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Ms JM Freeman MLA
Chair
Education and Health Standing Committee
Legislative Assembly Committee Office
4 Harvest Terrace
WEST PERTH WA 6005

By email: laehsc@parliament.wa.gov.au

Dear Ms Freeman

**INQUIRY INTO THE DELIVERY OF VOCATIONAL EDUCATION AND TRAINING IN
SCHOOLS (VETiS) PROGRAM**

Thank you for your correspondence dated 13 October 2017 and request for further information and clarification on matters relating to the delivery of VETiS programs.

Please find attached responses to the questions presented by the Committee to the Training Accreditation Council.

Should you require further information or would like to discuss any matters relating to the regulation of VET in WA, please contact me directly on (08) 9441 1920 or via email stephanie.trestrail@des.wa.gov.au.

Yours sincerely



Stephanie Trestrail
EXECUTIVE OFFICER
TRAINING ACCREDITATION COUNCIL

23 October 2017

Education and Health Standing Committee

Response to questions related to the Inquiry into the delivery of VET in Schools

1. How many RTOs providing VET in Schools courses is TAC responsible for regulating?

Response

There are a total of 183¹ Registered Training Organisations (RTOs) providing VET in Schools (VETiS) courses in Western Australia.

Of these, 62 RTOs (34%) are regulated by the Training Accreditation Council (TAC).

The Committee may wish to note that some RTOs of the 183 may only be providing training to 1-3 students. There is also one RTO that delivers over 50% of all VET delivered to school students. This organisation is registered by ASQA.

2. In relation to registration and audits:

a. Are all RTOs audited when applying to renew their registration?

Response

No, not all RTOs are audited when applying to renew their registration.

TAC has adopted a regulatory approach in line with the *Standards for VET Regulators 2015* which aims to ensure "...the integrity of nationally recognised training by regulating RTOs...using a risk-based approach that is consistent, effective, proportional, responsive and transparent."²

Regulatory responses are proportionate to a provider's performance and issues identified through system level monitoring. For example, a provider demonstrating a good compliance history, no substantiated complaints and no adverse decisions imposed by TAC may not be required to undergo a renewal of registration audit. Similarly, a provider with a history of high level non-compliance and substantiated complaints may be subject to a comprehensive site audit prior to being considered for renewal of registration.

TAC's risk approach involves the consideration of risk drawn from a broad range of sources and analysis of data across a range of risk factors to identify those organisations or sectors which are deemed to pose the highest risk to quality outcomes. TAC's risk management approach applies appropriate and proportionate regulatory responses achieved through the management of risk at two levels – provider risk and systemic risk.

The risk factors assessed by TAC specifically include assessment of whether the provider is delivering VET to school students.

¹ All VET in Schools data sourced on 13 October 2017 from Department of Education, School Standards and Curriculum branch

² *Standards for VET Regulators 2015*, Commonwealth of Australia, p4

In identifying risk, TAC considers the likelihood and potential adverse consequence on the quality of VET outcomes on students, industry and the community and, more broadly, the impact on the reputation of VET in Australia.

The range and escalation of regulatory responses varies according to the nature and severity of the potential consequences of the risk. In addition to high impact responses such as desktop, site or strategic industry audits, a number of low impact responses provide TAC with strategies to encourage and promote compliance, including the provision of educational support, communication and information strategies.

b. What is the duration of the registration period?

Response

Up to 7 years.

3. In relation to audits conducted in 2015-16:

a. Of the 50 audits conducted as a result of identified risks, how many were for RTOs delivering to schools?

Response

For the period 2015-16, of the 50 audits conducted as a result of identified risks, 12 were for RTOs delivering to schools.

b. (If any of these audits were for RTOs delivering to schools) How many were among those found to be non-compliant after the 20-day rectification period?

Response

Of the 12 RTOs audited delivering to schools during the period 2015-2016 referred above, 6 were non-compliant following the 20-day rectification period.

c. Do you have equivalent figures for 2016-17?

Response

- For the period 2016-17, of the 22 audits conducted as a result of identified risks, 7 were for RTOs delivering to schools.
- Of the 7 RTOs audited delivering to schools during the period 2016-17, none were non-compliant following the 20-day rectification period.

4. Is the monitoring and auditing process any different for RTOs Schools?

Response

No.

5. TAC's 2015-16 annual report mentions a review of the Compliance Recognition Program would be undertaken during 2016-17.

a. Has this review been undertaken and what was the outcome?

Response

A review of the Compliance Recognition Program commenced and is continuing. The review has focussed on aligning the Compliance Recognition Program with TAC's risk management approach.

b. Are any RTOs which provide VET to schools recognised under the program?

Response

Yes, as at 13 October 2017, one RTO providing VET to schools is recognised under the Compliance Recognition Program.

6. The Auditor General's Report on the Regulation of Training Organisations (Report 11, June 2015) said that the national approach to unannounced checks (that is, that checks on RTOs without notice are not allowed) affected TAC's capacity to carry out random checks. Why was this the case, and is this still the case?

Response

Clarification of the VET Act 1996 and Vocational Education and Training (General) Regulations and withdrawal of the national guidelines for the conduct of audit now allow for unannounced checks to take place under the Western Australian legislation, however the Council does not consider this methodology to be effective and does not undertake unannounced checks. It should be noted that since the publication of the Auditor General's Report the national regulator ASQA has ceased unannounced checks.

Disadvantages of an unannounced audit model include:

- Nature of the audit model does not rely on how things are happening on day of audit but looks at deployment over a period of time ie the RTO may be deemed non-compliant whether the audit was announced or unannounced.
- creation of business interruption to the RTO and accessibility issues for the regulator if entry to site is refused. There are no penalties for refusing access to the RTOs site other than non-compliance with Standard 8.1b – The RTO co-operates with the VET Regulator in the conduct of audit. In the circumstances of an RTO audit, the fact that a Quality Manager was not present on site without prior notification of arrival may be a legitimate response to the non-compliance.
- practical impacts on both the RTO and the auditor in attempting to run an audit program without prior arrangements including the impact on students, accessibility to sites and required personnel or the need to cancel scheduled training. Impacts include an almost certain reduction in audit performance and outcome.
- Lack of standardisation of the audit process (implication for appeals).
- Lack of legislative power to apply on the spot fines or findings. The RTO would have to be provided with the right to respond which would likely result in the presentation of further evidence for review. This may absorb any potential timeline savings.
- The audit environment potentially becomes confrontational/adversarial in nature.

Traditional site audits against the Standards for RTOs 2015 typically run for a two day period. The audits are resource intensive for the RTO and an analysis is undertaken of the RTOs training systems as presented on the day of audit as well as an evaluation of whether the RTO has deployed the systems over a period of time.

Although not impossible, the characteristics of a TAC audit make it more difficult for an RTO to fabricate evidence of performance prior to the day of the audit, therefore some

advantages of the 'surprise element' may not be forthcoming, i.e. the RTO would be deemed non-compliant whether the audit was announced or unannounced.

Experience of ASQA

The Australian Skills Quality Authority (ASQA) has similar powers to TAC in relation to undertaking unannounced audits. In discussions with ASQA, they advised that unannounced RTO visits for the purpose of audit had been attempted in the very early days of the organisations establishment, and were typically undertaken in response to high profile media coverage of an RTO issue.

ASQA's experience was that in most instances, no one was available to participate in the audit on arrival and that the failure to participate did not have sufficient strength to bring sanctions against the RTO as the RTO responded that it would have willingly complied had staff been available. It was considered that the attempted audits were an ineffective allocation of resources.

7. In what ways does your monitoring process and approach differ from ASQA's process and approach?

Response

The three key differences in the monitoring and audit approach adopted by TAC are the consideration of state based risks, follow up auditing to demonstrate that compliant systems have been implemented and the provision of a supportive education program. While the approaches are different, TAC has a good working relationship with ASQA and regularly exchanges information on issues of concern.

State Based Risk

ASQA have previously stated that they will only undertake strategic reviews on issues that are found to be risks at the national level. Due to the differing approaches to the implementation of VET to schools students' delivery across states and territories, the previous ASQA Commissioner Mr Christopher Robinson advised that auditing of VET in Schools delivery would not be a priority for ASQA and they declined to work in conjunction with TAC in the Strategic Industry Audit (SIA) undertaken in 2014.

At the completion of the SIA in 2014, the largest provider of VETIS transferred their registration to ASQA. The TAC requested that a follow up audit be undertaken to confirm implementation of compliant systems, it is understood that this audit occurred in November 2016 however the audit outcomes are not known to the TAC.

As previously mentioned the TAC routinely considers the risk factor of delivery to VET to school students when undertaking risk assessment of an RTO. ASQA do not include this risk criteria.

In addition, as a national regulator, ASQA will predominately undertake audits in the state in which the head office of the RTO is located. Unless the predominate delivery site for an RTO is in Western Australia or a number of complaints have been received within the state, it is unlikely that Western Australian delivery will be audited if the RTO head office is located on the east coast.

Follow up audits to check deployment of systems

Following an audit an RTO may often demonstrate compliance by providing the regulator with revised policies, processes and assessment frameworks. To ensure that the RTO

has implemented the compliant systems the TAC undertakes follow up monitoring of the RTO, these audits are usually conducted within 6-12 months of the original audit.

The ASQA approach facilitates that follow up auditing occurs at the next point in time interaction with the RTO, eg. If an RTO has provided compliant revised policies and procedures they may be checked for deployment at the next re-registration audit. If this has occurred two years into the registration cycle, the deployment may be checked at the RTOs re-registration audit.

TAC Education Program

A key feature of TAC's approach is its commitment to an education program that builds capability and understanding of RTOs and their staff to meet their obligations in regard to the Standards. The Education Program aims to provide specialised professional development opportunities that deliver practical information to support business improvement and compliance practices. TAC's Education Program is well established with a variety of vehicles for presentation of information, including a series of webinar presentations, workshop programs and Fact Sheets available to stakeholders.

TAC has delivered numerous professional development opportunities to education sector stakeholders, both at the instigation of TAC and by various education stakeholder groups. Audiences have included teachers during professional development days, and to RTOs and their staff delivering VET in Schools programs.

Additional regulatory arrangements in WA

Annual Regulatory Strategy

The Annual Regulatory Strategy sets out the regulatory and educative priorities that TAC has agreed to focus on in the following 12 months. The document outlines the regulatory strategies to be deployed to investigate and address any provider or systemic risks.

As part of its risk approach to regulation, VETiS has been identified as an area of continuing concern. In partnership with relevant stakeholders, a further analysis of the issues linked to VETiS arrangements and compliance against the *Standards for RTOs* will be undertaken by TAC during 2017-2018. The full Annual Regulatory Strategy outlining all priorities and focus areas is available on the TAC website

<http://www.tac.wa.gov.au/SiteCollectionDocuments/TAC%20Annual%20Regulatory%20Strategy%202017-2018.pdf>.

Compliance Monitoring Audits

Under the *Vocational Education and Training (General) Regulations 2009*, a category of audit was introduced which allows for the monitoring of ongoing compliance with the requirements of RTO registration as a result of the outcomes of previous audits. The intent of Compliance Monitoring Audits (CMAs) is to create an incentive for RTOs with a history of non-compliance to ensure ongoing deployment of corrective actions and maintain compliance with the *Standards for RTOs*.

A CMA is used to stop a trend of non-compliance in areas where an RTO has been given multiple opportunities to demonstrate ongoing deployment of corrective actions but has failed to do so. It may also be used when sanctions have been applied to an RTO's registration. At the end of the audit, the RTO is invoiced for the cost of the audit.

Complaints

TAC encourages complaints from the public as an important source of regulatory information. TAC investigates only complaints that relate to an RTO's compliance with the *Standards for RTOs*. If it is determined that there are grounds for the complaint and the matter needs to be investigated further, an audit may be required.

The outcomes of complaint investigations inform the risk management strategies of other TAC compliance functions such as Strategic Industry Audits, monitoring audits or reviews of individual RTOs. The review and analysis of complaints also aims to identify any systematic non-compliance issues which may enhance TAC's communication with RTOs. The complaints system contributes to monitoring continuous improvement and adds 'public value' to the overall VET compliance systems within Western Australia.

8. Is there a self-auditing mechanism for RTOs (along the same lines as quality assurance checklists used in the building industry) and, if not, would it assist TAC and RTOs if there was such a mechanism?

Response

A number of self-auditing or self-assessment mechanisms are available to RTOs. They are as follows:

- **Self-Assessment Template**

Organisations (applicants) wishing to apply to TAC to become an RTO are required to complete and submit a self-assessment report and declaration on compliance. The self-assessment template is available on the TAC website. TAC encourages the use of this tool as a way for applicants and RTOs to monitor compliance with the *Standards for RTOs* and is a useful tool in assisting applicants to itemise evidence the organisation has in place to demonstrate compliance against the Standards.

- **Annual Declaration on Compliance**

It is a requirement of registration with TAC that RTOs comply with mandatory reporting requirements. This includes a requirement for RTOs to provide TAC with an annual declaration on compliance. Information collected is reviewed, with appropriate and proportionate regulatory responses considered by TAC where applicable.

The declaration is in relation to whether the RTO:

- currently meets the requirements of the *Standards for RTOs* across all its scope of registration and if not, action taken or planned to address the non-compliance, and
- has met the requirements of the *Standards for RTOs* for all Australian Qualifications Framework (AQF) certification documentation issued in the last financial year.

By submitting the annual declaration the RTO's legally responsible person is confirming that the RTO systematically monitors and evaluates training and assessment strategies and practices; and uses the outcomes of monitoring and evaluation to inform improvements in business and educational practice.

The annual declaration covers the RTO's entire scope of operations, including all services provided on its behalf by other organisations under third party arrangements, and for all locations where the RTO operates in WA, Victoria or overseas.

- **Standards**

The *Standards for RTOs* require RTOs to ensure they comply with the Standards at all times. RTOs are required to systematically monitor training and assessment strategies and practices to ensure ongoing compliance, and systematically evaluate and use the outcomes of the evaluation to continually improve the RTO's training and assessment strategies and practices.

In conclusion

As a general rule, VET Regulators do not provide a range of templates, checklists or other quality assurance mechanisms to RTOs other than the self-assessment template and mandatory requirements set out above.

RTO learner cohorts, size and scope of the business and geographic location impact and influence the way in which an organisation manages and operates its business. The VET sector's view in general is that compliance documentation "...must be relevant to the operating characteristics and business objectives of the RTO and will vary from one RTO to another"³.

TAC has published a Users' Guide to the *Standards for RTOs*. The guide provides explanation and guidance to RTOs about the Standards and does not prescribe how an RTO should be managed or what evidence must be retained to demonstrate compliance.

RTOs are best placed to decide the most suitable way for their organisation to be structured and managed. As long as an RTO can present evidence that it complies with the Standards, there is no 'right way' for an RTO to conduct its operations.

³ *Standards for Registered Training Organisations (RTOs) 2015*, Commonwealth of Australia, p21