REVIEW OF THE STANDARDS FOR THE REGULATION OF VOCATIONAL EDUCATION AND TRAINING

Issues Paper

October 2012

1.   Introduction

The National Skills Standards Council (NSSC)

Established on 1 July 2011, the NSSC is a committee of the Standing Council on Tertiary Education, Skills and Employment (SCOTESE), which is one of a number of Standing Councils that report to the Council of Australian Governments (COAG).

One of the core functions of the NSSC is to provide expert advice to SCOTESE on the national standards for the regulation of Vocational Education and Training (VET), including the standards for the regulation of Registered Training Organisations (RTOs)[1] and the standards for the operation of the regulators of VET.

The Review of the standards for the regulation of VET

SCOTESE has asked that the NSSC, as a priority, undertake a broad ranging review of the standards for the regulation of VET, focusing on issues of quality. The NSSC commenced its review in June 2012, releasing a public Consultation Paper and holding roundtables with key stakeholders.

The NSSC considers that reform of the standards for the regulation of VET is required, a position that is supported by responses to the Consultation Paper and feedback from the roundtable discussions. The main area identified by stakeholders as requiring significant change to the standards is that relating to ensuring quality training and assessment.

Scope of the Review

As outlined in the Consultation Paper, the scope of the Review includes the national standards for the regulation of VET, which are considered to include standards for RTOs, Registering and Course Accrediting Bodies, and Data.[2]

Importantly, the NSSC is cognisant of the potential impact of the Review on other components of the broader regulatory framework for the VET sector (e.g. Training Packages, the Australian Qualifications Framework, criteria for publicly subsidised training, Education Services for Overseas Students Act requirements) and their linkages to the standards for the regulation of VET. However, it will not seek to re-prosecute the content of these components but rather consider how they align and link with the standards for the regulation of VET.

Outcome

The outcome of this review will be a new set of standards for the regulation of VET, to be considered by SCOTESE in late 2013, for implementation from 2014. These standards will be: appropriate for ensuring quality outcomes; clearly documented; capable of being consistently interpreted; and able to be effectively implemented.

Issues Paper

The Issues Paper identifies the issues that the NSSC proposes to address as part of the Review. This Paper has been developed based on a variety of information sources, most notably: the 114 submissions received to the NSSC consultation paper (a summary of which is available from the NSSC website); feedback from key stakeholders at the roundtables; and a desktop scan of other regulatory models in Australia and internationally.

The Issues Paper has been developed primarily to inform the development of the NSSC Position Paper and will be provided to key NSSC stakeholders[3] and published on the NSSC website for

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[1] The standards for the regulation of VET are defined as both the standards within the Australian Quality Training Framework (AQTF) and NVR VET Quality Framework. Refer to the NSSC website for further details.
[2] See Appendix A for a list of the current standards.

information. The Position Paper will undergo extensive consultation, with the position of the NSSC tested across the sector prior to being finalised and used as a basis to draft the standards.

For further details of the Review approach and estimated timeframes, please refer to Appendix B.

Principles guiding the Review

In developing the standards for the regulation of VET, it is proposed that the following set of principles provide the foundation and guidance for the Review:

- **Quality** – The standards will assure quality in the delivery and assessment of nationally accredited training.

- **Student focussed** – The standards will ensure students and industry are confident that students have the appropriate skills and knowledge required for employment and further education.

- **Simplicity** – One set of national standards for the regulation of VET, which reduce unnecessary duplication with other regulatory frameworks for RTOs, and are appropriate to the range of RTOs.

- **Consistency** – Stakeholders will be able to consistently interpret each standard, and able to implement within their individual circumstances confident that there is a shared understanding of the meaning of the standards.

- **Transparency** – Standards will facilitate a more transparent VET sector, with information on the VET sector and individual RTO performance more easily accessible, appropriate, reliable and of a high quality allowing informed decisions to be made by students, industry, governments and RTOs.

- **Responsive** – The standards support a responsive regulatory system, which ensures accountability at all levels of the VET sector.

- **Coherence** – Each standard is clear and easily understood in its own right as well as part of a broader standards framework.

2.   Issues to be considered in the Review

The NSSC has identified a series of key issues, based on stakeholder views, to be the focus of the Review. These are, in no particular order of priority, the following:

- Issue A: The purpose of the standards

- Issue B: Quality of training and assessment

- Issue C: Engagement with industry

- Issue D: Reducing unnecessary regulatory duplication

- Issue E: Responsive regulation

- Issue F: Consistent interpretation and implementation of the standards

- Issue G: Transparency of the VET sector

In addition to a description of each issue, the following section provides suggested approaches to addressing each issue through the regulatory standards. The NSSC acknowledges that the approaches described will be subject to further investigation around their utility, practicability and ability to be effectively regulated. It also acknowledges that regulatory standards can only go so far to address the issues described, and that not all of the suggested approaches can be adopted together (i.e. some are mutually exclusive).

Stakeholder comment

Whilst the Issues Paper is primarily a document to inform the development of the NSSC Position Paper (which will undergo extensive consultation), the NSSC welcomes comment from stakeholders in relation to the following:

- Have the right issues been identified?

- Are there any issues missing?

- Are any issues described not considered to be a priority for the Review?

Issue A: The purpose of the standards

The standards for the regulation of VET do not clearly define their purpose, either at the whole standards framework or at the individual standard level. The NSSC considers that there is a need to clearly articulate the purpose of the standards, both as a whole and for individual standards. This is considered to be essential for effective regulation of the VET sector, supporting a shared understanding and consistency in the interpretation and application of the standards by regulators, RTOs, auditors, industry and other key stakeholders in the VET sector.

Whilst the current standards are considered to be focussed on enabling 'quality', this is not clearly defined. Further, there are differing views as to whether quality is to be assured through outcome standards or input and process standards or a combination of both. Whilst the existing standards state that they are outcomes focussed, many stakeholders argue that the current regulatory approach is primarily focussed on inputs and processes, particularly paper based templates and tools.

Stakeholders support the concept of defining 'quality' and making 'outcomes focussed' a key feature of the standards. However, there is an acknowledgement that outcomes are difficult to define and reliably measure and that there has traditionally been reliance within the VET sector on using inputs, outputs and processes as an indicator of outcomes. This is a particular challenge for applicants seeking registration as an RTO, who are generally unable to provide evidence of delivering high quality training and assessment outcomes.

Suggested approach

Purpose

A purpose statement could be included within the standards, applied across the broad standards framework and tailored to each individual standard. A proposed purpose statement for the broad standards framework would be along the lines of:

> *"A national set of standards for Australia's VET system that ensure the provision of consistent and appropriate training and assessment leading to high quality outcomes for students and industry."*

Outcomes focus

The NSSC recognises that tensions exist between processes/inputs and outcomes, however, it considers that both can be combined to support quality assurance and regulation of the VET sector.

It may be necessary to firstly identify what outcomes VET is trying to achieve and using this to guide the development of the standards for the regulation of VET. Consideration may also be needed to define what constitutes 'quality' in the context of VET and how can this inform the development of standards.

Further work on the development of reliable outcome measures is required, once the standards have been defined. This will include developing processes which more accurately track student pathways and capture post-training outcomes for students and employers.

Issue B: Quality of training and assessment

Confidence in VET is highest when an RTO, a student, and industry have a shared understanding of what a program of learning entails and what assessed outcomes mean in terms of workplace performance.

The standards therefore need to focus on the core function of training providers - that is, the provision of quality training and assessment. Business processes to support training provider viability and sustainability, while acknowledged as important, should not overshadow the real business of VET.

The new standards need to have an increased focus on assuring nationally consistent, high quality training and assessment. This may encompass a broad range of approaches across service delivery relating to the educational and vocational competence required within RTOs for them to effectively lead, train and assess student competence. For example, the standards should address the adequacy of learning achieved given the inevitable differences in training and assessment.

Suggested approach

Addressing the issue of ensuring high quality training and assessment will require a number of strategies and approaches to be developed and implemented. A number of suggested approaches are outlined below:

- Develop standards which consider an RTO's academic leadership and/or business models to address issues of educational consideration and practice, ensuring an RTO has leadership with sufficient experience and background in both VET pedagogy and industry expertise to develop and implement quality teaching and learning strategies.

- Develop standards to ensure RTOs have the capacity, experience and resources to provide high quality training and assessment, including Recognition of Prior Learning, meeting AQF requirements (both qualification outcomes and volume of learning) and providing access to relevant workplace training and assessment.

- Identify and develop teacher, trainer and assessor standards based on the existing standards but expand beyond just competency and qualification requirements. Aspects of the standards could address the following issues:

  - vocational competency maintained by ongoing professional development.

  - professional practice standards that specify requirements for initial and ongoing professional development for teachers, trainers and assessors.

  - professional competency that could be enhanced by identifying the Certificate IV in Training and Assessment as the minimum entry level qualification with a requirement that VET professionals progress to a Diploma of Vocational Education and Training or the Diploma of Training Design and Development within a specified timeframe.

- Identify mechanisms to increase the scrutiny and monitoring of providers that deliver the Certificate IV in Training and Assessment.

- Ensure the standards contain the ability to implement a model/s of external validation of assessment, which may be informed by the outcomes of the pilots being undertaken within jurisdictions as part of the National Agreement for Skills and Workforce Development.

Issue C: Engagement with industry

VET is an industry led system, with industry engagement and confidence in the national training system key to enabling a productive and highly skilled workforce. Strengthening industry's involvement will provide greater assurance of high quality training and assessment outcomes being achieved.

Currently, industry is engaged with the national training system in two key ways – firstly, industry defines the skills and knowledge required to perform effectively in the workplace, which are translated into competency outcomes described within Training Packages and Accredited Courses. Secondly, RTOs are also required to develop training and assessment strategies in consultation with industry.

At its meeting of the 5 September 2012, the NSSC agreed to recommend draft Standards for Training Packages to SCOTESE for its endorsement. The Standards are the culmination of a significant body of

work to develop a new organising framework for Training Packages based on reforms endorsed by Ministers in 2009 under the joint *COAG/NQC VET Products for the 21st Century Report*.

The draft Standards provide a framework to simplify and streamline Training Packages to reflect what industry, RTOs and governments want and need – clear and straightforward content, and more flexible and adaptable qualifications.

Whilst the work of the draft Standards for Training Packages was conducted separately to the broader review of the standards for the regulation of VET, relevant outcomes of this Review will feed into any revisions to the Standards for Training Packages.

Further, the NSSC will consider how the relationship between the standards for RTO registration and Standards for Training Packages can better promote effective engagement between industry and training providers in the implementation of training products.

Suggested approach

There is a need to identify potential approaches to this issue, and particularly how to gain both sustainable and more local engagement from different size enterprises. The approaches may require both high-level and bottom-up strategies, such as:

- Develop standards which define the role of industry in respect of training and assessment. The approach may identify the role of industry in assessment and consider the specific industry knowledge and/or expertise auditors may require.

- In collaboration with industry, develop a set of criteria to be considered when developing Training Packages that support quality training and assessment by RTOs.

Issue D: Reducing unnecessary regulatory duplication

The standards need to acknowledge that providers operate under a variety of regulatory and compliance systems, with strong support received in the consultation process for streamlining the standards to reduce unnecessary regulatory duplication, where appropriate. Examples of other regulations that may be applied on an RTO include: contractual requirements for public VET provision; Education Services for Overseas Students Act requirements; Higher Education standards; VET FEE-HELP; student visa obligations; and Australian Securities and Investments Commission (ASIC) requirements.

Suggested approach

Further work is required, building on existing intelligence, to identify opportunities where alignment or harmonisation across regulatory standards is possible; particularly in relation to:

- Financial viability.

- Governance requirements (e.g. fit and proper person requirements).

- Insurance obligations.

- Compliance with legislation (e.g. OHS, privacy).

There is also a need to clarify what additional consumer protection measures are required for domestic VET students over and above measures afforded to them under existing consumer protection law. This needs to take into account the tuition protection arrangements provided for international VET students and be informed by advice from governments regarding any policy decisions on tuition assurance for domestic VET students.

Issue E: Responsive regulation

There is commitment by VET regulators to embrace and enhance good regulatory practice, as evident in their current operational directions.

The development of new VET regulator standards for application by VET regulators will support regulators to further implement a regulatory model that is: responsive, transparent, accountable, and adopts a risk-based approach. This means any action taken by the regulator will be responsive to the individual circumstances of the provider upon which it is being applied. It is important that where quality is deficient and efforts to improve to an appropriate level have been unsuccessful, the regulatory standards and legislation enable regulators to take appropriate regulatory action (e.g. sanctions, de-registration).

The NSSC envisages the possibility of VET regulators moving towards a regulatory approach that uses educative strategies and supports RTO performance through recognising and reinforcing good practice. The incorporation of these elements into a regulatory approach would give the regulator a stronger role in leading and garnering commitment across the sector to the pursuit of quality training and assessment outcomes, rather than activity driven primarily by compliance to regulations or standards. In evolving in this way, regulators may further enable opportunities of self-assessment by an RTO, and further use the collective knowledge and experience of the broader regulatory community.

A concern raised throughout the consultations to date, and highlighted by a number of recent RTO de-registrations, is that entry into the market is currently too easy. A regulatory model and underpinning standards need to ensure that RTOs, upon entry into the market, reflect the sector's expectations of the level of quality required to operate effectively as an RTO. This is a challenge for new applicants for registration, as applicants are only able to demonstrate their capacity to deliver, and not evidence of delivering, quality training and assessment.

Another key review issue is whether, within the standards framework, RTO standards are to set or benchmark an acceptable level of quality elements against which RTOs can be assessed as compliant, or if they should go further to benchmark against what is deemed to be a higher level of quality.

Suggested approach

Elements of a regulatory framework

A regulatory framework may include the following elements:

- A regulatory approach that incorporates education and support of RTO good practice, and where the regulator promotes a commitment to high quality training and assessment amongst RTOs.

- Self-assessment by an RTO – to be used for some aspects of regulation, but not as the basis of the regulatory approach.

Entry into the market

A potential model for RTO standards involves provisional initial registration for RTOs, subject to a probationary period. During probation there would be restrictions placed on the RTO that may include limitations on scope and scale of activity, external assessment of students prior to issuance of full qualifications, and monitoring of teaching and assessment services. Probation could either be for a set period of time, or be subject to an audit that may issue either a restricted or full registration. Such a probationary period could ensure that RTOs that do not deliver on their strategies to meet the standards are not allowed to achieve full registration.

Acknowledgement of high quality RTOs

RTOs that have achieved a high standard of practice could be recognised either informally through a risk-based regulatory approach that responds to the specific circumstances of each RTO, or formally through a two-tiered approach to regulation where RTO registration is awarded under either benchmark or higher standards.

RTOs that have achieved a higher standard of practice would be subject to regulation that ensures that quality is maintained, but is less intensive in focus than for RTOs who have achieved a benchmark standard.

The role of the regulator could be to assess their compliance against the benchmark standards, or to support and encourage RTOs to develop to the higher levels. It would also need to be determined whether an RTO can opt in or out of the higher-level audit process, or whether every audit was assessed on a continuum from the acceptable compliance benchmark to the highest performance level.

Whilst the assessment of higher level of performance would primarily be to support effective and responsive regulation, it may have other benefits for an RTO (e.g. marketing, access to public subsidies).

Issue F: Consistent interpretation and implementation of the standards

There is a perceived lack of consistency in the interpretation of the standards across the VET sector, including by RTOs and regulators, particularly during the audit process. The NSSC aims to improve the ability for the standards to be consistently interpreted and implemented, enabling a shared understanding of registration expectations. The aim is for the standards to be written in clear and concise language that is free of jargon, presented in a user-friendly format, and that is streamlined for students, industry, RTOs and auditors.

While these changes should lead to improved and more consistent compliance outcomes and audit findings, the NSSC does not envisage a regulator applying the same solution to every RTO regardless of the circumstances and context. However, it is important that RTOs receive similar interpretation of the standards, and feel confident acting on the standards, no matter which auditor or regulator is engaged in the process.

Suggested approach

- Develop and adopt one set of standards which are applied nationally, no matter the regulator. The standards will be easily accessible either on-line or in a printable format, and promote user-friendliness by limiting the number of reference points external to the standards.

- Improve the organising framework by having:

    - No separation between conditions and standards.

    - Clearer linkages within standards and to other regulatory standards (e.g. Training Packages, AQF, etc).

    - Reviewing the Draft National Standards of Disability Services and NZQA as possible examples to consider for modelling the framework.

- The VET regulator standards, in resolving issues of inconsistencies, could include standards for auditors which identify protocols and / or a code of conduct governing their work.

- Develop guidance material to support the interpretation and implementation of the standards, resolving where the responsibility for this should lie either with the NSSC, VET regulators or elsewhere.

Issue G: Transparency of the VET sector

A COAG directive identified the need for greater transparency in the VET system to support informed choices by employers and students. Mechanisms are required to ensure there is reliable and consistent information on the VET system to enable governments to effectively target funding, students to make an informed choice of training providers and keep track of their training, and for businesses to select training providers that best meet their needs.

The National Partnership Agreement on Skills Reform includes a commitment to three key national transparency initiatives – Unique Student Identifier (USI), Total VET Activity (TVA) and the MySkills website. The Commonwealth Government is progressing these three initiatives under the auspices of SCOTESE, and to support their implementation the standards will require amendment prior to the finalisation of the Review. The NSSC has agreed that any decisions made by SCOTESE to amend the standards to support the implementation of national transparency initiatives can proceed in advance of, and will be reflected in, the outcomes from the Review.

Suggested approach

Outcome indicators

It is intended that the new standards will require some form of mechanism to measure compliance that validly and reliably represents the performance of RTOs. It is anticipated that these new indicators will build on and possibly replace the existing quality indicators for RTOs.

This information may then be used to support greater transparency in the VET sector through being made publicly available to students and industry (e.g. MySkills, NCVER, VET regulators).

Publication of audit outcomes

For the VET regulatory system to be open, transparent and accountable, there may be a need to provide students, industry and governments with information about RTO performance. The recommendations made by the Productivity Commission 2011 Report into the VET workforce, identify the possible benefits of Regulators publishing information on audit outcomes for each individual RTO.

However there are concerns which should be addressed if the Review identified the benefit of publishing audit outcomes, including identifying what information could be published, where it would be published, and when.

VET workforce data

A VET workforce data standard that can collect nationally consistent information regarding the size and characteristics of the VET workforce could be developed, which in turn may strengthen knowledge about the sector for use by regulators, governments and to inform workforce planning and developmental activities.

3. Next steps

The Issues Paper, including any feedback received, will be used to inform the NSSC's development of the Position Paper. The Position Paper will collectively reflect on the proposed solutions described in the Issues Paper and identify what the NSSC considers to be the activities required to address each of the issues identified. The Position Paper will undergo extensive consultation, with feedback received to be used as a basis for the drafting of the standards.

Information about the Review can be found on the NSSC website, including regular progress updates.

Any queries regarding this Issues Paper can be sent to nssc_standards_review@natese.gov.au.

Appendix A – Standards for the regulation of VET

RTOs:

- Australian Quality Training Framework (AQTF) Essential Conditions and Standards for Initial Registration
- AQTF Essential Conditions and Standards for Continuing Registration
- Standards for National VET Regulator (NVR) Registered Training Organisations
- NVR Fit and Proper Person Requirements
- NVR Financial Viability Risk Assessment Requirements

Data:

- Quality Indicators for RTOs
- NVR Data Provision Requirements

VET regulators:

- AQTF Standards for State and Territory Registering Bodies
- AQTF Standards for State and Territory Course Accrediting Bodies
- NVR Standards for VET Regulators.

Appendix B – Review approach

Launch	Issue Analysis	Direction Setting	Drafting	Endorsement
Jun-Jul 2012	**Jul-Sep 2012**	**Oct-Dec 2012**	**Jan-Jun 2013**	**Jun-Nov 2013**
• NSSC decisions • SCOTESE support • Roundtables	• Analysis of feedback from roundtables and submissions • Identification of issues • Sharing of analysis of consultation paper responses	• Consultation with key stakeholders on issues paper • Analysis of feedback	• Consultation • Based on Position paper • Organising framework	• NSSC endorsement • SCOTESE endorsement • Translation into standards/ legislative instruments • Implementation considerations
Consultation paper	**Issues paper**	**Position paper**	**Draft standards**	**Final standards**