in the replacement course:
 - i. will not incur additional fees that are unreasonable;
 - ii. will be able to attend the replacement course without unreasonable impacts on the student's prior commitments; and
 - iii. will not incur tuition fees for the part of the replacement course that replaces an affected part of the original course.

2. **Notice and information when course ceases**
- 2.1 The Provider must give written notice to the Department of any of the following events within 24 hours after the event occurring:
- (a) the Provider ceases to provide a course of study;
 - (b) notice is served on the Provider, or proceedings are taken, to:
 - i. cancel the Provider's incorporation or registration under the Corporations Act 2001 or similar legislation; or
 - ii. dissolve the Provider as a legal entity;
 - (c) the Provider comes under a form of external administration referred to in subsection 600H(2) of the *Corporations Act 2001* or an equivalent arrangement;
 - (d) the Provider fails to comply with a statutory demand within the meaning of section 459F of the *Corporations Act 2001*;
 - (e) the Provider is unable to pay all of its debts when they become due;
 - (f) proceedings are initiated for an order for the Provider's winding up;
 - (g) at a meeting of the Provider, a resolution is made to wind up the Provider.
- 2.2 If the Provider intends to cease to provide a course of study, the Provider must give the Department written notice of the intention as soon as practicable.
- 2.3 Within 3 business days after the Provider ceases to provide a course of study or a unit of study, the Provider must give the Service Provider for the units of study which an affected student has completed a copy of a statement of attainment or other Australian Qualifications Framework certification documentation issued by the Provider or an authorised issuing organisation in accordance with the Australian Qualifications Framework.
- 2.4 The Provider must perform the following actions after the Provider ceases to provide a course of study:
- (a) within 2 days, notify affected students enrolled in the course, in writing, that the course is no longer being provided;
 - (b) within 7 business days after notifying the students, hold a meeting with the students and the Service Provider at the location where the course was primarily delivered;
 - (c) as soon as practicable, update the Provider's website to reflect that the course is no longer being provided and to give information to students about the tuition assurance management services.

- (d) within 3 business days, give the Service Provider, the student enrolment and progression information, as defined in paragraph 7(a), for each affected student.

3. **Repayment and re-crediting**

3.1 **if:**

- (a) the Service Provider makes an application to the Provider for a re-credit of a student's HELP balance under section 104-25 of the Act; and
- (b) the application is made by the Service Provider on behalf of the student;

the Provider must consider the application as if it was made by the student.

Note to Providers: Subsection 104-40(1) of the Higher Education Support Act requires the Provider to consider an application made under paragraph 104-25(1)(d) as soon as practicable and notify the applicant of the decision on the application together with a statement of reasons. If a student's HELP balance is re-credited, section 110-5 requires the Provider to pay the Commonwealth an amount equal to the amount of HELP assistance to which the student was entitled for the unit of study.

- 3.2 The Provider must notify the Service Provider as soon as practicable after the re-credit has occurred.

4. **Acceptance of displaced students**

- 4.1 If the Service Provider gives written notice to the Provider that a replacement tuition offer has been made and accepted by a student (**displaced student**) for a place with the Provider, the Provider, acting as a replacement provider, must accept the displaced student unless:

- (a) the displaced student has failed to abide by, or to agree to abide by, the Provider's reasonable policies and procedures (with which the student was provided); or
- (b) the Provider can establish to the satisfaction of the Service Provider that existing circumstances makes it reasonable for the Provider to not accept the student.

- 4.2 Without limiting the circumstances referred to in paragraph 4.1(b) directly above, such circumstances may include, but are not limited to:

- (a) if placement with the Provider would not be in the best interests of the displaced student; or
- (b) if the Provider has accepted a number of displaced students and it would be unreasonable for the Provider to accept another displaced student having regard to the Provider's capacity and capability.

5. **Obligations as a replacement**

5.1 The Provider must ensure, subject to paragraph 4.1 above, that a displaced student is enrolled in the replacement course with the Provider as soon as practicable.

5.2 The Provider must ensure that a displaced student enrolled in a replacement course with the Provider is:

- (a) granted course credits for the units of study successfully completed by the student, as evidenced by a copy of a statement of attainment or other Australian Qualifications Framework certification documentation issued by the student's first provider or an authorised issuing organisation in accordance with the Australian Qualifications Framework; and
- (b) is not charged tuition fees for a replacement unit of the replacement course.

6. **Statement of tuition assurance**

6.1 The Provider must make a *statement of tuition assurance exemption* that reflects the arrangements described in this Notice. A statement in the form set out in Attachment C to this Notice will satisfy the requirements.

Note to Providers: Chapter 2, Part 4 of the HEP Guidelines requires a provider that is exempt from the tuition assurance requirements to:

- clearly and prominently publish its *statement of tuition assurance exemption* and ensure that, when enrolling a student in a unit of study, the student is provided with clear information about how to access the statement of tuition assurance exemption;
- keep up-to-date enrolment information on students enrolled in units of study.

7. **Defined terms**

7.1 Unless otherwise specified, terms in this Notice have the same meaning as in the *Higher Education Support Act 2003* and the HEP Guidelines. In addition, for the purpose of this Notice:

- (a) ***student enrolment and course progression information*** includes:
 - i. the name of the course;
 - ii. the full name and contact details of each affected student enrolled in the course;
 - iii. the units of study in the course that each affected student is enrolled in;
 - iv. the amount of the tuition fees for the units of study that each affected student is enrolled in;
 - v. details about the payment of those tuition fees, including the amounts that were paid with FEE-HELP assistance.