Australian Government

Department of Education and Training

Template for submissions to the *Quality of assessment in vocational education and training – Discussion Paper*

Key consultation areas

The Department of Education and Training (the department) seeks stakeholder input on the *Quality of assessment in vocational education and training – Discussion Paper* (the discussion paper). The paper covers the following broad themes to improve assessment in vocational education and training (VET):

Chapter 1: Foundation reforms

- ensuring the requirements for VET teachers and trainers provide the strongest platform for high-quality assessment
- ensuring those teaching VET skills are highly competent professionals with high-quality, contemporary skills in assessment.

Chapter 2: Reforms to the assessment of VET students

- assuring the quality of assessment through industry engagement with assessment review and control mechanisms as a gatekeeper before qualifications are issued
- ensuring employers have clear and realistic expectations of VET graduate capabilities which align with the assessment of students.

Chapter 3: Reforms to the regulatory framework

- improving the detection of poor quality assessment
- ensuring quick action can be taken against registered training organisations (RTOs) delivering inadequate assessment
- managing the consequences of inadequate assessment by removing invalid qualifications from the system where necessary and supporting students if this occurs.

How to provide feedback

To support the Training and Assessment Working Group to provide the Australian Government Minister for Vocational Education and Skills with recommendations on how to improve assessment, stakeholder consultations will begin with the release of the discussion paper in January 2016 and continue through to Friday 11 March 2016.

Respondents may provide feedback on some or all of the discussion paper's themes. To assist with the compilation and analysis of the views of all stakeholders, respondents are encouraged to provide feedback via this preferred submission template, with attachments as required. Submissions in alternative formats will also be accepted.

All written submissions to the discussion paper and queries on the consultation process may be directed to the department via email at trainingpackages&VETquality@education.gov.au.

All written submissions will be made publicly available on the department's website, unless respondents direct otherwise. See the terms and conditions for public submissions.

Submission details

1. Submission made on behalf of: ☐ Individual ☒ Organisation

2. Full name: REDACTED

3. Organisation (if applicable): REDACTED

4. Please indicate your interest in this discussion paper: Enterprise RTO

   (i.e. as a student, VET practitioner, RTO, third-party provider, peak body, business, industry representative, regulator or other government agency or community member)

5. Do you want your submission to be published on the department's website or otherwise be made publicly available? ☒ Yes ☐ No

   a. If yes, do you want your name and organisation (if applicable) to be published alongside your submission, OR would you like for only your submission to be available and your details kept anonymous? ☐ Published ☒ Anonymous

   b. If no, please advise the department upon submission that you do not want your submission to be published or otherwise be made publicly available.

- Is it appropriate for relatively large numbers of RTOs to deliver TAE qualifications or skill sets? Should the number be reduced to a targeted number of RTOs focusing on high-quality provision?

- Should RTOs be restricted from issuing TAE qualifications or skill sets to their own trainers and assessors?

- Are TAE qualifications and skill sets so significant that evidence of competence should not—or cannot—be appropriately demonstrated via recognition of prior learning?

  - Is recognition of prior learning for TAE qualifications or skill sets granted with sufficient rigour to ensure the quality of student assessment? Should the practice be restricted?

- Are there opportunities to improve the assessment skills of the VET workforce through changes to the delivery and assessment of TAE qualifications and skill sets?

  - Should TAE qualifications and skill sets only be delivered by VET practitioners who can demonstrate a specific period of training and/or assessing employment history in the VET sector?

  - What circumstances would support a change requiring some VET trainers and assessors to hold university-level or higher-level VET qualifications, for example, practitioners delivering and assessing TAE qualifications and skill sets?

  - Should the TAE Certificate IV and/or Diploma require a practical component? If so, how long should the practical component be?

  - Should entrants to the TAE Diploma be required to demonstrate employment history in the VET industry before being issued with the qualification? Would this condition help to improve the relevance and validity of assessment? How long would this period of time be?

COMMENT:
Market demand should determine the quantity of TAE RTO providers with the governance mechanisms enabling assurance that those who are registered will provide quality.

1. A RTO delivering TAE qualifications should not be allowed to qualify its own trainers (not as a reflection of the RTO but more as managing the perception of conflict-of-interest)
2. Recognition of Prior Learning should be applied to TAE similar to other VET qualifications. (For example: why should someone with a distinguished teaching career not be allowed to use their previous learning in gaining recognition against a VET qualification in TAE).
3. RTO delivering/assessing TAE at Cert IV/Diploma should have adequately qualified staff (they hold a higher level qualification (including relevant University level), have relevant industry experience and can demonstrate currency). There is no need to mandate university level qualification.
4. Entrants for the TAE Diploma should be able to demonstrate relevant industry experience (This should be broad VET experience e.g. a trainer and assessor employed in an enterprise as well as those in VET related scholastic institutions private and public).
5. While a "residency" style practical component may be a consideration the actual implementation would require careful analysis. For example, a large number of individuals

who deliver training and assessment in specialised fields as sole traders would find it difficult to complete a "residency". Any practical component if instigated should be outcome –based and not time-limited (i.e. undertake a specified number of theory, practical and RPL assessments rather than a 12 month provisional period.) The risk that this would add to costs and administrative burden is high.

- Should the TAE Certificate IV be changed to a core unit on the design and development of assessment tools? How would this improve assessment outcomes for students?

    - Should the core unit be the existing *TAEASS502B Design and develop assessment tools* unit of competency? Are there alternative approaches, such as developing a new unit on the design and development of assessment tools?

    - Is the *TAEASS502B Design and develop assessment tools* unit of competency a specialist unit that should only sit at the diploma-level on the basis the Certificate IV is currently designed for delivery to new entrants seeking to be trainers and assessors?

- In the case of making any updates to the TAE, is it appropriate to form judgements based on majority considerations? Or is it too risky to do so? Is it a better basis for decision makers to give strong weight to key stakeholders and the nature of the argument put forward?

COMMENT:

The design and development of assessment tools should be a higher level skill and not part of an entry-level TAE Certificate IV.

1. Staff who are required to design and develop assessment tools should be adequately trained. So anyone who develops or approves an assessment instrument against a training package requirement should hold TAEASS502 or equivalent (some may hold university level qualifications). Given the experience required to fully understand the requirements to design and develop quality assessment instruments it is not recommended as part of the entry level qualification. Potentially a skill set could be developed or the unit could be delivered separately. This would then enable the organisation the flexibility to select people for additional training in the design and development of assessments either via the skill set or the Diploma unit (or potentially co-commit to staff undertaking university studies).

2. Every stakeholder who uses TAE qualifications should have the ability to contribute to updates so that the majority determine the considerations. What must be precluded is 'hi-jacking' of the qualification by special interest groups or as a result of inadequate input by the broad-base of end-users that results in unnecessary changes.

3. What needs to be examined is 'how is professional competence maintained' and not who holds the latest qualification (some may say this is true of many VET qualifications). For instance, a person who gained the Cert IV at BSZ98 level and could demonstrate 17 years of practical application in the industry and ongoing professional development (but not upgraded to the TAA/TAE) is currently not qualified to train and assess under the SRTO. But a person who holds the qualification with no teaching and assessing experience is qualified. We do not see Doctors, Engineers and Architects having to go back to University every 5 or so years to get the latest Degree. Of course the critical difference with these professions is often the registration and recorded CPD requirements.

- Is there a need to establish a national professional association for Australia's VET system?

  – Specifically, is there a clear role for Australian governments in assisting the development of professional skills of the VET workforce by funding a professional association?

- What are the barriers to establishing a national professional association? How could these be overcome?

- What would be the most useful guiding purpose of a national professional association?

COMMENT:

A funded national professional association for VET would be of benefit to the industry and the VET sector.

1. A national professional body would provide the ability to provide for a uniform set of guidelines, management and record for continuing professional development.
2. Government must ensure that any professional body that is set up has appropriate governance structure, with an accountable Board/Executive that consist of suitable selected industry leaders who provide assurance and value to the body.
3. Any national body that is created should provide value by focus on management and advocacy of 'quality in training' and not seek to be a commercial entity that is undertaking profit making initiatives at the expense of its primary role of ensuring quality.
4. The primary barriers (and these are substantial concerns) are:
    a. The process becomes bureaucratic and involves unnecessary costs (direct and indirect) for members and their employing organisations to participate.
    b. It is not able to be truly national with inconsistent recognition across State and Territory jurisdictions
    c. Material developed as guidance material does not evolve into a complex regulated body of requirements that serves no purpose in improving quality
    d. CPD becomes a numbers game that is exploited by some vendors
    e. Registration and CPD is not recognised as ongoing updating and there is still a mandated requirement to gain and pay for updated VET qualifications.
5. The Association would be a national forum for the advancement of VET Professionals, their registration and continuing professional development, as well as, their 'industry voice'.

| 4. | Discussion questions – potential activities of a VET professional association: |

- What activities would be most beneficial for a national professional association to undertake? For example, would it:

  − coordinate, approve or design professional development programs
  − develop capability frameworks
  − positively promote the profession of VET trainers and assessors as an employment destination and career path to attract professionals
  − act as an advocate and voice for VET trainers and assessors
  − interact with industry to respond to their emerging needs
  − register VET practitioners?

- What advantages would there be to conducting these activities at a national level rather than through existing professional development undertaken through membership of existing groups, or that which is currently organised by RTOs?

- Are there any existing organisations that could fulfil this role?

COMMENT:

1. The most beneficial activities for a national professional association would be:
   a. Provide a professional charter for members
   b. Design / assure / accredit continuing professional development programs (this would include auditing registered members);
   c. Register VET practitioners;
   d. Impose sanctions and de-registration for unethical behaviour and breaches of the professional charter.
   e. Promote the profession nationally and internationally with like bodies and relevant industries.
   f. Advocate for VET trainers and assessors with government, VET governance bodies (IRC, SSO, AISC, ASQA) and industry peak bodies.
   g. Act as an 'industry voice' in its own right
   h. Liaise with IRC, SSO, TAE RTO and Universities on the development of educational pathways, capability frameworks and the development of qualifications.
   i. Facilitate knowledge sharing through seminars, webinars, conferences, special interest groups, discussion blogs, library access etc.

2. A national body could provide assurance to industry that VET Practitioners were a professional body required to be registered and undertake CPD and knowledge management activities similar to medical registration board; engineers Australia, CPA /CA type bodies. By supporting a national body any limitations of current groups that have special interest, narrow geographical coverage or are RTO specific could be dispelled.

3. There are a number of organisations that could vie to undertake this role (e.g. AITD; AHRI; Velg) but setting up a new entity would provide the ability for a fresh start aligned to the VET reform program.

- Which of the suggested models for a VET professional association would be considered most preferrable and viable in the current VET environment? Model A,B or C?

- What value would a VET professional association, or associations, add to the VET sector?

- What mechanism would sustain a professional association, for example, membership fees from individuals or RTOs?

- Should VET teacher and trainer membership with a professional association be mandatory or voluntary?

COMMENT:

Model B is the preferred model (although the barriers mentioned above would need to be addressed first).

1. The other models are just too complex to practically implement. Model A would require a body just to coordinate the multitude of inputs and Model C adds complexity between different State and Territory registration requirements. Model B would be able to have a single entity approach without the complexities of the other models.

2. The value a national association would bring includes:
   a. A body managing registration and CPD would bring a level of assurance for government and industry that VET trainers and assessors are part of a governed professional body.
   b. VET trainers and assessors are recognised as registered professionals
   c. VET trainers and assessors get a body that can advocate for them
   d. VET trainers and assessors have a single point of contact for the access to approved CPD; design of competency frameworks; developing educational and career pathways; and knowledge sharing
   e. Key VET bodies IRC, SSO, AISC get a single conduit to VET trainers and assessors nationally.
   f. Training delivery institutions have a single point of contact for trainers and assessors when developing new materials with industry for VET qualifications
   g. Key industry associations and peak bodies have a single point of contact for trainers and assessors for a multitude of purposes (research, commentary, etc)
   h. The body could enable associate memberships for VET employees not training or assessing (QA auditors, RTO management, instructional designers etc.) and students.

3. The national body would operate in the same way as similar organisations through corporate and individual subscriptions (a favourable tax status ruling would assist here). Government could also need to contribute through funding streams for projects or staff/facility support.

4. In order for the system to work there would need to be a mandatory requirement for registration for those employed in the VET Industry as trainers and assessors. There would need to be some flexible arrangements to allow for people working part-time, non-active members (people between jobs, studying or on sabbaticals) and associates (as described above) etc.

5. Separate registration status of RTO Managers supervising trainers and assessors should also be considered.

6.	Discussion questions – capability frameworks:

- What can be learnt or applied from the capability frameworks that have been developed or are currently being developed?

  – Is there an opportunity to make better use of these frameworks, irrespective of proposals to develop a professional association?

COMMENT:

The existing capability framework provides a good guideline.

1. The capability framework developed by IBSA is quite comprehensive and relevant. However, many RTO have existing capability frameworks or role definitions in place (this is especially true for enterprise RTO) so the wholesale adoption of an external training and assessing framework such as IBSA's is difficult.
2. Having a professional body that provides continuous development to the existing capability framework that can then be referenced (or adopted in full) by RTO (and even the broader industry) would be of benefit.
3. Any attempt to mandate or enforce a single model would be counter-productive given the complex and specific nature of the many different RTO employee development frameworks, terms of enterprise agreements and business operating models.

7.   Discussion questions – increasing industry confidence:

- Are there alternative approaches not covered in this discussion paper on how industry can increase engagement with the conduct of assessment, but not specifically the validation?

- Are there other ways to ensure industry confidence in assessment without requiring independent validation of assessment? For example, are industry-endorsed, externally administered tests a practical alternative to ensure that VET graduates are competent?

  − What would be the benefits and drawbacks in requiring such tests? Under what circumstances would they be mandated, for example, for particular student cohorts? Should these be specified in training products?

  − Who should regulate the tests?

  − Should such a test be a pass/fail dichotomy, or would it be more important to use the test to identify gap training?

  − Is the concept of an externally administered test, such as a test required before receiving a qualification, inconsistent with the premise of a competency based VET system?

  − Should the results of tests be made public at the RTO level?

COMMENT:

External testing for all qualifications is not supported because of the complexity of practically applying them in an efficient and consistent manner.

1. As the discussion paper points out the ability for industry to engage beyond peak bodies and industry associations is limited by cost and resource availability (physical and human). This would apply to any alternative engagement in the conduct of assessment.
2. While externally administered tests may work for some qualifications others that are highly specialised may not support external testing due to the unique skills to be tested, the equipment required for testing or assessor knowledge required (and the administrative impost to make external testing available).
3. Where external testing is required by industry and or relevant regulating body because a high risk or critical need exists then it should be made through the IRC to the SSO for inclusion in the training package/qualification. (This could be part of any licencing condition imposed by a regulator). Where no risk or need exists external testing could become a 'suggested' extra in the companion volume but not mandated in the endorsed component.
4. While an industry test of a person's capability (provisional qualification) until "signed-off" as meeting the industry standard may be suggested, it is extremely complex to actually implement. In some specialised and high risk qualifications this is already in place through independent licensing tests, but it is not an approach that could be uniformly applied without additional costs and administration.
5. Regulating and administering any external tests are also complex considerations. Who ensures / mandates external testing is available for all qualifications, who supplies the function, how is payment for this function managed, who administers the allocation of resources to ensure resource availability (ensures the even spread) and how is it regulated to ensure the original intent and outcomes are being achieved.

6. Industry for business and/or community and/or regulatory reasons will mandate 'local' training that often fills the 'gap' to any generic based national qualification. Given the multitude of differing industry needs in this space having an external test with a pass/fail or even trying to identify the "gap" would still not overcome this industry employer need.

7. The publication of de-identified statistics of testing would not necessarily serve any useful purpose.

8. Other ways of ensuring industry confidence should include a national body that can provide assurance through good governance and continuing professional development (CPD). This would include registration and mandated CPD requirements annually.

8.	Discussion questions – the role of industry in assessment:

- What role should industry, for example, employers and industry organisations, play in validation of assessment? Does the varied interpretation of 'industry' inhibit a proper appreciation of the topic and should it be defined? If so, who would best define 'industry' when considering the practice of validating assessment?

- Do employers or industry groups have the skills required to fulfil this role in validating assessment? Is assessment such a specialised skill that industry and employers either do not want to get involved or should not get involved?

- Is there a need to build industry capacity and capability regarding involvement with training and assessment? If so, how might this be done?

- How can we ensure engagement with industry is appropriately targeted so it does not add undue burden and is targeted to those within industry with appropriate expertise required for validation of assessment?

COMMENT:
The current practices to involve industry are sufficient but information flows could be improved.

1. The requirement in the current SRTO for industry involvement in validation should be sufficient. This enables each RTO to source the appropriate industry participation without further interpretations or definitions being required or potentially introducing an inflexible or rigid process.
2. Where a RTO has queries as to the 'sufficiency' of an 'industry' representative the ability to source guidance through the Industry or SSO (and if needed then from the appropriate IRC) should be sufficient. This could also negate the need for interpretations and definitions to try to cover the many variations that will appear in this space.
3. Additional training for 'industry' is not warranted. The SRTO require a collective set of skills to ensure the validation is complete. This would mean that 'industry representatives' would bring knowledge of current practices and workplace standards required for the relevant qualification. While one 'industry' representative may not have knowledge of every workplace the generic level knowledge should be sufficient (as required by the SRTO). Again 'site specific' nuances will be the accountability of the employing entity and their duty-of-care and will be covered in inductions, orientations or probationary periods as required.
4. Building better engagement with industry on their participation should be promoted through peak bodies and associations and IRC. Common materials etc., could be produced by the Department of Education and each SSO to support the relevant IRC in disseminating this information. Similarly, a combination of SSO / Department of Education engagement with IRC, Peak Bodies and Associations to better engage/educate industry on a case-by-case basis would assist.
5. The best approach to ensure engagement with industry is appropriately targeted is for individual RTO with support from SSO/IRC (where needed) to source appropriate expertise relevant to their needs.

- How can independent validation be best applied to avoid a 'one size fits all' approach? For example should independent validation of assessment be triggered by:

  - improving RTO practice, for example, through a principles based model and best practice guide to support the VET workforce in identifying the most appropriate technique to validate assessment

  - mandatory requirement to lift quality in specific instances, for example, where a qualification is identified as high-risk

  - funding requirement, for example, independent validation of assessment could become a requirement for RTOs seeking to access government funding.

- Should there be an increased role for external assessment by industry, and in which situations? For example, should it be mandatory for certain industries where there is a concern for public safety if a learner is incorrectly deemed competent?

- If independent validation of assessment is to be risk-based, then what factors should be considered in the assessment of risk, for example, public safety, RTO profile, student cohort?

- Should high-risk student cohorts be required to undergo independent reassessment of industry-agreed sets of competencies before being issued with their qualifications?

  - For example, particular qualifications; students undertaking qualifications with RTOs with high levels of non-compliance; or that conduct assessment wholly online or on-the-job; or in areas of public safety.

- Would the burden be too great if independent reassessments were required for an entire student cohort, and should independent reassessment apply to a sample of students instead? If so, how could such a sample be chosen?

- Who would be most appropriate to oversee the reassessment of qualifications?

  - For example, could existing regulators or other organisations (such as firms that specialise in assessing students) take on this role?

COMMENT:

Independent validation and external reassessment, as a norm, is not supported.

1. Where independent validation is required by industry and/or relevant regulating body the process to impose this should be made through the IRC to the SSO for inclusion in the training package/qualification. Where no high risk or other critical need exists for independent validation then it could become a 'suggested' extra in the companion volume but not mandated in the endorsed component.

2. There should be <u>no increased role</u> for external assessment by industry except where industry requires that step and has the capability (skills, resources and funding) to do it.

3. Where a qualification involves a high-risk potential (e.g. working at height/ confined space entry / Airline Transport Pilot Licence / firefighting) the licencing body and employer have the accountability to ensure competence against the required role / qualification. Increasing

requirements for industry participation in 'external assessment' should not be imposed except where industry and/or relevant regulating body require it.

4. Independent validation, if imposed, should be risk based where lack of competence at the level qualified would result in the safety of the public or individual is at risk.

5. RTOs delivering high risk qualifications who have high-levels of non-compliance should not be RTOs!

6. If the conduct of online assessment meets the requirements of the training package endorsed components an external reassessment should not be required or relevant. If there are justifications to change then adjust the training package to require a more appropriate form of assessment.

7. If external reassessments are risk-based all students should be tested as part of gaining the qualification. A sample testing approach would not be suitable in a high risk environment.

8. The risk with an external reassessment process is that there is a 'tick & flick' at both assessment and reassessment and no practical gain has been made but additional costs and administration has been imposed on industry and RTO. To reduce this risk very special conditions (a higher standard of quality assurance and audit focus) must be imposed on those reassessment bodies, which in itself adds costs and administrative burden.

9. There has been a long term process to remove the testing accountability away from regulating bodies, if this is to be reversed they must be adequately funded, resourced and any conflict-of-interest removed (i.e. cannot audit and conduct assessments).

10. If private sector or specialised firms are involved in conducting external reassessment the quality assurance processes must be in place to remove the risks identified above.

10. Discussion questions – industry expectations and graduate capabilities:

- Is there a role for Government or industry to develop resources outlining VET graduate expectations for particular training products? If so, who should take this work forward?

  − Do higher order issues need to be resolved regarding terminology such as 'competent' (as assessed against the training product) and 'job ready' (ready to undertake all aspects of a particular job)? Is there a common understanding of VET system outcomes?

COMMENT:

Increased engagement and knowledge sharing of the VET Sector with Industry would be of value.

1. The Department of Education and SSO should develop industry resources so that there is an understanding of VET graduate capabilities against specified training products. Information on these products and how to access them should be supplied to IRC, Peak Bodies and Associations to promote as well as generic locations such as SSO and government websites.
2. The information needs to provide clarity around what 'competent' against the training product entails. Most industries would not accept that any employee is fully 'job ready' until the internal induction and/or orientation and/or probation processes are complete.
3. While there is an increasing knowledge base of the VET sector and outcomes, there is mostly not a common understanding across all elements of industry that use VET qualifications.

11. Discussion questions – evidence of assessment and graduate competency:

- Should the Standards for RTOs be revised to include strengthened and more specific rules around the conduct of and evidence to support assessment? Which elements that have a clear link to quality of student outcomes need to be strengthened?

- Would a more prescriptive condition of registration, such as a requirement for RTOs to retain all assessment samples for a longer period, improve the quality of assessment?

- How could the focus of regulation move to evaluating assessment outputs, such as samples of students' assessment pieces, without incurring excessive costs or imposing excessive burden on RTOs?

  − Is ASQA the appropriate regulator to oversee this function, or are there better placed agencies such as firms that specialise in assessing students?

- Are there other mechanisms that you would like to see added to the regulatory framework to prevent poor assessment? For example, should training-only RTOs be recognised as a formal part of the regulatory framework?

COMMENT:
The SRTO in their current form are sufficient.

1. There should not be any further prescriptive conditions of registration imposed on RTOs. For some RTO being required to keep all assessment samples beyond the current requirement would unnecessarily incur excessive costs and administrative burden without adding quantifiable value. An alternative may be to use the mechanisms for complaints for students (current and past) and employers as indicators of inadequate training and assessment by a specific RTO. The VET Regulator can then use this information (combined with a risk rating) to prioritise interventions with the identified RTO.

2. If the output of a qualification is competence then it is quite complex for a VET Regulator to truly evaluate competence across the entire spectrum of qualifications of the VET Sector. This would require having access to subject-matter-experts in every field at every level of qualification who can adequately assess that the outputs deliver competence. This would be difficult for any regulator to achieve even if all pieces of evidence are kept (for instance; even if evidence such as an electrically wired panel; section of a brick wall; or video of a pilot flying were available unless the person auditing was an electrician; bricklayer; or, pilot could they really determine the output demonstrates competence.)

3. There are no other mechanisms that should be added to the regulatory framework.

12. Discussion questions – enforcement:

- How could the focus of regulation move to evaluating assessment outputs?

- Which additional regulatory enforcement options should be considered in dealing with RTOs providing inadequate assessment? For example, should the regulator have an explicit administrative power to require a RTO to arrange and fund external reassessment, or should additional civil penalty provisions be created?

- To what extent should the characteristics of the RTO influence the response? Should the size of the RTO or the number of students involved matter?

- Given the need to balance procedural fairness with swift and effective enforcement action, what methods should be available to the regulator to manage RTOs that are repeatedly non-compliant with assessment requirements? How could such repeat offenders be defined?

- What role should regulators have in communicating their activities and findings? Does current regulatory practice provide adequate transparency and disclosure, or are there other approaches that should be taken?

COMMENT:

The existing regulatory enforcement options are adequate.

1. Use of expanded analysis of employer and student complaints / notifications to identify instances where outcomes are not meeting competency standards.
2. The characteristics of RTO size and number of students should not influence the response.
3. Where the definition of 'repeat offender' for assessment violations is clear and unambiguous then a RTO that is objectively found to be a repeat offender could be subject to increasing penalties with reduced avenues of appeal.
4. The current regulatory practice provides adequate transparency and disclosure of findings.

Note: Increasing regulatory frameworks and enforcement provisions must be carefully considered. All parts of the VET Sector and industry incur additional administrative workloads and associated financial imposts to meet regulations. While a level of business resource and financial commitment must be directed to ensure regulatory compliance there is a significant responsibility on government to ensure that over regulation does not occur. Similarly, over regulation can be counterproductive in that RTO or industry in addressing the compliance burden divert resources that have unintended negative consequences to their delivery of training or business. Most importantly, a potential unintended consequence of over regulation is the disengagement of industry from the VET sector and processes rather than what is trying to be achieved in increasing industry engagement.

- Where inadequate assessment has occurred, should the power to cancel qualifications be exercised more frequently than it has in the past? What factors should affect this decision (for example, potential impact on public safety) and how should they be balanced?

- Should a scheme for the reassessment of students be implemented? If so:

  - Are there any situations where a student should not be offered the chance to be reassessed, for example, student fraud?

  - Should there be a time period after which ASQA should not move to cancel an individual's qualification? Noting potential public and other safety issues, should a decision to cancel consider whether or not the person involved is reliant on the qualification for their current employment?

  - Who should bear the cost of reassessment and any gap training found to be necessary? If the cost is to be recovered from the RTO, should this be pursued regardless of the RTOs financial viability?

  - Who should deliver the reassessment? Are there any circumstances in which it would be appropriate for the original RTO to undertake the reassessment?

  - What should the qualifications be for those doing the reassessment, and what industry experience and currency would they need? To what extent should ASQA, industry or employers be directly involved in the reassessment process?

- Should a tuition assurance fund be set up to further protect students in Australia's VET sector, particularly in the context of any scheme of reassessment or cancellation of qualifications? Should membership be mandatory for all RTOs? Who should operate such a fund, and who should bear the cost of its operation?

- What linkages with income support eligibility should apply for graduates impacted by any recall of qualifications?

COMMENT:

Where it is proven that inadequate assessment has occurred an at-fault and risk-based process should be applied to determine the penalties and rectification measures.

1. There are a large number of variables that will apply in situations where inadequate assessment has occurred. Some high level considerations are:

    a. The ultimate arbiter of how to act is current competency. Can the industry employer in which the person is working validate that the person is competent for the work that they are doing. If not, or if there is doubt, then a risk-based process must be applied where the qualification is not high-risk (no threat to the individual or others) then the person's qualification is provisional pending rectification but where the person or persons are working in a high risk area they must have their licence / qualification suspended pending rectification.

    b. Where a person has qualified in a high-risk occupation with potential impact to themselves or others but may not be employed in the industry, immediate action is

still required to suspend any licence / qualification until rectification measures can be applied.

c. Subsequent investigation would determine the breadth and scope of suspensions of other people (but that should occur where any doubt exists to the competence of the people who were trained and 'qualified' by the RTO.)

d. RTO that are found to be involved in the deliberate conduct of inadequate assessment or are found to be 'repeat offenders' should have their registration revoked. Where the inadequate assessment is found to be an isolated instance (rogue behaviour by an assessor) or through inadvertent action the RTO should be required to demonstrate rectification under the current VET Regulator requirements. The RTO bears the costs.

e. Reassessment could be conducted by the RTO where the original inadequate assessment was an isolated or inadvertent instance and rectification measures have been successfully applied.

f. Where a RTO is deliberately fraudulent in their assessment processes or a 'repeat offender' an alternative RTO should be used for reassessment, or if that is not practical, fee refund or alternative qualification options should be examined.

g. Any fee refunds or alternative qualification options should not impede the affected graduates from seeking recompense from the RTO through legal proceedings. This is specifically relevant where the graduates lose employment because of these actions.

h. Where inadequate assessment is the result of student fraud the person should have their licence / qualification revoked with no recourse for rectification.

i. There is no need beyond the existing measures for industry or the VET regulator to be specifically involved in the reassessment.

2. The existing tuition fee protection regulations and processes are adequate.

3. Where a graduate is not at-fault and as a result of having the licence / qualification suspended or cancelled becomes suspended-without-pay or is terminated by the employer favourable income support eligibility should apply.