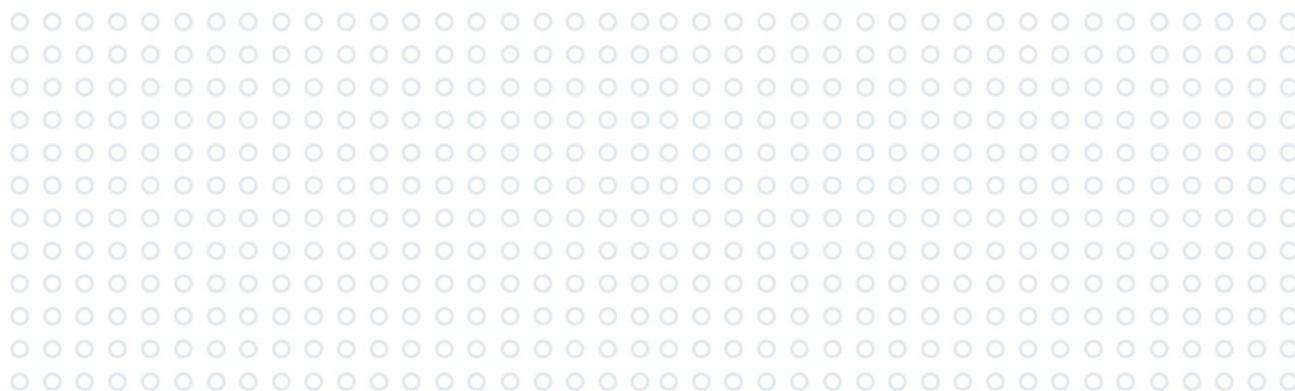


Business
Council of
Australia



Submission to the Quality of Assessment in Vocational Education and Training - Discussion Paper

MARCH 2016

Contents

EXECUTIVE SUMMARY	2
VET is essential for Australian businesses	2
Poor quality is not a sector-wide issue	2
Ensuring high-quality VET assessment	3
The Business Council's response to options in the discussion paper	4
RESPONSE TO THE THEMES AND OPTIONS RAISED IN THE DISCUSSION PAPER	10
The extent of poor assessment performance, and the reasons for it, are unclear	10
Improving the delivery of Training and Education (TAE) Training Package	11
VET professional association	14
Increasing industry confidence in VET	16
Alternative proposals to increase industry confidence in VET	20
Regulatory reform	22

The Business Council of Australia (Business Council) is a forum for the chief executives of Australia's largest companies to promote economic and social progress in the national interest.

EXECUTIVE SUMMARY

VET is essential for Australian businesses

This is the Business Council's submission to the Australian Government's Quality of Assessment in Vocational Education and Training – Discussion Paper (discussion paper).

The Business Council has previously called for a renewed focus on vocational education and training (VET) and welcomes the Australian Government's review.

The VET sector has primary responsibility for providing a pipeline of skilled workers for Australian businesses and retraining existing workers. It is instrumental in ensuring Australia's workforce can respond to the challenges of digitisation, globalisation and demographic change.

Ensuring VET funding is used appropriately, through the delivery of qualifications and skills sets that are high-quality and relevant to business needs, is crucially important to the national economy.

A well-funded, high-quality VET system can also be a source of competitive advantage.

Poor quality is not a sector-wide issue

It should be recognised that Australia's VET system is, in general, well regarded domestically and internationally.

The strength of the system is reflected in the high levels of student and employer satisfaction recorded in the National Centre for Vocational Education and Research's (NCVER) annual surveys (at 86.7 per cent¹ and 84 per cent² respectively, in 2015). However, the survey results indicate that employer and student satisfaction levels vary by industry.

At the same time, there have been persistent concerns about the patchy quality of VET student outcomes. As the discussion paper notes, strategic reviews by the Australian Skills Quality Authority (ASQA), the Victorian Government's VET Funding Review and consultations for the *Review of the Training Packages and Accredited Courses* have identified a range of issues relating to VET assessment.

The discussion paper presents insufficient data to determine the extent of the poor provider performance in VET assessment. However, given the satisfaction levels noted above, it is likely poor assessment practices are not a sector-wide problem, rather they are confined to a subset of providers. As such, it is vital the options considered by government are proportional to the problem.

¹ NCVER, *Student Outcomes 2015*, NCVER, Adelaide, 2015, p. 1.

² NCVER, 2015, *Employers' use and views on the VET system* NCVER, Adelaide, 2015, p. 1.

The discussion paper proposes a range of options that will increase the regulatory and administrative burden on all providers. For example, requiring providers to retain all assessment samples for a longer period of time or increasing the minimum qualification requirements for some Teaching and Education (TAE) Training Package trainers. It is likely these types of options will stifle high-quality providers from getting on with the job of delivering high-quality training and assessment.

The Business Council urges the government to undertake further analysis to determine the extent of the problem – that is, the number of providers with poor assessment performance and the number of students who have been incorrectly assessed – to ensure any reform proposals are targeted to areas of poor performance.

In this context, the Business Council urges the government to not consider any options that would result in stricter conditions and/or higher punitive measures in the VET sector when compared to the higher education sector.

Ensuring high-quality VET assessment

The discussion paper notes that improving VET assessment will require a ‘multipronged’ approach. As such, it has identified a number of areas for reform, including:

- the TAE Training Package
- trainer and assessor requirements
- approaches to industry engagement on assessment issues
- training package content
- the RTO Standards 2015
- provider registration requirements
- ASQA’s enforcement measures.

The Business Council agrees the quality of VET assessment will not improve unless government takes a holistic approach. However, the first step in responding to quality issues in VET assessment should be to determine whether poor performance is being driven by RTO non-compliance or whether it is due to other factors (for example, a disconnect between industry’s expectations of graduates and the level of skill taught in Training Packages).

The discussion paper has not made an assessment of the main factors driving poor performance in assessment.

The Business Council believes poor-quality assessment is primarily occurring due to poor provider behaviour. As noted above, we believe the majority of providers are delivering training that meets the VET standards and that poor-quality providers are a relatively small subset of RTOs. However, this subset of providers must be better managed to help restore industry and community confidence in VET.

The government’s response should therefore focus on ensuring all providers comply with the standards and Training Package requirements. This will involve strengthening the regulator’s capacity to respond to possible breaches and its enforcement capability.

Many of the options outlined in the discussion paper will simply address the ‘symptoms’ of poor-quality training (for example, the proposal to reassess a student’s qualification when the student has been incorrectly assessed), rather than addressing the problem. In the long term, these types of options will not lift the overall quality of VET assessment – if low-quality providers are removed from the sector, the vast majority of poor-quality assessment will cease. This will then allow government and the regulator to focus on legitimate providers who are not delivering high-quality assessment.

The Business Council therefore encourages the government to consider which options are likely to have a real and lasting positive impact on VET quality.

The Business Council’s response to options in the discussion paper

The following table provides an overview of the Business Council’s response to the options outlined in the discussion paper.

As the Business Council’s submission does not provide commentary on all of the discussion questions, the table does not include the full list of questions.

Option	Comment
Discussion question 1 – RTO limitations	
<p>Is it appropriate for relatively large numbers of RTOs to deliver TAE qualifications or skills sets? Should the number be reduced to a targeted number of RTOs focusing on high-quality provision?</p>	<p>High-quality provision should be the expectation for all delivery. However, the Business Council believes the new requirements in the RTO Standards 2015 relating to delivery of the TAE (in place since January 2016) will be sufficient to improve the quality of TAE delivery.</p> <p>The proposal to limit the number of RTOs that can deliver TAE qualifications will reduce competition in the market without any rationale that this will improve quality.</p>
<p>Should RTOs be restricted from issuing TAE qualifications or skill sets to their own trainers and assessors?</p>	<p>See response to discussion question one.</p> <p>If RTOs are incorrectly issuing TAE qualifications or skill sets to their own trainers or assessors, the regulator should take action against them.</p>
<p>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?</p> <ul style="list-style-type: none"> • Should TAE qualifications and skill sets only be delivered by VET practitioner 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 to hold university or higher-level VET qualifications, for example, practitioners delivering and assessing TAE qualifications and skill sets? 	<p>The Business Council supports the proposal to include a mandatory practical component in the TAE Certificate IV/Diploma as research indicates it is an effective way to improve teacher capability.</p> <p>Do not support the proposals to:</p> <ul style="list-style-type: none"> • add restrictions to who can deliver TAE qualifications or skills sets

Option	Option	Comment
<ul style="list-style-type: none"> Should the TAE Certificate IV and/or Diploma require a practical component? If so, for 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 a qualification? Would this condition help to improve the relevance and validity of assessment? How long would this period of time be? 		<ul style="list-style-type: none"> increase the minimum qualification requirement for some VET trainers add restrictions to TAE Diploma entrants. <p>These proposals will increase costs for RTOs and/or trainers without any evidence they will deliver improved student outcomes.</p> <p>It is worth noting there are no minimum qualification or minimum experience requirements to teach in the university sector.</p>
Discussion question 3 – benefits and purpose of a VET professional association		
<p>Is there a need to establish a national professional association for Australia's VET system?</p> <ul style="list-style-type: none"> 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? 		<p>The Business Council does not believe there is a need to establish a national VET professional association.</p> <p>The model of a VET professional association is inappropriate for the VET sector. The industry-focused nature of VET means trainers are 'dual professionals' (an industry representative and a vocational trainer) and therefore likely to fall along a spectrum in terms of their readiness to identify themselves as 'teachers'.</p> <p>Further, there is a risk of duplicating processes because the majority of functions typically handled by a professional association are already being carried out by existing VET bodies.</p> <p>The Business Council believes the government has a role to play in requiring the sector to align VET professional development to government priorities and policies (without attracting additional government funding). For example, in response to the 2011 National Foundation Skills Strategy, governments agreed to build the capacity of the VET workforce to deliver foundation skills by requiring all VET practitioners to complete specific language, literacy and numeracy units in the TAE Training Package.</p>

Discussion question 5 – models for a VET professional association	
What value would a VET professional association, or associations, add to the VET sector?	As noted above, the Business Council believes the establishment of a national professional association would add little value to the sector.
Should VET teacher and training membership with a professional association be mandatory or voluntary?	The Business Council does not support the proposal to make training memberships mandatory. If training memberships are voluntary, the professional association must be member-funded.
Discussion question 8 – increasing industry confidence	
What role should industry, for example, employers and industry organisations, play in validation of assessment?	Employers have an important role to play in the validation of assessment. The majority of employers have the knowledge to assess a learner's competence, but a significant proportion of employers are unlikely to have skills in assessment practice.
Do employers or industry groups have the skills required to fulfil this role in validating assessment? Is assessment such a specialised skill that industry 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?	
	Employers should contribute to the assessment validation process, but the learner's RTO should partner with the relevant employer to assist during the assessment.
	Industry organisations do not have the relevant knowledge to engage in assessment validation.
Discussion question 9 – specific models	
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 deemed competent?	The Business Council believes a principles-based approach should be used to determine which qualifications should be subject to external assessment to minimise costs to industry, government and providers and to lower the regulatory burden.
If independent validation is to be risk-based, then what factors should be considered in the assessment of risk, for example, public safety, RTO profile, student cohort?	
	The regulator is best placed to determine which industries are high-risk. However, the Business Council believes the following criteria should be used as a starting point for establishing a risk profile: <ul style="list-style-type: none"> • industries/occupations where there is concern for public safety • industries where there is systemic problems with assessment procedures • RTOs who have persistent, high-levels of non-compliance.
Should high-risk student cohorts be required to undergo independent reassessment of industry agreed sets of competencies before being issued with their qualification?	

<p>Would the burden be too great if independent reassessment were required for an entire student cohort, and should independent reassessment apply to a sample of students instead? If so, how could a sample of students be chosen?</p>	<p>The Business Council does not believe students should be required to undertake an independent reassessment before being issued their qualification.</p> <p>The proposals will necessarily elongate the assessment process, increasing costs to RTOs. Also, they do not align with the standards' principles of assessment.</p> <p>The Business Council also questions the appropriateness of classifying students as 'high-risk'. It is unclear how the regulator would determine who is a high-risk student. Further, the assessor adheres to the VET standards, a student's attributes should be inconsequential.</p>
Discussion question 10 – industry expectations and graduate capabilities	
<p>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?</p>	<p>The Business Council believes industry should define what values, behaviours and skills are expected of graduates and the government should then require the VET sector to reflect industry's views in Training Packages.</p> <p>In this context, the creation of additional resources outlining VET graduate expectations should be developed at industry's discretion and therefore not attract government funding.</p>
<p>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?</p>	<p>Currently, there is no common understanding of VET system outcomes or the concept of 'job ready'. The Business Council believes being 'job ready' is a combination of values, behaviours and skills and that the current structure of training packages is too rigid to deliver the graduate outcomes expected by industry.</p> <p>We propose a rebalancing of technical and generic skills in VET qualifications. For this to occur, the definition of 'competence' needs to be broadened to four key domains of cognitive, functional, personal and ethical.</p>

Discussion question 11 – evidence of assessment and graduate competency	
Should the Standards for RTOs be revised to include strengthened and more specific rules around conduct of evidence to support assessment?	The standards already contain information on the principles of assessment and rules of evidence. However, if industry and RTO feedback indicate the standards do not provide enough guidance to enable RTOs to be compliant, then standards should be amended.
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?	The Business Council queries how this proposal will improve the quality of assessment – if an RTO is undertaking inadequate assessment, retaining the records for a longer period will have no impact on quality. Further, RTOs are already required to retain assessment samples for six months. Extending this period will increase the regulatory burden on all providers while not necessarily improving student outcomes.
How could the focus of regulation move to evaluating assessment outcomes, such as samples of students' assessment pieces, without incurring excessive costs or imposing excessive burden on RTOs?	The Business Council believes the regulator's focus should be moderation of quality across providers so that providers have a clear understanding of the level of quality expected from them. To do this, the application and enforcement of standards should be benchmarked across regulators to minimise the regulatory burden.
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?	The Business Council does not believe training-only RTOs should be added to the regulatory framework because it will add complexity and risk to the system at a time when it is clear it is not equipped to respond to inappropriate provider behaviour. Additionally, if a provider is incapable of quality assessment, it casts doubt on their ability to deliver quality training.
Discussion question 12 – enforcement	
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 an RTO to arrange and fund external reassessment, or should additional civil penalties be created?	The use of enforcement actions to rectify poor assessment practice after it has occurred will never be as effective as having a strong regulatory framework that seeks to prevent poor quality assessment from occurring in the first instance.
To what extent should the characteristics of the RTO influence the response? Should the size of the response or the number of students involved matter?	

<p>What role should the regulator have in communicating their activities and findings? Does current regulatory practice provide adequate transparency and disclosure, or are there other approaches to be taken?</p>	<p>In this context, the Business Council recommends that new enforcement options should adhere to the following principles:</p> <ul style="list-style-type: none"> • Enforcement activities should follow a risk-based approach. • Enforcement activities should be proportionate, according to the seriousness of the breaches. • Enforcement activities should be predictable and transparent. • Enforcement activities must be efficient (for example, processes should be streamlined) to ensure they do not put an excessive burden on business. <p>As ASQA has not initiated any civil penalty provisions for assessment-related breaches, the Business Council is sceptical that additional civil penalties will increase RTO compliance.</p> <p>With reference to the principles above, the characteristics of an RTO should be considered by ASQA when it is determining which enforcement action is appropriate (for example, breaches that risk public safety should incur a higher penalty).</p>
<p>Discussion question 13 – cancellation and reassessment</p>	
<p>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?</p>	<p>The option to cancel a student's qualification after inadequate assessment has occurred will address the 'symptoms' of poor-quality training but it will not address the underlying problem – the subset of low-quality providers operating in the sector. Without addressing this issue, the overall quality of VET assessment will not improve.</p> <p>The Business Council urges the government to clarify the scope of ASQA's cancellation power to reduce the risk it is used inappropriately, and to increase the transparency of VET regulation.</p>
<p>Should a scheme for the reassessment of students be implemented? If so:</p> <ul style="list-style-type: none"> • Who should bear the cost of reassessment and any gaps 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? 	<p>The Business Council does not believe a reassessment scheme for students should be implemented.</p>

<ul style="list-style-type: none"> • Who should deliver reassessment? Are there any circumstances in which it would be appropriate for the original RTO to undertake the reassessment? 	<p>As noted above, the proposal to establish a reassessment scheme for students will only address the evidence of poor-quality VET provision. At the same time, it will generate higher costs to maintain and implement for both industry and government. The government's focus should be on ensuring poor-quality providers are excluded from the sector.</p> <p>Further, in the absence of data on the number of students requiring reassessment, it is hard to determine whether there is a 'true' need for such a scheme.</p>
<p>Should a tuition assurance fund be set up to further protect students in Australia's VET sector, particularly in the context of any reassessment or cancellation scheme? Should membership be mandatory for all RTOs? Who should operate such a fund and who should bear the cost of its operation?</p>	<p>See above comment on the reassessment scheme.</p> <p>The Business Council does not believe a new tuition assurance fund should be established. However, there may be scope to expand existing funds which are run by TDA and ACPET. If so, the associated costs should be member-funded.</p>

RESPONSE TO THE THEMES AND OPTIONS RAISED IN THE DISCUSSION PAPER

The extent of poor assessment performance, and the reasons for it, are unclear

Effective training and assessment practices are key components of a well-functioning VET system. They underpin the quality and integrity of knowledge and skills acquisition, the qualifications issued by awarding bodies or providers, and the reputations of institutions.

Currently, the extent of the poor performance in VET assessment is unclear. The discussion paper does not present any data or information on the extent of the problem (for example the likely proportion of RTOs undertaking poor-quality assessment, how many students are likely to have been incorrectly assessed as competent or how many providers the regulator has found in breach of assessment standards).

The Business Council believes this information is vital to determine the reasons for poor provider performance and which types of interventions are required and appropriate.

If poor performance is limited to a subset of providers, it is likely the existing standards are adequate and the key factor driving inconsistent quality is provider non-compliance. As such, the regulator should focus on identifying the providers who are not meeting the required standards, and use their compliance and enforcement powers to sanction against breaches.

If the problem is found to be more widespread, the standards and Training Package requirements should be reviewed. Further measures to strengthen assessment processes

may also be appropriate. For example, the provision of further guidance on the conduct and evidence required to meet assessment standards may result in improved performance across the sector.

It is apparent a small group of poor-quality providers is operating in the VET market. These providers focus on economic gains rather than educational outcomes, offering high-cost, poor-quality qualifications. However, the Business Council is not convinced quality problems are widespread.

NCVER’s student and employer surveys indicate that both groups continue to report high levels of satisfaction with the training they/their employees have received. It is likely the large amount of negative press the sector has received (on inappropriate provider behaviour in relation to VET FEE-HELP) has overstated the extent of the problem.

In this context, the following section responds to some of the issues identified in the discussion paper and makes recommendations about how the Australian Government should address them.

Improving the delivery of Training and Education (TAE) Training Package

The discussion paper asks:

Discussion question 1	Is it appropriate for relatively large numbers of RTOs to deliver TAE qualifications or skills 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?
	<p>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?</p> <ul style="list-style-type: none"> • Should TAE qualifications and skill sets only be delivered by a VET practitioner 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 to hold university 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, for 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 a qualification? Would this condition help to improve the relevance and validity of assessment? How long would this period of time be?

Restrictions on RTOs

Since January 2016, the *Standards for RTOs 2015* have required any RTO that delivers the TAE Training Package (or its successor) to have undergone an independent validation of its assessment system, tools, processes and outcomes. Further, an RTO must be registered for a minimum of two years before applying to deliver TAE qualifications or

assessor skill sets.³ These safeguards recognise that the TAE is a high-risk Training Package for auditing purposes.

The Business Council does not agree with the proposal to limit the number of RTOs that can deliver the TAE Training Package, as it will reduce competition in the market and limit student choice.

If a large number of RTOs are delivering TAE training that does not meet the national standards or requirements of the Training Package, the regulator should take action. This could include adding conditions to an RTO's registration or removing the TAE from the scope of a provider's registration.

Similarly, if the existing safeguards in standards are not effective, they should be reviewed and amended accordingly. An arbitrary reduction to the number of providers approved to deliver the TAE will not necessarily address RTO compliance issues.

The discussion paper also proposes restricting RTOs from issuing TAE qualifications or skill sets to their own trainers and assessors. The evidence suggests low-quality providers are a relatively small subset of RTOs. If this is the case, the proposal is likely to be an overreach, particularly given the fact that the new independent validation assessment requirements in the standards have only been in effect since January 2016 – this is not long enough to have a noticeable impact on the sector.

The Business Council urges the government to analyse the extent of poor TAE delivery and the likely proportion of TAE students who have been incorrectly assessed as competent, so they can ascertain whether this is a general problem or one specific to certain RTOs.

Restrictions on trainers

The Business Council does not support the proposal to restrict the delivery of the TAE Training Package to those who can demonstrate a specific period of training and/or assessing employment history in the VET sector.

The Business Council acknowledges that familiarity with the VET sector's model of teaching and learning is advantageous when conducting assessment. However, there is no evidence that someone who has worked in the VET sector will deliver higher-quality training than someone who is new to the sector, or that a lack of experience in VET is a determining factor driving low-quality delivery of the TAE. As such, the proposal will create barriers to entry, while not necessarily leading to higher-quality outcomes. It may also limit providers' capacity to respond during periods of high demand.

The discussion paper also proposes requiring some VET trainers to hold university or higher-level VET qualifications. There is little evidence linking VET assessor characteristics to student outcomes. However, schools sector research suggests there is not a strong relationship between teaching qualifications (both pre-service and higher-level) and student achievement.

³ Australian Government, *Understanding the Requirements of Registration*, <<http://www.asqa.gov.au/vet-registration/understand-the-requirements-for-registration/understand-the-requirements-for-registration.html>>, accessed 1 March 2016.

It is worth noting there are no minimum qualification or minimum experience requirements to teach in the higher education sector.

The 2011 Productivity Commission's (PC) inquiry into the vocational education workforce considered what the appropriate qualification level is for the VET workforce. It concluded that Certificate IV is an appropriate entry-level qualification for all VET practitioners, provided it is delivered well and seen as the foundation for further capability development, and recommended against increasing the minimum qualification requirement for VET trainers.⁴

The Business Council agrees with the PC's recommendation. Setting higher qualification requirements for trainers is likely to lead to higher costs for RTOs and/or trainers without any clear evidence it will deliver improved student outcomes.

Restrictions on students studying the TAE Diploma

The Business Council does not support the proposal requiring entrants into the TAE Diploma to demonstrate a specific period of employment in the VET industry before being issued the qualification. Time served in the VET sector does not equate to competency. If a learner has been assessed as competent, they should be issued their qualification.

Certificate IV/Diploma in TAE training requirements

As the baseline qualification for entry into the VET workforce, the TAE Training Package is fundamental for ensuring the quality of VET teaching, learning and assessment. As such, the Business Council supports the proposal to require the Certificate IV/Diploma in TAE to have a practical component.

The Business Council acknowledges that increasing the amount of practical experience in the TAE will increase RTO costs. However, research has found that practical-type exercises that involve observation and feedback are a particularly effective means of developing teacher capability.⁵ Given the fact many VET trainers and assessors will enter the VET workforce with little formal teaching experience, the Business Council believes the more significant supervised delivery would be beneficial. Further, it will provide an opportunity for TAE assessors to get a clear indication of whether the student has the skills to be competent in a classroom setting.

In relation to the preferred length of time for the practical component, the Business Council supports the PC's recommendation that:

'at least two consecutive sessions of supervised delivery be amended to a total of at least four, and for each to be of at least 60 minutes duration (including feedback). In the interests of giving students time to reflect on what they have learnt, however, and to practise new skills learnt over time, it would be desirable that not all sessions be consecutive.'⁶

⁴ Productivity Commission, *Vocational Education and Training Workforce, Productivity Commission Inquiry Report*, Canberra, Australian Government, 2011, p. XLIII.

⁵ *ibid*, p.267.

⁶ *ibid*, p.268.

VET professional association

The discussion paper indicates the establishment of a professional association may improve the professionalism and knowledge base of the VET sector. It asks:

Discussion question 3	<p>Is there a need to establish a national professional association for Australia's VET system?</p> <ul style="list-style-type: none"> 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?
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The Business Council does not support the proposal to establish a national VET professional association because we believe the model is inappropriate for VET and therefore unlikely to add value to the sector.

The industry-focused nature of VET makes the role of a VET practitioner notably different from that of a university lecturer or school teacher. VET trainers are 'dual professionals' – an industry representative and a vocational trainer – because their role requires them to use both industry and education skills to train individuals. Further, as many VET trainers will have entered VET with an existing professional identity, they fall along a spectrum in terms of their readiness to identify themselves as 'teachers'. This is vastly different from most school teachers and university lecturers, who will primarily identify with the educational sector.

The sector's close connection to industry is one of VET's strengths and is vital to help ensure that training meets industry needs and expectations. A move to further 'professionalise' the workforce into being a more traditional type of education workforce risks shifting the sector away from being strongly industry-focused.

The value of creating a national VET professional association is unclear

The discussion paper asks:

Discussion question 5	What value would a VET professional association, or associations, add to the VET sector?
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A range of bodies already perform many of the functions that would be fulfilled by a national professional association so it is unclear what value it would add to the sector.

Professional associations often play a role in developing capability frameworks. Under the new arrangements for Training Package development, PwC's Skills for Australia, will develop the standards for the VET workforce through its work on the TAE Training Package.⁷

There is already an established process for recognising best practice and innovation in the sector. All of the states and territories organise annual state training awards which have a teacher/trainer category. State and territory finalists then compete at Australian Training Awards which are organised by the Department of Education and Training.⁸ As

⁷ PwC, 2016, *Skills for Australia*, <<http://www.skillsforaustralia.com/>>, accessed 29 February 2016.

⁸ Productivity Commission, op. cit., p. 290.

the Australian Training Awards have been running since 1994⁹, it is unlikely any promotion/recognition program run by the professional organisation would have the same impact or recognition.

The NCVET is a well-respected research body that has an ongoing research program relating to VET teaching and learning. This type of research could easily be distributed and promoted to trainers through existing professional networks.

Further, there is a range of existing bodies that provide support for professional development, including the VET peak bodies (Australian Council of Private Education and Training [ACPET] and TAFE Directors Australia [TDA]), RTOs and state and territory governments.

However, the PC inquiry into the VET workforce identified professional development as an area of weakness. The report states:

[there are] several reasons why, at present, PD is deficient: weak links with performance management in TAFEs; jurisdictional differences in awards and enterprise agreements; lack of a capability framework and associated professional development options; inadequacy and poor targeting of current funding; and over-reliance on industry release to maintain industry currency.¹⁰

A professional association will not address many of these issues. For this reason, the report rejected the proposal to create a new VET body and recommended 'governments collaborate to explore how the quality framework's requirements could include requirements for trainers and assessors to continue to develop their capability.'¹¹

Since the PC's inquiry, a new set of VET standards have come into place. Standard 1.16 specifies that:

'the RTO ensures that all trainers and assessors undertake professional development in the fields of the knowledge and practice of vocational training, learning and assessment including competency based training and assessment.'¹²

The regulator should continue to hold providers accountable to this standard.

Where systemic issues or capability gaps are identified, the government may choose to provide additional funding for the development of resources to upskill the VET workforce. However, this should be done on a case-by-case basis rather than committing itself to funding an entirely new body.

The Business Council believes the government has a role to play in requiring the VET sector to align professional development to government priorities and policies (without attracting additional government funding). For example, in response to the 2011 *National Foundation Skills Strategy for Adults*, governments agreed to build the capacity of the

⁹ Australian Government, *Australian Training Awards*, <<http://www.australiantrainingawards.gov.au/>>, accessed 29 February 2016.

¹⁰ Productivity Commission, op. cit., p. 303.

¹¹ *ibid*, p. LVI.

¹² Australian Government, *Standards for Registered Training Organisations (RTOs) 2015*, <<https://www.comlaw.gov.au/Details/F2014L01377>>, accessed 29 February 2016.

VET workforce to deliver foundation skills by requiring all VET practitioners to complete specific language, literacy and numeracy units in the TAE Training Package.

Training memberships

The discussion paper asks:

Discussion question 5	Should VET teacher and training membership with a professional association be mandatory or voluntary?
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The discussion paper proposes extending state and territory school teacher registrations into the VET sector. This would make the professional association membership mandatory and require trainers to meet professional development requirements.

The VET regulatory framework covers many of the traditional functions of a registration body (for example, determination of minimum standards for trainers and assessors, accreditation of VET courses, and complaints mechanisms). However, a key difference between VET regulation requirements and the school teacher registration requirements is that professional development requirements are not mandated.

As VET's regulatory settings cover many of the functions of a registration body, the Business Council believes having a mandatory training membership would be a high-cost approach to improving professional development and the status of the workforce. It might also create a barrier to entry.

This is consistent with the PC report which recommended that 'governments should not endorse or contribute funding to a registration scheme for VET trainers and assessors'.

If the training membership was voluntary, it would confer benefits almost solely on its members and, as such, should be member-funded. This reflects the arrangements currently in place with existing VET professional associations.

Increasing industry confidence in VET

Role of industry in assessment

The discussion paper asks:

Discussion question 8	What role should industry, for example, employers and industry organisations, play in validation of assessment?
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By providing feedback on Training Packages, employers and industry groups play a vital role in shaping the content that will be assessed in a VET qualification. However, as the assessment system is locally managed at RTO level, there is often little or no employer or industry input into the assessment process or outcomes. Further, beyond student and employer surveys, there is little external validation by industry that the quality of training being provided is adequate.

For example, an NCVET study which looked at assessment practices in Certificate III qualifications in aged care, electro-technology (electrical) and business, found it was 'rare for providers to obtain any direct assistance from employers for the validation of assessment tools' except in cases with mandatory employment requirements

(e.g. apprenticeships). Instead, the majority of providers used industry networks, workplace visits and industry representation on reference groups or assessment panels to determine whether their training (including assessments) was meeting industry needs.¹³

Similarly, ASQA’s strategic review of the Certificate III and IV in Aged Care found only a few of the RTOs involved in the review had assessment materials that had been developed in consultation with industry.¹⁴

The Business Council believes employers should play a stronger role in the validation of assessment. The majority of employers have the knowledge to assess a learner’s competence and having them involved helps ensure their views are taken into account and accurately reflected back into practice. This, in turn, is likely to raise the quality of training and assessment.

This participation can take many forms. It can include providing feedback on assessment processes and tools, giving advice on whether the scope and difficulty of assessments is set at an appropriate level, helping jointly create assessment tests, endorsing assessment practices (which are then administered by a third party), and in some instances, partnering with RTOs to conduct the assessments. The most effective way to better engage industry in assessment processes will vary depending on the industry, the type of training, the learner cohort and mode of delivery.

Industry organisations do not have the relevant knowledge to engage in assessment validation.

External assessment and independent assessment of VET qualifications

The discussion paper asks:

Discussion question 9	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 deemed competent?
	If independent validation is to be risk-based, then what factors should be considered in the assessment of risk, for example, public safety, RTO profile, student cohort?

It is important to recognise that some types of industry involvement, for example external assessment, are likely to generate higher costs to maintain and implement (for industry and for government alike), while also increasing the regulatory burden on providers.

Further, management and verification of external assessments might also present challenges. For example, unscrupulous providers may simply ‘game’ the requirement for external assessment or low-quality providers may use an ineffective approach to meet new requirements.

13 S. Gemici, S. Halliday-Wynes, J. Misko, & J. Stanwick, *Quality of Assessment: Practice and Perspectives*, NCVET, Adelaide, 2014, p.23.
 14 Australian Skills Quality Authority, *Training for Aged Care and Community Care*, Australian Government, Canberra, 2013 p. 56.

As such, the Business Council believes a principles-based approach should be used to determine which qualifications should be subject to external assessment. The regulator is best placed to determine which industries are high-risk. However, the Business Council believes industries/occupations where there are public safety concerns, industries where there are systemic problems with assessment procedures or persistent high levels of non-compliance should be subject to more resource-intensive assessment procedures, including external assessment.

In all cases, independent validation needs to be supported by risk-based enforcement so providers who consistently meet or exceed standards have a level of earned autonomy, while high-risk entrants (e.g. new VET providers) are monitored more closely by ASQA.

Industry's capacity to be involved in assessment validation

The discussion paper asks:

Discussion question 8	<p>Do employers or industry groups have the skills required to fulfil this role in validating assessment? Is assessment such a specialised skill that industry either do not want to get involved or should not get involved?</p> <ul style="list-style-type: none"> • Is there a need to build industry capacity and capability regarding involvement with training and assessment? If so, how might this be done?
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Industry's capacity to be involved in assessment validation will inevitably vary between industries. A NCVET report on quality assessment practices found the most frequent issue impeding employers' involvement in assessment was the employers' lack of time to commit to being involved in the process (45.4% of respondents). A further third of respondents identified employers' lack of knowledge about what was in the units of competency, and their inability to understand the language used in the Training Packages and by the assessors or trainers themselves as key issues.¹⁵ However, NVCER's findings may not be indicative of employers in other industries.

The Business Council believes it is the government's role to determine whether there are capability gaps preventing industry from taking on a deeper role in VET assessment. If widespread gaps are identified, government should play a role in helping employers and industry upskill.

Ensuring training products reflect industry needs

The discussion papers asks:

Discussion question 10	<p>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?</p>
	<p>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?</p>

¹⁵ S. Gemici, S. Halliday-Wynes, J. Misko, & J. Stanwick, J., op. cit., p.24.

Business Council members have raised concerns graduates are not ‘job-ready’ and that VET qualifications do not necessarily teach the broader skill sets they are looking for. The Business Council thinks this is, in part, because there isn’t a common understanding of VET systems outcomes or what industry means by ‘job ready’.

The Business Council believes being ‘job ready’ is a combination of values, behaviours and skills. It is industry’s role to define the required values, behaviours and skills expected of graduates (noting that the level of skill needed, particularly around literacy and numeracy, will vary according to the skill level of the job). The government should then require the VET sector to ensure Training Packages reflect their views. In this context, the creation of additional resources outlining graduate expectations should be developed at industry’s discretion, without government funding.

Business Council members have indicated they want workers to have a broad set of skills including: occupation-specific skills, foundation skills, digital literacy skills, and cognitive skills such as problem solving and collaboration, to support high-performing workplaces and allow workers to maximise the value of technologies. Having a workforce with a broad base of skills means workers are able to learn quickly and have transferable skills that respond better to changing labour market and technology conditions.

The Business Council considers the structure of Training Packages is too rigid and prescriptive to deliver these educational outcomes. As such, it recommends broadening the definition of ‘competency’ across all VET qualifications to include four domains of competence – cognitive, functional, personal and ethical. This will rebalance generic and technical skills in Training Packages and help ensure students gain a broad-based qualification.

Independent reassessment of qualifications

The discussion paper asks:

Discussion question 9	Should high-risk student cohorts be required to undergo independent reassessment of industry agreed sets of competencies before being issued with their qualification?
	Would the burden be too great if independent reassessment were required for an entire student cohort, and should independent reassessment apply to a sample of students instead? If so, how could a sample of students be chosen?

The Business Council does not support the proposal to require high-risk students to undergo independent reassessment of industry-agreed sets of competencies before being issued their qualification or the proposal to require an entire student cohort to undergo independent reassessment. The proposals imply that a sizeable cohort of students may have been incorrectly assessed as competent, although no data is given. If this is the case, it is likely some providers are not complying with the standards.

Implementing a scheme to have students’ qualifications independently reassessed will address the symptoms of poor-quality training but it will not address the problem of non-compliant RTOs. As such, in the long term the scheme is unlikely to improve the quality of VET assessment.

Independent reassessment will unnecessarily lengthen the assessment process, resulting in higher delivery costs and an increased regulatory burden for all providers. If a learner has been assessed as competent, they should be issued their qualification. This position is supported by the VET standards' principles of assessment which state that, 'any assessment decision of the RTO is justified, based on the evidence of performance of the individual learner.'¹⁶

The proposals are also inconsistent with VET's risk-based regulation model which recognises providers that consistently meet or exceed standards with a level of earned autonomy.

Further, the Business Council questions the appropriateness of classifying students as 'high-risk'. It is unclear how the regulator would determine who is a high-risk student – students' attributes are inconsequential to the quality of their assessment if the assessor adheres to the assessment standards.

A better approach would be to focus on options to fix the problem. This means the regulator should identify which providers are non-compliant and take action to ensure any future assessments they conduct meet the standards and Training Package requirements. If low-quality providers are removed from the sector, the vast majority of poor-quality assessment will cease. This will then allow government and the regulator to focus on legitimate providers who are not delivering high-quality assessment.

It is worth noting an equivalent process does not exist in the higher education sector, despite the fact it has also received criticism for the inconsistent quality of student outcomes.

Alternative proposals to increase industry confidence in VET

The Business Council believes the options proposed in the discussion paper fail to address two main issues that are reducing industry's confidence in VET – a lack of transparency and concerns about inappropriate provider behaviour.

The Business Council has previously advocated for widespread reform of the VET system through the creation of a broad tertiary model, with an entitlement to skilling as its centrepiece. It is intended the design of the tertiary model would increase the transparency of the VET market and introduce higher tests for access to government funding to limit the risk of inappropriate provider behaviour.

Further details are outlined below.

Market information

The Business Council believes a key strategy to increase industry confidence in VET (and improve the overall quality of training) is to vastly increase the amount of market information available to support student choice.

¹⁶ Australian Government, *Users guide to the standards for registered training organisations 2015, Clauses 1.8 – 1.12*, <<http://www.asqa.gov.au/users-guide-to-the-standards-for-registered-training-organisations-2015/about-the-standards-for-rtos/standard-one/clauses/clauses-1.8--1.12.html?>>, accessed 1 March 2016.

The VET entitlement gives consumers full power to determine what type of training or which provider is likely to create the best post-school opportunities for them. However, the capacity of students to make good training decisions is dependent on them having access to a wide range of labour market information and course-level data.

The information currently available does not provide the detail or breadth of information required. Students are unable to get a true indication of the value of training or compare courses or providers on price, training quality and labour market outcomes. This has limited the market power of the entitlement, and therefore the market power of the learner and business.

This lack of information has also enabled poor-quality providers to flourish, which has resulted in some government funding being used inappropriately. This has reduced industry's confidence in the system and threatened the viability of the VET sector as a whole.

It is therefore critical that the market information is improved so areas of market failure and poor performance can be identified. This, in turn, will drive quality improvements.

In our submission to the Victorian Government's VET Funding Review, the Business Council recommended the Victorian Government greatly expand the range of data available to students to include:

1. Course-level market information

- Funding information
- Average length of time a course takes to complete
- Careers the course leads to
- Average graduate pay and longer-term potential earnings
- Employment/unemployment rate and job vacancy rate by field

2. Course-level provider information

- Course eligibility for VET FEE-HELP
- Course duration
- Delivery mode
- Number of students in the course
- Module completion rates
- Course completion rates
- Employment outcome rate for the course
- Number of students at the provider

- Provider's overall completion rate

The Business Council recommends the Australian Government require all providers to publish this range of information to ensure the market has arrangements in place to support consumers to provide public feedback on poor provider behaviour. This will help consumers make informed training choices, and over time, will help restore industry confidence in the system.

Higher tests for access to government funding

When the VET entitlement was introduced, the minimum quality standards were initially used as a proxy for access to government funding – this is not the role of the quality framework.

In our submission to the Victorian Government's VET Funding Review, the Business Council recommended introducing new tests for providers to determine if they will be eligible to receive government funds and for the government to play a more active role in contract managing providers who are eligible to access government funding.

Since then, the Commonwealth Government has implemented tougher standards for providers offering VET FEE-HELP loans, including strengthening the assessment criteria and increased ongoing scrutiny of all training providers against the standards. The Business Council commends the government for introducing these reforms.

The Business Council believes the Australian Government should still implement our recommendation to ensure all providers accessing government funding – not just the providers offering income contingent loans – are held to higher standards and actively contract managed.

The new test will reduce the risk to the Australian Government of inappropriate provider behaviour through a higher threshold for access to government funds. This will help limit future budget exposure that is inherent in any demand-driven system. It will also send a strong price signal to students about which providers are offering quality courses and this will help restore industry confidence in the market.

There is a risk that new tests may drive quality-providers out of the system. This proposal needs to be implemented in a way that does not result in the regulatory burden falling disproportionately on small not-for-profit providers.

Regulatory reform

More effective regulation of providers will establish a base-level of quality across the VET system in terms of delivery and outcomes for individuals and employers. At the same time, higher-quality providers will be able to distinguish themselves from the minimum level through rewards of lower-impact regulation.

The discussion paper lists a range of options to strengthen the regulatory framework and regulator's powers of enforcement. This is a logical approach given RTO compliance appears to drive poor-quality assessment. However, the Business Council believes some of the options will significantly increase the compliance burden on all RTOs, increase costs to government and will result in a system that unfairly places the burden of poor assessment practices on students.

The Business Council believes any reforms to the regulatory framework must be accompanied by new tests for access to government funding and stronger contract management (discussed in the ‘higher tests for access to government funding’ section above).

Changes to the Standards

The discussion paper asks:

Discussion question 11	Should the Standards for RTOs be required to include strengthened and more specific rules around conduct of and evidence to support assessment?
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The *Standards for RTOs 2015* also require providers to ‘demonstrate that assessment is conducted in accordance with the principles of assessment and with the rules of evidence’ – that is, for sufficient, valid, authentic and current evidence to be collected. Table 1.8.1 outlines the principles for assessment and table 1.8.2 explains the rules of evidence.¹⁷

Evidence of provider performance against the standards is mixed. The NCVET study on the quality of VET assessments found that:

‘practitioners understand the requirements for gathering sufficient evidence of practical skills and underpinning knowledge to establish competency against established performance criteria in training packages. Applying this in practice presents more of a challenge.’¹⁸

ASQA’s strategic review of security training programs¹⁹, early childhood and child care²⁰ and aged care and community care²¹ found a significant amount of poor practice in assessment, much of which did not meet the principles of assessment and the rules of evidence. The reasons for RTO non-compliance were varied. In the case of child care, the wording of units of competency outlining the expectations of assessment evidence were unclear.²² For security assessors, there was no advice for assessors in the Training Package on how to determine whether evidence was sufficient and valid, to make a judgement about whether a student was competent.²³

In this context, it is hard to assess whether RTO non-compliance is the key factor driving poor assessment performance or whether it is a lack of clarity around what RTOs are required to do to meet the standards. The Business Council would be supportive of the standards being changed, if industry and RTO feedback indicates the current standards do not provide enough guidance to enable RTOs to be compliant.

¹⁷ Australian Government, *Standards for Registered Training Organisations 2015*, <<https://www.comlaw.gov.au/Details/F2014L01377>, accessed 3 March 2016.

¹⁸ S. Gemici, S. Halliday-Wynes, J. Misko, & J. Stanwick., op. cit., p.3.

¹⁹ Australian Government, *Training in Security Programs*, <http://www.asqa.gov.au/about/strategic-reviews/training-in-security-programs-2016.html>, accessed 3 March 2016.

²⁰ Australian Skills Quality Authority, *Training for Early Childhood Education and Care*, Australian Government, Canberra, 2015, p.1.

²¹ Australian Skills Quality Authority, *Training for Aged and Community Care in Australia*, Australian Government, Canberra, 2013, p.xi.

²² Australian Skills Quality Authority, *Training for Early Childhood Education and Care*, op. cit. p.1.

²³ Australian Skills Quality Authority, *Training in Security Programs*, op. cit.

Changes to RTO registration requirements

The discussion paper asks:

Discussion question 11	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?
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The Business Council does not support this proposal because it is unclear how it would strengthen the regulatory framework and it will increase the regulatory burden on all providers – not just poor performers.

A 22 June 2012 general direction from ASQA already requires RTOs to retain, and be able to produce in full at audit if requested to do so, all completed student assessment items for each student, for six months from the date on which the judgement of competence for the student was made.²⁴ Compliance with general directions is already a condition of RTO registration. It is unclear what the benefits would be of extending this period. At the same time, the proposal will increase the administrative and regulatory burden on providers.

The proposal is also inconsistent with recent reform directions to make regulation more targeted and use a risk-based model that recognises providers that consistently meet or exceed standards with a level of earned autonomy.

The role of information in effective risk-based regulation

The discussion paper asks:

Discussion question 11	How could the focus of regulation move to evaluating assessment outcomes, such as samples of students' assessment pieces, without incurring excessive costs or imposing excessive burden on RTOs?
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The Business Council believes the regulator's focus should be on ensuring quality of outcomes rather than inputs, using a range of risk indicators to actively track and monitor providers.

To achieve this, the regulator should focus on the moderation of quality across providers so that providers have a clear understanding of the quality of training expected from participation in the nationally recognised training system.

Application and enforcement of regulations and standards need to be benchmarked across and within regulators to ensure a minimal regulatory impost to maintain quality and so that providers have a clear understanding of their expectations.

However, the impact of this work will be limited unless the range of information and data available to monitor system performance and quickly recognise changes in provider behaviour is greatly increased (as recommended in the 'market information' section).

²⁴ Australian Government, *General Direction – Retention Requirements for Completed Student Assessment items*, <http://www.asqa.gov.au/news-and-media/retention-requirements-for-completed-student-assessment-items.html>, 3 March 2016.

Training-only RTOs

The discussion paper asks:

Discussion question 12	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?
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The Business Council supports competition and choice in the VET market. However, given the ongoing quality concerns in the VET sector and government's finite resources, the Business Council does not support the proposal to add training-only RTOs to the regulatory framework.

Adding an additional group will add complexity and risk to the system at a time when it is apparent the system's design is not well equipped to respond to inappropriate provider behaviour.

Enforcement

The discussion paper asks:

Discussion question 12	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 an RTO to arrange and fund external reassessment, or should additional civil penalties be created?
	To what extent should the characteristics of the RTO influence the response? Should the size of the response or the number of students involved matter?
	What role should the regulator have in communicating their activities and finding? Does current regulatory practice provide adequate transparency and disclosure, or are there other approaches to be taken?

Given that RTO non-compliance is a contributing factor to VET quality concerns, it is clear the regulator is not currently equipped to curb opportunistic or sub-standard behaviour by providers.

The Business Council believes it is vital the regulator is able to effectively sanction against breaches to create a disincentive for providers to act poorly. However, it should be recognised that the use of enforcement measures to rectify poor assessment after it has occurred will never be as effective as having a strong regulatory framework that aims to prevent poor-quality assessment from occurring in the first instance.

The discussion paper notes ASQA has not initiated any civil penalty provisions for assessment-related breaches. It also notes that civil penalty proceedings are likely to be protracted and require a significant commitment of resources. In this context, the Business Council is sceptical that additional civil penalties will be an effective mechanism to lift provider quality.

The Business Council is supportive of strengthening ASQA's enforcement capability. Any new enforcement options should adhere to the following principles:

- Enforcement activities should follow a risk-based approach.
- Enforcement activities should be proportionate, according to the seriousness of the breaches.
- Enforcement activities should be predictable and transparent.
- Enforcement activities must be efficient (for example, processes should be streamlined) to ensure they do not put an excessive burden on business.

With reference to the principles above, the characteristics of an RTO should be considered by ASQA when it is determining which enforcement action is appropriate. This means the way in which ASQA takes into account the RTO's characteristics must be transparent and consistent. It also means breaches involving qualifications that pose a risk to public safety, breaches involving a large number of students or repeated non-compliance are likely to be subject to tougher penalties. The size of the RTO is less relevant than the cost to the government or the number of students affected.

In all cases, it is important the regulator clearly documents and publishes data on its enforcement activities and findings. This not only helps ensure regulatory decisions are fair, it also provides more information to support learners to make informed choices.

It should also be recognised that the government can use non-regulatory enforcement measures to support the regulator to limit government expenditure to quality-providers. Specifically, the government should play a more active role in contract managing providers who offer government-subsidised learning and income contingent loans. This involves the real-time monitoring of expenditure and the withdrawal of access to government funding from providers who do not meet the required standards.

Qualification cancellation

The discussion paper asks:

Discussion question 13	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
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Under its current legislation, ASQA has broad power to cancel qualifications where it is satisfied of certain matters, including where it is satisfied the RTO did not provide the assessment necessary to demonstrate the student has achieved relevant learning outcomes. However, the discussion paper notes there is no prescriptive guidance on when ASQA should cancel, or consider cancelling a qualification, or guidance on whether an opportunity for reassessment should first be provided.

The Business Council is strongly against the proposal to increase ASQA's use of its cancellation power. As noted above, enforcement actions should be predictable and transparent. The lack of guidance on cancellations means this is currently not the case. Before any consideration of how often ASQA should use its cancellation power, agreement should be reached on the scope of the power.

This is particularly important given the fact the cancellation of a qualification will disproportionately impact the learner – by stripping them of their qualification and in some cases ‘burning’ their VET entitlement so they cannot undertake further government subsidised training – even though they are generally not at fault for the inadequate assessment.

Further, as discussed in the ‘qualification reassessment’ section, this option does not address the underlying problem causing the poor-quality assessment – the subset of low-quality providers operating in the sector. The Business Council urges the government to focus on removing sub-standard providers from the system rather than implementing options that will only address symptoms associated with poor provider performance in assessment.

It is worth noting the Tertiary Education Quality Authority does not have a similar cancellation power, despite the fact there is also a considerable amount of public risk associated with incorrect assessment in the higher education section (for example, the incorrect assessment of a doctor could risk public safety). As such, any move to increase the number of cancellations by ASQA represents a large and unfair difference in the way VET and higher education students may be treated.

Qualification reassessment

The discussion paper asks:

Discussion question 13	Should a scheme for the reassessment of students be implemented? If so: <ul style="list-style-type: none"> • Who should bear the cost of reassessment and any gaps 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? • 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 reassessment or cancellation scheme? Should membership be mandatory for all RTOs? Who should operate such a fund and who should bear the cost of its operation?

The Business Council does not support the proposal to establish a reassessment scheme for students as it will generate higher costs to maintain and implement for both industry and government.

The discussion paper has not presented any data on the number of students that would require reassessment so it is hard to determine whether there is a ‘true’ need for such a scheme. The inclusion of the proposal indicates the government thinks it is likely a large number of students have been, or are at risk of being, incorrectly assessed.

In line with our response in the ‘qualification reassessment’ section, if this is the case, the regulator should identify which providers are non-compliant and take action to ensure any future assessments they conduct will meet the VET and Training Package standards.

Any costs associated with reassessment should be borne by the relevant RTO as they are responsible for the inadequate assessment – it is not the government’s responsibility to

shoulder the costs of addressing poor-quality VET assessments. If the RTO is out of business or bankrupt then the costs should be recouped, where possible, through a tuition assurance fund.

Tuition assurance fund

The discussion paper asks:

Discussion question 13	Should a tuition assurance fund be set up to further protect students in Australia's VET sector, particularly in the context of any reassessment or cancellation scheme? Should membership be mandatory for all RTOs? Who should operate such a fund and who should bear the cost of its operation?
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In line with our previous response, in the absence of any data on the number of students requiring reassessment, the Business Council cannot support the proposal to establish a mandatory tuition assurance fund for reassessment purposes as it will increase costs to providers and governments alike.

TDA and ACPET already run government-approved tuition assurance schemes to help ensure members meet the requirements of the *Higher Education Support Act 2003*. Broadly speaking, the funds help students of failed providers by finding them alternative places or by refunding fees for unfulfilled training. There may be scope for these groups to expand the role of their existing funds, if they believe there is a need.

Any costs associated with expanding existing tuition assurance funds, or establishing and operating a new tuition assurance fund, should be member-funded.

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