

TAC Guideline on the Protection of Fees Paid in Advance

1. About this Guideline

An RTO must operate in accordance with the *AQTF 2007 Essential Standards for Registration* and the policies and guidelines of the Council as provided under section 13 on the *Vocational Education and Training Act 1996*.

In recognition of the risks faced by students and clients, the *AQTF 2007 Condition of Registration – Section 5*, states that the RTO must protect fees paid in advance.

This Guideline outlines the Training Accreditation Council's definition of 'protection of fees paid in advance' and is intended to assist RTOs in determining if their organisation collects fees paid in advance. The Guideline also outlines the range of options that will be accepted by the Training Accreditation Council to meet compliance with the requirement of the Condition of Registration.

2. Intent

The intent of this Guideline is to ensure that mechanisms are in place to protect the student's investment and provide access to funds or a comparable course acceptable to the student at no additional cost, in the event that the RTO ceases to operate or is unable to provide the services outlined in the contract with the student.

Application of this Guideline will:

- Minimise the potential for students to be left financially disadvantaged;
- Assist with consistency in application of *AQTF 2007 Conditions of Registration – Section 5* by RTOs and auditors; and
- Bridge the disparity in the levels of protection applied to local students compared to international students.

3. Individual Students

This Guideline applies to an RTO that collects fees paid in advance from individual fee paying students. Fees paid in advance from other clients (eg companies, incorporated bodies, government agencies) may be protected using one of the options outlined in this Guideline or by other systems implemented by the RTO in line with standard business practices. In the case of a Sole Trader, a decision on the client's status either as a business or as an individual student must be agreed at the time fees are collected.

4. Definition

For the purpose of these Guidelines, the Training Accreditation Council has endorsed the following definition of 'protection of fees paid in advance':

4.1 What does 'protect' mean?

.....for the purposes of these Guidelines it is taken to mean –

- That an RTO cannot access a student's fees until it is entitled to do so; and
- Fees are applied through a mechanism that limits the total amount to be paid in advance by the student; or
- A mechanism is in place that outlines that a third party has agreed, and has the financial resources available to meet the RTO's obligations to students in the event of a default by the RTO; or
- A mechanism is in place that provides assurance that the student's chosen course or a comparable course will be provided to the student at no additional cost in the event that the RTO is unable to provide the course.



4.2 When are fees considered to be collected 'in advance'?

.....an RTO's system should only enable the RTO to access students' fees on the following basis:

- For courses of 6 consecutive calendar weeks or less – No fees are considered to be fees in advance. The RTO may access student fees at any time;
- For courses over 6 consecutive calendar weeks – If the total fee for the course is in excess of \$1500, the fees are considered to be collected in advance. The RTO must collect fees in line with one of the options outlined in section 5 of this Guideline.

5. Mechanisms for protection of fees paid in advance

RTOs may access students' fees, as long as one of the following mechanisms that has been endorsed by the Training Accreditation Council is in place to make funds available to students or a comparable course is provided to the students, in the event of a closure or in the event that the course can not be provided:

5.1 Option 1

The RTO is administered by a State, Territory or Commonwealth Government Agency.

5.2 Option 2

The RTO holds current membership of an approved Tuition Assurance Scheme (TAS). Tuition Assurance Schemes protect student fees paid in advance by providing assurance that the student's chosen course or a comparable course will be provided by an alternative member of the scheme, at no additional cost, in the event that the original provider is unable to continue to provide the course.

Under this option the RTO may access the full course fee at the commencement of the course.

5.3 Option 3

The RTO provides evidence that a Bank Guarantee has been secured to protect fees paid in advance. A Bank Guarantee is a financial product that may be obtained by a business from a bank, in which the bank secures the business's obligations under a contract entered into with another party.

Under this option the RTO may access the full course fee at the commencement of the course.

5.4 Option 4

Capping of fees paid in advance.

The RTO only accepts payment up to \$500 prior to the commencement of the service. Following course commencement the RTO accepts no more than \$1000 in advance at any given time from each student for tuition services yet to be received by the student.

Under this option the RTO is limited to initially accessing \$500 and then may access no more than \$1000 in advance.

5.5 Option 5

A Deed of Indemnity from a parent company. The Deed of indemnity between the RTO and the parent company is a legally binding document that outlines that the parent company has agreed, and has the financial resources available to meet the RTO's obligations to students in the event of a default by the RTO.

Under this option the RTO may access the full course fee at the commencement of the course

5.6 Additional Options

RTOs may put forward alternative financial safeguard measures of equal rigor for consideration and, if appropriate, approval by the Council.

6. Student Liability

This Guideline in no way limits the client's liability to the RTO as outlined in the contract of service between the client and the RTO.

7. Notice to Students

RTOs are required to provide clear information to students prior and at the time of enrolment on the method of fee protection that is applicable to their enrolment.