

SUBMISSION

Australian Skills Quality Authority Submission to the Education and Employment References Committee

Inquiry into vocational education and training in South Australia



Australian Government

Australian Skills Quality Authority

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ASQA Overview

Australia strives to have a world-leading VET system. This crucial sector provides training in the skills Australians need for employment and injects billions of dollars of export income into the economy each year.

As the national regulator for the vocational education and training (VET) sector, the Australian Skills Quality Authority (ASQA) seeks to maintain the sector's quality through the effective regulation of:

- VET providers;
- Accredited VET courses; and
- Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) providers including those delivering English Language Intensive Courses for Overseas Students (ELICOS).

ASQA's Objects and Functions

ASQA is established under section 155 of the *National Vocational Education and Training Regulator Act 2011* (NVR Act). The objects of the NVR Act are to:

- provide for national consistency in the regulation of VET;
- regulate VET using a standards-based quality framework and risk assessments where appropriate;
- protect and enhance quality, flexibility, and innovation in VET, and Australia's reputation in VET nationally and internationally;
- provide a regulatory framework that encourages and promotes a VET system that is appropriate to meet Australia's social and economic needs for a highly educated and skilled population;
- protect students undertaking, or proposing to undertake, Australian VET by ensuring the provision of quality VET; and
- facilitate access to accurate information relating to the quality of VET.

Under section 157 of the NVR Act ASQA has the following functions:

- to register organisations as Registered Training Organisations (RTOs);
- to accredit courses that may be offered and/or provided by RTOs;
- to carry out compliance audits of RTOs;
- to promote, and encourage the continuous improvement of, an RTO's capacity to provide a VET course or part of a VET course;
- to advise and make recommendations to the Minister on matters relating to VET;
- to advise and make recommendations to the state or territory Education Minister on specific matters relating to VET in the state or territory;
- to advise and make recommendations to the Ministerial Council on general matters relating to VET in all jurisdictions;
- to collect, analyse, interpret and disseminate information about VET;
- to publish performance information, of a kind prescribed by the *National Vocational Education and Training Regulator Regulations 2011* (NVR Regulations), relating to RTOs;
- to conduct training programs relating to the regulation of RTOs and/or the accreditation of courses;
- to enter into arrangements with occupational licensing bodies, other industry bodies, or both, for the purpose of ensuring compliance by RTOs with the NVR Act;
- to cooperate with a regulatory authority of another country that has responsibility relating to the quality or regulation of VET for all, or part, of the country;
- to develop relationships with its counterparts in other countries;
- to develop key performance indicators, to be agreed by the Minister, against which ASQA's performance can be assessed each financial year;
- to develop service standards that ASQA must meet in performing its functions;
- any other function relating to VET that is set out in a legislative instrument made by the Minister;
- such other functions as are conferred on ASQA by or under the NVR Act; the *Education Services for Overseas Students Act 2000* (ESOS Act) or any other law of the Commonwealth; and
- to do anything incidental to, or conducive to, the performance of any of the above functions.

ASQA's Regulatory Approach

ASQA takes a risk-based approach to regulation that is consistent with [The Australian Government Guide to Regulation](#). Taking a risk-based approach means ASQA applies a range of regulatory responses proportionate to risks identified.

ASQA's Regulatory Risk Framework details how ASQA identifies and responds proportionately to two types of risk: systemic risk and provider risk.

The extent to which ASQA can mitigate systemic and provider risk is determined by its jurisdiction and capacity to do so. Taking a risk-based approach means ASQA cannot mitigate all risks and must focus effort on the most significant risks identified. This can involve working with other regulatory, funding or policy bodies to respond to risks beyond ASQA's jurisdiction that may undermine confidence in the sector or in ASQA's ability to regulate effectively.

The primary risk for ASQA to manage is that of an RTO certifying that a person has competencies that do not reflect his/her skills and knowledge.

The potential damage flowing from people being improperly certified is not just to the individual, but to employers and the wider community.

On a broader level, ASQA seeks to manage risks likely to impact stakeholders' confidence in the VET sector, particularly where the resulting harm is significant. Risks of this kind are identified as priorities in ASQA's Regulatory Strategy which is announced annually.

In its regulatory approach, ASQA works to achieve a balance between the wider interest of Australian industry and Australian employers and the specific interests of the VET sector.

Australian businesses need a skilled workforce and through the work of Skills Service Organisations (SSOs) in developing training packages, industry defines the skills required by the labour market. ASQA monitors training providers and risk assesses if they are meeting the requirements of these industry-developed training packages so that VET graduates gain the required competencies for employment.

ASQA & TAFE SA

Regulatory Overview

Establishment of TAFE SA

On 24 September 2014, TAFE SA (RTO ID: 41026) was established by combining three existing RTOs:

- TAFE SA Adelaide North Institute, TAFE SA Adelaide North (RTO ID: 40161);
- TAFE SA Adelaide South Institute (RTO ID: 40319); and
- TAFE SA Regional (RTO ID: 40320).

TAFE SA Audit Process and Outcome

Between 18 and 23 May 2017, ASQA conducted a compliance audit across three TAFE SA campuses to test the RTO's compliance with the requirements of VET and CRICOS registration (ASQA decided to conduct this routine compliance audit following the major change to the TAFE SA structure described above).

TAFE SA is the largest provider of VET courses in South Australia. The organisation has a very large scope of registration (it is registered to deliver approximately 550 qualifications) and has a large number of students (approximately 70,000 students are enrolled at TAFE SA).

The scope of the audit was determined utilising ASQA's risk based approach and in consideration of:

- sector wide training products of concern to ASQA (as identified in ASQA's annual environmental scanning);
- TAFE SA being a multi-campus provider;
- varying fields of training delivered at each campus;
- enrolment data received from TAFE SA including:
 - significant enrolment and completion numbers
 - niche qualifications with smaller number of enrolments;
- the number of days allocated for the site audit to be conducted; and
- the number of auditors allocated to conduct the site audit.

This approach provided an overview of the training and assessment practices of TAFE SA across varying industry sectors, campuses and client groups including trainees and apprentices. It was by necessity however only a snapshot of the total course offerings of the provider.

The audit also gave consideration to a complaint ASQA had received on 28 July 2017 relating to Civil Construction training at TAFE SA. The complaint alleged issues with the behaviour of trainers, fraudulent assessment and unduly short duration training. Following examination of the allegations, ASQA found the complaint to be not substantiated.

The audit identified critical and systemic non-compliances across the training examined. Non-compliances related to marketing, training and assessment strategies, assessment systems and trainer and assessor skills.

In addition to this, the Civil Aviation Safety Authority (CASA) had also conducted an audit of TAFE SA and found serious non-compliances leading TAFE SA to voluntarily suspend Aircraft Maintenance Engineers Licence training.

Regulatory Action

As a result of the issues identified at audit, on 25 September 2017 ASQA issued a notice to TAFE SA advising of its intention to remove 15 qualifications and suspend one qualification (16 qualifications in total) from the RTO's scope of VET registration (or impose a sanction of lesser severity). ASQA also gave a Notice of Intention to remove six of those 16 qualifications from the RTO's CRICOS scope under section 93(2) of the ESOS Act (the remaining 10 qualifications not being on the organisation's CRICOS scope of registration). ASQA invited TAFE SA to give a written response to the notice within 20 working days.

ASQA also gave a written direction requiring TAFE SA to demonstrate the action it had taken to address the issues raised by CASA, or any other licensing or regulatory body, within 14 days of issuance of the written direction.

On 10 October 2017, ASQA received evidence of action taken to address the written direction in relation to the CASA issue. On 24 October 2017, ASQA received a written response to the Notice of Intention to amend or suspend 16 qualifications from the scope of TAFE SA's registration.

ASQA considered the response provided by TAFE SA in relation to the written direction and was satisfied that TAFE SA is taking action to rectify the concerns raised by CASA.

ASQA considered the response provided by TAFE SA to the notice of intention and found only one qualification to now be compliant (UEE30811 Certificate III in Electrotechnology Electrician). Overall, the response and rectification evidence submitted did not adequately address all of the non-compliances identified at audit.

Accordingly, on 4 December 2017, TAFE SA was provided with written notification of ASQA's decision to suspend 10 qualifications from the RTO's scope of VET registration. ASQA also notified TAFE SA of its decision to suspend four of those qualifications from the RTO's CRICOS scope of registration. TAFE SA was also given a written direction requiring it to rectify minor remaining non-compliances with *UEE42711 Certificate IV in Air-conditioning and Refrigeration Servicing* within 20 working days (n.b. this written direction also required TAFE SA to rectify non-compliances relating to

52689WA Certificate IV in Preparation for Nursing Education which was not one of the 16 qualifications detailed in the notice of intent issued on 25 September 2017).

The rationale underpinning the above decision in relation each non-compliant qualification is provided below:

- AMP20316 Certificate II in Meat Processing (Abattoirs) – Suspended

The assessment tools reviewed at audit did not provide sufficient detail on the assessment task or adequate guidance for assessors and workplace supervisors to ensure all unit of competency requirements will be met.

- AUR32416 Certificate III in Automotive Refinishing Technology – Suspended

The RTO did not have adequate processes in place to ensure work place training will be undertaken appropriately. Some of the assessment tools provided did not cover all the unit of competency requirements. For example, the learner was not being assessed on the trapping, storing and disposing of waste materials.

- AUR30816 Certificate III in Motorcycle Mechanical Technology – Suspended

The RTO did not confirm they have all the necessary resources required to deliver and assess all the unit of competency requirements. The assessment tools did not cover all the unit of competency requirements.

- CHC33015 Certificate III in Individual Support – Suspended

The practical checklist that forms part of the assessment tools did not contain sufficient guidance for the assessor on the performance benchmarks, consistent with the task instructions, evidence mapping document or session plan to ensure all the unit of competency requirements will be met. The assessment tools did not address all the knowledge evidence requirements of this unit of competency. One of the model answers provided in the assessor guide was incorrect. The assessment tools did not confirm learners will be assessed on the practical application of skills for some units of competency.

- CHC43415 Certificate IV in Leisure and Health – Suspended

The assessment tools provided did not confirm learners will be assessed on the practical application of skills for some units of competency. Other assessment tools did not address all the knowledge evidence requirements of the units of competency. For example, the learner is not assessed on their knowledge of motivational interviewing versus coercive approach. The performance benchmarks are not consistent with the task instructions provided to the learner.

- CPC32413 Certificate III in Plumbing – Suspended

The assessment tools provided for some units of competency did not provide sufficient detail on the assessment task or adequate guidance for assessors and workplace supervisors to ensure all unit of competency requirements will be met. Inconsistencies were sighted in the completed learner assessments provided for some units of competency. For example, some answers did not match the marking guide and the workbook noted in the assessment mapping is not currently being retained as part of the assessment evidence requirements.

- CPC50210 Diploma of Building and Construction (Building) – Suspended

The assessment tools provided for some units of competency did not provide sufficient detail on the assessment task, did not gather sufficient evidence and did not provide adequate guidance for assessors and workplace supervisors to ensure all unit of competency requirements will be met.

- SHB30416 Certificate III in Hairdressing – Suspended

Non-compliances remain as the assessment tools provided did not cover all the unit of competency requirements. The marking guides provided did not include the model answers for some of the questions.

- SIR50212 Diploma of Visual Merchandising – Suspended

The assessment tools provided did not ensure all unit of competency requirements will be met. For example, the assessor is not required to assess the learner working with team members as part of the assessment tasks. No marking guide was provided for the video and photo evidence to be provided as part of the assessment evidence requirements.

- SIT30816 Certificate III in Commercial Cookery – Suspended

TAFE SA have an agreement in place with an off-shore organisation, Win-Stone, that allows Win-Stone to utilise TAFE SA learning resources and assessment tools to enhance the non-accredited local qualification they offer to learners in Sri Lanka. TAFE SA offered recognition of prior learning (RPL) to learners who have undertaken this qualification. TAFE SA does not have appropriate RPL assessment processes in place for the assessment of the learners who have undertaken training and work-placements with Win-Stone. TAFE SA did not conduct an appropriate RPL process and Win-Stone students were deemed competent by TAFE SA when they had not addressed all of the unit of competency requirements. The assessment tools for domestic students provided for some units of competency but did not provide sufficient detail on the assessment task or adequate guidance for assessors and workplace supervisors to ensure all unit of competency requirements will be met.

- UEE42711 Certificate IV in Air-conditioning and Refrigeration Servicing / 52689WA Certificate IV in Preparation for Nursing Education – Written Direction

The RTO has not clearly defined the amount of training to be provided for the qualification UEE42711 Certificate IV in Air-conditioning and Refrigeration Servicing. It cannot be determined if the RTO will be delivering an appropriate amount of training for the proposed learner cohort to enable the learner to gain the required skills and knowledge. Due to the nature of the non-compliance a written direction was issued for this qualification requiring the RTO to address the outstanding non-compliance identified.

With regards to 52689WA Certificate IV in Preparation for Nursing Education ASQA identified that some students were enrolled in the course with a commencement date after the course had expired. TAFE SA were required to maintain evidence that this issue has been rectified and the students impacted appropriately transitioned.

ASQA's suspension decision was to become effective 35 days following notification of the decision. ASQA requires that during a period of suspension a provider must not:

- enrol a student in a suspended VET course or part of a suspended VET course;
- allow a VET student to begin a suspended VET course or part of a suspended VET course;
- publish or broadcast an advertisement relating to a suspended VET course or any part of a suspended VET course; or
- cause to be published or broadcast an advertisement relating to a suspended VET course or any part of a suspended VET course.

The general operation of a suspension does not preclude the training, assessment and completion of students who have commenced in their course prior to the suspension coming into effect.

Where ASQA makes a decision to impose a regulatory sanction, there are several review mechanisms available. These mechanisms include an internal reconsideration of the decision by ASQA and/or an external review by the Administrative Appeals Tribunal (AAT). A provider may request reconsideration of a decision on or before the effective date of the decision.

TAFE SA - Current Status

On 18 December 2017 ASQA agreed to a request from TAFE SA for an extension of time to lodge a reconsideration application – to 2 March 2018. Such extensions are considered on a case-by-case basis, with ASQA having regard to any impact a delay in progressing the regulatory action might have on stakeholders.

Consistent with usual practice, ASQA also agreed that the decision to suspend qualifications will not take effect until the reconsideration review process is complete.

When ASQA receives the TAFE SA reconsideration application, it will make a decision about the application and notify TAFE SA of the outcome within 90 days. If ASQA affirms its original decision, TAFE SA may apply to the AAT for a review of ASQA's decisions.

Also, ASQA will not be taking steps to cancel any qualifications issued by TAFE SA.

ASQA will undertake another compliance audit of TAFE SA during 2018 (it was initially proposed that this compliance audit would be undertaken in the first quarter of 2018), however due to the reconsideration process and the extension of time allowed for TAFE SA to submit further evidence as part of that process, it would be unreasonable for ASQA to undertake the audit during that period.