

Hon Ian Macfarlane MP
Minister for Industry
Parliament House
CANBERRA ACT 2600

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24 July 2014

Dear Minister,

RE: PROPOSED STANDARDS FOR TRAINING PROVIDERS AND VET REGULATORS

TAFE Directors Australia (TDA), the peak body for 58 public provider (TAFE) network nationally, welcomes the opportunity to respond to the proposed Standards for Training Providers and VET Regulators.

TDA supports the objective of one set of standards for all VET registered training providers, however has qualified our support to seek the overall intent toward a risk-based regulatory system to ensure the integrity of VET qualifications and the reduction of red tape.

Accordingly, TDA has approached this response to the draft VET Standards with comments at both operational and strategic levels.

At an **operational level**, TDA wishes to convey concern that elements in the current draft of the Standards will either retain or increase administrative burden for low risk providers such as TAFE Institutes. Also of concern is the proposed reduction in qualification for the trainers of VET practitioners, contracting standards and removal of financial viability requirements for RTOs. These concerns are consistent with our consultations on the VET Standards, and discussed in further detail in attachments to this response.

TDA especially notes the potential weakening of governance for RTO providers under the existing draft VET Standards, which may re-open loopholes for RTOs to operate with less transparency, with a return to cases where providers operate without (financial) checks and (quality) balances, and subverts the intent of the Standards to ensure quality training outcomes. It is imperative that the 'one size fits all' paradigm that currently fails to distinguish between high and low risk providers be discontinued under new arrangements; a position TDA has consistently argued for some time.

It remains somewhat challenging, however, for TDA to make further detailed comment without firstly access to the Regulatory Impact Statement (RIS) which was commissioned on ASQA and secondly, clarification about the process providers would follow for assessment and industry validation (for example, which courses would this validation apply to, and protocols for such processes).

As a **strategic comment** on the draft VET Standards, TDA regrettably notes that they fail to provide a transparent structure for a risk framework which had been a primary objective for streamlining regulation and gaining confidence across Australia's vocational education and the provider community. This was identified under NQC, NSSC and by TAFE leaders to be a key requirement if Australia was to successfully overcome the reputational risks apparent in the VET segment of tertiary education.

This reputational risk alone remains one of the most critical factors to the mission of the Department of Trade, in association with major providers, to significantly expand the international education market for VET. The lack of clarity across 4,700 providers, lack of identity to whom low risk may apply and lack of alignment with other Commonwealth categories such as CRICOS providers, VET and HEP loan registered providers and providers offered SVP visas under Immigration, highlights the incomplete state of the draft Standards.

For this reason, TDA proposes that the draft Standards should be re-structured to articulate recognition and assessment of risk.

One option favoured by TDA under this re-structure is to support essential Standards that could broadly apply for all RTOs, i.e. any corporation or firm, enterprises, nor-for-profit and public entity wishing to be registered as an RTO. ASQA might assume duties for the registration of such entities. The next level of risk assessment would be directed to those RTOs wishing to seek public VET funding from National Training Package courses.

This category would articulate more clearly for the ASQA regulator and require special audit attention. Within this category, as confirmed by NCVER, only 100 RTOs deliver some 90 per cent of public VET funding, and many of these RTOs are major private and public institutions.

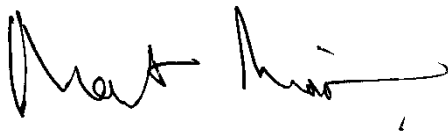
TDA argues this category would ideally be granted capacity to seek eligibility for delegations and high levels of self accreditation. Only with this more transparent approach, will the VET Standards be deemed fair for those firms simply wishing to be a registered RTO in Australia, and those that especially see their business and/or community mission to deliver courses with public VET funding.

A real dividend from this approach would be far tighter responsibilities for ASQA, rather than the vastly over-stated brief (and funding) currently required to act often without discretion across 4,700 registered RTOs.

Further, TDA argues that without such discretionary categories and transparency, jurisdictions such as Victoria and Western Australia will choose to remain outside the referral of powers to ASQA.

Should you wish to discuss this submission further, please contact myself or Pam Caven, Director Policy and Stakeholder Engagement.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Martin Riordan', with a stylized flourish at the end.

MARTIN RIORDAN
Chief Executive Officer
TAFE Directors Australia

TAFE DIRECTORS AUSTRALIA

RESPONSE TO THE PROPOSED STANDARDS FOR TRAINING PROVIDERS AND VET REGULATORS

24 July 2014

On 25 June the Hon Ian MacFarlane MP Minister for Industry released proposed Standards for Training Providers and VET Regulators.

TAFE Directors Australia (TDA) as the peak body for 58 public providers nationally welcomes the opportunity to respond to the Standards.

TDA notes the preamble from Minister for Industry, Hon Ian Macfarlane MP, which outlines the importance of the revised VET standards to streamlining regulation and reducing red tape. However, there are elements in the current draft for the VET Standards which remain highly administratively burdensome, while also the VET Standards still omit to overlay concise protocols for a risk framework for low risk RTO providers.

We also note that unlike the TEQSA regulatory framework, the requirements for financial viability is omitted in the VET Standards which may create loopholes for RTOs to operate in a less than transparent way, and subvert the high quality intent of the new VET Standards.

Background

TDA understands that there are three themes that underpin the proposed Standards:

- Industry responsiveness;
- Quality training and assessment; and
- Cutting red tape.

TDA supports the objective of one set of standards applying to all providers. However, as outlined in the above correspondence, we have reservations about how practical and financially burdensome this approach will be for providers – high and low risk, public and private, enterprise and not-for-profit.

TDA supports the overall intent to have clear standards that will ensure the reputation and integrity of Australia's vocational education and training system.

The proposed standards for application by VET regulators and providers should create more clarity as to their risk based approach, consistent with the Minister's Risk Assessment Framework and his preamble to the Standards. This "one size fits all" system fails to distinguish between high and low risk providers. TDA has consistently argued against a "one size all" approach.

The VET regulators will also be required to adopt an educative role (Standard 1); have a charter of service, minimum qualifications for auditors, and a requirement to report against these standards to the Industry and Skills Council or its delegate.

The Hon. Ian Macfarlane MP, Minister for Industry also released the 'ASQA Process Review' undertaken by PwC in conjunction with the proposed Standards for Training Providers and VET.

TDA's overarching comment on the proposed standards for training providers

TAFE Directors Australia welcomes the Government's support for "an effective risk-based regulatory system" that is not one size fits all, that may reward high performing vocational education and training providers and deals more effectively with those deemed as poorly performing providers. However, the draft VET Standards as released fall short in this regard.

TDA supports the emphasis on industry responsiveness and quality in training and assessment, and that the standards should be outcome rather than input focused.

TDA argues however that the proposed standards for Training Providers and Regulators will not achieve the desired quality outcomes, and far from streamlining regulation, may well impose a new set of administrative imposts on Training Providers. Accordingly, TDA is concerned at the cost implications for implementation of these Standards, especially given these are not within a context of a risk framework.

The proposed standards are very comprehensive and complex with a detailed set of administrative processes (and considerable cross referencing across the standards) which will require the maintenance of an expanded set of evidence requirements, which is inconsistent with cutting red tape.

The proposed Standards for Training Providers are more operational and prescriptive than the Higher Education Standards. TDA maintains that standards for Training Providers ought to be clear and measurable.

The language in the proposed standards is imprecise and therefore open to interpretation by RTOs and auditors. Some examples will suffice:

Context

"... is delivered by appropriately qualified trainers and assessors with the **right** support services, facilities and equipment"

1.2 The RTO has for all its scope of registration, and consistent with its training and assessment strategies **sufficient**.....

1.5 b) the **current** industry skills of its trainers and assessors;

1.8 c) Assessment is **systematically** validated (This issue is dealt with in more detail in the Attachment).

Standard 2 has is also peppered with **sufficient** strategies and resources to **systematically** monitor.

These Standards only differentiate between public and private providers in the single area of protection of student prepaid fees. In all other ways public and private providers are undifferentiated. There are certainly no equivalent standards to the HE Threshold Standards that identify categories of providers.

Arguably the devil is still in the detail and in auditor interpretation, as is the case with the current standards.

TDA Principles

TDA maintains that the proposed Standards should incorporate the following principles:

- Standards should be clearly written and measurable -*most of the proposed standards are not clearly written, nor are they measurable.*
- All standards should be self sufficient and stand alone- *many of the proposed standards require cross referencing to other standards and/or schedules and this may lead to multiple non compliances for the same issue*
- The standards should be focused on outcomes- *the proposed standards are much more focused on process.*
- Implementation of the standards should, at worst, be cost neutral- *the proposed standards will impose considerable extra costs on providers*
- Any definitions of quality training and quality training providers should be clear and overt – *the proposed standards leave such definitions in the hands of ASQA auditors.*

Delegations and Self-accreditation

TDA also maintains that high performing low risk RTOs (i.e. **ALL** TAFE institutes and some private RTOs) should be granted as a matter of priority delegations to manage their scope of registration and that this ought to be reflected in the standards.

Further, there may be wider operational and delivery modes that may also be delegated, under a wider self accreditation platform for low risk profile RTOs.

TDA further argues that the Financial Viability and Risk Assessment Requirements (FVRAR) should be assessed on re-registration of all RTOs that do not have such delegations to manage their scope of registration.

One real option favoured by TDA, would be to bring clearer governance separation and accountability within the VET Standards. TDA proposes that the standards should be re-structured to take greater recognition and assessment of risk.

It would be particularly useful if there was a set of baseline standards applicable to all RTOs (public and private) to meet on registration and/or re-registration, but an additional set of more rigorous standards (e.g. governance, financial, industry and student engagement) for RTOs that indicate on registration that they wish to apply for government VET funding or are currently in receipt of government funds.

Such an approach will give state governments and industry greater confidence in the risk levels of providers seeking access to government funds. It will also bring far greater capacity for ASQA to develop its scope, which otherwise has been lacking, and the transfer fee recovery cost has been enormous and building.

TDA argues for serious consideration to this approach, based on evidence that less than 100 Australian RTOs deliver some 90 per cent of public VET funding.

TDA notes that it is imperative that the 'one size fits all' paradigm be discontinued under these new arrangements. Instead, improved elements of governance deliverables are an absolute requirement for any provider – public or private – to be eligible for public VET funding for nationally accredited VET courses.

If an RTO does not seek public VET funding, yet wishes to be registered RTO, then clearly they will not be required to follow all the extra administrative governance.

These issues may also be better outlined by inclusion of Objects as a preamble to the VET Regulations.

The following proposed standards in particular are not supported by TDA:

Cert IV TAE – the proposed standard is a missed opportunity to assure quality of teaching and assessment. Trainers who are providing the training should have as minimum a Diploma and logically some experience as a trainer and assessor in their own right, not the case in the proposed standard.

Validation – proposed validation of assessment is blanket and not risk based. Does validation in these standards refer to all units of competency? The administrative burden would be crippling for RTOs and unnecessary. It is not clear where the "industry experts" will be accessed. It is likely that the standards will foster a new industry of experts!

Sub –contracting standards may inadvertently target individual trainers and assessors who provide services to TAFE institutes on an ABN business basis.

Financial viability requirements TDA is concerned that this central tenet of good governance has now been watered down in the name of "a more risk based approach" so that RTOs will have a greater capacity to self regulate in this respect. (Governance arrangements for providers p. 14).

A more detailed analysis of the proposed standards is at Attachment 1.

For further information:

Martin Riordan

Pam Caven

CEO

Director, Policy and Stakeholder Engagement

TAFE Directors Australia

Attachment 1: Matrix of Standards with TDA Comments

Standard/Issue	TDA comment
Dictionary	TDA supports the inclusion of a more comprehensive dictionary of terms that adds to the understanding of the interpretation of the standards
AEO	TDA supports the removal of the requirement for an AEO
Licensed Training Organisation (LTO)	TDA supports the continuity of the Registered Training Organisation (RTO) rather than moving to an LTO
Learner protection	TDA supports the greater specificity of the information to be provided to learners prior to enrolment
<p>1.9 For the purposes of clause 1.8, systematic validation of assessment is to be undertaken by person/s who are not directly involved in the training or assessment delivery of that qualification and have:</p> <ul style="list-style-type: none"> a) vocational competencies and current industry skills relevant to the assessment being validated; b) current knowledge and skills in vocational teaching and learning; and c) the training and assessment qualification or assessment skill set referred to in Item 1 or 2 of (Whichever applies). <p>Industry experts may be involved in validation to ensure there is the combination of expertise set out in (a) to (c) above.</p>	<p>TDA does not support that this standard as it is written and imposes significant additional costs to the TAFE institute/RTO.</p> <ul style="list-style-type: none"> • The way this standard is poorly written and could be interpreted as meaning that no person involved in training and assessment of that qualification anywhere could be involved in validation. i.e. validation by trainers and assessors currently involved in training and assessment of that qualification from different RTO's would be non compliant; • Even if the standard is amended to state that the people involved in validation have to be external to the delivery centre or institute/RTO (<i>Which TDA is sure is the intention</i>), any external person will have to provide full CV's, skills matrices, certified qualifications, evidence of currency, etc. and have their experience verified by referee checks as is the current ASQA requirement; • Validation in most cases should be an internal activity (with industry/professional body representation where possible) undertaken by teachers in order to establish validation as a continuous improvement and educative process. However, where full qualifications are deemed high risk, independent validation by industry experts and educational experts should be in play; • Currently participation in validation of assessment has been regarded as part of a trainer/assessors job, with the cost being part of their salary. This standard will now mean that significant additional costs will have to be borne by the TAFE Institute/RTO.

Standard/Issue	TDA comment
<p>1.18 To deliver the training and assessment qualification specified at Item 1 of Schedule 1 or a higher training and assessment qualification the RTO must ensure all trainers delivering the training and assessment:</p> <ul style="list-style-type: none"> a) hold the training and assessment qualification at least to the level being delivered; or b) prior to 1 January 2016, have demonstrated equivalence of competencies. <p>1.19 To deliver the skill set for assessors specified at Item 2 of Schedule 1, the RTO must ensure that all trainers delivering the training and assessment:</p> <ul style="list-style-type: none"> a) hold the training and assessment qualification specified at Item 1 of Schedule 1 or a higher training and assessment qualification; or b) prior to 1 January 2016, have demonstrated equivalence of competencies. 	<p>TDA would recommend that the standard be amended so that any trainer/ assessor of training/ assessment qualifications also has to:</p> <ul style="list-style-type: none"> • hold a training and assessment qualification or adult education qualification at least one AQF level higher than that being delivered and assessed i.e. at the Diploma level or above; • meet the trainer assessor requirements specified in standard 1.11-1.13 for at least one AQF qualification area other than the training/assessment qualification.
<p><i>Validation of the training and assessment qualification</i></p> <p>1.20 As of 1 January 2016, to deliver the training and assessment qualification specified at Item 1 of Schedule 1 or a higher training and assessment qualification or the skill set for assessors specified at Item 2 of schedule 1, an RTO must have undergone an independent validation of its assessment system, tools, processes and outcomes in accordance with the requirements contained in (and the definition of independent).</p>	<p>TDA maintains that there is no specification of the skill set of the independent validators in this standard or in Schedule 2:</p> <ul style="list-style-type: none"> • If the skill set of the validators only has to meet the skills set for trainers and assessors as required in standard 1.18, then there would be no educational or quality benefit gained from considerable extra expenditure by the RTO; • It is possible under this standard that the independent validation could be undertaken by a person who has just completed a TAE qualification, has no training or assessing experience, and indeed may have no other AQF qualification.

Standard/Issue	TDA comment
<p>2.1, 2.2, 2.3, 4.1, 5.2, 8.2 all relate to the matter of subcontracting.</p>	<p>TDA is concerned at the cost implications in relation to administering these standards as they relate to subcontracting.</p> <ul style="list-style-type: none"> • Across the VET system a number of individual trainers and assessors provide training and assessment services, simultaneously to a range of RTOs. This is a growing practice as TAFE institutes and other RTOs seek to minimise ongoing commitment to staff. These individuals provide these services legally as subcontractors and they are paid on invoice from a registered ABN/ACN; • These people have been deemed by ASQA at audit to be subcontractors within the meaning of the current standards; • Such an interpretation of subcontractors would then impose significant administrative impost on RTOs.