Submission of the Australian Manufacturing Workers’ Union

Review of the National Vocational Education and Training Regulator Act 2011

August 2017

Introduction

The AMWU represents the industrial interests of Australia’s manufacturing workers employed in a wide range of manufacturing, engineering and related industries, including workers engaged in food processing, metal & engineering, printing, automotive, technical, supervisory and administrative occupations.

Manufacturing workers across all levels and occupations, more than many other workers, rely on the quality, integrity and portability of their skills for their livelihood. The structures for the delivery, assessment, recognition and credentialing of the skills that underpin the apprenticeship system are therefore of critical importance to them.

The AMWU is concerned that industry confidence in the outcomes of broader vocational education and training, and our apprenticeship system which has served us so well, continues to diminish, and with it, critical industry investment in the future capability of our economy also diminishes.

There is an urgent need to rebuild confidence in the sector before irreparable damage is done.

The billions of taxpayer dollars currently invested nationally in the VET system are clearly not producing the skilled workers that the economy needs, and consequently social and community growth objectives, and equity, are constrained.
In our submission to the Inquiry into the National Vocational Education and Training Regulator Bills 2010 conducted by the Education, Employment and Workplace Relations Legislation Committee the AMWU made a number of general comments as follows:

“...

5. Regulation of the VET sector has traditionally been carried out by each of the respective State and Territory Training Authorities in the context of national agreements relating to the structures and quality of the system but which has resulted, in our submission, in a VET system compromised by the inconsistent application of the agreed standards designed to underpin the system.

6. We submit that the reputation of the system as it stands is weakened by the inconsistencies that exist in the commitment to, and application of, nationally agreed standards by the respective jurisdictions and that industry requires certainty, confidence in the quality of the outcomes, and consistency against the standards that it sets for the application of vocational skills.

7. We submit the barrier to entry into the training ‘market’ is not high enough, and that there is not yet an entrenched culture of quality in the system. Non-compliance with registration standards must be treated more seriously given the critical importance vocational skills, workforce development and workforce participation have for the economy going forward.

8. If standards are set for registration, it is our view that non-compliance should result in suspension of registration with appropriate safeguards for the interests of on-going students.

...”

Notwithstanding the transition to the National VET Regulator, we remain concerned about those matters and, in particular, the extent to which there is genuine “certainty, (and) confidence in the quality of the outcomes, and consistency against the standards” that industry sets some 6 years later.

The strategic objectives for the review

The AMWU strongly supports the bulk of the strategic objectives of the review:

• shifting the regulatory framework towards outcomes-based regulation
• enabling swift enforcement of sanctions when poor quality training is detected
• ensuring adequate information is available to support VET consumers’ choices regarding training, and
• administrative improvements to the NVETR Act.

We do not support the objective associated with supporting “a more efficient and risk-based approach to compliance” as in our experience that is simply government code for the management of costs rather than the management of effective regulation of compliance.

This Submission

This submission is framed in the context of four broad themes:

1. Repudiating the notion that the market can ever be the solution to market failure
2. The need for the Regulator to concentrate on the capability of the graduate against the standards as reflected in training packages, not whether the paperwork produced by providers ‘should’ deliver confidence and sound outcomes.

3. The need for the system to revert to its primary purpose which is the production of the skilled and capable (socially capable as well as vocationally) workers we need.

4. The need for a direct and demanding leadership role for the industrial parties in driving higher levels of engagement in quality and compliance.

**Repudiating the notion that the market can ever be the solution to market failure**

In our July 2012 submission to an NSSC Consultation Paper, the AMWU summarised what we saw as a number of serious weaknesses associated with the VET and apprenticeships systems in Australia.

We asserted that:

“... no review of standards for the regulation of VET can be effective without first determining what outcome the sector is charged with producing.

As mentioned above, we say the purpose of the vocational education & training system is to produce the skilled workers that the Australian economy needs: workers with the knowledge and skill, and the capacity to deploy that knowledge and skill productively in employment in a way that meets the specified industry standard.

Therefore, any measures of quality in relation to training and assessment must be based on fitness for that purpose, rather than simplistic notions of qualification completion, student or employer satisfaction, or comparisons with OECD statistics for post school qualification attainment.

The regulation of the system must be geared to ensuring that training and assessment results in graduates that meet the vocational skills standards established in Training Packages by industry for the relevant occupation.” We went on to observe:

“Effective regulation, and effective monitoring of compliance with regulation, is unfinished business in the VET sector.

The AMWU considers that the role of regulation is not to support aspirations of excellence in relation to training and assessment; nor to support growth of a dynamic and diverse VET sector; nor the creation of a pure free market in training: but to ensure that minimum standards for training and assessment are met and that skilled workers are produced.

Regulators cannot afford to be virtual ‘cheer-squads’ for the endeavours they are charged with regulating. They must be fearless defenders of the standards set for participating in the market.”

We persist with our 2012 view.

The AMWU continues to share the oft expressed concerns of the ACTU and the Australian Education Union in relation to the impacts of moves to entrench so-called demand driven competitive funding models for VET based on ‘student entitlements’ that are, in our view, continuing to drive often unacceptable or criminal behaviour by unscrupulous low quality rent-seekers that continue to undermine confidence in the VET system.
We specifically reject the notion that ‘market’ forces and the provision of better information to prospective clients of the VET system are likely to result in better quality outcomes, or even a reduction in unacceptable behaviour from corrupt providers.

The need for the Regulator to concentrate on the capability of the graduate against the standards as reflected in training packages, not whether the paperwork produced by providers ‘should’ deliver confidence and sound outcomes.

The AMWU supports the stated objective of shifting the regulatory framework towards outcomes-based regulation, but also notes that this objective has been a long standing and oft quoted one that is yet to reach maturity. We are yet to define what is meant by “outcomes-based”.

We say that a national debate about what outcomes-based regulation means is long overdue, and that the system will continue to languish and encourage poor behaviour and massive cost unless the question “what problem are we trying to solve?” is satisfactorily addressed and a shared and supported understanding emerges.

We say that qualifications and the units of competency that underpin them (the occupational standard) must be designed to meet the requirements of the vocation or occupation they are intended for. That is a function of bipartite industry leadership.

Training delivery must result in a successful graduate meeting those standards. The design and delivery of high quality training and assessment is a function of highly skilled professional teachers and trainers who understand the science of learning and the pedagogy required to produce a well-rounded, socially and vocationally capable graduate: a skilled worker.

Whilst we continue to flirt with notions that high quality learning methodologies can be produced by graduates of week-long Certificate IV Training and Education programs, the catastrophic failures we confront in the system will persist.

The need for the system to revert to its primary purpose which is the production of the skilled and capable workers we need

The traditional measure of quality in manufacturing and many other industries is ‘fitness-for-purpose’.

In the context of our VET system that means the graduate, on completion of their qualification, has the skills and capabilities that have been defined as require to work in the vocation or occupation the qualification ‘qualifies’ them for.

This is a much more sophisticated notion than simply having ‘been trained’.

Competency-based Training Package qualifications define the knowledge and skills required for effective performance in employment. They are occupational standards.

They do not define the manner, or the nature of the training that a person receives in order to obtain their qualification, yet it seems that the entirety of the VET sector appears to be consumed with the delivery of training rather than the quality of capability that results from the training that a person receives.

Vocational competency is a measure of the capability that a person is able to productively deploy in the economy, not the volume of time spent in training.

Yet our funding and regulatory systems persist with approaches that value nominal hours of training delivery and transactional assessments based on isolated units of competency rather than holistic assessments of logical
clusters of units of competency that constitute vocational capability: or what the candidate can do in the context of the occupational standard.

There is no public interest in the annual expenditure of billions of dollars if it does not result in more socially and vocationally capable workers employed in the areas of the economy that they are needed.

**The need for a direct and demanding leadership role for the industrial parties in driving higher levels of quality and compliance.**

The public interest must be served where public investment is involved.

That is as true for training package development as it is for those involved in the delivery of VET and those who regulate and fund it.

The industrial parties must be informed and demanding participants in the system. Employers and trade unions have a long and impressive track record of collaborating effectively over skills, training and apprenticeship matters, which unsurprisingly are central to the success of their industries.

Yet our flirtation with the ideology of markets and attempts to turn training into a commodity to be traded for profit has degraded and discounted the role of both unions and employers through the complexities that have been built into the system and the plethora of brokers and regulators that abound. It has also seriously damaged the TAFE brand and its capacity to drive the improvements in the system that are so desperately needed.

These things in turn have weakened a central element of quality control in the system as employers turn away from nationally recognised training and resort to non-accredited training and skilled migration programs, which bring with them their own significant risks.

The system works best when all of the central elements, employers and unions, government and regulators and TAFE and other training providers are subject to the natural tensions that their respective interests bring to the system. When one set of interests dominate more than others the natural bulwarks against bad behaviour in the system are weakened.

The restoration of bipartite industry leadership to the system, and a far greater role for industry in the establishment of appropriate outcome-based regulatory arrangements, are preconditions for achieving the improvements that the system, and the community require.

**Terms of Reference**

Whilst not explicitly referenced in the submission above we believe that the terms of reference for the Review have been addressed save for that term of reference that goes to the issue of appropriate protection mechanisms for students.

It is clear that the rampant and sustained corruption that emerged from the VET-Fee-Help program exposed the serious shortcomings in a system that was clearly ill-prepared for the extent of criminal behaviour the extent of which may never be properly uncovered.

Student protections must be front of mind in the establishment of regulatory responses to the developments that have been experienced in the training system.

The AMWU is not aware of a single individual that been jailed as a consequence of the fraud that was front page news so often across the country. It is difficult to understand why that is the case. This Review must have
regard for the extent of taxpayer and student monies that have been stolen by unscrupulous and criminal providers and establish proper criminal sanctions for such behaviour in the future.

The AMWU is concerned that the terms of reference that relate to:

• provide the regulator with functions and powers that are relevant and suitable to the current and future VET environment
• enable the regulator to apply a responsive, risk-based regulatory approach and effectively detect noncompliance
• ensure only an appropriate level of regulatory burden is imposed on RTOs are essentially contradictory, and will challenge the Reviewer.

We are of the view that providing the regulator with functions and powers that are relevant and suitable to the current and future VET environment cannot be achieved if the Reviewer’s hands are tied by preference for ‘light touch’ regulation that is risk-based. It is far more important to reduce the burden on students associated with poor RTO behaviour than it is to indulge a conservative predilection for attacking effective regulation.

The AMWU supports and adopts the Submissions of the Electrical Trades Union to the extent that they are consistent with our own submissions

The AMWU contact for this Submission is:

Ian Curry
National Coordinator – Skills, Training & Apprenticeships
Australian Manufacturing Workers’ Union

M: 0418 810 072 | E: ian.curry@amwu.org.au