

Submission: Inquiry into Contract Management Frameworks operated by Commonwealth entities

Comment on the findings of the Administration of the Adult Migrant English Program Contracts – Auditor General Report No 37 2023 – 24

About the author: I currently work for a large public provider of Vocational Education and Training in a role overseeing educational resource production for courses in English for Speakers of other Languages. From 2018 – 2021, I worked in the contract management of the Adult Migrant English Program (AMEP) and SEE program. I am an ESOL and LLN teacher by training and this is my 20th year in the field. **The views expressed here are my own and do not represent those of my organisation.** They are based on my experience overseeing important aspects of the management and administration of the AMEP contract. My comments will be directed at the findings of the report, in particular the conclusions, the supporting findings and the recommendations. My comments will be qualitative, anecdotal and descriptive in nature – I'm sorry, I don't have time for a full, academic submission.

Introduction

The Auditor General's report strives to look at the effectiveness of the design and administration of the Adult Migrant English Program (AMEP) contracts by investigating contractual arrangements, service provider contracts and quality assurance. By following the history and evolution of the current program, the report finds that none of these areas have functioned effectively according to the purpose for which they were designed. Whilst undoubtedly probity could have been more systematic, I will argue here that these findings paint a distorted view of the current program, ignoring the deeply flawed design of the original 2017 contract which necessitated a lot of mid-stream adjustment. By contract here I am referring to the program and its parameters in their entirety, not individual contracts with service providers.

To focus purely on audit criteria not being followed through is an extremely narrow view. To look purely at auditable and measurable criteria without evaluating whether they were fit for purpose risks missing the purpose and context for which the criteria were supposedly designed. Badly designed measurables will not serve the program and indeed, that has been the case with the 2017 AMEP. To go back to measure the program by referring to those original measurable criteria and stating the obvious, as the report does, i.e. that the program is not meeting or measuring them any longer, just presents a distorted picture. Indeed, if future contracts go back to the types of criteria used in the original 2017 contract, then these errors will simply be repeated at enormous cost. To be blunt, audit criteria and auditing should not be allowed to govern program parameters. This is what has brought us here and is what forms the subtext of the conclusions of the Auditor General's report.

Contractual arrangements that evolved over time – some context

When interpreting paragraphs 9 and 10 in the Conclusions of the report, the following points need to be borne in mind.

The original 2017 program and its parameters were drawn up by the then Department of Education under the Abbott and Turnbull governments. The contract sought to bring the SEE and AMEP programs under one set of administrative criteria. Against all advice, the SEE contract structure and criteria were imposed upon the AMEP, along with the flawed SEE Quality

Assurance arrangements. These never served the purpose of the Adult Migrant English Program. The responsibility for the AMEP was then moved to the Department of Home Affairs (DHA) under the Morrison government. In response to public outcry about the perceived failings of the AMEP (see Scanlon Institute, 2019; Shergold, Benson and Piper, 2019; Tynan et al. 2019; Settlement Council of Australia, 2020; Moore, 2022; the various representations to the different departments by the Australian Council of TESOL Associations) and the multiple representations made by AMEP providers to the Departments, DHA resolved to try to fix the AMEP. On top of that, variations to contracts were made in light of the demands placed upon provision by the COVID 19 pandemic. Consequently, the trail of significant contract variations represents an attempt to bring the AMEP to some semblance of efficacy. It may be haphazard, but it is not entirely accurate to paint these variations as a picture of mismanagement. They represent retrospective, ad hoc attempts to improve the program in response to the poor quality of the initial 2017 contract specifications.

It should be pointed out here that the program did not attract any of this sort of negative appraisal prior to the 2017 contract.

KPIs that did not represent quality provision – the tail wags the dog

The following points will address the finding listed at paragraph 11 in the report conclusion and its justification in the Supported Findings at paragraph 19. This paragraph notes that comprehensive contract performance indicators were in place when the contracts were first signed, however over time these were abandoned to “no longer address the educational outcomes achieved by the students, the accuracy of provider assessments of student education outcomes or the timeliness of provider provision of data to the department”. Whilst this is a statement of fact as per the original 2017 contract requirements, the reasons for the abandonment of these measures are not explained. In practice, the measures were entirely inappropriate and burdensome. If these were in some way meant to measure program quality and provider performance, they came to dominate the program in a manner that hindered the intent of the AMEP. They hindered classroom practice, dominated teaching and learning, and ruined student experience by forcing providers to focus on assessment; they also crippled teachers and providers with an unnecessary and unproductive administrative burden, driven by pointless quality audits that contributed nothing to genuine educational outcomes. None of this is represented in the Auditor General’s report.

The suspension of those KPIs around student outcomes and accuracy of assessments was a necessary response to the manner in which they almost destroyed the program. These KPI requirements were in large part responsible for the negative criticism of the program as noted above by the various reports into the program. The four KPIs mentioned in the Auditor General’s report at point 11 in the Conclusion are referred to as being comprehensive. They were never comprehensive. These measures never represented quality provision in any proper way. Measures of quality provision and what is meant by quality were never properly negotiated with providers. Instead, the crude measures of the SEE program were imposed upon the AMEP – even against the findings of a 2015 consultant’s report (ACIL Allen, 2015) into harmonising the programs.

The KPIs were not measured in the first 12 months because there were inadequate transition arrangements from the previous contract. Once this period finished, the KPIs were then subsequently suspended due to their ineffectiveness and burdensome nature.

The KPIs also replicated the requirements of every Registered Training Organization (RTO) as part of the RTO Standards governing the Vocational Education Training (VET) system in Australia. The requirement for 200 hourly progressive assessment measures resulted in the program becoming driven by assessments and the need to report progress. This requirement stood over and above requirements made of every RTO to assess and record assessment results against curriculum outcomes. This diminished the effectiveness of provision and of learner experience, leading to a multitude of complaints. As noted above, it meant that classroom time was spent in assessment, outside of curriculum requirements. It also meant that considerable organisational administrative resources were spent capturing and reporting these measures, not aided by the lack of a proper purpose designed AMEP data management system. Further, the KPI to measure English outcomes against the ACSF was ill-conceived as the ACSF was never the right benchmark tool to be measuring English language progress. None of this reflects educational quality or provider quality. Sensibly, this requirement was paused in favour of looking towards curriculum attainment as a measure of progress.

Similarly, the KPI around accuracy of assessment in no way, shape or form reflects provider quality. It led to low morale amongst staff, teachers leaving the profession, huge administrative burden and a culture of assessment and audits at the expense of learner experience and genuine quality teaching and learning. It was not helped by a subjective application of assessment accuracy requirements in audits by the Quality Assurance Provider, LWA. This requirement did not reflect quality teaching and learning. It demonstrated nothing of genuine value about learner outcomes and progress. It in no way critically assessed quality teaching and teaching standards. It simply reflected the ability of a provider to game the system of audits by having its teachers learn the auditing idiosyncrasies preferred by LWA for ACSF assessment. In response to overwhelming criticism, this KPI was also thankfully paused.

Data timeliness does not measure quality program provision. It may measure the ability of a provider to meet its contract requirements, if for example, students are to be processed and in class within particular time limits. This can impact student experience, but it doesn't measure quality teaching and learning. It is also dependent upon having a fit for purpose and easy to use data management system, which has never, in the life of this contract, been provided.

Worse, the KPIs often just punished the provider for student behaviour. It is common for many AMEP students to skip assessments or to leave classes halfway through semesters. This will have nothing to do with the provider. Students will often say they are happy with classes and their teachers. A student may turn up and register, only to pause their program commencement in favour of an overseas trip leaving no notice. These types of behaviours impact the 2017 KPIs. They task providers with the burden of ongoing follow up and documentation and reporting of that. It is in providers' interests to follow these up, however, to then be forced to document and report on it as a measure of quality provision is not only burdensome, but it is just not quality. A provider has no control on such things, however KPIs never took this into account.

It would be a backward step to re-institute such crude measures of performance in upcoming AMEP contracts.

Quality Assurance Services

At paragraph 22, the Auditor General notes that

The contracted performance management framework has not been appropriately implemented by Home Affairs. The KPI framework was changed after the completion of the procurement process to select the provider of quality assurance services, and does not reflect the full scope of services expected of the contractor. Further, notwithstanding that the department has reduced over time the amount of quality assurance reviews required to be undertaken⁸, in only two years has the provider reported undertaking the (reduced) number of client file verifications specified in the annual plan (a shortfall of 27 per cent in the first six years) and has only undertaken the (reduced) number of onsite quality assurance reviews in 2022–23 (a shortfall of 20 per cent in the first six years).

By focusing on the original 2017 procurement and how this has changed since that time, the Auditor General's report infers that quality is not being properly measured, the time and money spent on quality is less and that the program is less and that this represents a lack of value for money in public expenditure. At paragraph 23, the report goes on to state that the performance of AMEP service providers has not been a direct input into the development of quality assurance work. Missing from these conclusions are the important caveats that the original brief given to the QA provider was based upon very flawed conceptions and that as these were challenged and subsequently suspended, the role of the QA provider had to change.

The original Quality Assurance services as set out under the 2017 contract required the auditors to apply the same system of auditing to initial and progressive assessments. In this system, for each contract region the QA Provider calls for and monitors files against the KPIs and contract requirements. The numbers of files were determined by the Department's requirements of the QA Provider to audit a set number of files. This is a case of an auditable becoming divorced from what it is meant to be measuring. This approach just created enormous burden, particularly for providers with many contract regions as they would effectively always be under audit. The number of files called often exceeded the number of students and files were just audited repeatedly, often covering previous audits as well. File numbers do not measure Quality.

Further, the criticism of LWA as the QA auditor was always the subjective way in which their judgement criteria were applied from audit to audit. To be fair to LWA, they did improve across the life of the 2017 contract in their consistency. But as noted in the discussion above, accuracy of assessment to the ACSF, as determined by the QA Auditor, does not measure quality of provision. It measures the ability of staff to apply LWA's rules of ACSF assessment.

As the inappropriateness of the KPIs became apparent, and as the pandemic also took its toll, the KPIs were suspended. The role of the QA then shifted more to supporting actual quality educational delivery. Although this is not represented in the report, for example when citing the budget allocated to this work, it actually improved the program. In that respect, LWA stepped up. They increased their provision of professional development and support. They curated the AMEP Hub and made it into a useful repository of resources. They created high quality educational resources for the program. They always supported and ran the Assessment Task Bank. They also took on more of a contract monitoring auditing role – something which again, probably did not add much to the program quality, but which did ensure providers followed the Service Provider Instructions. These functions increased as the current contract period progressed and LWA did a good job of it, in response to DHA asking them to broaden their role. This has improved the program, but it does not relate to the original QA provider mandate.

Additionally, the shift of the quality audits to attempting to measure provider performance against the service provider instructions was something negotiated between DHA and LWA, with feedback from providers. Whilst this was an improvement on the previous KPI focused conception of QA, it still created the same administrative burden on providers associated with

file numbers. Again, this related to the Department's contracted requirements for LWA to be conducting set numbers of audits of set numbers of files. The audit reports gave some useful data to providers about their contract compliance, but the accuracy of assessment audits did not give providers any useful data around actual educational quality. The current audits have just continued to impose administrative burden in a system of audit by rote.

Comment on Report Recommendations

I will only comment on the Recommendations that I find troubling, bearing in mind the above discussion.

Recommendation 3 discusses "new ideas and innovative service delivery" and the offering of opportunities to open competition. These are vague and jargonistic concepts. It is unclear what is meant by "opportunities to offer these opportunities to open competition". How would that work when contracts are already offered on open competition? How is further competition in an already contested market a good thing? What does innovative service delivery mean? What more could be asked of providers who radically altered their delivery models and modes during the pandemic? There is nothing new in this recommendation.

Recommendation 6 talks about a comprehensive suite of performance indicators and targets in the service provider contracts for the AMEP that require service providers to report performance against the indicators and targets and take appropriate contract management action where performance is below requirements. As noted above, these cannot be indicators driven purely by notions of auditability as the previous measures ruined the 2017 contract, forced it to be changed, and prolonged the current program well past its intended completion date. If this means a return to what we started with in 2017 then this will be wasteful, retrograde and harmful to the program and its intentions. Instead, DHA needs to look to the original NEAS standards and the proposals made by the Australian Council of TESOL Associations for much more holistic measures of provider accountability.

Recommendation 9 is dependent upon Recommendation 6 being handled properly.

Recommendation 10 really stands upon the definition of the term "Quality". By dealing properly with Recommendation 6, Recommendation 10 can be actioned.

Conclusion

This short response to the Auditor General's report in the AMEP highlights the importance of taking into consideration the nature of the program that is being measured. It highlights how narrowly focused audit criteria ruined the current program, necessitating mid-term shifts in direction in order to get the actual program back on track. To ignore this and instead just focus on how the program did not measure or meet its original audit criteria just states the obvious and paints the program in a poor light. Yes, it was poor, but not because it never measured its original KPIs and measurables. It was poor because of the original KPIs and measurables. These mistakes should not be repeated.

References

ACIL ALLEN (2015). *AMEP Evaluation*. Final report to Department of Education and Training.

Moore, H. (2022). W(h)ither the Adult Migrant English Program? Political posturing and real outcomes. *Fine Print*, vol 45, no.1, pp31-43.

Settlement Council of Australia (SCoA). (2020). *Maximising AMEP and English Language learning: Consultation report*.

Shergold, P., Benson, K. & Piper, M. (2019). *Investing in refugees, investing in Australia*. The Findings of a Review into Integration, Employment and Settlement Outcomes for Refugees and Humanitarian Entrants in Australia. Commonwealth of Australia, Department of the Prime Minister & Cabinet.

Social Compass. (2019). *Evaluation of the Adult Migrant English Program new business model for the Department of Home Affairs*.