

## Navitas submission on the Review of the National Vocational Education and Training Regulator Act 2017

- August 2017 -

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### Question 1

#### **In the interests of quality student outcomes, which aspects of vocational education and training (VET) should be under the closest scrutiny by the regulator, the Australian Skills Quality Authority (ASQA)?**

Registered Training Organisations (RTOs) should be subject to third party surveying of learner satisfaction, graduate outcomes, graduate satisfaction and employer feedback, consistent with the QILT data captured for higher education.

These results will feed in to the risk assessments of each RTO and highlight trends/issues that the Australian Skills Quality Authority (ASQA) can respond to in a timely manner, with a focus on preventing unsustainable or poor quality operations from progressing, and providing RTOs with an opportunity to respond as part of their continuous improvement processes.

Focus should also be on scrutinising the corporate and academic governance structures of each RTO, given that these significantly impact program development and delivery, learner experience and graduate outcomes. We also support more rigorous evaluation of each RTO's ability to deliver training and assessment against unit completions, qualifications and skills in scope.

For dual sector providers, such as Navitas, the differing approaches, standards and frameworks between higher education and VET compliance and regulatory regimes create an excessive administrative burden that could be greatly reduced with some harmonisation. A more holistic, risk-based approach for the tertiary sector would serve the sector, and its students, more effectively.

More specifically, we support closer scrutiny of the implementation of Standard 1, which focuses on the delivery of training and assessment that meets the requirements of industry and the training packages/accredited courses.

Ongoing scrutiny of the implementation of Standard 1 could require providers to not only undertake mandated validation activities at least once every three years (as is currently required under the 2015 RTO Standards), but for a completed Validation Report template to be provided with the annual Declaration of Compliance and uploaded to ASQAnet.

ASQA could obtain information about potential non-compliance against Standard 1 through a focus on quality training and assessment:

- Strategic risk evaluation and independent validation activities across sectors;
- Graduate outcomes survey that includes the identification of employer contacts who can verify the work-based skills of graduates; and
- Audits of a sample of completed assessments based on the regulator's risk evaluations following survey feedback from employers and learners.

Finally, Navitas suggests consideration be given to a framework of external, independent validation of a RTOs assessment strategies and processes. There is a precedent for this approach with the new Training and Assessment qualifications requiring external validation of assessments.

## Question 2

### **What are the principles that should drive the business plan of a quality VET provider?**

A business plan is nothing without effective corporate and academic governance, and delegations of authority. For that reason, Navitas supports ASQA more closely scrutinising those governance frameworks, strategic planning and intent – as well as regular monitoring to ensure effective implementation of business plans. One of the key principles that should be central to the provision of high quality vocational education and skills development is a demonstrable commitment to continuous improvement in the delivery of education and training.

Business plans of RTOs should provide clear indications of strategic intent to deliver training, supported by tangible and robust market research into skills and employer demands (including nationally recognised benchmark data, such as NCVER, where applicable). Institutions should be able to forecast delivery uptake and plan resourcing and support mechanisms for students accordingly.

Workforce planning is a key element of business planning, representing one of the largest financial considerations for an RTO, and should therefore be clearly articulated by each RTO in support of applications. Navitas notes that robust workforce plans and planning is required by TEQSA.

For all new initiatives not factored into the initial business plan, RTOs must still demonstrate a commitment to continuous improvement, an alignment with strategic objectives, business intention, student demand and ability to resource delivery to quality standards.

## Question 3

### **Are regulatory and legislative changes required to support Registered Training Organisations to continuously improve across all areas of their operations and to go beyond meeting minimum quality standards?**

Navitas recommends changes to the regulatory and legislative regime that are flexible enough to encompass all providers regardless of size or scope, and which support a rigorous continuous improvement framework to complement the risk-based approach to review and assessment of all RTOs against their pre-stated objectives.

In its submission on the Higher Education Red Tape Reduction Action Plan in 2013 Navitas argued for a system such as earned autonomy for both higher education and for vocational education, which takes into account the history, governance and academic and financial performance of a provider. In particular the principle of reflecting risk is critical as it allows established and high performing providers with lower risk profiles to be acknowledged for their prudence and distinguished from higher risk providers – both enhancing the effectiveness of regulatory resources and providing opportunity for the latter to have initially higher levels of oversight and guidance, which may reduce should their risk factors diminish.

We also support a case management approach to monitoring performance, providing an opportunity for appropriately qualified case managers with expert knowledge of the sector to identify issues, monitor the implementation of required improvements, and issue show cause notices before escalating issues for formal investigation and regulatory action. This approach gives the RTOs an opportunity to demonstrate effective management of issues as part of their commitment to continuous improvement.

If the 2015 Standards for RTOs are to be identified as the 'minimum quality standard' in the regulatory regime guidance or best practices case studies should be provided to RTOs wishing to 'go beyond' minimum standards. For example, in the implementation and accreditation against standards such as the international ISO9001 Quality Management System or an international Business Excellence Framework.

The legislation should require ASQA to ensure that their auditors are properly qualified as auditors, experienced in the sector in which the provider operates and able to comply with the AS/NZS ISO90011:2014 guidelines for auditing management systems. The quality of ASQA audits should be evaluated against these guidelines and ASQA should monitor the conduct of audits to ensure consistency, transparency and fairness. RTOs should have the right to appeal the outcome of an audit on the grounds that it was not carried out in accordance with the Australian and international standards for auditing.

#### Question 4

##### **How effective are the enforcement powers of ASQA for ensuring a quality VET sector and how might they be improved?**

ASQA's regulation of the Australian VET sector should be risk-based and reflective of the Tertiary Education Quality and Standards Agency (TEQSA) approach in higher education. The application of the same principles that underpin TEQSA's regulatory framework – risk, necessity and proportionality – contextualised to vocational education, should form the basis of ASQA's regulatory regime.

Further, ASQA should be given more powers to intervene (forensic investigations, suspensions on scope increases or halting of student recruitment in extreme cases) – in a timely manner – if audits and risk assessments reveal the likelihood of major or extreme consequences to students or organisational viability.

#### Question 5

##### **How could quality be effectively measured and reported as part of an outcomes-based approach to regulation? What is the best way to measure student outcomes?**

Navitas believes it is imperative to consider the two key drivers of provider behaviour whenever one is formulating policy, drafting legislation and reviewing regulation. These being, the regulatory (and legislative) framework and government funding schemes. Any levers pulled on one side of this equation have implications for the other and vice versa. It is therefore possible to foresee negative, unintended consequences from an outcomes-based approach to regulation and compliance if the behaviour of VET providers, utilising government funding schemes, was not also considered at the same time.

For example, a system that on the one hand sees the regulator measure 'student success' in terms of course completions and on the other hand sees the government reward 'successful' providers with increased funding and/or punishes with threats of de-registration or capping funding is open to potential abuse. This is because non-genuine VET providers, driven by the financial incentive, may artificially inflate their completion rates through a 'tick and flick' approach to assessment. It should be noted that, our suggestion to establish mandatory external validation of assessment processes and approaches highlighted in our response to Question 1 above would go some way to reducing the risk of this behaviour.

As noted above, Navitas supports a framework that is underpinned by the principles of risk, necessity and proportionality, and is supported by a case management approach. We believe that a regime with these foundations would greatly improve the effectiveness of measurement and reporting, which in turn supports an outcomes-based approach to regulation.

An outcomes-based approach will be more effective if it is implemented within a framework that genuinely encourages a commitment to quality delivery of service to customers by providers. The data available to the regulator will be the same in either context – however actions that support a culture of quality will be the one of the drivers of quality outcomes.

- The regulator can monitor:
  - Enrolment growth, by course / qualification, and at the provider level;
  - Course completion rates at course / qualification level, by mode of delivery;
  - Average course completion rates at the provider level, by mode of delivery;
  - Unit completion rates at unit level, by mode of delivery; and
  - Average unit completion rates at the provider level, by mode of delivery.
- The regulator can also monitor progression rates, with measurement linked to Unique Student Identifiers (USIs) to track whether a learner is actively enrolled in a program of study past the program's census date.
  - USIs provide a useful method for tracking learner progression within the sector as a whole, not just by a particular provider or within a specific course of study; and
  - Recognition of Prior Learning (RPL) should also be considered and factored in to this tracking as it is currently possible for a learner to be identified as not progressing, even though they have completed their studies legitimately through RPL.
- Graduate employment outcomes, at the course level, by mode of delivery (with consideration for non-traditional outcomes such as self-employment, entrepreneurship and further study); and
- Average employment outcomes at the provider level, by mode of delivery (with same considerations as mentioned above).

Monitoring of providers should be done holistically within a quality framework, for example:

- A sharp increase in enrolments may in isolation be a red flag in terms of risk. However, when this increase is considered in the context of a well-considered business plan inclusive of investment in a new program or expansion of an existing program it should be identified as a positive development.

- Likewise, a lower than average course completion rate may not be as concerning in a sector with strong employment outcomes prior to completing a full qualification, and where a provider's unit completion rates and graduate employment outcomes remain at a reasonable level compared to sector averages.
- High attrition rates may not consider 'good attrition', where students are progressing to further study or have secured employment during their studies.
- Transferable skills may be an effective measure of outcomes in an environment where young people will be seeking, on average, up-skilling opportunities 17 times across the span of their working life in many disrupted sectors.
- Taking a risk-based approach within a framework that is committed to encouraging delivery of high quality services and assessing the whole picture of a provider will ensure quality providers are able to expand their offerings.
- Further, a case management approach would allow the regulator to undertake 'spot checks' of the provider and work with them to address identified quality issues.

Quantitative metrics are largely ineffectual when considered in isolation or without consideration of qualitative factors, such as the effectiveness of an RTO's management and governance structures. Many of the current and proposed quantitative metrics are easily manipulated and do not measure quality of outcomes.

## Question 6

### **What measures can be taken to give students, parents and communities a stronger voice in the regulation of VET?**

Navitas supports a similar mechanism as Quality Indicators for Learning and Teaching (QILT) for collecting feedback on student satisfaction, graduate outcomes and employer satisfaction. This would provide a mechanism for relevant stakeholders to engage in a meaningful way. Further, learners, family members and relevant employer / community representatives could easily be included in the quantitative audit process.

## Question 7

### **Are there areas of overlap, inconsistencies or gaps between the National Vocational Education and Training Regulator Act 2011 and other legislation that impedes the effective regulation of the VET sector?**

Yes. There is some tension between/among the NCVETR Act 2011, the USI legislation and the Privacy Act. While all have a clearly defined purpose and rationale, there are areas where overlaps and contradictory requirements cause tensions. For example:

- The USI legislation requiring identification documents used to apply for USIs on behalf of students to be destroyed, while enrolment requirements within government funding contracts might encourage the storage of such data/documents.
- The Privacy Act requires that personal information cannot be discussed or divulged to anyone other than the individual directly concerned. However, where the students' English language levels are very low, for example new arrivals undertaking their first English language certificate, the generation or validation of a USI is a complex process.

## Question 8

**Other comments. Please address any other issues related to the [Terms of Reference](#).**

Navitas has an additional recommendation regarding the mechanisms and processes providers have in place to ensure they seek and respond to industry feedback as it relates to desired course and student outcomes. We recommend that Industry Reference Committees (IRCs) supported by Skills Service Organisations (SSOs) consult more directly with providers regarding the feedback they have obtained from industry and/or set up formal industry consultation mechanisms that support quality providers' industry consultation practices.

In its submission on the Higher Education Red Tape Reduction Action Plan in 2013 Navitas outlined the high administrative burden and inefficient data collection processes for dual sector providers. While there have been some improvements the establishment single data collection process per year through a single national provider database would realise efficiencies of scale and significantly reduce duplication of workload for providers and government.

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18 August 2017