NSSC Review of the Standards for the Regulation of Vocational Education and Training

FEEDBACK ON THE CONSULTATION PAPER - JUNE 2012

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<th>Name of organisation</th>
<th>TAFE Directors Australia (TDA)</th>
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<td>Category of stakeholder</td>
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<td>Participation (Choose one)</td>
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National Skills Standards Council’s Consultation Paper –
Review of the Standards for the Regulation of Vocational Education
and Training

TDA response

Background

The Standing Council on Tertiary Education, Skills and Employment (SCOTeSE) has asked that the National Skills Standards Council (NSSC), as a priority, undertake a broad ranging review of the standards for the regulation of vocational education and training (VET), focussing on issues of quality.

The proposed outcome of this review will be a single national set of standards for the regulation of VET that is appropriate for ensuring quality outcomes, clearly documented, capable of being consistently interpreted by registered training organisations (RTOs) and regulators, and effectively implemented through nationally consistent regulation.

TAFE Directors Australia (TDA) welcomes the opportunity to comment on the NSSC Consultation Paper, Review of the Standards for the regulation of VET. TDA members include 61 public providers across all states and territories. TDA recognises that the publication of the Consultation Paper is the beginning of a process that will culminate in Standards to be presented to SCOTeSE for endorsement in 2014. As the largest national providers of accredited training we believe that it is vital that public providers are seen as partners at every stage of the development of the Standards.

Context

Standards for VET (AQTF/SNR) are critical to the integrity of the sector and yet they are clearly inadequate, both in content and enforcement.

Failure to regulate VET standards effectively was one of the key contributors to the demise of the international student market. Australia’s reputation will not be restored unless and until it is clear that the Standards are rigorous and that they are being enforced.

Access to government funding has been provided to registered training organisations (RTOs) ahead of regulation being effectively tightened, enabling the unscrupulous practices which were evident in the international market to continue in the domestic market.

For TDA, it is self-evident that the current standards and their regulation have palpably failed to deliver nationally consistent high quality training and assessment services and that the scope of change required is therefore significant.

The Shorter Oxford Dictionary provides two relevant definitions of ‘standard’:

- The degree of excellence required for a particular purpose.
- The minimum of material comfort with which a person or class may reasonably be content.

TDA argues that the VET sector has adopted the latter rather than the former definition and then failed to achieve even that.

While it is acknowledged that the discussion paper is a ‘conversation starter’, TDA is concerned that the consultation questions do not address the standards themselves, but rather focus on process and generalities.
It is unrealistic to expect that standards designed around minimum criteria for compliance, and based on a potentially unlimited number of providers, could possibly be conducive to promoting high quality. But this ‘lowest common denominator’ approach is the current environment for VET.

TDA therefore urges that the content of the Standards come under close scrutiny as early as possible in this Review and that the focus shift from minimum standards to standards for excellence. Only then will the VET sector and the Higher Education sector begin to be able to be integrated. This may mean that it is necessary to introduce a staged approach to Standards whereby the higher the qualification, the more rigorous the requirements. TDA has developed the case for provider categories\(^1\) which may assist this process.

Even so, TDA’s position is that while the current Standards must be improved, improvement of the Standards by itself will not guarantee national consistency and quality.

The key is to look at quality outcomes through the implementation of the regulatory framework. What is required is consistent and expert interpretation of the Standards by the Regulator (and the auditors) and by a capable and confident VET workforce who can make judgements consistent with Training Package standards and assessment principles.

The various jurisdictions need to have sufficient confidence in the strength of the national system for them to refer their regulatory powers. The fact that two states were unwilling to refer powers is in itself indicative of a lack of confidence in the ability to effectively prosecute the current Standards.

There are, however, key issues for providers that want absolute clarity and this cannot be achieved while Victoria and Western Australia do not refer powers to the national regulator, and providers in those states are regulated by state-based agencies and/or ASQA. As long as this situation continues, there cannot be a guarantee of nationally consistent regulation of VET outcomes.

TDA is therefore of the opinion that the intersection of this and other reviews cannot be summarily put aside as the authors of the NSSC Consultation Paper have done on page 7 of the Paper.\(^2\) The context in which quality is defined and implemented cannot be ignored. Arguably, the current purchasing policies of some State Governments have focused on the quantity of VET graduates rather than the quality of the educational and vocational experience. This is reflected in the operations of our Victorian members who have been forced to close operations because quality at the level required by the Standards cannot be met at the prices being paid.

Training Packages have diverse and sometimes conflicting prescriptions. Assessment of competence is what gives the students, employers and the community confidence. This requires competent and confident VET professionals to make the required professional assessment judgements for quality outcomes. The skills of the VET workforce should not be summarily dismissed from consideration by the NSSC.

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\(^1\) *The Case for Provider Categories*, TDA 2011

\(^2\) While the review will be cognisant of ensuring that the standards support and align with other components of the regulatory framework, it will not seek to re-prosecute other components of the regulatory framework, in particular resourcing of regulators, ISCs or any other body; funding mechanisms used by governments; standards for the development and endorsement of Training Packages; VET workforce development strategies; or regulatory frameworks of higher education, international education, schools or other sectors.
RESPONSES TO INDIVIDUAL QUESTIONS

The following section provides a brief overview of TDA members' initial comments on the issues raised by the consultation questions. However, TDA reserves the right to make further comment in subsequent stages of the consultation process when more time has been available to synthesise member input.

Q1. 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?

- As stated above, there is most certainly need for improvement of the Standards so that they lead to excellence rather than focus on minimum standards and compliance.
- The diversity of providers must be recognised and flexibility allowed. Unambiguous implementation guidelines, binding on the RTO and auditor, are lacking.
- TDA recognises that confidence in the assessment of a student’s competence is at the heart of a quality system and requires high quality trainers and assessors to assess vocational competence.

Q2. Do the national standards (or their regulation) require an increased focus on assuring nationally consistent, high quality training and assessment services?

- There is strong agreement among TDA members that national Standards and their regulation require an increased focus on assuring nationally consistent, high quality training and assessment services.
- As a priority, AQTF and SNRs (which have a legislative basis) need to be aligned.
- ASQA, operating across jurisdictions, requires consistency in its interpretation of the Standards. RTOs need a clear and unambiguous regulatory framework that is outcomes focused.
- There is concern that there is now an over-emphasis by auditors on ‘vocational currency’ at the expense of teaching and learning outcomes.
- National consistency would be enhanced by:
  - The language in the Standards being simpler and less ambiguous. Examples were provided by members from the current Standards where ambiguous adjectives such as current and efficient give rise to very different interpretations by providers and auditors.
  - Improving the quality of teaching and learning services and skills of teachers/assessors.
  - Consistency in the way the Standards are interpreted by the regulators and their auditors. There should be clear advice on interpretation of the Standards mirroring, but extending what is currently in place for, AQTF Standard 1.4, so that there is greater consistency of interpretation across providers and auditors.
  - Use of the same guidance documents by both the RTOs and the auditors for the purpose of interpretation.
  - Clearer accountability for the application of standards at RTO level with penalties enforced for breaches.

Q3. How can the standards ensure national consistency in qualification outcomes that are recognised by industry?
Q4. What is the role of external validation or independent moderation of assessment outcomes in the standards?

Q5. What other mechanisms might be used, other than external validation of assessment, to improve consistency in outcomes?

- The Standards cannot assure quality. Rather, they indicate a level of quality to be reached. Regulation aims to ensure national consistency. Currently, there is inconsistency in interpretation that impacts on providers. There is a need for implementation guidelines to support the Standards.
- The role of industry in setting Standards is enshrined in Training Package development. Training Packages therefore have a role to ensure nationally consistent standards. If Training Packages do in fact reflect industry (including SME) expected standards, quality outcomes will occur. However, the role of industry is not always clear – industry is not always a clear and unified voice.
- External validation is supported in principle as a strategy for boosting consistency and parity of assessment judgements. However, the definition of what constitutes external validation is currently unclear as is the extent of its proposed implementation. In addition, caution is expressed that validation could well be rife for collusion.
- Validation and moderation are different yet the terms are used interchangeably and there is an absence of clarity or meaning, where responsibility lays and what is expected.
- There needs to be application of the principle of proportionality – not a blanket validation of all units, but a sampling, based on risk criteria. Without such an approach the system could sink under the weight of external validation. The principle of proportionality is applied by TEQSA but not by ASQA.
- There may need to be greater clarity in Training Packages about what qualifications assessors need to deem competence. Industry expectations ought to be embedded in Training Packages, not resourced in validation.

Q6. Should ‘outcomes focused’ remain a key feature of the standards?

- TDA maintains that the Standards allude to being ‘outcomes focused’, but never have been really outcomes focused.
- While we agree that the Standards ought to be outcome focused, the difficulty is how to demonstrate that the teaching/learning/assessment are outcomes focused. Outcomes also vary with client needs. There needs to be work on what constitutes ‘outcomes based’. How do you know if outcomes have been achieved? The auditors currently question ‘how’ RTOs get to an outcome. The question not being asked is ‘did the student emerge with skills they want/need?’ This latter question is difficult to assess consistently, but is more important than the process, inputs or systems.

- The National Quality Indicators are:
  o Learner Engagement
  o Employer Satisfaction
  o Competency Completion.

Typical measures currently applied to make a judgement on outcomes achieved are:

- Completion rates, although this is clearly problematic (students leave to get employment)
- Satisfaction
Graduate destinations (a higher education measure).

While TDA agrees that there is a need to get away from process/input regulation as a proxy for outcomes, there is recognition that there are some elements the RTO has control over whereas RTOs have no control over Training Packages, the quality of student input and the labour market.

The current Quality Indicators are a useful starting point; however, they need review and are not reliable indicators of quality outcomes. Universities use graduate destination surveys as an alternative and their applicability to the VET sector should be investigated.

- There are many gaps in the information available about Australia's RTOs. In 2010, of the approximately 5,000 RTOs, some 2,700 provided no data, meaning a gap in the information on training activity and qualifications. As noted in the recent COAG Consultation Paper, “Regulation Impact Statement on VET data collection”: ‘No comprehensive, economy-wide data on VET student numbers, the courses being undertaken, the level of those courses and qualifications issued are available.’

Q7. How user friendly are the standards in terms of interpretation and implementation and where and how could they be improved?

Q8. How could the standards framework be improved to make them more streamlined?

- The interpretation of the standards by RTOs and auditors is currently problematic. There is enormous variation in the skills/expertise of the auditors. Greater national consistency may be achieved by greater transparency of audit moderation processes.
- New User Guides need to be written in plainer language and adopted by state regulators and ASQA. Along with clear, unambiguous standards, there need to be guidelines that form the basis of regulations. These guidelines ought to be in the public domain, available to both the regulators (and auditors) and RTOs.
- The current AQTF user guide has a level of validity attached to it and could form the basis for new guidelines.
- The quality of an audit is dependent on the quality of the auditor and as such the training of auditors is critical. The development of a quality auditor training program to train quality auditors to conduct offshore audits utilising the audit guidelines and consistent with the international standard Guidelines for quality and/or environmental management systems auditing (AS/NZS ISO 19011:2003), helps to address this and is a model for consideration in the Australian domestic VET context.
- The audit process should not be adversarial. The auditor is the critical interface for the regulator. Auditors need to understand what it is they are auditing.

Q9. 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?

Q10. How should the purpose of the national standards be expressed?

- TDA members believe that this review of the Standards offers a significant
opportunity not just to review the current Standards, but also the opportunity to harmonise the Standards for VET with the Standards for higher education. In particular, TEQSA regulatory principles of regulatory necessity, reflecting risk and proportionate regulation, should be integrated within the VET standards and be clearly reflected in the Risk Framework. ASQA’s powers need to be balanced within the Standards, taking into account the risk profile of established providers including achievement of other quality standards such as the ISO. This would better reflect the tertiary environment in which providers now operate as both VET and HE providers. TDA endorses efficient and effective regulation under which the principle of ‘report once, use often’ is used for reporting requirements and information generated through regulatory processes is returned to VET providers to enable appropriate learning.

- Regulation of the current standards imposes significant administrative burden on all RTOs, at all levels of the organisation. The Standards need to move away from ‘administrivia’ and focus on teaching/learning and assessment.

**Q11. What are the key characteristics of an effective regulatory model for the VET standards?**

- Key characteristics include national consistency of regulatory activities, risk-based assessment, efficient processes, elimination of ineffective complexity, sustained and consistent quality outcomes, effective sanctions for non-compliance, public disclosure, capacity for the independent regulator to act on emerging issues arising from regulatory activities.

**Q12. 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?**

- Self-assessment is valuable if done rigorously, including follow-up of results and, in conjunction with other review activities, can inform improved practices and strategic planning. Rigorous self-assessment and action-based responses are characteristic of quality-focused organisations.

- Self-assessment practices can be used as part of the risk assessment of an RTO in much the same way as, for example, ISO accreditation, Nurses Board accreditation, ALIA accreditation.

- There needs to be a transparent risk-based regulatory framework for RTOs. ASQA should be guided by the TEQSA regulatory principles of *risk, necessity and proportionality*.

- TDA endorses the statement on page 13 of the Consultation Paper: 

  “To ensure the success of an outcomes focused model, the sector requires intelligent regulation; that is, regulation that is not driven by and dependent on application and submission processing, but rather regulation that actively reviews and assesses RTO practice, performance and outcomes on an ongoing basis. This requires risk management that is based on dynamic criteria such as trend performance, industry and student intelligence on practice, and on an RTO’s ongoing capabilities, rather than just static factors such as size, scale and scope.”

**Q13. 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?**

- It is the role of the Standards to support the quality and comprehensiveness of VET
information in the public domain.

- The Standards need to assure that the information gives learners and employers the capacity to compare apples with apples; for example, comparison of an organisation with all organisations and with like organisations. TDA members consider this approach would be very useful. Comparability based on metadata fields needs to be rigorously tested/trialed with full involvement of RTOs at the design, development and testing stages.

- The Standards should support the introduction of MySkills and the USI.

- In relation to data provision requirements, it is only valid if all registered VET providers equally place information about their training activity in the public domain. Currently, some providers are not subject to the same provisions of disclosure as the public providers. This needs to be rectified.

**Q14. How can the standards support the achievement of current national goals and policy objectives?**

- There is a need for learners/employers/the community to have confidence in the quality of the teaching/learning/assessment.

- The policy context in which the Standards exist can lead to a disconnect, for example, the focus on quantity of participants/graduates in VET has led to quantity being elevated over quality outcomes.

- Some members were of the opinion that the role of Standards is to drive quality training and assessment, not just support/assure quality teaching and assessment.

**Q15. 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?**

**Q16. How can the standards support industry being appropriately engaged to ensure high quality outcomes are achieved?**

- As referred to earlier in the TDA response, there are problems with the way in which the term industry is used throughout the Paper. Industry does not have a single voice, nor is always informed/interested in training issues.

**CONCLUSION**

From the above, it is our view that there are numerous issues to be resolved in the contents of Standards and their regulation before TDA can have confidence that the VET sector will be well-served. Central to this process is the need for a genuine commitment to quality and excellence, and to the need to effectively remove from the sector those RTOs that seek to compromise and even degrade these principles.

TDA looks forward to continued input into this process.