

§6 Legal Foundations

Heidi Bolton, SAQA

A clear legal framework, which coordinates and oversees quality provision of VPL, is the bedrock of a sustainable VPL system.

6.1 *The legal foundations of VPL must establish an individual's right to validation and guidance; at the same time, it should be the individual's choice to exercise this right.*

Why is it important?

There needs to be a legal foundation for VPL to ensure that individuals with prior non-formal and informal learning have access to it, that institutions provide VPL and do not prevent eligible individuals from engaging in VPL processes, or limit these processes. Often people in contexts of social, economic and political disadvantage are not able to study formally, but instead learn in the course of life or work. In addition, refugees and asylum seekers often have to flee their home countries and arrive in host countries without their qualification and other paperwork. The recognition and validation of non-formal and informal learning for access to formal learning, credit, or progression in the workplace, is an issue of social justice. Legal foundations are needed to ensure that all applicable entities participate in VPL. Individuals also need to know that they have a right to VPL. It is, however, important that it is their choice whether they exercise this right or not. The legal foundations need to provide an enabling context for, and guidance in, VPL.

Where is it working well?

Several countries have legal foundations for their VPL systems – see for example (in alphabetical sequence), the Caribbean community, Chile, the Faroe Islands, Finland, France, Hong Kong, Macedonia, South Africa, and the Southern African Development Community (SADC).

6.2 *The VPL legal framework must establish a solid funding system, effective instruments and procedures, a trusted certification process, and strong support structures for candidates.*

Why is it important?

The above elements are the core components of a functioning VPL system.

The legal foundations need to acknowledge that resourcing VPL denotes the direct and indirect physical, infrastructural, and human capacity to build and sustain VPL practices, as well as financial capacity.

Where is it working well?

The legal systems in some countries cater for all of these aspects of VPL – for example (in alphabetical sequence), the Caribbean community, Chile, the Faroe Islands, Finland, France, Hong Kong, Macedonia, and South Africa.

6.3 *The VPL legal framework must establish regulating bodies, which oversee the provision, uptake and quality assurance of VPL, and coordinate the whole VPL system.*

Why is it important?

To ensure high quality learning outcomes in the VPL system, the regulation of the quality assurance of VPL is needed. Ideally, VPL would form part of the responsibilities of existing regulatory bodies; VPL legislation would be integrated into the legislation of national education and training systems.

Where is it working well?

The legal systems in some countries include regulating bodies with VPL responsibilities. For example, in South Africa, the South African Qualifications Authority (SAQA), which oversees the implementation and further development of the National Qualifications Framework (NQF), is mandated to develop policy and criteria, after consultation with the three Quality Councils, for the Recognition of Prior Learning (RPL), Credit Accumulation and Transfer (CAT), and assessment. The three Quality Councils – which oversee the articulated NQF Sub-Frameworks for General and Further Education, Higher Education, and Trades and Occupations respectively – must develop and oversee the implementation of, aligned RPL and CAT policies.

6.4 *Laws and regulations need to be reviewed on a regular basis to allow the evolution of the VPL system.*

Why is it important?

Education and training systems evolve and improve over time; it is essential that VPL policies are reviewed so that they remain aligned to the systems of which they are part, and so that they remain effective and efficient, based on recent research and good practice.

Where is it working well?

In South Africa, VPL policy is revised roughly every five years, providing an opportunity to align it with other new policy developments.

6.5 To avoid discrimination, (partial) qualification certificates obtained through VPL need to be identical to the corresponding certificates obtained via traditional formal education and training routes.

Why is it important?

Certification gained through VPL should have the same status as certification gained through traditional education and training. This can only be assured if the certificates obtained are identical.

Where is it working well?

See the VPL certification systems in VPL policy in the Caribbean community, Chile, the Faroe Islands, Finland, France, Hong Kong, Macedonia, South Africa, and the Southern African Development Community (SADC).

6.6 The ownership of the VPL results should lie with the individual learner.

Why is it important?

It should be an individual's decision whether to disclose the results to their employer or an education or training provider.

Where is it working well?

In South Africa, learner achievement data are submitted to the South African Qualifications Authority (SAQA) for uploading in the National Learners' Records Database (NLRD). VPL data are also submitted in this way. Personal learner details in the NLRD can be used for research and legal purposes only. Crucially, there is legislation to protect individuals from their data being shared.

6.7 The VPL system must be embedded in national policy.

Why is it important?

Policy complexity and requiring entities to implement multiple policies can lead to lack of policy implementation. Integrating VPL policy into national policies for education, training, development and work enables the integration of VPL as part of the values and practices of the system(s) as a whole.

Where is it working well?

VPL policy is integrated into the national education and training systems/ National Qualifications Framework (NQF)/ Regional Qualifications Framework (RQF) policy baskets in the Caribbean community, Chile, the Faroe Islands, Finland, France, Hong

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Kong, Macedonia, South Africa, and the Southern African Development Community (SADC).