

# Addressing issues relating to unduly short courses – discussion paper



Victorian TAFE Association Response  
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## Introduction

The Victorian TAFE Association is the peak body for Victoria's public providers of Vocational Education and Training (VET), including 12 TAFE Institutes, four dual sector Universities and an Associate member, AMES.

The Victorian TAFE Association welcomes this opportunity to respond to issues outlined in Addressing issues relating to unduly short courses – discussion paper.

The Victorian TAFE Association's response is grouped into a series of themes, including:

- Unduly short, or other factors?
- Product Disclosure Statements: An alternative approach
- Definitional matters
- Performance-based regulation
- Support for disadvantaged cohorts
- International education: market ramifications
- Working with all stakeholders
- A deeper review

## Unduly short, or something else?

As the Australian Skills Quality Authority (ASQA) notes, Australia's competency-based VET system is built on an understanding that a "learner's rate of progress is determined by their demonstrated competency, rather than by how long they have spent training". Further, in this system, training providers are given the "flexibility to deliver the 'amount of training' that caters specifically to learners' individual needs".<sup>1</sup> For some learners, this level will be high, while for other, more experienced learners, the level required will be shorter.

The Victorian TAFE Association considers that there are two objections to the proposed changes that flow from this. Firstly, to mandate a minimum duration of training without some pedagogic foundation is counter to the flexibility that is the inherent aim of the system. Secondly, the recommendation to mandate some minimum imposes a solution that does not address what is likely to be the true cause of the issues it seeks to address.

In a competency-based system, a course of study can only be said to be unduly short when a provider enables a learner to 'graduate' despite the learner not demonstrating attainment of pre-stated competencies. This implies, *ceteris paribus*, that the provider has not appropriately recognised nor provided the amount of training required for the specific learner to achieve pre-stated competencies. In other words, when one says that a course is an unduly short course, what one really means is that the course has been poorly conceived, delivered, or both.

There are two possible causes for this to occur. First, that the training provider is incompetent in assessing the learner's needs, and so has failed to provide the required level of training. Or, second, that the provider has purposefully and negligently not provided the learner with the required training. In short, a course that is "unduly short" is a 'proxy' for a provider that is either incompetent or nefarious (or both).

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<sup>1</sup> Australian Skills and Quality Authority (June 2017), A review of issues relating to unduly short training, page 9.

While some providers may indeed be incompetent or negligent, many more are not, and provide learners with the training that enables them to acquire and demonstrate competency. The proposed response would 'punish' such providers. A superior regulatory response would not levy an additional burden on reputable and competent providers but would instead preserve the inherent flexibility of the system while allowing the regulator to more easily identify and 'weed out' those who are incompetent or nefarious.

Moving from this, the Victorian TAFE Association considers that the appropriate regulatory response is not to stipulate a minimum training duration but to instead erect mechanisms that give the regulator the ability and resources to more easily identify incompetent or nefarious providers. This would ensure that the flexibility of the competency-based system is preserved, does not add an unnecessary burden on good providers and would 'weed out' nefarious or incompetent behaviour.

### Product Disclosure Statements: an alternative approach

The Victorian TAFE Association does not support the proposal for the introduction of a Product Disclosure Statement. We do not consider that the additional resource burden and administrative costs associated with this requirement can be justified, particularly given existing requirements that cover similar ground. The magnitude of the impost cannot be understated. For providers (especially comprehensive providers such as TAFE institutes), it will manifest in the need to develop and maintain a large number of Product Disclosure Statements for diverse sets of cohorts that will need regular update and major amendments due to factors such as changes in location or mode of delivery; while for the regulator, it will require monitoring of a multitude of documents from thousands of training providers.

The proposal is also unnecessary in that it duplicates existing activities and resources that serve a similar function, such as program guides, Training and Assessment Strategies, pre-training reviews and robust enrolment processes. Information on courses and training is readily available to prospective learners through a multitude of platforms and resources, such as training provider and government sponsored websites (such as My Skills). The information contained in provider websites is closely monitored for accuracy by regulators (such as the various State and Commonwealth departments of education, ASQA, and the Victorian Registration and Qualification Authority). Further, as the Victorian TAFE Association has noted in other submissions, while the sector is ostensibly regulated by the Australian Skills and Qualifications Authority (ASQA), it also faces regulation from numerous other bodies, including the Australian Competition and Consumer Commission (ACCC), which has oversight on matters relating to consumer protection.

The proposal for a Product Disclosure Statement is inspired by the desire to ensure prospective learners are better equipped to understand what they can (and should) expect when they undertake training. In short, the Product Disclosure Statement proposal is an attempt at consumer education, to arm consumers with the information they need to make an informed choice. The Victorian TAFE Association does not support the proposed response but considers that the policy intervention should proceed from this point.

One way that the policy outcome could be achieved is through the development of a series of 'notional student exemplars'. These exemplars would outline what a prospective learner could reasonably expect during his/her course of study. To enable comparison, the

exemplars could outline training along a 'learning spectrum', with a new learner at one end, and an experienced learner at the other. The information contained in these exemplars would be pedagogically sound, based on case studies and real-world examples and give prospective learners a sense of the training that they would expect to receive. These exemplars would serve a dual purpose, since they would also provide guidance to prospective learners and perform an educative function for providers.

Importantly, such exemplars would not be developed by individual providers, but would instead be a resource developed by a central agency (such as ASQA) in concert with providers and other key stakeholders (such as the Industry Reference Committees). This would achieve the consumer education aim of the product disclosure statement, but without the administrative and resource burden of that proposal. Further, the Victorian TAFE Association recommends a constructive effort between quality providers and the regulator to work together to develop solutions additional to that outlined above.

### Definitional matters

While the Victorian TAFE Association does not support mandated minima with respect to course duration (unless supported by rigorous pedagogical evidence), we do consider that there may be some benefit for greater consistency in defining various concepts. However, the Victorian TAFE Association does not consider that these should be prescriptive but should instead be developed to give training providers and learners greater understanding. Further, the definitions should be such that they preserve the flexibility of the competency-based VET system.

Moving from this, the Victorian TAFE Association considers that the amount of training could be defined in the broadest sense as that required to ensure a learner is able to demonstrate the desired competencies. It would comprise 'structured' and 'unstructured' activities, with the former including those elements that are supervised (including face-to-face, online and other forms and modes of teacher contact), while the latter would include workplace learning.

A 'new learner' would be defined as a person who has no prior knowledge or experience of the competencies that are to be developed or sought through participation in the course of study.

To reiterate, the Victorian TAFE Association does not consider that these definitions should form the basis of some stipulated minimum training duration but serve merely to dispel any existing confusion of what constitutes training, to ensure greater consistency in understanding among providers and to give learners a greater understanding of what can be expected. These definitions would prove beneficial to students and providers in the development of the 'notional learner exemplars' discussed earlier.

### Outcomes-based regulation

The premise behind the discussion paper is to seek advice on how to realise the recommendations made by ASQA. In that, the discussion paper asks for advice on a number of definitions and related matters, including how to define the minimum amount of training, how to define a new learner, and which regulatory instrument would be best placed to include such information. Implicit in this premise is that the recommendations made by

ASQA are desirable, with the only question being the best way to achieve their implementation. The Victorian TAFE Association considers, however, that the premise warrants further testing.

The discussion paper outlines a prescriptive 'input based' approach whereby providers must meet/deliver some pre-determined amount of training. However, the training of students is a complex process, subject to and impacted upon by various factors, including a student's experience, locational status, cultural background and socio-economic status. The proposed approach inflates the importance of one factor (training duration) while seemingly diminishing the effect of other influences. For the provider, it distracts from the core work of educating towards meeting prescriptive regulatory mandates.

In this approach, a provider that meets the minimum stipulated amount of training would, ostensibly, be deemed to have provided a student with the training necessary for the attainment of competencies. Conscious of the need to meet the regulated amount of training, providers would focus almost exclusively on ensuring the quantum is met.

However, in a competency-based VET system, it is not at all certain that a student who completes the defined quantum of training can confidently be said to have attained the required competencies. This can instead only be confirmed through rigorous assessment processes, which would test the attainment or otherwise of pre-determined competencies.

Outcomes-based regulation has been the preferred method in the design of regulation for some time. This approach means that providers need not be required to follow prescriptive regulatory processes (like meeting stipulated course durations), but to demonstrate the attainment of verifiable performance outcomes.

The benefits of this approach as compared to more prescriptive 'input based' and process driven regulatory types are numerous. It enables providers to deliver training that best suits the needs of individual learners. It recognises and supports the diverse types of providers that currently operate in the sector. It enables innovation and the adoption of new training techniques and pedagogies. Finally, it encourages efficiency, since providers avoid the costs and resources associated with erecting structures to meet prescriptive procedural requirements.

For the regulator, this approach enables greater focus of effort and resources on the management and enforcing of non-compliance and creates a simple mechanism (that is, have the outcomes/performance measures been met or not) to determine adherence to the regulatory framework.

Since the inspiration of the proposed regulatory changes is to ensure the attainment of required competencies, then a superior approach would be one that develops processes to better capture whether these competencies are achieved. As such, it is not the stipulation of the amount of training that warrants attention, but greater focus on training outcomes.

The Victorian TAFE Association therefore recommends an approach that is built on outcomes or performance-based regulation. The success or otherwise of a program of study would therefore be tested and verified using appropriate assessment requirements and procedures. This approach negates the need for additional definitions around early learners,

nor does it require the development of complex processes to manage issues arising from how to determine recognition of prior learning.

An additional benefit of this approach is that it facilitates innovation. The stipulation of training duration creates a constraint on providers who would be less able or willing to adopt new, flexible and novel training methods, or to respond to and adopt new pedagogical insights in their training methods. The result of a process that stipulates a quantum of training would be a limiting of the sector's flexibility and ability to meet the training needs of diverse industry and community players.

### Support for disadvantaged cohorts

The Discussion Paper highlights the 'disadvantaged' as a key demographic that has been the victim of poor course delivery. This demographic is made up of those who are disabled, come from regional areas, CALD communities and those from low SES backgrounds. Such learners are more susceptible to negligent providers, are often less able to assert their rights, have fewer training provider options and are may struggle to understand what they can reasonably expect when undertaking a course of study.

The Victorian TAFE Association recommends that initiatives be developed that target and support these groups. The 'notional learner exemplars' referred to elsewhere could outline and provide examples in a way that is more accessible for disadvantaged students cohorts. The Victorian TAFE Association would be willing to participate and assist in the development of initiatives that provide such supports and recognises that design expertise will inevitably exist within these learner cohorts.

### International education: market ramifications

The Victorian TAFE Association acknowledges the impact of 'unduly short course' delivery on the international education sector, a key growth sector for Victoria. This impact is predominantly felt by TAFE institutes and high quality private providers undermined and disadvantaged in the highly competitive international student market by low quality providers offering substandard programs that do not enable learners to attain the desired competencies.

The 2017 HSBC Global Value of Education report confirms cost sensitivity across the post-secondary sector globally and its ongoing role in international student and parent decision-making.<sup>2</sup> Australia competes on a global scale for onshore international students. While Australia is an attractive destination, living and educational costs can be reduced for cost-sensitive students by choosing 'unduly short', cheaper programs with shorter associated stays.

As such, training providers offering 'unduly short' programs, which do not equip international students with the competencies needed for local or international employment, constitute a major reputational risk for the Australian VET sector. In fact, in its 2017 review, ASQA found

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<sup>2</sup> HSBC (2017), Global Value of Education, <https://www.hsbc.ae/1/2/personal/the-value-of-education> , accessed 6 March 2018.

that “the long-term quality of Australia’s vocational education and training (VET) sector is at risk unless the issue of unduly short training is definitively addressed”.<sup>3</sup>

For TAFE institutes and high quality private providers offering programs with levels of training that enable the attainment of competencies, market share is being lost in an attempt to sell a ‘premium product’ in highly cost-sensitive markets. As the ASQA review also notes, “Many providers offer good-quality training; however, these providers are facing increased pressure to either reduce quality or leave the market—because they cannot compete with providers offering unduly short and inadequate training programs”<sup>4</sup>.

As noted previously in this submission, the Victorian TAFE Association recognises the impact of inadequate levels of training on course quality. Similarly, in response to the Education Legislation Amendment Bill 2017, International Education Association of Australia (IEAA) CEO Phil Honeywood noted: “Even if providers abide by all existing legislative and regulatory requirements, in seeking to maximise their enrolments they can often encourage a ‘race to the bottom’ with abnormally low tuition fees...By the time these providers have paid large commissions to education agents their tuition fee structure is only sustainable if they cut corners on quality.”<sup>5</sup>

The challenge for international VET program providers offering the appropriate levels of training is two-fold: first, they must persuade cost-sensitive international students to undertake a more expensive option that offers the appropriate levels of training, over a cheaper one that does not provide adequate training, despite all accredited programs being recognised ‘equally’ by AQF definition; and second, as anecdotal evidence from our members and from members of the Australian TAFE International Network has revealed, high quality providers must compete to retain students, once enrolled, from aggressive onshore and even on-campus recruitment activities by low quality providers offering ‘unduly short’ programs.

When applying for an international student visa, applicants must be able to satisfy the Commonwealth Department of Home Affairs that they have researched their intended course of study and can explain how it will benefit their future. Discussions with our members has revealed that careful offshore agent ‘genuine temporary entrant’ efforts are exploited onshore, resulting in lost compensation/commissions for preparatory offshore efforts and no need for private providers to spend marketing budgets on overseas recruitment, or to carry the risk associated with the issuing of the student visa.

The Victorian TAFE Association supports development of initiatives to provide greater clarity for prospective international students on what they can and should reasonably expect from their training. The Association also welcomes any policy that addresses and removes aggressive, low quality providers from the VET sector and provides regulators with greater resources to address unfair disadvantage. Policy drivers must also be developed that directly target and inform international students, such as through the development of ‘exemplars’ that are targeted at and more readily understood by international students.

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<sup>3</sup> Australian Skills and Quality Authority (June 2017), A review of issues relating to unduly short training, page 4

<sup>4</sup> Australian Skills and Quality Authority (June 2017), A review of issues relating to unduly short training, page 4.

<sup>5</sup>The PIE News (7 June 2017), “Australian government to target the “rorters and shonks””,

<https://thepienews.com/news/australian-government-to-target-the-rorters-and-shonks/>, accessed 6 March 2018



## Working with all stakeholders

Australia's TAFE sector is renowned for its links to industry and for its application of knowledge to solving real-world problems. Industry is at the heart of the TAFE sector's activities and will continue to be so.

However, the Victorian TAFE Association considers that the proposal that places Industry Reference Committees (IRCs) at the centre of the system to provide technical know-how on course delivery arrangements is misplaced.

IRCs are made up of industry representatives who are "leaders in their own sectors...[and] who understand the skills needs of their sector, industry or occupation". Their industry knowledge is used to ensure that "challenges, opportunities, trends and industry requirements" are properly understood, and to ensure the "national training system provides the qualifications, knowledge and skill sets that industry needs".<sup>6</sup>

While IRCs have a pivotal role, this does not extend to the provision of expertise in pedagogy, training product development and assessment. For this to occur, the industry voice must be complemented by the views of training providers and those who possess the required expertise.

Finally, while it is commonplace to use the term 'industry' as a catch-all term, the reality is that industry is diverse, in terms of the discrete industry sectors that make up Australia's economy, but also in terms of the diversity of firms (large, medium and small) that make up Australian industry. It is imperative for the industry voice be made up of representatives from all three industry cohorts, so that the SME perspective is not lost and the input of large industry is not inflated. Further, given the role of public education to facilitate prosperity, social and economic inclusion, it is important that community and student voices also be heard.

As such, the Victorian TAFE Association recommends that training product development and delivery arrangements be made with input from a range of stakeholders that includes a more diverse set of voices, including industry, the community, students, education providers and experts in pedagogy and training package development/assessment.

## A deeper review

The Victorian TAFE Association considers that the current market model is failing. There are clear commercial incentives for providers to minimise cost (and therefore training time), which impacts on and risks the quality of training delivery.

Regulators respond to the commercially unsustainable and educationally dubious behaviour of some training providers by overlaying more compliance measures that impact all providers.

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<sup>6</sup> Australian Industry and Skills Committee (14 February 2018), "What is an IRC?", <https://www.aisc.net.au/content/what-irc>, accessed 6 March 2018

The result is that VET/TAFE businesses (from executive officers and administration to teachers) are focused increasingly on compliance, lessening their ability to focus on learning outcomes for students, business and community.

The market approach, as currently struck, seems to operate at cross purposes with the competency-based VET system. The inherent flexibility of the competency-based VET system is undermined by incompetent and nefarious providers. In response, regulators apply ad-hoc regulatory solutions that affect the entire sector and very often do not address underlying issues.

What is required is a far-reaching and deeper review that analyses and addresses the fundamental causes and issues afflicting the sector. The Victorian TAFE Association would welcome and participate in any such review.

### [Key Contact](#)

The Victorian TAFE Association welcomes the opportunity to speak further to the issues outlined above. To do so, please contact:

Mr Andrew Williamson  
Executive Director  
Victorian TAFE Association  
Level 3, 478 Albert Street, East Melbourne Vic 3002  
E: [awilliamson@vta.vic.edu.au](mailto:awilliamson@vta.vic.edu.au)  
T: 03 9639 8100  
M: 0400 403 755