



MEDIA RELEASE

VET regulator announces further changes to protect sector

19 July 2016

The Australian Skills Quality Authority (ASQA) has today announced changes to its decision-making and audit processes as well as the development of a new audit model.

ASQA Chief Commissioner Chris Robinson said the changes complemented a previously announced initiative to publish information about regulatory decisions shortly after they are made, rather than after all appeal options have been exhausted.

“The suite of changes is part of ASQA’s move to an increasingly risk-based and proportionate approach to regulation,” Mr Robinson said.

“These initiatives seek to streamline regulatory processes for the majority of registered training organisations (RTOs), while more effectively targeting the small percentage of providers that consistently exhibit poor outcomes, practices and behaviours.”

More information about each of the changes is detailed below:

Changes to ASQA’s decision-making processes

Responsibility for regulatory decisions by ASQA resides with its Commissioners, with some decisions being made jointly by all three Commissioners, and others by a single Commissioner or senior staff holding a delegation. ASQA has revised these arrangements to better stream a decision type to the appropriate decision maker.

The streaming of decisions will be based upon an analysis of a range of factors, including:

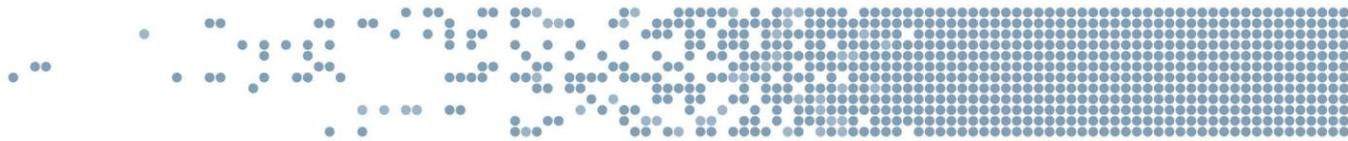
- how serious the impact of the decision may be on the VET industry and its reputation, and
- whether ASQA has identified serious concerns about the provider in question.

Decisions which have the most severe impact on a training provider such as cancellation or non-renewal of registration will generally be made jointly by all three Commissioners, while decisions with a lesser impact will usually be made by a single Commissioner or a senior staff member holding delegated authority.

If a decision is made jointly by ASQA’s Commissioners, a review of that decision can only be made by an external authority (such as the Administrative Appeals Tribunal). In these cases, the provider cannot apply for an internal ASQA reconsideration of the decision.

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Amendments to the *Education Services for Overseas Students Act 2000* (Cth) (ESOS Act), which took effect on 1 July 2016, enable ASQA to delegate certain CRICOS decisions, which previously had to be made jointly by all three Commissioners. New arrangements affecting CRICOS providers that reflect the ESOS Act changes will be announced shortly. The RTO changes will take effect from 1 August 2016.

Changes to the audit process

Process for responding to non-compliance found at a compliance audit

The term 'compliance audit' refers to a post-initial registration audit, or an audit unrelated to a provider application undertaken on the basis of identified risks (including those undertaken as the result of complaints).

When considering a compliance audit report, if the audit has identified a non-compliance with statutory requirements, ASQA may either:

- issue the RTO with a 'Notice of intent to impose administrative sanction'
- issue the RTO with a written direction, requiring it to take a certain action, or
- in exceptional circumstances, impose one or more sanctions on the RTO without prior notice.

Process for issuing a notice of intent after a compliance audit

At present, if an RTO is found non-compliant at a compliance audit, in most instances ASQA will give the RTO an opportunity to submit rectification evidence before assessing if a notice of intent to impose a sanction should be issued.

From 1 August 2016, if a compliance audit identifies highly concerning non-compliances, an RTO may be issued with a 'Notice of intent to impose administrative sanction' without the earlier opportunity to submit rectification evidence. The RTO may then have a period of up to 20 working days to respond to the notice and submit any rectification evidence before a decision is made.

This change aligns ASQA's approach to compliance audits with the existing approach to application audits.

RTOs' statutory rights to natural justice before a final decision to impose a sanction are maintained by this change in approach.

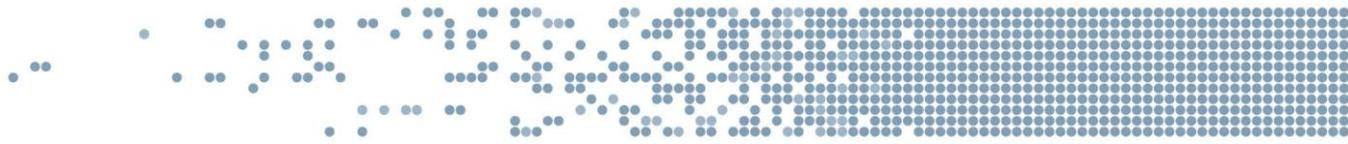
Process for issuing written directions after a compliance or application audit

If ASQA identifies lower level non-compliances during a compliance or application audit, it may issue an RTO with a written direction, requiring it to:

- address the non-compliances within a specified period, and
- retain evidence that this has occurred.

In such cases, ASQA may finalise the audit at this point and approve any relevant applications. ASQA will examine the RTOs' compliance with the Written Direction at a future audit and/or during other regulatory activity.

Development of a new audit model



ASQA is currently developing a more proactive and risk-based audit model that places a much stronger focus on the actual practices and behaviours of providers, with a reduced emphasis on systems and processes. The scope and scale of audits will be informed by a wider range of sources, including data and intelligence received from students, industry and other agencies and ASQA's profile of each provider.

The new model will take a more holistic view and focus on following the 'journey' of a student through their engagement with a provider. Through this model, providers will be more accountable for redressing harm caused by non-compliance.

The new audit model will be piloted in the second half of 2016, with full implementation in early 2017.

More information on ASQA's revised audit model will be published on www.asqa.gov.au in the coming weeks.

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