6 August 2012

Ms Sharon Robertson
Head of NATESE
sharon.robertson@natese.gov.au

Dear Sharon

RE: Response to NSSC Consultation Paper - Review of the Standards for the regulation of VET

Please find attached ASQA’s response to the discussion paper. ASQA has considered the questions proposed by the Council in light of the regulatory decisions that it has taken over the first twelve months of operation. This has included internal dialogue with compliance and risk teams across Australia, and analysis of incoming communication via our Infoline and web access points. At the request of Brett Michael of your organisation, I also confirm that this response can be made public.

In responding I wish to emphasis four key points:

i. It is important that the review leads to the adoption of a single set of national standards used by all regulators. The continuing use of the Australian Quality Training Framework Standards (AQTF) in Victoria and Western Australia and the National VET Regulator Standards by ASQA is causing some confusion even though the standards are the same in many respects.

ii. The link between the national standards for the regulation of VET and the Training Package requirements needs to be strengthened to provide greater consistency in how industry and training providers interpret and implement vocational training to meet industry standards.

iii. The new standards for Training Package development that are expected to be implemented in the near future will need to be revisited at the conclusion of this process in mid 2013 to ensure that all standards are consistent and coherent for interpretation and implementation to achieve high quality vocational education and training outcomes.

iv. The standards for Tuition Protection do not work and require a policy change to guarantee fee protection or a change to lower the expectations for student fee protection.

I look forward to discussing this response with you and supporting you in this important opportunity to strengthen the quality of vocational education and training.

Yours sincerely

Christopher Robinson
Chief Commissioner
Overview of the Australian Skills Quality Authority regulatory action in 2011-12

The Australian Skills Quality Authority (ASQA) was established on 1 July 2011 in response to the need to ensure confidence in the quality of vocational education and training delivered by Australian training providers. The national regulator’s role is to ensure that Australian training providers and accredited courses meet the required standards.

During its first year of operation, ASQA received more than 4800 applications, including 611 applications transferred from referring states and territories on the first day of operation. Most of these applications, approximately 80 per cent, were applications to add new courses to a provider’s scope of registration. ASQA also received almost 600 applications to renew training providers’ registrations, and more than 320 applications for initial registration as a new registered training organisation.

Most training providers and providers of English language courses assessed by ASQA have been found compliant with the standards required of training providers in Australia. During the year ASQA approved over 3200 applications—or 90 per cent of the applications that were completed in the first year.

However, ASQA has also taken strong action against providers that do not meet the required standards. ASQA Commissioners refused 202 applications between 1 July 2011 and 30 June 2012. Of these, 48 were rejections of applications to register as a new provider; 126 were rejections of applications to add new courses to a provider’s scope of registration; and a further 28 were rejections of applications to renew the registration of existing providers.

In addition, ASQA cancelled the registrations of or removed qualifications from six providers; suspended all or part of four providers’ registrations; and issued a further 12 notices of intention to cancel or suspend a provider’s registration.

ASQA has also undertaken an intensive round of Training Provider Information Sessions, with over 2000 people attending 21 sessions held across Australia. ASQA’s Info line answered over 32,000 calls and responded to over 13,000 emails, and ASQA’s website received over 142,000 unique visits.

ASQA assumed regulatory responsibility for vocational education and training in the Australian Capital Territory, the Northern Territory, and New South Wales, and some providers in Victoria and Western Australia, from 1 July 2011. Tasmania transferred to ASQA’s jurisdiction on 15 February 2012, followed by South Australia on 26 March 2012 and Queensland on 29 June 2012.

ASQA is also the designated authority under the Education Services for Overseas Students Act 2000 for VET and English Language Intensive Courses for Overseas Students.
Introduction to ASQA's response

The standards for the regulation of vocational education and training are an important statement of outcomes for training providers to meet industry and community expectations. These standards have evolved over the last twenty-five years and have supported the growth of the vocational sector. However, it is timely that the Standing Council on Tertiary Education, Skills and Employment has asked for a review especially in the context of growing concerns about quality, flexibility and innovation. After 12 months of operation as the national VET regulator, ASQA welcomes the opportunity to reflect on the standards and their utility for the Australian context.

Australia's vocational education and training sector should reflect the dynamism of industry and growth of new technologies. Small, medium and large enterprises need training providers that can rapidly adapt to shifting priorities and requirements for new skills across multiple locations and diversity of scale. To do this we need standards that describe outcomes and performance rather than input measures which are prescriptive and uniform.

ASQA understands that the National Skills Standards Council (NSSC) has framed this review with a quality lens on two central issues, namely can the standards be:

a. consistently interpreted by Registered Training Organisations, (RTOs), and Regulators; and

b. effectively implemented.

The NSSC has released a discussion paper with a series of questions. Responses to these questions will identify common themes to guide the detailed consultation process over the next twelve months. However, in the first instance ASQA would like to address what it sees as key issues to provide context for specific responses.

Key Issues

1. Standards as benchmarks

The confidence of learners, industry and government should be built on Standards that are an explicit expectation of performance – not expressed as a minimum, rather, as an expectation of quality benchmarks. The current use of the adjective minimum in relation to the standards devalues the quality of VET product. Instead it would be helpful if any description of the Standards reassures and encourages industry, government and learner ongoing investment of time, effort and resources. Therefore, ASQA strongly recommends that the standards that arise from this review are referred to as the 'standards required for registration' and not as the minimum standards required.
2. Need to strengthen RTO governance of educational programs

ASQA completed the processing of 3,609 applications for initial, or renewal of registration or for adding new courses to providers registration in first twelve months of operation. In consideration of these applications, the Commissioners made 202 rejections on the basis of non-compliances against the National Vocational Education and Training Regulator Act 2011 (NVETR Act 2011) or the Education Services for Overseas Students Act 2000. Of these decisions, 156 rejections were made on the basis of non compliances against the NVETR Act specifically. 151 or 96.7% rejection decisions related to non compliances with the standards covering the quality of delivery and assessment and on maximising outcomes for learners through the training experience. The relevant standards were:

- SNR 4/15 Strategies for quality training and assessment
- SNR 5/16 Strategies for principles of access and equity and to maximise outcomes for clients.

The business of managing a training provider should include the consideration of the learner cohort in education program design, delivery and implementation. Strengthening the training providers' governance requirements in the area of educational program design would ensure that the responsibility for designing and implementing delivery and assessment programs to training package / curricula specifications is addressed by the training provider as part of the business model.

At present this consideration of learner needs appears as an expectation that industry trainers in a variety of arrangements that combine vocational competence and a Certificate IV in Training and Education will be able to comply with the standards. Poor training design and implementation may be better addressed in the business model of the training provider as a registration standard. Significantly many high quality industry niche providers do consider learner cohort needs and context as part of their planning processes. However as our recent experience highlights, these standards continue to pose the most problems for training providers that are under scrutiny by ASQA. The NSSC could look at other standards in their research and identify examples where strengthening the overall educational program governance exists as a useful strategy to address persistent concerns about the quality of training and assessment.

A number of related issues concerning the quality of training and assessment could also be targeted through the above strategy. These include:

- On line delivery & assessment validation;
- Ethical marketing of VET product with product inducements, improbable timeframes or ‘weekend’ qualifications often driven by RTO funding opportunities;
- Duration - with new entrants to industry inappropriately being offered substantial Recognition of Prior Learning; and
- Limited or nil access to workplace / industry involvement for vocational learners to practice developing skills and competence in meaningful way.
3. Trainer competence
   - Currency of vocational competence
   - Currency of standards not being specific

The requirements for the combination of vocational and training competence that form the entry point for new trainers in skilling up the workforce to meet industry needs and drive economic growth. The critical importance of these specifications in supporting quality vocational training and assessment requires clear definition in all policy documentation including the standards. This definition needs to articulate the agreements on vocational competence and currency combined with training competence and currency.

The current policy advice relating the Certificate IV in Training and Assessment is confusing in that it covers transition from previous Certificate IVs with different specifications and transition arrangements. The policy surrounding trainer requirements was clarified in the NSSC Communiqué after their meeting on 8 December 2011:

*Determination for Trainers and Assessors*

The NSSC is responsible for setting the competency standards required by VET trainers and assessors if they are delivering training and assessment services (refer to AQTF Standard 1.4(a), and SNR 4.4(a) and SNR 15.4(a)). At the meeting of 8 December 2011, the NSSC considered and endorsed a new Determination for Training and Assessment competencies to be held by Trainers and Assessors (as at Appendix A). The Determination specifies the qualifications or competencies that must be held, as a minimum, by trainers, persons delivering training under supervision, and assessors in the VET sector.

The NSSC agreed to a transition period to 1 July 2013, to allow providers time to adopt a planned approach to ensuring all trainers and assessors meet the requirements of this Determination by 1 July 2013. The Determination endorsed by the NSSC at its meeting of 8 December 2011 replaces the NQC Determination dated 17 June 2010, which was due to take effect on 17 June 2012. The NQC Determination of 18 December 2009 will continue to apply during the transition period (i.e. to 1 July 2013).

The multiple references are confusing for stakeholders leading to misinterpretation, as evidenced by the number of non-compliances with this standard. In the same Communiqué, vocational competence is defined as:

‘.....broad industry knowledge and experience, usually combined with a relevant industry qualification. A person who has vocational competency will be familiar with the content of the vocation and will have relevant current experience in the industry. Vocational competency must be considered on an industry-by-industry basis and with reference to any guidance provided in the relevant Training Package or Accredited Course.’

The entry point for new trainers is critical in engaging industry practitioners to build workforce skills however ASQA has observed a wide degree of variance in how vocational industry competence is understood and recorded. The definition does not specify the standard of the vocational competence, and so is unclear how that competence is understood and measured. ASQA strongly recommends that that the standards clearly express the requirements for entry level, and note that this combination of vocational and training competence can be developed and maintained in a number of ways to build both training and vocational expertise.
4. Fee protection – incoherent for implementation

The standards for Fee Protection SNR 11 and 22 are not adequate for monitoring and regulating student fee protection. Subsequent to the NSSC deferring the implementation of the Tuition Assurance Scheme earlier this year, ASQA commissioned Ernst and Young to undertake an analysis of the fee protection options that are in the standards. This work has highlighted the significant difficulties with implementing or regulating all of the options and identifies criteria for ASQA to consider schemes as providing ‘equal rigour’ of measures for fee protection. This work is now being finalized and ASQA will share the final report with the NSSC once it is available.

As a result of this work, ASQA believes that adequate approaches and level of student fee protection is a policy issue that needs to be addressed as part of the NSSC review.

5. VET in School – quality and status

It would be useful if the NSSC review could confirm the standards and data requirements it expects for VET in Schools provision. As a new national regulator ASQA has inherited a range of delegation arrangements that will need to be reviewed. In the transition process ASQA has become aware that some jurisdictions had variable arrangements for reporting performance of VET in Schools activity. In some instances VET in schools is viewed through the filter of the individual learner undertaking a school subject, rather than as a learner undertaking units of competency equipping them with the standards of skills required for the workplace. In these instances it means that only the learner Quality Indicator and not the employer data is reported. Given the ongoing commentary from industry regarding the quality of VET in Schools, the NSSC should confirmation the expectations and standards for vocational training in this setting.

6. RTO information support to learners and industry

ASQA has identified a number of weaknesses in the information provision by training providers to learners and considers that the NSSC could strengthen requirements for RTOs to publish information about public liability insurance, practical placement, auspicing and any other industry documented agreements so that learners and industry can be adequately informed.

7. Policy interpretation and support to RTOs

In the first year of operation ASQA received 32,540 calls on its Infoline. Of these 17% were related to interpretation or clarification of the Standards. In addition for the same period, ASQA received 13,363 emails, of which 15% were again requests for information on interpretation or clarification of the Standards. There is a strong need for policy advice to be strengthened to support RTOs to understand the Standards. Previous guides to assist RTOs understand and interpret the AQTF Standards are seen as useful in that training providers feel supported in being compliant. New guidance material would include definitions and advice reflected in the Training Package Developers Handbook and User Guides.
8. Training package standards lacking sufficient definition within and across industry sectors
   Current industry concerns about learners completing training yet not possessing the skills for
   which they have been certified are partially related to a lack of definition and specificity in the
   training package standards. There is a need to strengthen consistency and expression of
   standards within and across training packages so that learners exit with skills to meet industry
   expectations.
   It is also critical that the Training Package review dovetails with this review of the National
   Standards to strengthen the link between the Training Package standards and the NVETR
   standards. Given the timing of the two reviews ASQA believes that it may be necessary to
   revisit the Training Package standards after this review is complete and strengthen links to
   build greater confidence in the quality of the outcomes of vocational education and training.
Responses to the NSSC discussion paper questions

1. **Overall, what is the scope of change required to meet the changing needs of the sector and preserve the reputation of the sector? Is it minimal, significant but within the key areas of the standards, or significant reform?**

The standards review needs to ensure the quality of VET product with a clear focus on outputs. The review should focus on clear and unambiguous expectations of outcomes so that stakeholders understand what the requirements are and what the product will be. Internal feedback about compliance has highlighted a need for refinement and clarification of the standards to assist in establishing compliance and also to distil commentary concerning the variable quality outcomes of training. The need for radical wholesale change is not evident at this point however ASQA believes that there are some areas that need significant change.

One example is the standard for protecting student fees paid in advance. This standard is not able to be implemented in full and requires reform. The reform required in this area must also be considered against the backdrop of the overall purpose of the standards and whether or not they should focus in such a prescriptive way on consumer protection aspects. ASQA has commissioned work by Ernst and Young in determining how it may apply the standard particularly Options 4 and 5, and is seeking legal advice on its liability with respect to applying the standard. When this work is finalised ASQA will provide the report to the NSSC.

A comparison with the Threshold Standards for Higher Education Providers shows that the related standard is much less prescriptive with the requirement being that the higher education provider have business continuity plans and financial and tuition safeguards in place for students should the higher education provider cease to provide a course of study, cease to operate as a higher education provider or suffer a major incident affecting the operations of the higher education provider. With appropriate guidance to the VET sector about possible approaches the RTO can implement, the higher education form of standard may be preferable to the current prescription in the VET standards in this area.

Another area where reform is needed is in the governance standards required of an RTO. ASQA does not believe the standards go far enough in ensuring adequate leadership and management of the vocational education and training services delivered by RTOs. While the corporate and financial aspects are important, there is not enough emphasis in the standards on the governance of the RTO’s core business of learning and assessment. Strengthening the requirements for the governance of a registered training organisation specifically in the leadership and management of learning and assessment design would ensure that the responsibility for designing and implementing programs to training package and accredited course specifications is integral to the business model of an RTO.

The currency of vocational competence of trainers and assessors continues to be an issue and is an area for potential reform. RTOs are seeking more guidance about complying with this requirement. Clearer expectations need to be communicated either in the standards themselves or in a companion guide. The Frequently Asked Questions on the NSSC website clarifying the requirements are a step in the right direction but also serve to illustrate the complexity of the current arrangements. Registered training organisation interpretation of the NSSC requirements for trainer and assessor competencies has been hampered by NSSC determinations referring to forward implementation dates and the application of past determinations in intervening periods. Clear statements about the requirements should be in the standards themselves and not in secondary sources. This should be complemented by greater clarity in the Training Package about particular requirements for trainers and assessors.
The NVETR Act 2011 requires that as a condition of registration that organisations comply with the VET Quality Framework which includes as one of its parts, the Australian Qualifications Framework. The standards also refer to the need for the provider to meet the Australian Qualifications Framework (AQF) requirements. While the requirement is included under the heading of “Certification, issuing and recognition of qualifications & statements of attainment”, there is a need for more clarity about which parts of the AQF an RTO needs to meet.

The Standards are often referred to as the “minimum” standards. ASQA believes that this term should not be used and sees an opportunity for the NSSC to stamp them as the “benchmark standards” for quality outcomes in the VET sector. The use of “minimum” in relation to the standards devalues them. The use of an explicit descriptor such as benchmark standards reinforces the value that should be attributed to quality vocational education and training and the ongoing investment of time, effort and resources by industry, government and learners in vocational education and training.

2. Do the national standards (or their regulation) require an increased focus on assuring nationally consistent, high quality training and assessment services?

The most common area of regulatory action taken by ASQA in the first twelve months is for non-compliance against SNR 15 Strategies for quality training and assessment and SNR 16 Strategies for principles of access and equity and to maximise outcomes for clients. Yes. ASQA believes that there is a need for an increased focus on assuring nationally consistent, high quality training and assessment services.

Some issues concerning the quality of training and assessment ASQA is continually confronting include:

- growth in online delivery and quality of online assessment;
- compliance with requirements for assessment validation;
- ethical marketing of VET products with product inducements, improbable timeframes or ‘weekend’ qualifications;
- duration or volume of learning issues – for example, new entrants to an industry inappropriately being offered substantial Recognition of Prior Learning more appropriate to experienced workers; and
- limited or no access to a workplace for vocational learners to practice developing skills and competence in accordance with Training Package requirements and in a meaningful way.

Under current standards the regulator must assess compliance with the requirements of the Training Package or the accredited course. The vague specification in some Training Packages while ostensibly supporting flexibility, also allows for subjective interpretations that lead to low quality outcomes. The review of the standards for registered training organisations must be commensurate a review of the Training Packages and their efficacy in setting clear standards for contexts for delivery and the quality of assessment. The Training Packages and the Standards are the bookends of quality for the vocational education and training system.
3. How can the standards ensure national consistency in qualification outcomes that are recognised by industry?

4. What is the role of external validation or independent moderation of assessment outcomes in the standards?

5. What other mechanisms might be used, other than external validation of assessment, to improve consistency in outcomes?

Assuring the quality of VET outcomes recognised by industry is a vexed question and so ASQA anticipates that the Commonwealth activity into moderation and external validation will explore this aspect more fully to determine what approach might best be applied. However strengthening the standards for assessment should provide increased quality of the product. Industry’s involvement in the validation of assessment and in the validation of outcomes can assure confidence in the outcomes. Two particular aspects of the current standards that cause difficulties for RTOs in interpretation are the requirements for:
  - effective consultation with industry
  - assessment (including Recognition of Prior Learning [to be] systematically validated.

The role of industry in the planning and validation of a training provider's delivery and assessment strategy should be clarified to achieve greater consistency of expectation and outcome. Different perceptions and expectations make it difficult to achieve confidence in outcomes. ASQA uses a regulatory approach that engages industry in aspects of the regulation of providers and this works also to improve confidence in the outcomes.

External validation or moderation of assessment in the standards may have some value however may be difficult to implement and resource. This aspect of the review should benefit from the supporting NSSC Literature Review and consultation. The relationship between VET regulation and other industry regulators will need further exploration as different legislative responsibilities intersect in the training domain. Agreement on the boundaries, the opportunities for collaboration and demarcation should inform the VET sector and clarify expectations.

Other mechanisms that might be used, other than external validation of assessment, to improve consistency in outcomes are a clearer specification in Training Packages of assessment guidelines, performance criteria, essential knowledge and skills, range statements, and the evidence guide. There is a place for tighter prescription in the Training Packages, not in all qualifications, but certainly in some, particularly those which might involve higher risk activities. This tighter prescription may improve consistency in outcomes.

6. Should ‘outcomes focused’ remain a key feature of the standards?

Industry need for high quality and flexible innovative training relies on an output model that is consistently achieving outcomes via high performance in a flexible non-uniform delivery model. The need for industry to have training that meets their local, regional, and national skill priorities remains constant so the VET standards need a strong outcomes focus as the best support to provide this. In some areas, inputs or processes can be a useful proxy indicator of potential quality outcomes where it is impractical or costly to assess outcomes.

An outcomes focused approach to auditing the standards seeks out the evidence of deployment and the results even when the standard may of necessity focus on a proxy outcome indicator. The auditing approach does not rely on inputs, processes and documentation but seeks evidence of outcomes.
7. How user friendly are the standards in terms of interpretation and implementation and where and how could they be improved?

8. How could the standards framework be improved to make them more streamlined?

As noted in key Issue 7, ASQA received over 2,800 calls or emails in its first 12 months of operation requesting clarification of the standards and looking for guidelines to assist implementation. The regulatory decisions made by the Commissioners about the non compliances were recorded against 22 Standards in the NVET Act 2011 as identified in the tables below:

**Table 1: ASQA Commissioners rejection decisions based on non compliances against the NVETR Act 2011 for Initial Registration: 1 July 2011 – 30 June 2012:**

<table>
<thead>
<tr>
<th>SNR</th>
<th>Description</th>
<th>Number of non-compliances</th>
<th>Percentage of non-compliant RTOs (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>Strategies for quality training and assessment</td>
<td>30</td>
<td>85.714</td>
</tr>
<tr>
<td>5</td>
<td>Strategies for principles of access and equity and to maximise outcomes for clients</td>
<td>19</td>
<td>54.285</td>
</tr>
<tr>
<td>6</td>
<td>Management systems</td>
<td>14</td>
<td>40</td>
</tr>
<tr>
<td>7</td>
<td>Governance arrangements</td>
<td>13</td>
<td>37.142</td>
</tr>
<tr>
<td>8</td>
<td>Interactions with NVET regulator</td>
<td>7</td>
<td>20</td>
</tr>
<tr>
<td>9</td>
<td>Compliance with legislation</td>
<td>6</td>
<td>17.142</td>
</tr>
<tr>
<td>10</td>
<td>Insurance</td>
<td>6</td>
<td>17.142</td>
</tr>
<tr>
<td>11</td>
<td>Financial management for initial registration</td>
<td>10</td>
<td>28.571</td>
</tr>
<tr>
<td>12</td>
<td>Strategy for certification</td>
<td>7</td>
<td>20</td>
</tr>
<tr>
<td>13</td>
<td>Access &amp; equity issues – initial</td>
<td>12</td>
<td>34.285</td>
</tr>
<tr>
<td>14</td>
<td>Strategies for qualifications transition</td>
<td>6</td>
<td>17.142</td>
</tr>
<tr>
<td>Other</td>
<td>FVRA</td>
<td>5</td>
<td>14.285</td>
</tr>
</tbody>
</table>

**Table 2: ASQA Commissioners rejection decisions based on on compliances against the NVETR Act 2011 for renewal of Registration: 1 July 2011 – 30 June 2012:**

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<thead>
<tr>
<th>SNR</th>
<th>Description</th>
<th>Number of non-compliances</th>
<th>Percentage of non-compliant RTOs (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>15</td>
<td>Strategies for quality training and assessment</td>
<td>21</td>
<td>95.455</td>
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<tr>
<td>16</td>
<td>Strategies for principles of access and equity and to maximise outcomes for clients</td>
<td>11</td>
<td>50</td>
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<td>17</td>
<td>Management systems</td>
<td>9</td>
<td>40.909</td>
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<td>18</td>
<td>Governance arrangements</td>
<td>5</td>
<td>22.727</td>
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<td>19</td>
<td>Interactions with NVET regulator</td>
<td>2</td>
<td>9.091</td>
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<tr>
<td>20</td>
<td>Compliance with legislation</td>
<td>1</td>
<td>4.545</td>
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<tr>
<td>21</td>
<td>Insurance</td>
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<td>22</td>
<td>Financial management for initial registration</td>
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<td>23</td>
<td>Strategy for certification</td>
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<td>24</td>
<td>Access &amp; equity issues – initial</td>
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<td>25</td>
<td>Strategies for qualifications transition</td>
<td>1</td>
<td>4.545</td>
</tr>
<tr>
<td>Other</td>
<td>FVRA</td>
<td>1</td>
<td>4.545</td>
</tr>
</tbody>
</table>
Particular issues in interpretation are outlined in the preceding sections. A Users’ Guide to the Standards would be useful for RTOs in assisting interpretation. ASQA believes that it is the NSSC’s role to publish such a guide. However, such a guide must not include “musts” in its descriptions of the sorts of evidence that may be used to demonstrate compliance with the standards. A problem with the Users’ guide to the AQTF standards was that it became the de facto standards and RTOs and auditors alike placed a greater emphasis on the guidance than was required.
The Results and Processes Guide to the Aged Care Accreditation Standards provides a useful model for a Users’ Guide in that it explains the intentions and the principles underpinning each of the standards and outlines the intended results. It also offers some considerations in terms of processes. The language of the guide supports its role as just that – a guide. Users of the guide are reminded on the front page of the requirement to refer to all relevant legislation and standards. Further it is explained that:

The Results and processes guide continues to be written in broad terms so as to be relevant to all sizes and types of residential aged care homes. Results, and the manner in which they are demonstrated, will be unique to individual homes’ responses to their residents’ needs.

This document has identified the key areas where we would expect to see positive outcomes in relation to the expected outcome but is not a definitive list. The home will adapt these processes to their own particular circumstances.

9. Is the purpose of the national standards for the regulation of VET most directly concerned with RTOs, or with the training and assessment services they provide, or with the outcomes that they achieve?

10. How should the purpose of the national standards be expressed?

The purpose of national standards should be to provide a clear expression of the outcome of the training that meets the expectations of industry, government, training providers and learners. To do this the standards need an outcomes focus as a primary tool and refer to clear definitions that clarify stakeholder expectations.

The current standards are written in an outcomes based format and this should be retained and improved. The principle statement of the standard – the heading – is in outcomes terms. For example:

   The applicant must have strategies in place to provide quality training and assessment across all of its operations.

The outcome is that there are strategies in place to provide quality training and assessment across all of the operations. However not all of the standards have this outcomes focus.

The standards themselves nonetheless should be expressed an outcome rather than an input or process. For example:

   The National VET Regulator (NVR) registered training organisation has governance arrangements in place.

This is not expressed as an outcome. The outcome could be more clearly expressed as “the NVR registered training organisation has sound governance arrangements for its business and its vocational education and training programs”.

People understand “outcomes” to refer to the outcomes of the training and assessment by the RTO - in other words, the competence of those exiting with qualifications and statements of attainment. To this end, the standard that comes closest to expressing the desired outcome, is the standard about quality training and assessment.

The standard about quality training and assessment includes the requirements for effective consultation with industry; having staff, facilities, equipment and training and assessment materials that are consistent with the requirements of the Training Package or VET accredited course; and, having trainers and assessors with the necessary competencies and currency. Further it expresses the requirements for assessment, including that it must be conducted in accordance with the principles of assessment and the rules of evidence meet workplace and, where relevant, regulatory requirements be systematically validated.
These requirements, while not strictly outcomes in the sense of the outcomes of the system, nonetheless are necessary statements of inputs as a proxy for the outcome. The independent re-assessment of people exiting the training system would provide a true outcome measure of the RTO’s quality of services, however to implement such a system of re-assessment would be an unsustainable cost for the system.

11. **What are the key characteristics of an effective regulatory model for the VET standards?**

   ASQA believes the following characteristics should define the regulatory model:
   
   - Integrated and responsive – the model is responsive to important risks and has a range of strategies to achieve compliance
   - Risk focus – risk reduction is the strategic focus. Regulation should organized around risks, problems, patterns, issues
   - Rigorous audit methodology – evidence based and focused on results or outcomes
   - Fairness and transparency – natural justice, procedural fairness, opportunity for review
   - Promotion of informed choice by consumers – information published about cancellations, suspensions and conditions applied to RTOs
   - Industry engagement – using a range of engagement strategies to ensure industry confidence in VET outcomes
   - Accountability – reporting on the performance of regulatory functions
   - National – national standards applied consistently by regulators.

12. **Is there a place for self-assessment and/or self-regulation in VET and what role would the regulator, as the responsible registrar, have in such an arrangement?**

   There is a place for self-assessment but only as one of many regulatory models used to regulate vocational education and training. Self-regulation as a model works well for risks that the regulated industry can see, is willing to disclose and that it has an interest in controlling (Sparrow, 2012). Light-handed government regulation that was reliant on voluntary arrangements, market forces and self-regulation was introduced in the early 1990’s and led to disastrous results in the construction industry in New Zealand (Schwass, 2012). ASQA does not advocate a regulatory regime based on principles of self-regulation but rather advocates a balanced approach that uses a range of regulatory strategies to control risks.

   Self-regulation arrangements currently operate for some TAFE institutes as agreed under the transition from state/territory regulation to national regulation. This is given effect by a delegation of powers from ASQA to the institute director for limited powers, namely approving extensions to scope and the accreditation of courses, with the arrangement being governed by an instrument setting out the conditions for the exercise of the powers. ASQA has recently implemented a review of its delegation arrangements and will soon consider a report by the consultants.
ASQA believes that there is a place for delegation of some regulatory powers to low risk RTOs with a history of strong compliance. In reality this is the implementation of the Risk Based approach to regulation that ASQA has adopted. The NVETR Act 2011 includes the powers of delegation by the national VET Regulator to government authorities, registered training organisations and other industry bodies. ASQA is currently exploring the current delegation model that has transitioned with the referral of states to the national regulator and is exploring arrangements that will strengthen confidence and quality of training outcomes. ASQA does not believe this is a national standard; rather in essence, it is how the NVETR Act 2011, the national legislation, is regulated.

However, modes of self-regulation such as the clustering of a number of schools under ‘one registration’ for a regional office of a State Department need examination. VET in schools is often viewed by schools and school authorities through the filter of the individual learner undertaking a school subject, rather than as a learner undertaking units of competency equipping them to perform skills to workplace standards.

13. How can the standards support the availability of easily accessible, appropriate and high quality information that gives learners and employers greater confidence that the choices they make are the rights ones for them?

ASQA has recently presented 21 RTO Information seminars around Australia that over 2000 people attended. A major demand articulated in these sessions was the need for documents to replace the AQTF User Guides to support the initial or renewal registration processes for RTOs. It is important to recognise that this strong demand for more information on what the standards are, what an RTO needs to do to achieve the outcomes rather than how they need to do it, will assist in building RTO understanding, good practice and expertise in meeting the standards. ASQA recommends that this guidance material needs to be developed and issued by the NSSC with assistance from the VET regulators.

ASQA supports the publication of data and information for industry, government and learner consumption and informed consumer choice.

ASQA’s legislation empowers it to publish information about its regulatory actions. This is useful information to learners and employers. In addition, mandatory requirements for the RTO to publish information (for example on a website such as MySkills) should strengthen the availability of information. Such information could include information about the RTOS public liability insurance and work placement arrangements. If this is an additional standard for RTOs it will be even more important that the Training Package standards reflect specific industry requirements for their sectors, given that the requirements for ASQA to publish information about regulatory actions.

14. How can the standards support the achievement of current national goals and policy objectives?

The VET standards can best support the achievement of current national goals and policy by clearly stating the expected outcomes. This clarity and focus should allow for the flexibility required to ensure local and regional skill priorities are met by achieving nationally agreed standards.
15. **What, if any, is the appropriate level of student protection that the standards should provide in addition to the protection provided by consumer protection law?**

The VET standards SNR 11 and SNR 22 cover student fee protection options, implying that protection exists for domestic students. However, ASQA’s experience over the last 12 months highlights the inconsistencies in the current protection for domestic students of public and private training providers, and the difficulties with implementing these standards.

In 2010, the former National Quality Council endorsed ten ‘fee protection’ principles. These principles form the basis of the definition of student fee protection on the premise of ‘equal rigour.’ However, ASQA has been unable to approve alternative fee options identified in the Standards because of a lack of criteria to determine the fee protections measure of ‘equal rigour.’ A report is being finalised by Ernst and Young on the research they have undertaken on ASQA’s behalf, which ASQA will be happy to forward to the NSSC when complete.

ASQA anticipates that a new policy position will need to be considered by the NSSC in regards to student fee protection. This will mean these standards will be revised to ensure that they can be implemented in a manner that provides for student fee protection and risk minimisation, or alternatively rewritten to reduce the expectation for fee protection.

16. **How can the standards support industry being appropriately engaged to ensure high quality outcomes are achieved?**

As our response to question 3 indicated, the question of industry engagement and commitment in the training sector is difficult given the high proportion of small and medium size enterprises in Australia’s economy. The standards and the associated training arrangements should be clear and supported by streamlined processes within a safe workplace. Industry engagement is elusive without the obvious return to the enterprise in increased productivity. Consultation and industry support across the depth of small, medium and large enterprises needs to be strengthened. This will be assisted by stronger links between and across Training Package standards and greater clarity in the requirements for industry involvement in the development of training packages and implementation of the related vocational training.