



Australian Government

# All eyes on quality: Review of the *National Vocational Education and Training Regulator Act 2011*

**Australian Government Response**

June 2018

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## **Australian Government's Review of the *National Vocational Education and Training Regulator Act 2011***

The Australian Skills Quality Authority (ASQA) plays a vital role in safeguarding the reputation and integrity of the vocational education and training (VET) sector. Through its regulation of registered training organisations (RTOs), it contributes to the confidence students and employers can have in Australia's VET provision, and the credentials and qualifications that VET graduates hold that testify to the skills they possess.

The Australian Government is committed to maintaining the enviable reputation that Australian education and training possesses. Critical to this is ensuring that RTOs maintain, and are held to account to, the highest standards. In June 2017, the Hon Karen Andrews MP, Assistant Minister for Vocational Education and Skills, announced an independent review into the legislative framework that governs the regulation of VET to ensure that it supports an efficient and effective approach to regulation to ensure the quality of the national VET sector.

The Review, led by Professor Valerie Braithwaite, Professor of Regulatory Studies in the School of Regulation and Global Governance at the Australian National University considered key issues and challenges that ASQA faces in regulating the VET sector, and how the *National Vocational Education and Training Regulator Act 2011* and its supporting legislation and VET quality framework, supported ASQA's evolving work.

The work of Professor Braithwaite involved significant consultation. Over 60 public submissions were received and consultations were held with over 50 key stakeholders including: RTOs; government bodies and other regulators; peak VET bodies and unions; business and tertiary education representative bodies; and relevant VET experts. This has resulted in a thorough report that sets out a broad range of evidence and viewpoints. Submissions that informed the final report are available at <https://submissions.education.gov.au/forms/nvetr>.

The Government expresses its sincere thanks to Professor Braithwaite, and is appreciative of the contribution made to the Review by the Expert Advisory Panel of Dr Subho Banerjee, Mr Rod Camm, Mr Bill Galvin OAM, Ms Patricia Neden, Professor Peter Noonan, Mr Craig Robertson, Professor Nick Saunders AO, Ms Jodi Schmidt and Mr Simon Walker.

## The Australian Government's Response to the Final Report

It is difficult to overstate the importance of the VET sector to Australia. In 2016, there were an estimated 4.2 million students – or nearly a quarter of all 15-64 year olds in Australia – enrolled in VET with an Australian training provider (*NCVER, 2017, Total VET students and courses, 2016*). In addition, it has been estimated that more than 200,000 people are employed in the VET sector.

Beyond the sheer scale of VET activity in Australia, however, it is the strategic importance of VET to Australia's current and future prosperity that is of most consequence. In an environment of escalating digital transformation and automation, it is anticipated that in the near future Australian workers may need to be retrained several times over the course of their working lives as technology develops and traditional careers are disrupted and new ones develop.

In order to capitalise on these changes and remain internationally competitive, the Australian VET sector needs to be innovative, robust and responsive to emerging skills gaps in the Australian workforce.

RTOs must be of high quality, and be able to deliver desirable student outcomes. The VET legislative framework needs to enable Australia's national VET regulator, ASQA, to work with RTOs to lift quality in the sector, while placing only a proportionate regulatory burden upon them. It should also enable ASQA to act quickly to remove those whose primary goal is not an intention to provide a quality experience for students, or prevent them from first entering the market.

RTOs should be encouraged to increase the quality of the teaching workforce and aim for continuous improvement in teaching and learning.

Information should be easily comprehensible and obtainable to enable employers and potential students make informed decisions when choosing training providers and courses. Better and timelier VET market information is required for regulators and policy makers so they can respond quickly to challenges that may emerge in VET.

The Government welcomes the *All eyes on quality – Review of the National Vocational Education and Training Regulator Act 2011 report* developed by Professor Braithwaite. The final report contains 23 recommendations that go to the heart of modern student-centred regulatory practice and which support the VET sector meet the challenges for the future while safeguarding students. These recommendations (listed at [Appendix A](#)) can be broadly clustered into five themes:

- Enhancing engagement between the regulator and sector
- Strengthening registration requirements of RTOs
- Teaching excellence
- Improving the collection and sharing of data
- Protecting and informing students.

The Australian Government's response to the review addresses each of these five themes in turn. The Government acknowledges the work previously and currently being undertaken by states and territories and at a national level to promote improved VET student outcomes and improve VET regulatory practice, and seeks to work collaboratively to build on these efforts.

## 1) Enhancing engagement between the regulator and the sector

### Review recommendations

Professor Braithwaite was clear in her view that regulatory practice is not static, but moves and evolves over time with different emphases on regulation, de-regulation and self-regulation. She also emphasised that the regulatory framework needs to enable regulators to positively collaborate with others. The review showed that in general, ASQA works effectively with many stakeholders including peak bodies, state and territory governments and other regulators to maintain quality in the VET sector.

The review found that ASQA's change in its regulatory model from primarily an applications-based model to a new student-journey model has also been positively received by the regulated community. However, Professor Braithwaite found that improvements could be made in the way ASQA engages with the regulated community, to take into account and recognise an RTO's context and previous performance.

Four recommendations were made on this theme:

- **Recommendation 1:** ASQA develop and implement processes to enhance its capabilities and opportunities to proactively engage in regulatory conversations with students, teachers, RTOs, industry and other interested stakeholders. The desired outcomes are to improve the value of the student-focused regulatory approach and involve the sector in developing the regulatory culture that drives ASQA's use of its legislative powers.
  - The Government **supports** this recommendation
- **Recommendation 2:** In order to enhance transparency and consistency in the use of the legislative framework, ASQA should build on its regulatory conversations and practice reflections to develop and clearly articulate to the regulatory community the principles applied to the interpretation of legislation and the use of powers.
  - The Government **supports** this recommendation
- **Recommendation 3:** ASQA works with RTOs to develop positive assurance flags to include in the ASQA risk matrix and develop a mutually agreed method of communicating this information publicly without increasing the compliance burden on RTOs.
  - The Government **supports** this recommendation
- **Recommendation 14:** The Australian Government explores ways to strengthen the regulatory framework by expanding the circle of dialogue around improving the quality of the student journey pre- and post-audit to include all stakeholders who could contribute to future improvement in an RTO's performance.
  - The Government **supports in principle** this recommendation

### Australian Government response

Improving ASQA's opportunities to effectively regulate the VET sector was fundamental in the Government's decision to initiate the review, and the Government notes Professor Braithwaite's findings that changes to ASQA's regulatory philosophy could enhance its role.

The Government is committed to a high quality VET sector and to supporting quality VET experiences for students. The Government supports recommendations 1, 2 and 3 as they promote continual

improvements to student outcomes through a more consistent and transparent regulatory posture, a reflection of good regulatory practice and incentives for RTOs to be compliant with the Standards for RTOs at all times and go beyond minimum requirements. The Government will consider any necessary additional resourcing requirements associated with implementation of these recommendations.

Support for these measures was apparent in the submissions to the review, expressed through views that training quality is not currently being measured effectively, with audits focussed on compliance documentation, and not on student outcomes. Submissions also raised that the reasons behind the findings of regulatory action as well as compliance requirements were not always clear. Broadly, there was strong support for increased conversations with ASQA, partnerships and recognition of compliance practice that supports positive student outcomes.

These views echo ASQA's current work in increasing its communication, conversations and student focus. ASQA's submission to the review mentioned that it values information from all stakeholders and considers engagement a critical component of its approach to risk. It stated that it intends to explore opportunities to harness partnerships with stakeholders and demonstrated that it is open to quality indicators, such as endorsement by another entity, contributing positively to a provider's risk profile. ASQA's *Regulatory Strategy 2017-18* reinforces its commitment to identify good performance, stating its intention to further recognise quality in the sector, supporting compliant providers and positive pathways.

Reviewing its regulatory model in light of Professor Braithwaite's recommendations could strengthen ASQA's approach as it continues to evolve as a regulator. ASQA is required to communicate its regulatory practices and regularly publishes information on its website such as its Regulatory Risk Framework and Regulatory Strategy. It also holds briefings for training providers around Australia and also conducts webinars. Its most recent *Self-Assessment Report against the Regulator Performance Framework 2017* stated 70 per cent of providers who responded to the ASQA provider survey consider ASQA's information systems and channels accurate, helpful and timely. This demonstrates that existing mechanisms are functioning, but could be bolstered. ASQA's student-centred audit approach invites the student experience into regulatory activities. Similarly, the Tertiary Education Quality and Standards Agency (ASQA's higher education equivalent) has recently formed a Student Expert Advisory Group to utilise student voice in its regulatory work, signalling a shift in education regulation practice.

The Government also supports in principle recommendation 14, noting the objective of encouraging pre- and post-audit dialogue as a means of promoting continual improvements to student outcomes. Further consideration is necessary to ascertain the resourcing and implementation implications for both RTOs and ASQA.

The Government will consider referring the implementation of these recommendations to ASQA, noting the possible resourcing implications that may arise depending on the magnitude of reform, following consultation with the Council of Australian Governments Industry and Skills Council (CISC) and the other VET regulators, the Training Accreditation Council Western Australia and the Victorian Registration and Qualifications Authority. These recommendations will build on existing work by ASQA focusing on student experiences, RTO performance and opening up the regulatory conversation with impacted stakeholders.

## 2) Strengthening registration requirements of RTOs

### Review recommendations

The review found that an RTO business model should be driven by a focus on delivering quality education and training, and that RTOs should not be driven solely by profit at the expense of student outcomes. Noting that quality RTOs already target educational outcomes, the review recommended an explicit statement of educational commitment as a requirement of registration. This would support ASQA in taking action when an RTO does not demonstrate such a commitment by reducing costs at the expense of student outcomes.

Professor Braithwaite recommended strengthening ASQA's abilities to rigorously scrutinise RTOs throughout their registration, particularly at initial registration and when changes of scope or ownership occur. Professor Braithwaite also recommended particular attention be paid to the fit and proper person requirements for all managerial positions within RTOs, and the behaviour of RTOs in the first 12 months of operation.

The review found that the RTO Standards do not give sufficient attention to RTOs' responsibilities to ensure the safety and wellbeing of students. The review noted the experience of other education sectors and the negative impacts of unsupportive learning environments on a student's capacity to learn and succeed.

Professor Braithwaite considered that tightened registration requirements would not be unduly burdensome on RTOs committed to quality education and training but recommended that requirements be aligned with higher education and international education regulation where possible.

Professor Braithwaite was of the view that current and prospective RTOs should be required to demonstrate their commitment and capacity to deliver quality education and support to students. Four recommendations to support ASQA's regulatory activities were made in this area:

- **Recommendation 4:** The Australian Government amends the VET Quality Framework to ensure that entrants to the registered training market be required to clearly demonstrate educational commitment and knowledge of how to provide best practice support to students. This statement of commitment should be required as a condition of registration and include quality performance objectives, which, if breached, could lead to sanctions and ultimately de-registration.
  - The Government **supports** this recommendation
- **Recommendation 5:** The Australian Government strengthens the fit and proper person requirements and change notification requirements under the NVETR legislation and where appropriate aligns them with TEQSA and ESOS Act provisions and any other relevant legislation.
  - The Government **supports** this recommendation
- **Recommendation 6:** The Australian Government amends the VET Quality Framework to ensure greater scrutiny of new providers to:
  - provide that where an RTO without reasonable justification does not commence providing training within 12 months of being registered, or during its registration ceases to provide training for a 12-month period, its registration automatically lapses, meaning that it would no longer be registered.

- prevent RTOs changing the scope of the courses they deliver where an RTO has been operating for less than 12 months.
- o The Government **supports** this recommendation
- **Recommendation 21:** The VET Quality Framework be amended to explicitly address student safety and wellbeing in alignment with the Higher Education Standards Framework (Threshold Standards) 2015.
  - o The Government **supports in principle** this recommendation

### **Australian Government response**

The Government supports tighter registration requirements to ensure the quality and reputation of Australia's VET sector. RTOs should be required to deliver desirable student outcomes through quality education and training and holistic support for the student experience.

Students, employers and the Australian economy rely on RTOs, and their status as registered by ASQA, to deliver the training required to meet industry needs and ensure individuals have the skills and competencies indicated by their qualifications. This confidence is eroded when RTOs are established by individuals or groups for purposes other than the delivery of quality education and training. Where RTOs do not have the appropriate knowledge, experience or resources to deliver quality training and education, confidence is further eroded. In this context, the Government supports increased regulatory requirements for new RTOs, as well as when there are changes to an RTO's scope or ownership.

The Government notes that the student experience during a period of learning or training is integral to fostering lifelong engagement with education that further benefits the Australian economy by supporting continued and dynamic workforce participation. The Government also notes the diversity of the VET sector with students participating in a range of training including employer-provided, online and short training courses. It is appropriate to require RTOs to take reasonable steps to ensure student safety and wellbeing is supported and protected alongside the delivery of quality education and training. The Government supports further consideration of amendments to strengthen the RTO Standards where possible to better support student safety and well-being and gives in principle support for recommendation 21 subject to further consultation and assessment of the most appropriate mechanisms to address student safety and wellbeing.

The Government will task the Department of Education and Training to work with CISC to implement improvements to the NVETR Act and RTO Standards to strengthen registration requirements, and work with ASQA to implement effective enforcement policies. Where possible, to enhance the consistency of regulatory requirements, these improvements will align with other legislation in the education sector, including higher and international education.



### 3) Teaching excellence

#### Review recommendations

As noted in the title of her report, Professor Braithwaite indicated the necessity of a greater focus on quality, particularly for teaching and assessment. Her report contains a clear message that raising the standards and enhancing the capabilities of the VET teaching workforce is an important step in further improving the VET sector.

Consultations and submissions during the review expressed a desire for strategies ensuring quality training and assessment to be at the centre of an RTO's business plan, with ASQA given the power to quickly apply sanctions against RTOs without a core focus of quality education.

The review also acknowledged recommendations three and four from the Training and Assessment Working Group report on improving the quality and professionalisation of the VET workforce.

Professor Braithwaite commented on the absence of a labour market where high quality teachers and trainers are in demand, noting that a labour market could assist quality by creating institutional pathways of high training standards and career advancement.

She also stated that creating a career path for teaching excellence would benefit the sector, with the pinnacle of the career path being a newly created role of Master Assessor. A Master Assessor would consult with RTOs on professional development and work with ASQA to determine whether an RTO has produced successful student outcomes.

Professor Braithwaite made three recommendations on improving teacher excellence:

- **Recommendation 7:** The VET Quality Framework be revised to require an RTO to assess the quality of its teaching workforce and develop teacher quality improvement actions, which must be submitted to ASQA annually as a part of the Quality Indicator Annual Summary report.
  - The Government **supports in principle** this recommendation
- **Recommendation 8:** The Training and Education Training Package be reviewed with the purpose of creating a career path for teaching excellence in vocational education and training.
  - The Government **supports in principle** this recommendation
- **Recommendation 9:** The Australian Government leads a process to raise the standards of teaching and training excellence and professionalism in the sector through creation of the role of Master Assessor. A Master Assessor would be placed at the pinnacle of the VET teacher/trainer career path with the responsibility to mentor through professional development programs and assess the quality of an RTO's next cohort of graduating students.
  - The Government **notes** this recommendation

#### Australian Government response

The Government supports efforts to ensure that being a trainer or an assessor in VET provides an engaging career, and agrees that creating a recognisable career pathway can enhance the professionalisation of the sector.

Submissions have indicated strong sector support for improving teacher quality and ongoing professional development. In its submission, ASQA proposed amending the Standards for Registered

Training Organisations to provide minimum specifications for participation in professional development. While Professor Braithwaite did not propose a requirement for quantification of professional development, the Government acknowledges her aim to encourage RTOs to recognise the advantages of having high quality staff and create a culture of quality training through professional development. The Government supports in principle recommendation seven that RTOs assess and report on the quality of their workforce subject to further exploration by the Department of Education and Training on how best to implement this recommendation without unreasonably increasing regulatory burden on providers.

Work is currently underway to review the Training and Education Training Package. Submissions to this review indicated some interest in the sector for increasing the minimum qualification standard for trainers and assessors, although consultations made it clear that this idea has previously been considered and was not widely supported. Submissions from the public and ASQA provided differing perspectives on the level of qualification that should be required of trainers and assessors. The Government supports in principle recommendation eight, subject to the Department of Education and Training consulting with states and territories through the Skills Senior Officials Network (SSON), the Council of Australian Governments Industry and Skills Council (CISC) and ASQA to determine implementation considerations for this recommendation.

The Government notes the review's findings and evidence highlighting interest in the sector for external evaluation and validation of professional development and student outcomes. The Government notes progress in other fields of education where there has been identification and classification of expert teachers as mentors in their fields. This is evidenced by the Australian Institute for Teaching and School Leadership's Australian Professional Standards for Teachers. These Standards guide the preparation, support and development of teachers throughout their careers from Graduate to Proficient Teachers, to Highly Accomplished and Lead Teachers.

The Government notes work already undertaken in this area on alternative approaches to increase quality and professionalisation in the VET sector, for example, by the Training and Assessment Working Group that was established by the Australian Government, and the many stakeholders that have advocated the establishment of a professional organisation to support VET practitioners.

The Government notes recommendation nine, with the Department of Education and Training to investigate concepts associated with the design of a Master Assessor with SSON, CISC and ASQA within the context of discussions on how to further the professionalisation of the VET workforce.

## 4) Improving the collection and sharing of data

### Review recommendations

Professor Braithwaite identified a number of shortcomings with the current VET data environment and presented four recommendations that call for an improvement to the current collection and data sharing arrangements in VET, which are considered essential for efficient regulation. These recommendations seek to increase the frequency, response rates and accessibility of VET student and RTO data to improve timely identification of, and response to, systemic and provider issues, as well as to improve student and RTO access to sectoral information. The recommendations also call for the Australian Government, state and territory governments, and other government agencies to improve their data sharing policies and develop sector wide systems to minimise duplication of data submissions by RTOs and students.

- **Recommendation 10:** The legislative framework be amended to increase the frequency of data provision to the National Centre for Vocational Education Research to quarterly for all RTOs.
  - The Government **supports in principle** this recommendation
- **Recommendation 11:** The Australian Government prioritises the improvement of policies and systems that allow for transfer of real-time data for timely use by other agencies with regulatory responsibilities for identifying and responding to emerging sectoral and provider-based issues.
  - The Government **supports** this recommendation
- **Recommendation 12:**
  - a) The Australian Government and the National Centre for Vocational Education Research explore ways to increase student response rates to the Student Outcomes Survey, and
  - b) The National Centre for Vocational Education Research, ASQA, and the sector identify a module of questions that directly addresses the quality of the student journey in the Student Outcomes Survey.
  - The Government **supports in principle** this recommendation
- **Recommendation 13:** The legislative framework be amended to enable the National Centre for Vocational Education Research to make the RTO level data it holds publicly available and identifiable.
  - The Government **supports in principle** this recommendation

### Australian Government response

The Government supports improving collecting and sharing VET data to help inform quality assurance in the VET sector. The Government notes that there is broad support across the sector for more timely and efficient data collection and supports in principle recommendation ten, as long as this uptake of data does not impose too significant a burden on RTOs, particularly small RTOs.

The Government is currently exploring ways to facilitate near real-time upload of data from RTOs through a systemic submission interface that will enable more frequent VET data collection for the sector. The Government is also exploring a virtual real-time data-sharing platform for cross-government and regulator use consistent with the commitment by CISC under Performance Information for VET (PIVET). Along with better collection, this enhanced disclosure of VET

information between VET related bodies will ensure data currency, and enable the regulators of VET to identify emerging risks and issues in VET quality.

While the Government supports in principle recommendation twelve, it does not support the concept that a student should complete a survey in reciprocity to access the USI transcript service, as outlined in the report, as the transcript is a service available to all VET students with a USI under the *Student Identifiers Act 2014*.

The Australian Government notes that the Department of Education and Training is canvassing options with the National Centre for Vocational Education Research (NCVER) for a nationally consistent student survey platform. The aim of this platform is to replace individual government and regulator surveys with a streamlined single student survey that focuses on the student journey. Implementation of this platform will require consultation and support from NCVER, all jurisdictions and all regulators responsible for VET.

The Government supports recommendations that improve the transparency of Australia's VET market. The Government encourages NCVER to help lift the quality of VET by publically providing RTO activity data to enhance the information available about the structure and dynamics of the VET market. The revised National VET Data Policy endorsed by CISC in November 2017 is a step forward in allowing the Australian Government, state and territory governments to publish RTO-level outcome data held by NCVER to assist students, businesses, and other consumers to make an informed choice. Under the PIVET reforms, the Government is scoping an RTO performance dashboard that will publish information on the price and outcomes of VET courses at RTOs.

The Government through the Department of Education and Training will explore, with NCVER as well as states and territories how to best facilitate the public accessibility of RTO level data collected by NCVER. In developing this policy, attention will be given to the indicators that best illustrate RTO performance, and the impact this policy will have on market dynamics.

## 5) Protecting and informing students

### Review recommendations

The review explored the information and consumer protection arrangements available to students throughout their training. Professor Braithwaite noted that in the wake of unscrupulous RTOs taking advantage of students under the VET FEE-HELP scheme, protecting students' investment is paramount. The review identified the intertwined regulatory problems of misleading advertising, unfair contracts and inaccessible records as key areas for improving the student journey as well as the ability for students to easily seek recourse in situations where they are in conflict with their RTO.

In the context of advancing quality training, Professor Braithwaite highlighted the benefits of improving transparency of information to shed light on both the strengths and weaknesses of RTOs. Increasing transparency and access to information will assist in informing and educating the sector about systemic issues and allow RTOs to look for good and bad practice examples with a view to self-improvement and enhancing quality.

The review also noted concerns around the fragmented tuition assurance arrangements across the sector and the inequities created for various student cohorts. Professor Braithwaite identified difficulties faced by students when an RTO is no longer able to deliver the course in which they are enrolled and the disruption they experience to their studies when records of their training have not been kept, or kept in a format that is not easily accessible and storable.

Eight recommendations were made to better protect and inform VET students:

- **Recommendation 15:** The National Vocational Education and Training Regulator Act 2011 be amended to require ASQA to publicly release audit reports.
  - The Government **supports in principle** this recommendation
- **Recommendation 16:** The legislative framework be amended to require RTOs to publish nationally consistent consumer information that is accessible and meaningful to students and meets the basic needs for decision making (for example, course entry requirements, course length, employment outcomes, and fees, including subsidies and course cancellation fees).
  - The Government **supports** this recommendation
- **Recommendation 17:** The legislative framework be amended to strengthen ASQA's ability to take action under a general prohibition against misleading or deceptive conduct which reflects Australian Consumer Law requirements.
  - The Government **notes** this recommendation
- **Recommendation 18:** The legislative framework be amended to require RTOs to strengthen consumer protection in student enrolment agreements through the adoption of contracts that avoid unfair terms as defined in Australian Consumer Law.
  - The Government **supports in principle** this recommendation
- **Recommendation 19:** The legislative framework be amended to require RTOs to keep electronic records showing a minimum of student completions of units, courses and qualifications over the life of the RTO, preferably using an AVETMISS-compliant student management system.
  - The Government **supports** this recommendation

- **Recommendation 20:** The Australian Government investigates ways in which, in cases of administration and liquidation, priority is given to the timely provision of student records to ASQA and the protection of students' investment in their education.
  - The Government **supports in principle** this recommendation
- **Recommendation 22:** The Australian Government considers strengthening tuition assurance by assuming responsibility for the operation of all tuition assurance and protection arrangements and ensuring that the scope of these arrangements protects all VET students.
  - The Government **notes** this recommendation
- **Recommendation 23:** The Australian Government establishes a national Tertiary Sector Ombudsman.
  - The Government **supports in principle** this recommendation

### **Australian Government response**

The Government recognises that access to reliable, consistent, publicly available information is critical in assisting students to make informed training choices. The Government supports recommendation 15 in principle subject to consultation with regulators to determine the most appropriate methodology for sharing audit information more widely, resourcing and implementation implications, and possible legislative amendments.

The Government supports strengthening consumer protection through improvements to the accessibility and comparability of meaningful information to students as well as opportunities to strengthen student-RTO contractual arrangements to protect students against unfair terms of contract.

Amendments to the legislative framework to enhance the publication of student information would support work underway under the CISC Performance information for VET (PIVET) reforms to implement an RTO performance dashboard containing nationally consistent consumer information. This includes providing fee and outcome information for courses at RTOs and will be informed by robust market research what information is most relevant to consumer decision-making processes.

The Government notes recommendation 17 to enable ASQA to take action under a general prohibition against deceptive and misleading conduct and strengthening enrolment agreements. The Government through the Department of Education and Training will explore the most appropriate mechanisms for assisting ASQA to take swift action to protect students, noting there may be opportunities to implement the intent of this recommendation through work already underway to enhance ASQA's ability to pursue civil penalties for breaches of the Standards for RTOs. The Government also notes the limited scope of the constitutional power referred by the referring states during the establishment of ASQA.

The Government supports in principle Professor Braithwaite's recommendation 18, to amend the legislative framework to require RTOs to strengthen consumer protection in student enrolment agreements subject to further investigation of legal implications and consultation with states and territories.

The Government supports amendments to the NVETR legislation to strengthen the record keeping requirements of RTOs to promote positive student outcomes and assist with the transfer of

information to ASQA in the event of provider closure. The Government, through the Department of Education and Training will consider the timing of the changes so they can be coordinated with the PIVET streamlining project to enable more timely data collection from RTOs without substantially increasing regulatory burden.

Similarly, the Government supports in principle recommendation 20 and the Department of Education and Training will investigate how students' rights can be better protected when RTOs are in administration and liquidation. However, given this recommendation involves complex areas of consumer and corporations law, further consultation will be undertaken with the Treasury.

In recommendation 22, Professor Braithwaite called for enhanced tuition assurance arrangements for all VET students, with the Government assuming responsibility for the operation of the arrangements. The Government notes the protection of students' investment is critical, and it will task the Department of Education and Training to explore and assess the potential regulatory and financial implications for RTOs and governments in establishing a comprehensive scheme. The Government supports further consultation between the Department of Education and Training and ASQA to explore the nature of data on compliance with the current RTO requirement to protect upfront fees of over \$1500.

The final recommendation relates to providing recourse to students when they are in conflict with their RTO. The review notes the current arrangements for dispute resolution for students are fragmented and inadequate in providing assistance to students at a time when they are likely to be overwhelmed by problems and competing uncertainties in their lives. It highlights the convergence of the VET and higher education sectors to meet education and training skills needs and calls for the establishment of a national Tertiary Sector Ombudsman to streamline arrangements and improve outcomes for students across the tertiary system into the future.

The Government supports in principle recommendation 23 and will undertake further analysis and consultation regarding the proposal to implement a Tertiary Sector Ombudsman given the significant constitutional legal questions in the context of the referral of powers by states and territories. The Government will task the Department of Education and Training, ASQA, TEQSA and the Commonwealth Ombudsman, incorporating the VET Student Loans Ombudsman and Overseas Students Ombudsman functions, to explore these issues.

## Next steps

The Australian Government acknowledges that it was a decision of the Council of Australian Governments (COAG) to establish a national vocational education and training regulator, and that its success depends on cooperation between all the parties that have either referred their powers to ASQA or have enacted mirror legislation to ensure consistent application of national standards.

As such, the Australian Government, through the Department of Education and Training will work with states and territories through the COAG Industry and Skills Council (CISC) to progress reforms that respond to Professor Braithwaite's recommendations. There is also ongoing consideration of specific legislative amendments proposed during the review.

The Government recognises that implementation of some recommendations will require the assistance of other agencies including the Commonwealth Ombudsman, as well as the referral of additional powers by states and territories on certain matters.

The Government will task the Department of Education and Training to work with CISC to consider the referral of a number of recommendations to ASQA. This includes those recommendations aimed at improving engagement between the regulator and the VET sector.

The *All eyes on quality* report provides an ideal opportunity to build on the recent reforms ASQA has undertaken to its regulatory activities, and truly put the student at the centre of VET delivery across the country. Through the implementation of the areas outlined in this Australian Government response, the importance of students receiving quality training, which fosters a continued appetite to learn and develop their capabilities, and the ability of high quality RTOs to provide this training in a vibrant VET market, will be strengthened.

The Government is committed to working with the states and territories, ASQA and the state-based regulators, NCVET and registered training organisations to continue enhancing the quality and oversight of VET in Australia.



## Appendix A

## Recommendations from the Review of the NVETR Act report, in numerical order

Number	Recommendation
1.	ASQA develop and implement processes to enhance its capabilities and opportunities to proactively engage in regulatory conversations with students, teachers, RTOs, industry and other interested stakeholders. The desired outcomes are to improve the value of the student-focused regulatory approach and involve the sector in developing the regulatory culture that drives ASQA's use of its legislative powers.
2.	In order to enhance transparency and consistency in the use of the legislative framework, ASQA should build on its regulatory conversations and practice reflections to develop and clearly articulate to the regulatory community the principles applied to the interpretation of legislation and the use of powers.
3.	ASQA works with RTOs to develop positive assurance flags to include in the ASQA risk matrix and develop a mutually agreed method of communicating this information publicly without increasing the compliance burden on RTOs.
4.	The Australian Government amends the legislative framework to ensure that entrants to the registered training market be required to clearly demonstrate educational commitment and knowledge of how to provide best practice support to students. This statement of commitment should be required as a condition of registration and include quality performance objectives, which, if breached, could lead to sanctions and ultimately de-registration.
5.	The Australian Government strengthens the fit and proper person requirements and change notification requirements under the NVETR legislation and where appropriate aligns them with TEQSA and ESOS Act provisions and any other relevant legislation.
6.	<p>The Australian Government amends the legislative framework to ensure greater scrutiny of new providers to:</p> <ul style="list-style-type: none"> <li>• provide that where an RTO without reasonable justification does not commence providing training within 12 months of being registered, or during its registration ceases to provide training for a 12-month period, its registration automatically lapses, meaning that it would no longer be registered.</li> <li>• prevent RTOs changing the scope of the courses they deliver where an RTO has been operating for less than 12 months.</li> </ul>
7.	The legislative framework be revised to require an RTO to assess the quality of its teaching workforce and develop teacher quality improvement actions, which must be submitted to ASQA annually as a part of the Quality Indicator Annual Summary report.
8.	The Training and Education Training Package be reviewed with the purpose of creating a career path for teaching excellence in vocational education and training.

Number	Recommendation
9.	The Australian Government leads a process to raise the standards of teaching and training excellence and professionalism in the sector through creation of the role of Master Assessor. A Master Assessor would be placed at the pinnacle of the VET teacher/trainer career path with the responsibility to mentor through professional development programs and assess the quality of an RTO's next cohort of graduating students.
10.	The legislative framework be amended to increase the frequency of data provision to the National Centre for Vocational Education Research to quarterly for all RTOs.
11.	The Australian Government prioritises the improvement of policies and systems that allow for transfer of real-time data for timely use by other agencies with regulatory responsibilities for identifying and responding to emerging sectoral and provider-based issues.
12.	<p>a. The Australian Government and the National Centre for Vocational Education Research explore ways to increase student response rates to the Student Outcomes Survey, and</p> <p>b. The National Centre for Vocational Education Research, ASQA, and the sector identify a module of questions that directly addresses the quality of the student journey in the Student Outcomes Survey.</p>
13.	The legislative framework be amended to enable the National Centre for Vocational Education Research to make the RTO level data it holds publicly available and identifiable.
14.	The Australian Government explores ways to strengthen the regulatory framework by expanding the circle of dialogue around improving the quality of the student journey pre- and post-audit to include all stakeholders who could contribute to future improvement in an RTO's performance.
15.	The <i>National Vocational Education and Training Regulator Act 2011</i> be amended to require ASQA to publicly release audit reports.
16.	The legislative framework be amended to require RTOs to publish nationally consistent consumer information that is accessible and meaningful to students and meets the basic needs for decision making (for example, course entry requirements, course length, employment outcomes, and fees, including subsidies and course cancellation fees).
17.	The legislative framework be amended to strengthen ASQA's ability to take action under a general prohibition against misleading or deceptive conduct which reflects Australian Consumer Law requirements.
18.	The legislative framework be amended to require RTOs to strengthen consumer protection in student enrolment agreements through the adoption of contracts that avoid unfair terms as defined in Australian Consumer Law.

Number	Recommendation
19.	The legislative framework be amended to require RTOs to keep electronic records showing a minimum of student completions of units, courses and qualifications over the life of the RTO, preferably using an AVETMISS-compliant student management system.
20.	The Australian Government investigates ways in which, in cases of administration and liquidation, priority is given to the timely provision of student records to ASQA and the protection of students' investment in their education.
21.	The legislative framework be amended to explicitly address student safety and wellbeing in alignment with the Higher Education Standards Framework (Threshold Standards) 2015.
22.	The Australian Government considers strengthening tuition assurance by assuming responsibility for the operation of all tuition assurance and protection arrangements and ensuring that the scope of these arrangements protects all VET students.
23.	The Australian Government establishes a national Tertiary Sector Ombudsman.