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Senate Inquiry into the operation, regulation  
and funding of private vocational education  
and training (VET) providers in Australia

ACPET submission to the Senate Education  
and Employment References Committee

February 2015

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## Introduction

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On 24 November 2014, the Senate referred the inquiry into the operation, regulation and funding of private vocational education and training (VET) providers in Australia ('the Inquiry') to the Education and Employment References Committee for inquiry and report by 10 August 2015. The committee agreed that submissions should be received by 13 February 2015.

The committee will table interim reports to the Senate on 2 March 2015 and 15 June 2015<sup>1</sup>.

ACPET welcomes the Inquiry and looks forward to considerations for an improved regulatory environment for the sector.

This submission to the inquiry has been prepared by the Australian Council for Private Education and Training (ACPET). Established in 1992, ACPET is the national industry association for private providers of post-compulsory education and training. ACPET represents 1,100 members comprising of institutions which offer a diverse range of delivery in vocational education, higher education, English language, foundation studies and primary/secondary school. Members range from large publically listed companies to small businesses that specialise in a particular industry (for further information visit [www.acpet.edu.au](http://www.acpet.edu.au)).

ACPET appreciates the opportunity to provide a contribution to the inquiry and has responded to the Inquiry terms of reference as outlined below:

- (a) the following matter be referred to the Education and Employment References Committee for inquiry and report by 10 August 2015:

The operation, regulation and funding of private vocational education and training (VET) providers in Australia, including:

- (i) the access private VET providers have to Commonwealth and state public funding,
- (ii) the cost of education at private VET providers,
- (iii) the regulatory regime private VET providers operate within,
- (iv) the operation of VET-FEE-HELP,
- (v) the quality of education provided by private VET providers, volume of learning requirements and graduate outcomes,
- (vi) marketing and promotional techniques employed by private VET providers and education brokers both domestic and international,
- (vii) any incidents or allegations of non-compliance with regulation and funding arrangements at private VET providers,
- (viii) political donations made by private VET providers,
- (ix) international comparisons to the Australian funding and regulatory regime,
- (x) the operation, regulation and funding of private VET providers specifically offering courses in aged care and early childhood education and their labour market outcomes, and
- (xi) any related matters; and

- (b) the committee will table interim reports to the Senate on 2 March 2015 and 15 June 2015.

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<sup>1</sup> [www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Education\\_and\\_Employment/vocationalead](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Education_and_Employment/vocationalead)

## Executive Summary

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The Private VET sector plays a significant role in contributing to the Australian economy; through the development of the nation's workforce and as well as supporting VET as a major export industry.

Research by ACPET has estimated private tertiary education providers in Australia contribute \$5.8 billion per year to the national economy, employ almost 100,000 (equivalent full-time) people and provide training for more than 1.4 million (equivalent full-time) students<sup>2</sup>.

There are approximately 4500 private Registered Training Organisations (RTOs) in Australia of which 1670 received government funding in 2013. The latest data<sup>3</sup> compiled by the National Centre for Vocational Education Research (NCVER) for government funded VET reported government funded private providers enrolled 552,200 (28%) of 1.95 million students in 2013.

Private providers contributed 154,000 annual hours of delivery in 2013, which equated to 28% of the national total, the same proportion of its publically funded student share (Activity data for non-government funded providers has not been reported). The latest data for government funded VET also revealed that private providers are a preferred choice for international students, attracting 109,700 overseas visa students studying onshore in 2013.

When you consider the full fee for service delivery for non-government funded private RTOs that is not covered by the statistics outlined above (as data on full fee for service delivery by all private VET providers will only become available from this year), the contribution of the private training sector is clearly a major component of the Australian education sector.

Government funded VET completion rates are currently 35.8 percent, which translated to 585,000 qualification completions, up from 394,000 in 2009<sup>4</sup>. Of those that have completed their training, the 2014 student outcomes survey for domestic students for the publically funded VET sector reported that 87% of graduates and 84% of module completers were satisfied with their training experience. 77% of graduates were employed after undertaking training, and 80% of those undertaking training for employment related reasons were employed after training.

In terms of government funded training, results confirm that the vocational education and training sector, including both private and public providers, deliver quality education outcomes - with 86% satisfied with their overall quality of training at private providers compared to 89% for TAFE.

In another measure of quality, in 2014 graduates from private providers were more likely to be employed after training compared to TAFE graduates (79% versus 74%) and were also more likely to gain employment after training (47% compared to 42%).

In terms of the broader VET sector (being government and full fee for service activities) private VET providers are consistently the most preferred supplier of nationally recognised training, with 45% of employers choosing these providers. Only 16.7% used TAFE as their main provider of nationally recognised training in 2013<sup>5</sup>.

Public funding of training delivery by private VET providers is an efficient and attractive investment for governments. In 2013 states and territories spent \$6.4 billion in operating expenses to deliver training to 1.2 million students at TAFE. This equates to a cost of \$5,247 per student. States and territories contracted \$1.3 billion of training delivery to non TAFE providers in the same year to service 686,000 students (including 133,500 community education students). This equates to a cost

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<sup>2</sup> ACPET, ACPET At A Glance, 2012

<sup>3</sup> NCVER, Students and Courses, publicly funded training providers 2014

<sup>4</sup> Australian vocational education and training statistics: Students and courses 2013, Table 17

<sup>5</sup> NCVER, Employers Use and Views of the VET System 2013, Table 14

of only \$2,078 per student, some \$3,169 less per student or only 40% of the cost of the TAFE equivalent, for the same student outcomes.

Governments from all persuasions have adopted contestable funding models as the preferred approach under the National Agreement on Skills and Workforce Development, which has successfully increased participation rates (increasing student numbers by over 200,000<sup>6</sup> since 2009). Refinement of funding and student loan mechanisms, regulations and other checks and balances should be the focus of further reforms, to ensure quality outcomes and information for students, industry and government.

Just as private schools are seen as a major element in educating school children, industry and students are overwhelmingly selecting private RTOs as the provider of their choice.

ACPET supports a diverse and competitive sector to drive quality and innovation. The role of TAFE as a public service provider needs to be made clear and aspects of its operation should be funded outside of the contestable market. Re-creating a government funded monopoly ignores the considerable progress the sector has made since the introduction of contestability. Community service obligations should be funded and supported from additional investment and TAFE broader operations exposed to national and international VET competition to help it remain a viable and innovative contributor to the sector. TAFE has an important role to play, but this role needs to be shaped by student choice.

It is interesting to note that under the Victorian Government funded student choice market conditions, students that would otherwise require support covered by TAFE community services obligations were in fact choosing private training providers. In terms of market share in 2013, the Victorian Training Market Report Half Year 2014 cited over half of all unemployed eligible persons chose to attend private training providers, compared to 25 per cent choosing TAFE. Similarly 56 per cent of culturally and linguistically diverse students and around 40 per cent of students with a disability as well as Indigenous attended private training institutions. This demonstrates the need to balance the funding of community service obligations across the entire sector in a competitive market.

This also demonstrates potential partnership arrangements that can leverage from the strengths of private and public delivery to drive better and equitable student outcomes and economic benefits for the community.

## **Key Points in Submission**

### **TOR (i) Funding**

1. In 2012 all Australian governments committed to opening their training market investment to both public and private RTOs on a competitive basis, through the introduction of a national training entitlement to a government subsidised training place.
2. The access a private VET provider has to Commonwealth and state public funding under the national training entitlement is determined and restricted by each state and territory government approved procurement process, as well as the decision of a student to enroll with a government approved private VET provider.
3. The Commonwealth Department of Education and Training administers approvals for RTOs to offer VET FEE HELP, and therefore, determines access to this indirect funding stream for private VET providers.

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<sup>6</sup> NCVET, Vocational Education and Training Provider Collection, 2009-2013

4. Government funding to private VET providers nationally has risen from 8 percent in 2009 to 17 percent in 2013.
5. Public funding of training delivery by private VET providers is an efficient and attractive investment for governments. In 2013 states and territories spent \$5,247 per student for places at TAFE compared to only \$2,078 per student, being only 40% of the cost of the TAFE equivalent, for the same student outcomes.
6. Due to the demonstrated efficiency of public investment in privately delivered training, Victoria has been able to achieve the highest student numbers in Australia, a third of all students, well above its relative population share of 25 percent.
7. ACPET supports a diverse and competitive sector to drive quality and innovation. The role of TAFE as a public service provider should be made clear and aspects of its operation should be funded outside of the contestable market accordingly.

#### **TOR (ii) Cost of Education**

8. A major contributor to private provider efficiency is the ability to provide flexible and tailored training facilities and delivery. Variability of price for courses does not on its own indicate quality or otherwise.
9. When any provider, private or public, exploits weaknesses in government entitlement funding models, this leads to excessive delivery of possibly substandard training in low priority skills areas. Government must focus on quality measures for provider access to government funding for national training entitlement as well as information to ensure well informed student choice.

#### **TOR (iii) Regulation**

10. All regulators (VRQA and TAC included) must be sufficiently resourced to fulfil their role. ACPET members are also supportive of the introduction of the new Standards for RTOs 2015. However, many members believe this regulation should include measures beyond just compliance with policies and procedures, to ensure compliance is also student experience focused.
11. ACPET welcomes government support for its newly introduced Code of Ethics and Practice that focus on engaging brokers and agents under mandatory behavioural requirements for both its members and their contractors. The aim of the Code of Practice is to provide students, the community and government with confidence in the integrity of the agents/brokers used by ACPET members to recruit prospective students.
12. ACPET advocates for a National Training Ombudsman Scheme, a free national consumer-focused complaint handling process for students and providers that will complement the new National Training Complaints Hotline, as existing ombudsman arrangements focus either on only government owned providers or international student issues.

#### **TOR (iv) VET FEE-HELP**

13. ACPET encourages appropriately strict requirements for access to VET FEE HELP funding and transparent reporting of the training outcomes resulting from VET FEE HELP loans.
14. ACPET would welcome the scrutiny of student completion data for enrolments funded by VET FEE HELP loans. If such information was more readily accessible, consumers, regulators and policy direction could focus on supporting quality providers and removing ineffective practices.
15. Funding of VET FEE HELP loans to providers could be based on multiple census dates relating to student progress and refinements to eligibility of access for both the student and provider are recommended.

16. On examination of the request for VET FEE HELP assistance form, it was found that an applicant is not made aware of the VET tuition fees loan amount they will be committing to as part of the application process. ACPET recommends that such information should be made clear to the student to as part of the loan application process to help inform the decision to assume such a liability.

#### **TOR (v) Quality of Education**

17. Private VET providers are consistently the most preferred supplier of nationally recognised training, with 45% of employers choosing these providers. Only 16.7% used TAFE as their main provider of nationally recognised training in 2013.
18. NCVER Student Outcomes Survey 2014 confirms that private providers deliver quality education outcomes in a same manner as public institutions - with 86% satisfied with their overall quality of training compared to 89% for TAFE.
19. In 2014 graduates from government funded private providers were more likely to be employed after training compared to TAFE graduates (79% versus 74%) and were also more likely to gain employment after training (47% compared to 42%).

#### **TOR (vi) Marketing**

20. While the new standards for RTOs 2015 have improved requirements relating to marketing and advertising for courses, through the review of the promotion of excessively short courses, it will be beneficial to all RTOs for regulators to provide additional advice and support in understanding the requirements of volume of learning.
21. Legitimate circumstances for targeting students to achieve qualifications in a short duration include: seeking to up-skill when already holding a qualification or having extensive experience, intensive training and assessment through a mixture of face to face and work outside of training sessions, the need for a single unit, skill sets and/or mandatory units for particular industries. ACPET supports the intention of the new standards to provide more clarity around volume of learning requirements and appropriate documentation to support shorter course delivery.
22. The auditing of recorded conversations between brokers/agents representing RTOs may enable more transparent evidence of compliance with the new marketing and advertising standards, but also improve of the quality of information to potential students.
23. The new ACPET Code of Ethics requires that members market their education and training services with integrity and accuracy. Members are expected to recruit and support students with the express aim of maximising their capacity to complete the qualification.

#### **TOR (vii) Non-Compliance**

24. As outlined in the ASQA Annual Report 2013-14, only 25 organisations (6%) had their registration cancelled from over 400 compliance audits in 2013-14.
25. 862 applications for renewal of registration were approved while rejections have fallen from 12.1% in 2011-12 to just 3.5% (33 applications). Rejections for change of scope in 2013-14 were only 1.4% of over 7000 applications.
26. 77% of providers found to be non-compliant achieve full compliance after submitting rectification evidence. ASQA has reported that the majority seeks to comply with the Standards, but many do struggle to understand what is expected of them. This confirms non-compliance does not necessarily equate to unscrupulous behaviour.

**TOR (x) Aged Care and Early Childhood**

27. ACPET believe the operation, regulation and funding issues are covered by the previous responses in this submission. These issues apply to all industry sectors within VET, including aged care and early childhood education.

## Response to the Terms of Reference

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The following responses are presented by ACPET on behalf of its members to inform the report by the References Committee to the Senate for the operation, regulation and funding of private vocational education and training (VET) providers in Australia.

### (i) the access private VET providers have to Commonwealth and state public funding

#### Background

On 13 April 2012 all Australian governments committed to the structural reforms under the National Partnership Agreement on Skills Reform. This agreement supported the reform directions outlined in the COAG National Agreement on Skills and Workforce Development (NASWD) 2012-17. The NASWD and National Partnership outline reform directions specifically focused on a competitive training market that:

- *Encourages responsiveness in training arrangements by facilitating the operation of a more open and competitive training market;*
- *improves training accessibility, affordability and depth of skills, through the introduction of a national training entitlement and increased availability of income contingent loans; and*
- *Strengthens the capacity of public and private providers and businesses to deliver training and support people in training<sup>7</sup>.*

Funding and access to student loans for the contestable market in VET by governments supports this reform direction.

All jurisdictions have previously provided targeted funding to private providers since the introduction of National Competition Policy in the early 1990s. Victoria was the first jurisdiction to move to a fully contestable market in 2009. The NASWD reforms are the final step for public funded VET moving to a fully contestable market nationally.

As a result of this national policy commitment, all jurisdictions have committed to open their training market investment to both public and private RTOs on a competitive basis. The introduction of a national training entitlement to a government subsidised training place (up to and including a Certificate III) enables an individual to access training at any private or public RTO that meets the criteria to access funding. These criteria are determined by each state and territory to reflect local markets. Therefore **the access a private VET provider has to Commonwealth and state public funding under the national training entitlement is determined and restricted by each state and territory government approved procurement process, as well as the decision of a student to enroll with a government approved private VET provider.** Within the approved providers in this market, it is the student selection of a training provider that determines where government funding flows. For this reason, it is important students have access to quality information to inform their choices.

It is also worth noting that with each state and territory government operating unique approved provider processes, this has created multiple layers of administrative burden and price differentiation (funding levels) for any RTO operating nationally. Another challenge is that decisions on State and Territory priorities are not considering pathways to higher level qualifications, such as those supported by VET FEE HELP. This design flaw can lead to the enrolment of a student into a course that is may not maximise their future opportunity.

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<sup>7</sup> National Partnership Agreement on Skills Reform, Council of Australian Governments 2012, Page 3

The expansion of the Commonwealth income contingent loan scheme VET FEE HELP to students to access loans for higher qualifications in VET has also had a significant impact on the operation of the sector. Approved private VET providers are able to increase enrolments, funded by student income contingent loans provided by the Commonwealth. **The Commonwealth Department of Education and Training administers approvals for providers to offer VET FEE HELP, and therefore, determines access to this funding stream for private providers.**

### Funding

The latest NCVET Australian Vocational Education and Training Statistics: financial information 2013 publication provides an overview of the source and allocation of public expenditure on VET in Australia.

In 2013 total public VET operating revenue was \$8 billion. Direct Commonwealth investment in the public VET sector was \$2.5 billion (39%) and state and territory government investment was \$6.5 billion (61%). The following table summarises these contributions:

**Table 1 Investment in VET by Australian Governments 2009-13 (\$ million)**

	NSW	VIC	QLD	WA	SA	TAS	NT	ACT	AUST GOVT	TOTAL
<b>2013</b>	1,096.2	1,227.3	638.5	462.4	329.9	86.5	81.5	67.2	2,557.7	6,547.2
<b>2012</b>	1,165.0	1,547.1	683.9	483.1	219.8	87.1	77.2	70.7	2,183.2	6,517.1
<b>2011</b>	1,051.9	1,196.1	700.2	538.2	231.6	100.7	83.7	69.7	2,229.3	6,201.4
<b>2010</b>	1,023.2	880.1	605.2	400.5	205.2	93.3	72.7	69.3	2,007.1	5,356.6
<b>2009</b>	996.1	765.4	635.8	376.5	223.8	81.2	67.3	64.1	1,871.4	5,081.6

Source data: NCVET Australian Vocational Education and Training Statistics: financial information 2013 page 9

The following table summarises the proportion of government funding that has been distributed to private RTOs since 2009.

**Table 2 Payments to Non VET Providers as a proportion of total operating expenses 2009-13 (%)**

	NSW	VIC	QLD	WA	SA	TAS	NT	ACT	AUST GOVT	TOTAL
<b>2013</b>	4.5	31.2	15.8	14.3	22.2	7.3	6.8	6.1	0.0	17.0
<b>2012</b>	6.8	30.1	15.5	15.5	15.7	6.8	8.3	5.6	0.0	16.8
<b>2011</b>	8.5	21.5	18.8	16.6	10.8	4.6	5.8	5.9	0.0	14.5
<b>2010</b>	8.3	13.5	15.0	14.9	7.9	4.6	9.6	5.3	0.0	10.8
<b>2009</b>	5.5	7.6	12.1	12.5	6.9	5.5	8.4	6.6	0.0	7.7

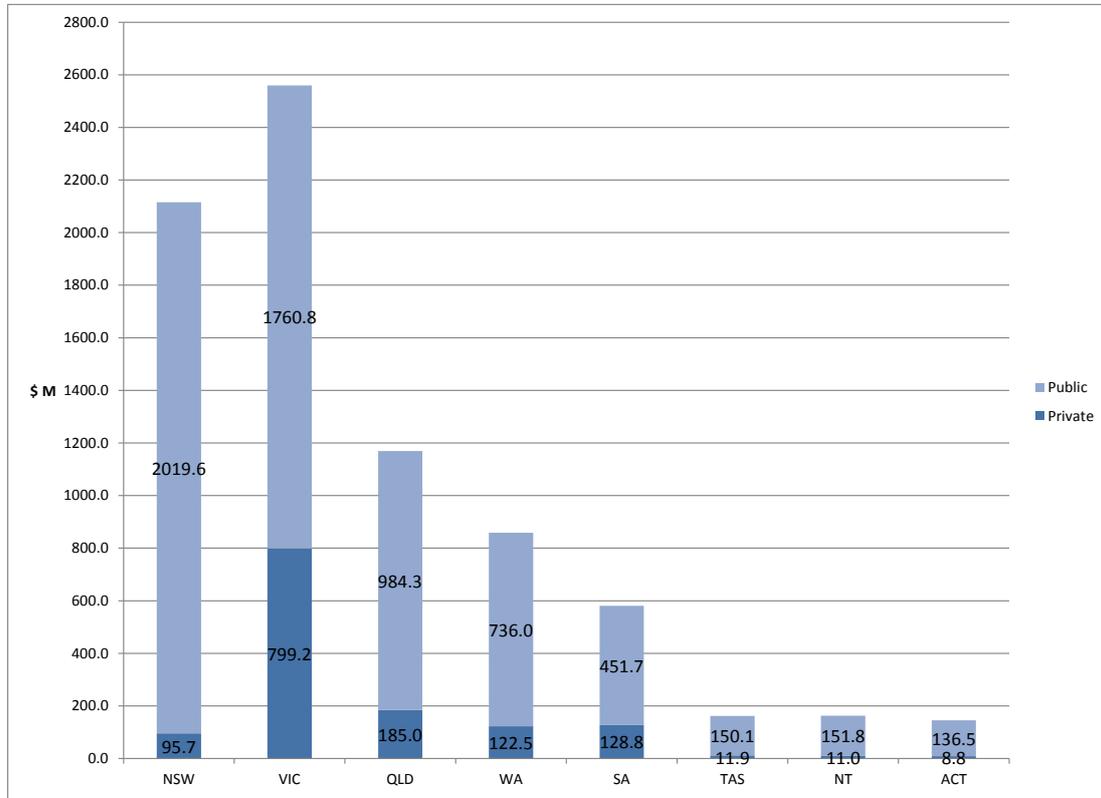
Source data: NCVET Australian Vocational Education and Training Statistics: financial information 2013 page 10

As the figures indicate, **funding to private providers nationally has risen from 8 percent in 2009 to 17 percent in 2013.** In Victoria, the only fully contestable, demand driven market in Australia over 2009-13, around 30 percent of funding had been allocated to non TAFE providers by 2013. South Australia also implemented a fully contestable model in 2012 and distributed 22 percent of funding to private providers in 2013.

As Queensland has and New South Wales will have introduced contestable models since this time, it is reasonable to expect the national proportion of funding to private providers will increase in accordance with Victorian and South Australian trends.

Figure 1 below presents the split of government funding for VET directed to public and private institutions in 2013.

**Figure 1 Payments to Non VET Providers as a proportion of total operating expenses 2013 (\$M)**



Public funding of training delivery by private VET providers is an efficient and attractive investment for governments. In 2013 states and territories spent \$6.4 billion in operating expenses to deliver training to 1.2 million students at TAFE. This equates to a cost of \$5,247 per student. **States and territories contracted \$1.3 billion of training delivery to non TAFE providers in 2013 to service 686,000 students (including 133,500 community education students). This equates to a cost of only \$2,078 per student, some \$3,169 less per student or only 40% of the cost of the TAFE equivalent, for the same student outcomes as reflected in NCVER student outcomes surveys.**

In Victoria, with the most established student user choice market, over half of all publically funded students are now enrolled in private VET or community education providers. **Due to the demonstrated efficiency of public investment in privately delivered training, Victoria has been able to achieve the highest student numbers in Australia, a third of all students, well above its relative population share of 25 percent.** This high level of training delivery in Victoria is also demonstrated by the participation rate of 15 to 64 year olds in training in 2013, with Victoria having the highest overall rate at 16.1 per cent, followed by South Australia at 14.8 per cent<sup>8</sup>.

As a comparison, ACPET estimates an additional 45,000 students could have had access to training in Queensland in 2013 if the proportion of private training investment in Victoria (31%) was matched in that jurisdiction.

<sup>8</sup> DEECD, Victorian Training Market Report Half year 2014, page 39

## **(ii) the cost of education at private VET providers**

As previously highlighted in terms of reference (i), training delivery by private VET providers is an efficient business model. In 2013 states and territories spent \$5,247 per student for places at TAFE compared to only \$2,078 per student, being only 40% of the cost of the TAFE equivalent. Research confirms that is not at the expense of quality outcomes. The NCVET 2014 student outcomes survey for domestic students for the publically funded VET sector reported 86% of students were satisfied with their overall quality of training compared to 89% for TAFE. In addition, government funded private providers were more likely to be employed after training compared to TAFE graduates (79% versus 74%) and were also more likely to gain employment after training (47% compared to 42%).

**A major contributor to private provider efficiency is the ability to provide flexible and tailored training facilities and delivery.**

This efficiency and flexibility was highlighted in an article in *The Conversation* in August 2014. Peter Noonan, Professional Fellow at Victoria University, considered the competitive fees of private VET providers in the context of the loss of market share experienced by TAFE in a contestable market:

*'In any new market existing long-standing providers often lose market share to new providers who are able to pick and choose what areas of the market they wish to enter and design their business models around the new rather than the old system. Private providers have more flexible and lower-cost delivery models – many with minimal infrastructure and facilities, and high levels of casual and contract staff.'*

*Most TAFEs operate as "full service" providers seeking to maintain broad subject areas and a more intensive delivery and student support model. (For this reason) low cost providers (can) opt to not charge student fees at all, placing TAFE at a price disadvantage.'*

This would explain the **variability of price for courses in the training market and that high cost does not necessarily mean quality nor does low cost necessarily mean lack of quality. ACPET believes what is crucial is that the student receives a quality training outcome. When any provider, private or public, exploits weaknesses in government entitlement funding models, this leads to excessive delivery of possibly substandard training in low priority skills areas. Government must focus on quality measures for provider access to government funding for national training entitlement as well as information to ensure well informed student choice.**

Further, the intrinsic value of professional development for the VET workforce that private providers contribute to the quality the training experience should be acknowledged. ACPET and other non TAFE organisations manage significant professional development programs for trainers and administrative staff in the sector. In addition, ACPET is engaged by governments to deliver training to public and private provider workforce, most recently delivering major foundation skills development to the broader sector on behalf of the Australian Government.

In terms of course cost comparisons between private and public VET providers, there is a lack of readily available information due to the competitive nature of the market. For this reason, primary market research was conducted on course pricing of various RTOs available on the web-site or via a phone consultation<sup>9</sup>. The findings of this research concluded:

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<sup>9</sup> The data has a number of limitations as it was not a statistical sampling exercise and may not be truly representative of the overall market. However, given the significant number of course enquiries that was undertaken (254 private courses from 125 private providers, 105 TAFE courses from 27 providers), and the lack of publically available information, ACPET believes it is worth highlighting the findings.

- In general, private providers are priced competitively with TAFE and are cheaper in many instances.
- In general, private providers appear to be priced lower than the Smart and Skilled prices set by the NSW government for 2015.
- For diploma level courses there is significant variation in price by field of study, but again private providers and TAFE are generally priced competitively, with private providers often providing cheaper courses.
- It is worthwhile to note that a small minority of VET providers do appear to price diplomas significantly higher than the typical range, some reaching \$20,000.

It is also concerning to hear anecdotally of incidents of bundling incentives such as computer tablets, overseas trips and mobile telephones into recruitment inducements<sup>10</sup>.

In regard to courses fees, and associated costs of delivery, ACPET members have expressed concerns regarding the challenges facing private VET providers competing with unscrupulous operators as well as providing training support to disadvantaged students (particularly in Language Literacy and Numeracy) under increased regulatory expectations and reduced government subsidisation. The following comments are provided to highlight these concerns:

*'The cost associated with delivering training is only one element in the overall economic cost of training.*

*The responsibilities of private RTO's have become wider and deeper than just providing training. The expectations are now not only to deliver industry relevant training, but also remain compliant via ASQA and State Service Agreements, meet industry training expectations through currency and provide ongoing professional development to trainers to deliver these requirements, facilitate the needs of learners through LLN support and counselling, continually update training products through research and development and service administrative requirements of government (i.e. USI collection and report on total VET activity).*

*The total cost of delivering training is wide ranging and must take into consideration multiple factors to ensure costs are met and to ensure that quality, via the breadth and depth of training, is met<sup>11</sup>.*

*'The Private RTO market space is continually damaged by unscrupulous RTO operators short-changing training and we know this by virtue of recent ASQA audits where Certificate IV and Diploma programs are delivered in ridiculously short time frames in addition to those RTOs that came to notice of recent times taking international and domestic student fees and squandering those funds to support cash flow shortfalls among other nefarious use (no doubt) rather than protecting those students and their contributions.*

*The system is far too lenient in stopping in their tracks the poor operators and if nothing else we must get better at eradicating these operators from our backyards, they hurt all of us, and no Senate Enquiry will make any difference until we learn to deal more effectively with RTOs short-changing the system, the training and the customer. What they do and get away with and regulators then fail to do*

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<sup>10</sup> On examination of the request for VET FEE HELP assistance form, it was found that an applicant is not made aware of the VET tuition fees loan amount they will be committing to as part of the application process. ACPET recommends that such information should be made clear to the student to as part of the loan application process to help inform the decision to assume such a liability.

<sup>11</sup> ACPET Member MTA Technology, 20 January 2015

consequently and immediately can cost us far more dearly than just the cost of education per se at private VET providers<sup>12</sup>.

### **(iii) the regulatory regime private VET providers operate within**

In examining the effects of a competitive training market on TAFE as part of its inquiry in 2014, the Senate Education and Employment References Committee concluded

*...that the way to address inconsistencies in terms of quality of skills provided, is by having a rigorous quality assurance regime. The Australian Skills Qualification Authority is the appropriate body to manage this regime, but it needs to be properly resourced and funded to develop, audit and enforce standards<sup>13</sup>.*

Recommendation 3 of the final report recommended that resources and funding for the Australian Skills Qualification Authority (ASQA) be proportionally increased relative to the number of private providers entering the training market.

ACPET fully supports these findings, and acknowledges the Commonwealth Government has already acted to introduce new standards for RTOs 2015 and has provided \$68 million over four years to bolster the capacity of ASQA to enforce these strong standards<sup>14</sup>. Key findings of the ASQA process Review in 2014 did highlight a number of areas where the regulator's efficiency could be improved. A lack of guidance and clarity about the rules for national standards and training packages and communications with provided were cited<sup>15</sup>

In the Higher Education sector, private institutions have operated in a full deregulation environment for many years. Yet there appears to be no reported evidence of the issues debated in VET, such as inflated prices, poor recruitment, short duration courses etc. Consideration of the application of this governance model to the VET sector warrants further investigation. This would see a significantly enhanced focus on governance, the separation of educational quality responsibility from ownership and a targeted review of the RTO's scorecard, namely completions, student progression, job outcomes and transitions to further study.

**All regulators (VRQA and TAC included) must be sufficiently resourced to fulfil their role. ACPET members are also supportive of the introduction of the new Standards for RTOs 2015. However, many members believe this regulation should include measures beyond just compliance with policies and procedures, to ensure compliance is also student experience focused.**

ACPET members acknowledge the decision not to move to full cost recovery but have expressed concerns of the effect of poor resourcing for regulators and the administrative fees that are in place to contribute to their operation. For example, the ASQA processes review reported that 55% of respondents considered the fees for renewal of registration as inappropriate<sup>16</sup>.

Whilst members acknowledge the need for stringent regulation and the positive steps towards self-regulation, for RTOs that deliver nationally and with broad scope (e.g. ASQA, CRICOS, VRQA, TAC, government funding contracts), the multiple regulatory regimes in place and frequency of audits create unnecessary administrative burden on providers operations. This does not diminish the responsibility of RTOs to self-regulate. Quality providers do not simply stop work and prepare for an

<sup>12</sup> ACPET Member Construction Skills Training Centre Pty Ltd, 21 January 2015

<sup>13</sup> Commonwealth of Australia, Technical and Further Education in Australia, 14 May 2014, paragraph 4.20, 4.21

<sup>14</sup> Minister Birmingham, media release 20 January 2015

<sup>15</sup> ASQA Process Review: Final Report prepared on behalf of Commonwealth, State and Territory Governments June 2014, pages v, vi

<sup>16</sup> Australian Skills Quality Authority Annual Report 2013-14, Page 34

audit. They build quality measures, including student and industry feedback into all that they do. This type of self-assessment has been built into the new standards, which require an annual declaration of compliance with the new standards (Section 8.4).

ACPET does not accept that quality is only the purview of government and regulators. Industry must play a leadership role. Accordingly ACPET is developing a new toolkit for self-assessments. This toolkit will facilitate a robust approach to self-assessment, with ACPET support where needed. Under the Code of Ethics (further information below) for membership with ACPET, members will be obliged to forward their self-assessment report to the relevant regulator within 14 days of completion. Transparency is a critical element of quality.

ACPET has engaged with key industry stakeholders to consider how the sector can enhance the quality of providers. ACPET hosted a summit on 30 October 2014 with industry leaders to formulate an industry approach.

Resulting from the summit, an enhanced Code of Ethics for ACPET members together with a Code of Practice to requiring the management of agents/brokers has been developed. In addition, ACPET has called for the creation of a National Industry Ombudsman to enhance regulatory activities.

### Code of Ethics

The revised Code of Ethics (refer Attachment 1) will be critical to assuring the quality of members. As a condition of admission to, and continuing, membership, all members must agree to abide by the Code of Ethics. This Code affirms the professional standards that are expected of education and training providers. Members are required to act with integrity in all dealings with students (past, present and future), employers, with ACPET, and with other organisations.

In terms of self-assessments, the Code recognises that excellence in tertiary education and training is more than a determination of compliance against standards. For ACPET members, self-assessment is a continuous improvement process involves staff, trainers, students and industry and peers.

To promote continuous improvement of the membership, annual assessments will be conducted with an ACPET provided tool kit and will include evaluation against national standards, as well as learners' progress and achievement against the criteria of overall effectiveness, quality of teaching, learning and assessment and effectiveness of leadership and management.

### Code of Practice

The growth in the roles of brokers and third parties is a high risk to the quality of our sector. While they may have legitimate roles to play, there have been many examples cited of inappropriate and poorly informed recruiting. **ACPET's new Code of Practice focuses on engaging brokers and agents under mandatory behavioural requirements for both members and their contractors. The aim of the Code of Practice is to provide students, the community and government with confidence in the integrity of the agents/brokers used by ACPET members to recruit prospective students.**

Members are committed to managing the relationship with brokers. ACPET will also establish a preferred agent/broker list. Entitlement to be on the list will require agents to agree to a number of conditions, similar to those adopted by ACPET members as part of their membership. Conditions include recognising the Code, undertaking professional development and obtaining the support of a minimum of three current members.

The *ACPET Code of Practice for the Engagement of Education Agents* (refer attachment 2) establishes clear standards for membership and provides arrangements for engaging with education brokers/agents and third party deliverers. ACPET members will be expected to eliminate dealings with disreputable agents and brokers who bring adverse publicity on the sector and undermine the

confidence of the community. The Code is seen as a tangible way of differentiating ACPET members from other private providers.

The Code provides ACPET members, students and clients with a clear statement of the standards which they can expect in their dealings with their provider and their nominated representative, including the agents/brokers. ACPET will work with reputable agents/brokers to recognise the Code through a mandatory development program focussed on agent/broker responsibilities. Recognition by multiple members of the quality of a broker/agent will result in the registration of the broker/agent as a preferred supplier.

Within the Code of Practice a Code of Conduct for ACPET Preferred Agents/Brokers prescribes all legislative compliance requirements and prohibits other deceptive and misleading practices. For example, a broker/agent must use reasonable endeavours to assess a student's desire and capacity to participate and complete a course. Students must also be made aware of pre-requisites for courses, full fees and other charges and not be misled as to employment opportunities upon completion of a course.

The Code of Practice has been based on the Statement of Principles for the Ethical Recruitment of International Students by Education Agents and Consultants developed by The Roundtable on the Integrity of International Education, which is a forum at which the UK, Australia, Canada, Ireland, New Zealand and the US meet to share knowledge and experience and identify common areas of practice and concern, as well as scope for collaboration. The Statement is referred to as the London Statement. The Code requires:

1. Agents and consultants practice responsible business ethics.
2. Agents and consultants provide current, accurate and honest information in an ethical manner.
3. Agents and consultants develop transparent business relationships with students and providers through the use of written agreements.
4. Agents and consultants protect the interest of minors.
5. Agents and consultants provide current and up to date information that enables international students to make informed choices when selecting an Agent or consultant to employ.
6. Agents and consultants act professionally.
7. Agents and consultants work with destination countries and providers to raise ethical standards and best practice.

### **National Training Ombudsman Scheme**

The second concept proposed following the ACPET industry summit on 30 October 2014 is the introduction of a national industry ombudsman scheme for the Tertiary sector. **ACPET advocates for a national consumer-focused complaint handling process for students and providers to complement the new National Training Complaints Hotline, as existing ombudsman arrangements focus either on government owned providers or international student issues.**

ACPET believes such a scheme would result in a number of major benefits: improved industry image, cost effective resolution option, improved communication, early warnings to regulators and market research for the sector.

To date, VET regulators (ASQA, VRQA, and TAC) have had limited capacity to focus on complaints, and responses are limited to formal processes such as audits, informing risk assessments and strategic reviews for the sector, thus not directly resolving the complaint. The new National Complaints hotline will not investigate complaints; as it is a referral service to other agencies for their consideration.

In 2013-14 there were around 1500 quality of training/assessment issues complaints to ASQA, TAC and VRQA. There are also numerous contractual disputes handled by consumer affairs agencies in each jurisdiction (numbers not reported), the combination of these activities demonstrating the potential demand and need for a nationally coordinated ombudsman.

**Tribunal and court processes are high cost and time consuming for students and providers. As a cost effective alternative, funding for the industry ombudsman scheme would be derived through mandatory membership for all RTOs. This would mean that services are provided to consumers at no cost.**

The purpose of the ombudsman is to provide an external avenue to resolve complaints between customers and providers in an informal and timely manner. Therefore, the independence of the ombudsman would be critical to its success which would be assured through appropriate governance arrangements. To ensure the independence of the ombudsman there are a number of options. It could be attached to the Office of the International Student Ombudsman, or if industry based through the creation of a company limited by guarantee, with a board appointed to oversee the scheme, consisting of industry and consumer representation.

The scope of the role of the ombudsman would include complaints relating to the quality of training and assessment, contractual arrangements such as fee refunds, and complaints about public and private providers. Contractual disputes between providers and government would be out of scope, as alternative channels exist and the focus of the ombudsman is on consumers.

#### **(iv) the operation of VET-FEE-HELP**

Before even considering the provision of income contingent loan funding to private providers, it is worth noting recent research that revealed overall government funding for the VET sector has fallen far behind the higher education and school education over the past decade (to 2012-13).

Recent research by the Mitchell Institute at Victoria University revealed a government funding gap of \$16 billion between Higher Education and VET. In addition, funding for Higher Education has risen by 40 percent of the same time period, 23 percent for school education, compared to just 15 percent for VET<sup>17</sup>.

This funding gap has been partially offset by extending income contingent loans to VET students through VET FEE-HELP. VET FEE-HELP has stimulated skills development in Australia and relieved reducing state and territory government budgets. VET FEE-HELP has created greater choice for students, and created real opportunities for students who would not have had the opportunity without the program.

*The value of VET FEE-HELP loans issued between 2012 and 2013 grew from \$325 million to \$699 million, a growth rate of 115 per cent. In 2014 it grew to around \$1.5 billion, also a growth rate of 115 per cent<sup>18</sup>.*

Members have expressed concerns at making VET FEE HELP accessible to lower qualification levels, such as Certificate III courses in post-secondary education without tighter regulation and scrutiny on likely student employment outcomes. Areas of employment such as service skills consist of potential learners that do not require higher level training, but are not be able to afford the fees to gain an entry level qualification into the workforce so would be important to strike a reasonable balance to ensure equity of access.

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<sup>17</sup> Noonan et al, Expenditure on Education and Training in Australia: Analysis and background paper No. 01/2014, October 2014, Mitchell Institute, Page 5

<sup>18</sup> Senator Birmingham, Assistant Minister for Education and Training, Speech, ACCI, Sydney 5 February 2015

While there is overlap, approved VET FEE HELP providers may not be state and territory preferred providers. This creates the potential incentive for a provider to offer enrolment in what courses they can deliver, rather than what is best for the student. A preferable model would be for all VET FEE HELP providers to access national training entitlement places up to Certificate IV to broaden the selection of courses for students that may not have the capability to start at Diploma level.

Members believe the application process and related fees are prohibitive for smaller RTOs to gain access to VET FEE-HELP which restricts the diversity of providers and therefore potential learners. Members have stated:

*'VET-FEE-HELP is an expensive exercise for any RTO to gain and consideration should be given by the Senate Enquiry into VET to easing this particular financial burden of obtaining accreditation as a VET-FEE-HELP provider. The demonstrated rigour required of a RTOs financial reporting systems along with all the other evidence of ability, capacity and process is literally overkill, but understandable, but then if that be the case, and if all the hurdles are met, why then the added impost of highly excessive fees having to be paid by RTOs to gain VET-FEE-HELP accreditation'.*

*'There is a very tight, but complicated, interaction between what students will pay, how much they can borrow, and what institutions will charge. For example, the history of changes to HECS levels shows students will pay as much as they can borrow, and institutions will charge as much as students will pay. A potential outcome could be an upward spiral, where price could become a de facto signal for quality, but no genuine connection between cost and true quality training'.*

ACPET has heard anecdotally of instances where brokers and RTOs are potentially taking advantage of student price insensitivity to unreasonable course costs, as a result of funding training through a VET FEE HELP loan.

As part of this Inquiry, **ACPET would welcome the public scrutiny of student completion data for enrolments funded by VET FEE HELP loans. If such information was more readily accessible, consumers, regulators and policy direction could focus on supporting successful providers and removing ineffective providers.**

This public scrutiny is likely to reinforce the perception amongst ACPET members that overall VET FEE-HELP is providing access to higher-level VET qualifications to many students who would not otherwise access training. ACPET is also aware that VET FEE HELP graduates are more likely to further their studies at university than other graduates, being a key motivation in accessing an income contingent loan.

However, to ensure productivity and meaningful training employment outcomes, training funded via VET FEE HELP could also be better monitored to ensure loans are being utilised for skills priority areas. **Funding of loans to providers could be based on multiple census dates relating to student progress and refinements to eligibility of access for both the student and provider are recommended.**

#### **(v) the quality of education provided by private VET providers, volume of learning requirements and graduate outcomes**

##### **Quality of Education**

*'Quality does not happen by chance and needs to be developed within the organisation. Many private RTOs have rigorous quality control systems to ensure students feel they have obtained knowledge from the learning experience. It could be argued client satisfaction surveys compared between public*

*and private RTO's would show comparable results from private RTO's regarding student satisfaction outcomes<sup>19</sup>.*

*'The majority, the vast majority provide excellent quality education, with trainers with more currency in industry knowledge and experience. It is as always the case - the small minority that does wrong makes the headlines<sup>20</sup>.*

The NCVER 2014 student outcomes survey for domestic students for the publically funded VET sector reported that 87% of graduates and 84% of module completers were satisfied with their training experience. 77% of graduates were employed after undertaking training, and 80% of those undertaking training for employment related reasons were employed after training. In terms of public versus private government funded training, results confirm **that private providers deliver quality education outcomes in a same manner as public institutions - with 86% satisfied with their overall quality of training compared to 89% for TAFE.**

In another major measure of quality, being training outcomes, **in 2014 graduates from government funded private providers were more likely to be employed after training compared to TAFE graduates (79% versus 74%) and were also more likely to gain employment after training (47% compared to 42%).**

**Private VET providers are consistently the most preferred supplier of nationally recognised training, with 45% of employers choosing these providers. Only 16.7% used TAFE as their main provider of nationally recognised training in 2013,** which is down 5.0 percentage points from 2011<sup>21</sup>. The remaining employers utilise professional or industry associations. A higher proportion of employers using private providers as their main provider were satisfied with the flexibility of the provider compared with those using TAFE (at 95.3% and 87.9% respectively)<sup>22</sup>. ACPET Members have commented that they are aligned with industry and are able provide more flexible delivery modes, times and outcomes based delivery methodologies.

### **Volume of Learning Requirements**

ACPET members consistently report 'long weekend diplomas' being offered by both private and public providers, quite often with little or no justification for the shorter duration of the course apparent from marketing materials. There is also evidence of free incentives or inducements for such courses that also contribute to inflated course costs.

ACPET supports the new Standards for RTOs requirement for the Australia Qualifications Framework (AQF) Volume of Learning to be fully implemented and observed from 1 January 2015. ACPET believes closer scrutiny of how the 'amount of learning' is determined, advertised and delivered for courses will help ensure learners acquire the skills of a certification.

As highlighted by ASQA support information for the new Standards for RTOs 2015, there is now a direct relationship between AQF volume of learning and an RTO's training and assessment strategies and practices. This is explained as meaning that where providers are choosing to deliver courses shorter than the recommended AQF volume of learning period, an RTO must be able to clearly describe, using a rationale based on the previous skills and knowledge and the needs of learners, how a specific learner cohort has the characteristics to achieve the required depth of training and can meet all of the competency requirements in this shorter timeframe.

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<sup>19</sup> ACPET Member, anonymous

<sup>20</sup> ACPET Member, anonymous

<sup>21</sup> NCVER, Employers Use and Views of the VET System 2013, Table 14

<sup>22</sup> *ibid*, page 7

ACPET acknowledges that it is challenging for government to regulate how long a qualification should take, as there are many variables within each type of training scenario, such as Language, Literacy and Numeracy issues, Disabilities and location of delivery. RTOs will have to be diligent in recording how a certain learner cohort can gain the knowledge and skills described in a training package in a shorter time frame. As indicated previously, improved regulatory focus on governance and outcomes may address any concerning trends.

**While the improved standards relating to marketing and advertising have been enhanced, through the review of the promotion of excessively short courses, it will be beneficial to all RTOs for regulators to provide additional advice and support in understanding the requirements of volume of learning.**

#### **(vi) marketing and promotional techniques employed by private VET providers and education brokers both domestic and international**

*'The VET market is competitive, and like any competitive marketplace, there will be many providers looking to create a value proposition to entice the client to use their services. If VET providers maintain an ethical standard and are regulated under the national system and through associations like ACPET, using their code of ethics, this provides the parameters of the market and what promotion techniques can be used within the VET marketplace. Organisations that fail to comply with these parameters should be reviewed, with potential fines and/or loss of registration if serious breaches are confirmed'<sup>23</sup>.*

ACPET is aware of the unethical practices that are in the market place to attract students to both public and private VET providers. This phenomenon is not exclusively the domain of education agents representing private providers. Anecdotal evidence provided to ACPET indicate practices such as: intentionally misleading students or manipulating the FEE HELP rules; bundling services and products into the FEE HELP payment; unethical acquisition of personal information; aggressive sales tactics, promoting false job prospects, poor handling of student complaints, misrepresentation as a government body, significantly overcharging for courses, and delivering courses in unreasonable timeframes.

It is encouraging to see the new Standards for RTOs 2015 have been implemented to address a number of these concerns.

**The new ACPET Code of Ethics requires that members market their education and training services with integrity and accuracy. Members are expected to recruit and support students with the express aim of maximising their capacity to complete the qualification.**

In terms of good practice in the sector, consultants such as SEEK Learning interact with prospective students in a respectful manner, with no direct physical solicitation. Contact is initiated by the consumer as a result of media and online advertising campaigns, or as a result of job seekers and perspective students expressing interest in education options to help them attain career they want. To enforce this practice, all consultants at SEEK Learning are inducted and mentored to ensure best practice marketing and promotional techniques are upheld, in the spirit of the broker/agent principles ACPET is introducing with the Code of Conduct for ACPET Preferred Agents/Brokers

In regards to consultation with prospective students, the following key areas of engagement are considered best practice:

- FEE HELP information: Where a student is eligible to receive FEE HELP, brokers and RTOs should ensure that the prospective student understands the VET FEE HELP or FEE HELP conditions

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<sup>23</sup> ACPET Queensland State Committee member, January 2015

(including loading rates, interest rates and repayment requirements). Brokers and RTOs should ensure their marketing practices and communication with prospective students makes it clear that they are a non-government entity.

- Full course fees: The consultant should ensure all prospective students are aware of the full costs of studying, including course fees and other relevant costs that will be incurred. This is relevant whether or not the student is eligible for FEE HELP.
- Other relevant information: RTOs and brokers should ensure that their consultants provide prospective students with all other relevant information which would enable the student to make an informed decision about their study. This should include information such as expected time commitments to complete the study and academic considerations, with the consultant acting ethically to enrol students who have the ability to complete their studies.

As an example, SEEK Learning also demonstrate best practice with its quality assurance measures in regards to monitoring the interaction of their consultants with consumers. In order to ensure high quality conversations with students, all conversations are recorded and stored for a minimum of 12 months. A sample of these recordings are regularly audited against a detailed checklist developed by the RTO the consultant is representing within the SEEK Learning partnership arrangements.

**The auditing of recorded conversations between brokers/agents representing RTOs may enable more transparent evidence of compliance with the new marketing and advertising standards, but also improve of the quality of information to potential students.**

In 2013 the Australian Skills Quality Authority undertook desktop research to examine the website based marketing techniques employed by 421 RTOs and 59 other entities against the relevant Standards for NVR Registered Training Organisations 2012 ('national standards') and the National Vocational Education and Training Regulator Act 2011. The standards require RTOs to ensure the accuracy and integrity of their marketing practices. The RTOs in the research were a mixture of public and private providers randomly selected as well as 50 RTOs that had been reported to ASQA.

This review was initiated because of persistent concerns raised within the training sector about RTOs and other bodies providing misleading information in the advertising and marketing of their training services. These concerns had been conveyed to ASQA through its complaints process and its information line. Specific poor practice, which corroborates these concerns, has also been uncovered through the ASQA audit program over the past two years since ASQA commenced its national regulation of the Australian VET system<sup>24</sup>.

Around 45% of RTOs investigated in the strategic review were deemed to be in breach of either the national standards required for registration as an RTO, or legislation relating to consumer and fair trading laws relating to marketing and advertising.

In regard to the national standards 9% of RTOs reviewed were found to potentially guarantee a qualification and employment. 15 RTOs were found to have websites that allowed the collection of upfront fees in excess of amount allowable under the national standards through online payment methods. 12% of RTOs were advertising superseded qualifications beyond the one year period that is allowed.

The review claims that 54% of websites marketed qualifications that could be achieved in time frames that were not consistent with the volume of learning requirements under the Australian Qualifications Framework (AQF). However the report goes on to say that the review found that marketing short-duration programs does not always indicate non-compliance with providing quality training and assessment.

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<sup>24</sup> Australian Skills Quality Authority, Marketing and Advertising Practices of Australia's RTOs 2013 page vii

By its own admission, the ASQA report states, *‘Overall it is not possible through this desktop review to determine decisively if duration and multiple qualifications on the web sites reviewed are compliant with the assessment standard’*<sup>25</sup>.

This demonstrates that one of VET sectors key features is also an inherent weakness. The multiple ways to study, be it on-line, in classrooms, in the workplace or a blended approach, combined with students with different backgrounds that can choose different pathways and speeds through direct credit and other RPL processes, creates Australia’s internationally recognised flexible system. The down side to this flexibility is apparent complexity, misinterpretation and potential inappropriate recruiting, which challenges regulation.

**Legitimate circumstances for targeting students to achieve qualifications in a short duration are cited by ASQA, including: seeking to up-skill when already holding a qualification or having extensive experience, intensive training and assessment through a mixture of face to face and work outside of training sessions, the need for a single unit, skill sets and/or mandatory units for particular industries. ACPET supports the intention of the new standards to provide more clarity around volume of learning requirements and appropriate documentation to support shorter course delivery.**

Of the 59 non RTO organisations examined it was encouraging to see that almost half identified the RTO that would provide the training. The review also examined the practice of organisations claiming to be brokers for an RTO, but not having any business relationship with the RTO. This practice undermines the quality and confidence in training. ACPET is proactively addressing this issue through the development of a preferred broker list for its members as part of the *ACPET Code of Practice for the Engagement of Education Agents*.

#### **(vii) any incidents or allegations of non-compliance with regulation and funding arrangements at private VET providers**

As previously highlighted in terms of reference (vi), ACPET is aware of the unethical practices that are in the market place to attract students to both public and private VET providers. This phenomenon is not exclusively the domain of education agents representing private providers.

ASQA has been diligent since its establishment in 2012 in regulating the composition of organisations in the sector industry. In 2013-14 ASQA regulated approximately 3900 of Australia’s 4,500 training providers in Australia. Around half of all RTOs have now been subject to at least one audit activity<sup>26</sup>.

**As outlined in the ASQA Annual Report 2013-14, 862 applications for renewal of registration were approved while rejections have fallen from 12.1% in 2011-12 to just 3.5% (33 applications). Rejections for change of scope in 2013-14 were only 1.4% of over 7000 applications. Only 25 organisations had their registration cancelled from over 400 compliance audits in 2013-14. On the basis of these results, it would appear only a small proportion of RTOs, and therefore private VET providers, are considered to be acting inappropriately.**

It has been widely reported by the media that ASQA has found 80% of all providers (public and private) to be non-compliant with the standards. . Non-compliance can range from simple administrative mistakes and process errors as well more serious matters. The ASQA Annual Report does not qualify the severity of the non-compliance. More telling, as stated above, is that only 6% of compliance audits resulted in cancelled registration in 2013-14.

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<sup>25</sup> Ibid, page 22

<sup>26</sup> Australian Skills Quality Authority, Annual Report 2013-14, page 22

Less reported is the fact that **77% of providers found to be non-compliant achieve full compliance after submitting rectification evidence. ASQA has also reported that the majority seek to comply with the Standards, but many do struggle to understand what is expected of them. This further confirms non-compliance does not necessarily equate to unscrupulous behaviour.**

ACPET has been active with its own membership to ensure compliance with national standards and government funding arrangements. Since 2010 ACPET has increased the scrutiny on its membership through an enhanced show cause process to support the mandatory requirements under the ACPET Code of Ethics for Members. In cases where members are reported to be in breach of the code of ethics they are required to provide evidence to counter a claim of misconduct to inform further investigation by ACPET. Reports are received by ACPET from other members, government agencies or through media coverage. Since the introduction of this process in 2010, 104 members have been subjected to this scrutiny.

What has been disappointing is that the perception of poor practice in VET has been focused solely on private providers. All registered training organisations (public, private, not for profit) are responsible for the sector's reputation and should unite to protect the VET brand. Public providers, in the main, have yet to be exposed to the reregistration operations of ASQA, as their registrations were processed by their respective states and territories before the establishment of ASQA in 2012. However, as more public institutions access contestable funds such as VET FEE HELP and are audited by ASQA, it will be pleasing that all providers work to the same regulatory framework so the sector can better understand and inform interventions that are required.

#### **(viii) political donations made by private VET providers**

ACPET makes no political donations and does not collect this data from its membership.

#### **(ix) international comparisons to the Australian funding and regulatory regime**

NCVER has conducted international comparative analysis of international VET systems.

#### **(x) the operation, regulation and funding of private VET providers specifically offering courses in aged care and early childhood education and their labour market outcomes**

**ACPET asserts that the operation, regulation and funding issues are covered by the previous responses in this submission. These issues apply to all industry sectors within VET, including aged care and early childhood education.**

However, some observations on the social assistance industries from recent research are provided below.

Early Childhood Australia (ECA) is the peak body for early childhood sector. ECA recently conducted a survey of its members (February 2015) to test the perceptions of the new CHC Community Services Training Package released in 2013. Almost half the respondents agreed that the quality of training had improved since the introduction, however the transition to the new arrangements had been challenging for students and training organisations. Concerns in the sector did include the short duration of courses in some instances as well as the quality, low remuneration and gender imbalance of graduates (a predominantly female workforce, resulting from multiple factors beyond regulation and funding). Some respondents suggested less cumbersome training theory and more supportive and engaging workplace training would improve the turnover and quality of the graduate workforce.

As part of the Skills for All reform in South Australia, recent survey and research outcomes provide an interesting and objective view of the performance of the aged care sector in a contestable market.

The Skills for All Graduate Outcome Survey Report 2013, reveals a high level of satisfaction with aged care and early childhood education in South Australia.

Over half of the respondents to this survey were from non TAFE providers and by industry division, health care and social assistance was the largest group of respondents (22%) followed by Education and Training (13%). The survey found an 80% completion rate for all students completing up to and including Certificate IV qualifications. 90.67% of students agreed that they developed the skills they expected from their training with a similar proportion felt training prepared them well for work.

The Skills for All Independent Validation of Assessment Industry Report for the Aged Care Industry was undertaken for the Certificate III in Aged Care, by the SA government and Aged and Community Services SA/NT. This report highlights the high satisfaction of employers with both public and private providers, with 75% surveyed rating graduates as excellent or adequate for tasks required of an aged care worker. The average course duration was 4.7 months and 90% of graduates completed work placements during their course.

ACPET supports the finding of the ASQA strategic review into aged and community care in 2013 that the RTOs offering unrealistically short and cheap courses are undermining the quality RTOs and cannot provide satisfactory skills development. However, in this instance the results appear contrary to this finding.

**(xi) any related matters**

No comment provided

Rod Camm  
CEO

**Australian Council for Private Education and Training**  
11 February 2015

## ACPET Value Statement

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The Australian Council for Private Education and Training (ACPET) is the national peak industry association for independent providers of tertiary education and training. ACPET is proudly celebrating its 23<sup>rd</sup> anniversary in 2015.

Our core purpose is to enhance and promote the role of the private tertiary education sector. In order to achieve the highest quality educational outcomes for individuals, their employers and the economy ACPET works with Government and industry at the highest levels. We use strong leadership and good relationships to open doors for our members and to advocate and drive change in our sector.

Membership provides opportunities to access a range of services including professional development, networking with peers and a chance to help lead the industry through participation in member only events. Our National Board, State Committees and sector specific working groups lead discussions on Higher Education, Vocational Education and Training (VET), International Education, English Language and Quality.

Our services extend to helping members grow their business through broadening access to industry and to developing their own people.

ACPET leads delegations to key international markets to promote members services to grow on and off shore enrolments.

We are fundamentally committed to quality in education and all our members must comply with a stringent Code of Ethics, which ensures we are able to advocate for our members as the best of the best.

Membership of an industry association is a true sign that our members are committed to quality in education and that they demonstrate a strong commitment towards quality and student outcomes. Membership also ensures a commitment to professional development and that business; marketing and educational practices are monitored and ethically sustained.

ACPET nationally represents more than 1,100 members that offer a diverse range of higher education, VET, English language and foundation studies courses to Australian and overseas students across all states and territories.

## References

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- ACPET, ACPET at A Glance, 2012
- ACPET Code of Practice for the Engagement of Education Agents 2015
- ACPET media release 'Preserving student choice for training post the Victorian election 29 September 2014
- Australian Skills Quality Authority, Annual Report 2013-14
- Australian Skills Quality Authority, Marketing and Advertising Practices of Australia's RTOs 2013
- Australian Skills Quality Authority Process Review: Final Report prepared on behalf of Commonwealth, State and Territory Governments June 2014
- Australian Skills Quality Authority User's Guide to the Standards for Registered Training Organisations 2015
- Commonwealth of Australia, Technical and Further Education in Australia Report, 14 May 2014
- Department of Education, Early Childhood and Development, Victorian Training Market Report Half Year 2014
- Government of South Australia, Skills for All Graduate Outcome Survey Report 2013
- Government of South Australia, Skills for All Independent Validation of Assessment Industry Report for the Aged Care Industry 2013
- Council of Australian Governments, National Partnership Agreement on Skills Reform 2012
- NCVER Australian Vocational Education and Training Statistics: financial information 2013
- NCVER, Employers Use and Views of the VET System 2013
- NCVER, Students and Courses, publicly funded training providers 2014
- NCVER Student Outcomes Survey 2014
- NCVER, Vocational Education and Training Provider Collection, 2009-2013
- Noonan, Peter, Learning from Victoria's TAFE mistakes, The Conversation website 8 December 2014
- Noonan et al, Expenditure on Education and Training in Australia: Analysis and background paper No. 01/2014, October 2014, Mitchell Institute
- Senator Birmingham, Assistant Minister for Education and Training, New National Training Complaints hotline, media release 20 January 2015
- Senator Birmingham, Assistant Minister for Education and Training, Speech, ACCI, Sydney 5 February 2015

## **Attachments**

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- 1. ACPET Code of Ethics for Members**
- 2. ACPET Code of Practice for the Engagement of Education Agents**



ACN 054 953 758

## ACPET CODE OF ETHICS FOR MEMBERS

February 2015

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## ACPET CODE OF ETHICS

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1. As a condition of admission to, and continuing, membership of the Australian Council for Private Education and Training (ACPET), all members must agree to abide by the ACPET Code of Ethics.
2. This Code affirms the professional standards expected of education and training providers. Members are required to act with integrity in all dealings with students (past, present and future), employers, with ACPET, and with other organisations.

### Objectives

3. This Code is intended to fulfil the following functions:
  - i. To define standards of conduct expected of members of ACPET in their dealings with one another; and with ACPET, in accordance with the ACPET Constitution and By-laws;
  - ii. To provide students and clients with a clear statement of the standards which they can expect member organisations to adopt in their dealings with them, subject to equivalent provisions in any code or codes which the organisation has adopted to regulate dealings with its staff, students and other clients;
  - iii. To reflect the Code of conduct requirements of Commonwealth and State Government agencies for accrediting and registering organisations and courses under legislation which fund and/or regulate the provision of educational and training services for local and overseas students; and
  - iv. To promote confidence and community trust in the services provided by members of ACPET.

### Definition and interpretation

4. Words defined in the Constitution or By-laws shall have the same meaning in this Code unless expressly stated to the contrary.
5. The word “student” includes all learners and other clients receiving education and training services from an ACPET member.
6. Aide memoirs and examples have been included in the Code to assist with interpretation but do not derogate from or limit the general meaning.
7. Wording of particular significance to members is shown in **bold**.

### Scope

8. This Code is binding on all ACPET members. Adherence to the principles of the Code, or, so far as the application of paragraphs 14 to 24 of the Code are concerned, to an internal Code committing the organisation to equivalent standards to those laid down in these paragraphs in relation to its students, clients, staff and other clients, **will be** considered a formal condition of all applications for membership of the Council under the By-laws.

### General

9. Members will adopt and maintain practices that ensure high professional standards in all aspects of their operations, including but not limited to their general management and the marketing and delivery of education and training services. Members must not engage in any conduct that is contrary to government policy or has the **potential** to bring their institution, the sector, or ACPET, into disrepute.

## Quality Education

### 10. Members will:

- i. ensure the highest possible standards in the selection of staff and the planning and delivery of courses and training;
- ii. ensure that teachers and trainers are suitably qualified and have relevant industry experience;
- iii. maintain a learning environment that is conducive to the success of trainees/students/clients;
- iv. be vigilant in ensuring that student attendance levels/academic progress are met;
- v. ensure they have the necessary facilities and use methods and materials appropriate to the requirements and levels at which courses are offered;
- vi. monitor their training and education to ensure effective delivery and continued relevance;
- vii. for higher education providers, within 6 months of membership, and annually thereafter ensure evidence is maintained of self-assessment and continuous improvement of the organisation against national standards and the requirements of this Code;
- viii. for VET providers, within 6 months of membership, and annually thereafter complete a self-assessment of the organisation against the national standards and the requirements of this Code. Where required a toolkit provided by ACPET will be available;
- ix. for VET providers, provide a copy of completed self-assessment report to relevant regulator(s) within 14 days of completing self-assessment report;
- x. demonstrate a comprehensive understanding of qualification completion rates and utilise recruitment and student support strategies to maximise completion;
- xi. give priority and utilise the ACPET Preferred Agent/Broker List under the 'ACPET Code of Practice for the Engagement of Education Agents' (refer Attachment 1); and
- xii. through monitoring of any agents/brokers used; ensure that they are honest and ethical in their business dealings and place an emphasis on student welfare.

11. Members recognise that in pursuing excellence in tertiary education and training, self-assessing quality is more than a determination of compliance against standards. Self-assessment needs to be a continuous improvement process that involves managers, staff, learners, employers, subcontractors and other partners.

12. To further improve the outcomes from the sector, members will build into their assessment the evaluation of learners' progress and achievement.

13. In addition, members will assess their overall effectiveness and efficiency in meeting the needs of learners and other users. Evidence would incorporate:

- i. outcomes for learners,

Members will incorporate an assessment of student outcomes through an external peer review of learning and assessment strategies.

- ii. the quality of teaching, learning and assessment, and

Members will drive an approach to teaching and learning excellence through an external peer review of teaching and assessment practice and the extent to which:

- i. learners benefit from high expectations, engagement, care, support and motivation from staff

- ii. staff use their skills and expertise to plan and deliver teaching, learning and support to meet each learner's needs,
- iii. the effectiveness of leadership and management.

The effectiveness of leadership and management by evaluating the extent to which leaders and managers:

- i. demonstrate an ambitious vision, have high expectations for what all learners can achieve, and attain high standards of quality and performance
- ii. improve teaching and learning through rigorous performance management and appropriate professional development
- iii. evaluate the quality of the provision through robust self-assessment, taking account of users' views, and use the findings to promote and develop capacity for sustainable improvement
- iv. successfully plan, establish and manage learning resources and programmes to meet the needs and interests of learners, employers and the local and national community, and
- v. safeguard all learners.

### Financial Standards

14. Members **must** safeguard the funds paid by students in accordance with relevant legal requirements. They will properly document their contractual and financial relationships with students and provide students and clients with copies of this documentation. Where they are unable to provide agreed services they will make a refund to students in accordance with relevant Commonwealth and State legislation or work with ACPET in ensuring students can be effectively placed in accordance with the ACPET Australian Student Tuition Assurance Scheme (ASTAS), and for overseas students in accordance with the Commonwealth's Tuition Protection Scheme (TPS).

### Student Services

15. Members will ensure that all students/trainees/clients are given appropriate orientation, and are given reliable and up-to-date advice on accommodation, counselling, in course placements, remedial education and welfare facilities having regard to the cultural and special needs of disabled students/trainees/clients and those from different backgrounds. Members will monitor the progress of students/trainees/clients and ensure individualised support and counselling for those having difficulties with a course.
16. Members will be sensitive to the specific cultural and social needs of all students. They will ensure that students receive adequate orientation, appropriate information and advice on accommodation, counselling, health and welfare services, and assistance in accessing bridging courses or additional educational support. Members will ensure that those students under 18 years of age will receive additional support with the above services as required in keeping with the student's underage status and in compliance regulatory requirements.
17. Members will insist on the maintenance of generally accepted ethical standards in the educational and social relations between staff and students/trainees/clients.
18. Members will respect the confidentiality and privacy of their students/trainees/clients. Members understand that students/trainees/clients and prospective students/trainees/clients provide them with information for the purpose of offering and providing training and education and will not use or disclose this information for other purposes except with the consent of the

individual concerned, in accordance with a legal requirement or where relevant information is routinely used or disclosed in a particular way and this is notified to the student/trainee/client at the time the information is collected.

19. Members will assume a level of responsibility appropriate to the industry or profession for which they provide education or training to assist graduates who have completed their courses to obtain employment. They will promote equality of opportunity in placement.
20. Members will provide effective complaint resolution and grievance procedures to deal with students' problems.

## Marketing

21. Members will market their education and training services with integrity and accuracy, avoiding vague and ambiguous descriptions of courses or the qualification or capacities required by students to undertake them. They will not make false or misleading comparisons with other education and training providers. They will not take any action that may damage the reputation of Australian education and training either domestically and internationally.
22. Members will assume responsibility for the actions of their appointed agents for marketing services and processing applications for students. They will ensure that their agents and partners maintain standards of behaviour and operation in relation to joint or agency activities that are consistent with this Code.
23. Members marketing their services locally will provide accurate information about opportunities for further study and prerequisites for undertaking relevant courses. If appropriate, they will provide Australian students with details of their ASTAS membership.
24. Members will ensure that in the recruitment of students they:
  - 24.1 assess a potential student's desire to participate in a course;
  - 24.2 assess a potential student's intention to complete a course;
  - 24.3 assess the potential student's ability to complete the course through entry level assessments and recommend lower level AQF qualifications Certificates II and III for example that are better suited to the student's capability at the time of assessment
  - 24.4 ensure the potential student understands the requirements of the course in accordance with the policies and procedures of ACPET members
  - 24.5 ensure the potential student understands transfer policies;
  - 24.6 ensure the potential student is made aware of, and understands, the costs in relation to pre-requisites, course tuition fees, textbook fees and any other charges. This is particularly important where a student is going to access VET FEE HELP or FEE HELP to facilitate meeting the cost of the ACPET member's course; and
  - 24.7 ensure the potential student understands the VET FEE HELP or FEE HELP conditions (including loading rates, interest rates and repayment requirements) where applicable.
25. Members will recruit and support students with the express aim of maximising their capacity to complete the qualification
26. Members marketing their services overseas will do so in a manner that is consistent with the educational, cultural and regulatory systems of the relevant countries. They will provide accurate information about cost of living, health and welfare, opportunities for further study and

language prerequisites for undertaking relevant courses. If appropriate, they will provide overseas students with details of their TPS membership.

27. Where international students are applying for English language courses, ACPET expects that its members will provide sound advice regarding courses leading to English language tests, such as TOEFL, IELTS etc. but under no circumstances should providers give any guarantee or misleading information regarding the scores a student might achieve in outcomes of such tests.
28. ACPET recognises that for some groups of learners that the use of incentives may support students in taking a decision to enrol in, and complete, a course. Incentives should only be offered if they are embedded into the institution's learning activities and add to the quality of the learning experience.

### **Obligations to ACPET and other Council Members**

29. Members will conduct their affairs in such a way as to ensure the best interests of ACPET and the Australian private education and training sector; and to ensure the continued high standing of ACPET and its members in Australia and overseas.
30. Members will not engage in misleading or deceptive conduct, including but not limited to:
  - i. Making false statements of fact
  - ii. Making statements that are factually true but which are capable of inducing students, ACPET or other members into error
  - iii. Conduct which misleads or deceives, including conduct that is negligent or reckless and results in misleading or deception
  - iv. A failure to disclose facts where there is a reasonable expectation that a member should do so
31. Conduct will be taken to be misleading if the member making it cannot show they have reasonable grounds. In these situations, the burden of proof is on the member making the representation to produce evidence to show that they had reasonable grounds.
32. Members will not deliberately criticise the services or quality of education or training provided by other members, entice students or trainees from other member colleges or encourage students or trainees enrolled at another college to change colleges.
33. Members agree to raise legitimate concerns about other members and about ACPET staff in the complaint and dispute resolution framework provided in this Code and the By-laws. All complaints and concerns will be dealt with confidentially and expeditiously. Any complaints that are deemed by ACPET not to be legitimate or made for nefarious reasons shall be subject to disciplinary review.
34. Members will co-operate with fellow members in upholding and enforcing this Code.
35. Where members also have Tuition Assurance Scheme coverage, they have specific obligations in the event of another ACPET member closing their operations and entering provider default. In these circumstances, TAS members are required to take all reasonable measure to accept displaced students where they have similar courses on their scope of registration and are within the same geographic location.
36. In the event of another ACPET member entering provider default, other ACPET members are **not** to accept any inducements to accept students where these are offered by agents, students or other parties and are offered in a manner contrary to the National Code.

37. On relinquishing ACPET membership or having their membership terminated, former members will refrain from claiming ACPET membership or the grant of any licence from, or accreditation or recognition by, ACPET.
38. Members agree to provide accurate and timely information when requested, in accordance with the ACPET By-laws and/or Constitution. Members must also notify ACPET within 48 hours if regulatory sanctions or conditions are placed on the organisation's registration by a national or State regulatory body.

### Complaints

39. Members will adopt clearly defined procedures for dealing with complaints that involve alleged breaches of this Code or any internal code. They will ensure that students and clients are made aware of these procedures and, where a complaint is not able to be resolved internally; there are other avenues available to them to resolve it. Members will ensure that students or clients are not penalised or victimised for pursuing a complaint in good faith.
40. Complaints relating to an alleged breach of a provision of this Code may be made to the ACPET designated officer or to a member of the ACPET Board by a student, staff member or client of a member, or by a member other than a member to whom the complaint relates, or to an ACPET staff member.

### Sanctions

41. Complaints to ACPET about a breach of the Code by a member will be dealt with in accordance with the Constitution and By-laws. Members recognise that it is their responsibility to be informed about the impact that a failure to uphold the requirements of this Code of Ethics may affect them and their business. Failure to act in accordance with the Code of Ethics may result in their membership of ACPET being terminated. Depending on the nature of their business and of their ACPET membership, termination of membership may include termination of membership of an ACPET Tuition Assurance Scheme, and may have a negative impact on their business operations, including the potential withdrawal of approval by government and regulatory bodies for members to offer courses to Australian or overseas students and the cancellation of their registration as approved providers.

### Publicity

42. Members will publicise the fact that they adhere to a Code which defines their obligations to students, the public and to other providers of education and training services and will have copies of this Code or an equivalent internal Code available for inspection by students and other clients who ask to inspect it.
43. Members will publish the ACPET logo on their website and marketing material, to emphasise they are an ACPET endorsed quality member.

### Monitoring and Review

44. The ACPET designated officer will report to the Board every six months on
  - i. the operation of the Code,
  - ii. measures taken to promote awareness of the Code,
  - iii. any legislative or official policy developments relating to prudential or ethical standards affecting the Code, and
  - iv. any issues, which they believe, the Code fails to address.

On receipt of this report the Board will review the Code and consider any amendment of the Code or any other action required to address issues raised in the report.

Rod Camm

**Chief Executive Officer**

**Australian Council for Private Education and Training**

February 2015



## ACPET CODE OF PRACTICE FOR THE ENGAGEMENT OF EDUCATION AGENTS

February 2015

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## Introduction

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To provide confidence to students, industry and government, the Australian Council for Private Education and Training (ACPET) has, with the support of its members, developed a Code of Practice for using the services of agents/brokers (the Code).

Implementation of the Code is ACPET's way of demonstrating that its membership is serious about providing high quality services that students, their families and the community can feel confident will meet their expectations. Amongst other things, ACPET members will use the services of reputable agents/brokers who have a proven track record in meeting the obligations enshrined in the Code.

The Code should be seen as additional to the ACPET Code of Ethics for Members<sup>27</sup>, adherence to which is a condition of ACPET membership. The Code of Ethics affirms the professional standards expected of education and training providers. Members are required to act with integrity in all dealings with students (past, present and future), employers, with ACPET and with other organisations.

The Code is intended to provide students with a clear statement of the standards which they can expect from ACPET member organisations in their dealings with them and their nominated representative, including the agents/brokers which they use to attract students.

ACPET members will publically make a stand on the need to eliminate those disreputable agents/brokers which are bringing adverse publicity on the sector and undermining the confidence of the community. Such publicity is undermining the credibility of all providers including ACPET members. The Code is a tangible way of differentiating ACPET members from other private providers who may continue to use disreputable agents/brokers. Simultaneously ACPET is seeking to facilitate the differentiation of those reputable agents/brokers which perform an important function in the sector's operation by providing a necessary linkage between students and providers.

In a real sense the Code ensures that ACPET members will meet their obligations under the various governments' legislation<sup>28</sup>, regulations<sup>29</sup> and codes of practice<sup>30</sup>. It will cover the use of agents/brokers who operate both on-shore in Australia for domestic and international students and off-shore for international students including Australians who study abroad.

While the Code will necessarily only apply to ACPET members, its intention is to provide a framework which agents/brokers who work with or partner ACPET members will be required to operate. In line with the latest changes to government standards for post-secondary education providers, such a framework will not be prescriptive in terms of how it is to operate, but rather provide student-centric parameters which encourage and facilitate best practice.

To facilitate such high ideals, ACPET will be encouraging all agents/brokers to recognise the Code, undertake ACPET endorsed professional development in the responsibilities of agents/brokers similar to the training offered by the British Council<sup>31</sup> and consider membership of ACPET as 'Partners in Education', and register on the ACPET Preferred Agents/Broker List. Schedule 1 illustrates the requirements for agents/brokers wishing to be placed on the ACPET Preferred Agents/Broker List and how it links back into ACPET membership.

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<sup>27</sup> ACPET Code of Ethics for Members, February 2015

<sup>28</sup> Education Services for Overseas Students (ESOS) Act 2000

<sup>29</sup> Standards for Registered Training Organisations (RTOs) 2015

<sup>30</sup> National Code of Practice which operates under the ESOS Act

<sup>31</sup> <http://www.britishcouncil.org/education/education-agents/training-agents>

The Code acknowledges the ‘Statement of Principle for the Ethical Recruitment of International Students by Education Agents and Consultants (The London Statement<sup>32</sup>)’ (see Attachment 1) which outlines an ethical framework and adopted the following seven principles under which providers and agents/brokers should operate:

8. Agents and consultants practice responsible business ethics.
9. Agents and consultants provide current, accurate and honest information in an ethical manner.
10. Agents and consultants develop transparent business relationships with students and providers through the use of written agreements.
11. Agents and consultants protect the interest of minors.
12. Agents and consultants provide current and up to date information that enables students to make informed choices when selecting an Agent or consultant to employ.
13. Agents and consultants act professionally.
14. Agents and consultants work with providers to raise ethical standards and best practice.

The London Statement ethical framework and principles provide a solid basis on which recruitment of students by agents/brokers in Australia could be based and has been used in the development of the Code.

The Code has also drawn on material from the Australian Government Department of Education guide for providers of education and training to overseas students titled ‘Using Education Agents’<sup>33</sup> (see Attachment 2) which supports the National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007 (*op. cit.*). The Guide provides assistance in establishing a framework designed to assist providers in reaching a reasonable level of assurance that any education agents they engage act appropriately. The guide also identifies and addresses any inappropriate conduct by education agents before there is an adverse impact on the provider’s business and its students.

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<sup>32</sup> Statement of Principle for the Ethical Recruitment of International Students by Education Agents and Consultants (The London Statement)

<sup>33</sup> Australian Government Department of Education guide for providers of education and training to overseas students titled ‘Using Education Agents’

## The Code of Practice Principles

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The aim of the Code is to provide students, the community and government with confidence in the integrity of the agents/brokers used by ACPET members to recruit prospective students and to be assured that they act in the interest of those students.

To achieve this aim, ACPET members have developed and agreed the following principles which will guide their interaction with agents/brokers:

ACPET members (the providers) using agents/brokers for the purpose of recruiting students shall:

1. Give priority to using agents/brokers who are on the ACPET preferred agents/brokers list (see Schedule 1) which outlines how agents/brokers can be placed on that list.
2. Identify that the agent/broker has agreed to recruit students for an ACPET member, who is a signatory to the Code of Practice for its members using the services of agents/brokers and if not on the ACPET preferred agents/brokers list has agreed to abide by the conditions of the Code of Conduct for agents/brokers (see Schedule 1).
3. Ensure that a written agreement/contract is in place with the agent/broker detailing:
  - expectations and responsibilities of the provider and agent/broker;
  - defining courses on offer by the provider;
  - the requirement for both parties to comply with relevant legislation, including but not limited to marketing and sales practices are not deceptive or misleading;
  - any third party arrangements which may apply; and
  - conflict resolution for student enrolments.
4. Satisfy themselves that the agent/broker personnel are adequately trained and assessed in accordance with provider expectations and compliant with all relevant legislation.
5. Ensure that use of an agent/broker is monitored to ensure compliance with the Code of Conduct for agents/brokers and has intervention strategies in place for non-compliance.
6. Ensure that agents/brokers are fully aware of the requirement of the ACPET member in relation to:
  - a. assessing a potential student's desire to participate in a course;
  - b. assessing a potential student's intention to complete a course;
  - c. ensuring the potential student understands the requirements of the course in accordance with the policies and procedures of the ACPET member;
  - d. ensuring the potential student understands transfer policies;
  - e. ensuring the potential student is made aware of, and understands, the total costs in relation to pre-requisites, course tuition fees, textbook fees and any other charges. This is particularly important where a student is going to access VET FEE HELP or FEE HELP to facilitate meeting the cost of the ACPET member's course; and
  - f. ensuring the potential student understands the VET FEE HELP or FEE HELP conditions (including loading rates, interest rates and repayment requirements) where applicable.
7. Be assured that the agent/broker does not misrepresent employment outcomes as a result of student completing the ACPET member's course.
8. Be assured that the agent/broker does not promote themselves as being a provider, but rather as an agent/broker for the ACPET member.
9. Be assured that the agent/broker does not misrepresent themselves as having a direct government endorsement or privileged relationship with government where one does not exist, including for example the misuse of government logos and direct links to government forms.

10. Be assured that the agent/broker maintains strict confidentiality of potential and existing student details and does not obtain potential student details without consent or through false pretences.
11. Be assured that the agent/broker does not refer prospective students under the age of 18 unless they have adequate representation from a guardian and/or legal counsel during meetings with the agent/broker and that this is recorded as informed consent before any money is exchanged and that the prospective student has the legal capacity to enter into any commitment.

## Schedule 1

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### The ACPET Preferred Agent/Broker List

In an effort to assist its members in the recruitment and use of agents/brokers, ACPET will establish a preferred agent/broker list. As indicated in the introduction to the Code, entitlement to be on the list will require agents to agree to a number of conditions, similar to those adopted by ACPET members under this Code and in addition to the ACPET Code of Ethics.

To be included on the ACPET Preferred Agent/Broker List requires:

1. The agent/broker to be nominated by three existing ACPET members who are satisfied with the services provided to the members.
2. In nominating an agent/broker the member should ensure that the agent/broker will adhere to the Code.
3. The nominated agent/broker will then be required to:
  - a. agree to abide by the Code of Conduct for agents/brokers (see below);
  - b. acknowledge the ACPET Code of Practice for its members using the services of agents/brokers;
  - c. ensure a proportion of staff participate in a professional development session organised by ACPET; and
  - d. agree to be a 'Partner in Education' member of ACPET and thus agree to abide by the Code of Practice for ACPET members using the services of agents/brokers.
4. The nominated agent/broker details will be distributed to ACPET members on initial application and annually thereafter to determine if members have any issues with the agent/broker becoming or maintaining a 'Partner in Education' membership of ACPET. This is usual practice for any individual or organisation seeking to be a member of ACPET.
5. If there is no objection from existing ACPET members the nominated agent/broker will become an agent/broker member of ACPET on payment of the annual membership fee of \$1,000 and be placed on the ACPET Preferred Agent/Broker list.
6. Admission on the ACPET Preferred Agent/Broker List will require maintenance of 'Partner in Education' membership of ACPET and reaffirmation of agreeing to abide by the Code of Conduct for agents/brokers.

### The Code of Conduct for Agents/Brokers on the ACPET Preferred Agent/Broker List

A preferred agent/broker for listing with ACPET shall:

1. Ensure all legislated compliance practices, including but not limited to marketing and sales practices, are not deceptive or misleading and are in line with ACPET member requirements and applicable regulations.
2. Ensure all personnel are adequately trained and assessed in accordance with provider expectations.
3. Ensure appointment of appropriately qualified personnel accountable for monitoring compliance with the Code and applicable legislation.
4. Comply with provider monitoring interventions to ensure compliance with the Code and applicable regulations.
5. Use reasonable endeavours to:
  - a. assess a student's desire to participate in a course;

- b. assess a student's intention to complete the course; and
  - c. ensure students understand the requirements of the course of study in accordance with the policies and procedures of the provider.
6. Use reasonable endeavours to evaluate students' study capacity prior to enrolment in a course to optimise the likely completion of the course by the student, including, by way of example, language, literacy and numeracy skills, and personal circumstances that may influence ability to complete the course.
  7. Ensure students are made aware of the pre-requisites for the course, full course tuition fees, textbook fees and any other charges.
  8. Ensure potential students understand the VET FEE HELP or FEE HELP conditions (including loading rates, interest rates and repayment requirements) where applicable.
  9. Not misrepresent employment outcomes as a result of completing the course.
  10. Not advertise or otherwise promote themselves as being the provider.
  11. Not misrepresent themselves as having a direct government endorsement or privileged relationship with government where one does not exist, including for example the misuse of government logos and direct links to government forms
  12. Maintain strict confidentiality of potential and existing student details and not obtain potential student details without consent or through false pretences
  13. Comply with all relevant legislation and regulation in relation to ethical marketing, advertising and sales including, but not limited to:
    - a. the Competition and Consumer Act 2010 (Commonwealth);
    - b. the Privacy Act 1988 (Commonwealth);
    - c. the Do Not Call Register Act 2006 (Commonwealth);
    - d. the Spam Act 2003 (Commonwealth);
    - e. legislation relating to health and safety; and
    - f. The Higher Education Support Act 2003 (Commonwealth).

## **Attachments (not provided for this submission)**

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- Attachment 1: Statement of Principle for the Ethical Recruitment of International Students by Education Agents and Consultants (The London Statement)
- Attachment 2: Australian Government Department of Education guide for providers of education and training to overseas students titled 'Using Education Agents'