



# Policy

## Managing complaints about providers

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## 1 Purpose

This document outlines the Australian Skills Quality Authority's (ASQA's) policy to respond to complaints about providers (also known as reports of provider non-compliance.)

Under the *Standards for VET Regulators 2015*, ASQA is required to implement a policy to manage and respond to reports of provider non-compliance with the *Standards for Registered Training Organisations (RTOs) 2015*.

A copy of this policy is published on ASQA's website.

## 2 Role

This policy outlines ASQA's statutory roles and responsibilities as prescribed under the *National Vocational Education and Training Regulator Act 2011* (NVR Act) and its functions as an ESOS Agency under the *Education Services for Overseas Students Act 2000* (ESOS Act).

ASQA accepts complaints (or reports of provider non-compliance) as a source of information about providers. ASQA uses the information in these reports, along with other information it holds about providers, to identify areas of risk and determine whether further regulatory scrutiny is warranted.

ASQA is not responsible for resolving individual complaints. ASQA does not advocate on behalf of students or request that providers take action on behalf of students.

ASQA applies a risk-based approach to all aspects of its regulation, by focussing its efforts on areas of greatest risk. One primary source of information in identifying risk is reports of non-compliance by providers, received from students and other stakeholders by way of a complaint.

ASQA uses this information to protect the quality and reputation of the Vocational Education and Training (VET) and English Language Intensive Courses to Overseas Students (ELICOS) sectors.

## 3 Complaints overview

Complaints about providers are an important source of information used by ASQA in its risk-based approach to regulation. The information reported by way of complaints assists ASQA to identify both systemic concerns and providers that may not be complying with their regulatory obligations.

All reports alleging non-compliance are recorded and reviewed. The information collected from these reports, along with other information held by ASQA, is used to identify providers that may require further regulatory scrutiny.

All complainants receive an acknowledgement of their complaint so they can be assured ASQA has received their report. ASQA does not inform complainants of the outcome of their complaint, or provide any further information in relation to whether or not further regulatory activity has been initiated, except in exceptional circumstances.

ASQA notifies providers that it has received a complaint about their operations, except in circumstances where this would undermine further regulatory activity. ASQA may also share complaint information with other government stakeholders as allowed by legislation.

ASQA's role is to regulate providers, and all information received through complaints is used in supporting its compliance efforts. ASQA does not have any consumer protection powers and cannot act as an advocate for individual students, nor is it responsible for resolving disputes between students and providers. There are other complaint handling bodies available to assist individual students – further details are provided in Section 5 of this policy.

### 3.1 Define a complaint about a provider

For the purposes of this policy, a complaint about a provider is defined as information provided to ASQA that indicates non-compliance by a provider in relation to its regulatory obligations under either the NVR Act or the ESOS Act.

Under the RTO Standards, RTOs are required to comply with Commonwealth, state and territory legislation and regulatory requirements relevant to its operations. Failure to comply these broader regulatory requirements may be indicative of provider risk within ASQA's jurisdiction.

### 3.2 Advice to students and other stakeholders about complaints

If students are unhappy about aspects of their experience with a provider, they should access the policies and procedures established by that provider to resolve complaints.

If a student requires additional assistance in resolving their complaint with the provider, ASQA provides advice to students on how to proceed in resolving a problem with a provider on its website. ASQA also publishes information on its website on how to contact relevant complaint handling bodies.

ASQA's website provides guidance on notifying ASQA of a concern about a provider's non-compliance.

### 3.3 Accepting a complaint about a provider

All complaints about providers should be lodged using ASQA's online complaints portal ([asqaconnect](#)). Complaints referred by another agency may be accepted through agreed alternative communication protocols.

All complaints received about providers are recorded and reviewed by ASQA. Issues raised in complaints undergo an assessment to determine whether they are within ASQA's jurisdiction.

Where a complaint relates to a provider or an issue that is the responsibility of an alternate agency, ASQA will inform the complainant of the appropriate agency to respond to their complaint. ASQA also provides information on its website about other agencies that may be able to assist individual students to resolve their complaints.

A person lodging a complaint about a provider to ASQA is asked to disclose their identity to ASQA to help with assessment of the information that they are providing.

### 3.4 Assessing a complaint about a provider

The information from complaints is considered in the context of the information that ASQA has about the provider to determine whether further regulatory scrutiny is required.

Where ASQA decides to undertake further regulatory scrutiny of a provider, it will assess the provider's behaviour using established regulatory practices.

If ASQA undertakes further regulatory scrutiny, the provider will be afforded the opportunity to respond to any findings of non-compliance.

If ASQA establishes the provider has breached its regulatory obligations, ASQA will take regulatory action which may include one or more of the following:

- requiring the provider to rectify the non-compliance and the impact caused to current and past students;
- making a decision to cancel, suspend or place a condition on a provider's registration; and/or
- imposing an infringement notice or civil penalty.

Any regulatory action taken and remedial action requested will be proportionate to the seriousness of the non-compliance. If ASQA makes a decision to impose a sanction on a provider, this information is published on [ASQA's website](#).

### 3.5 What a complainant can expect when submitting a complaint to ASQA

All complaints will be acknowledged.

ASQA does not act directly on individual complaints, instead, we look at the provider's patterns of behaviour and use this information to inform our decisions on when to take regulatory action.

ASQA may contact the person lodging a complaint to seek further information, or to advise the complainant that the issues raised in the complaint are outside of ASQA's jurisdiction.

ASQA will not disclose the complainants name to the provider, including when it notifies the provider that it has received a complaint.

ASQA will only use and disclose personal information for the primary purpose for which it was collected, unless it is required to be released by legislation or a Court or Tribunal.

Further information on how ASQA handles personal details, is outlined on the ASQA website, and in the [Privacy Policy](#).

### 3.6 What an organisation can expect if ASQA receives a complaint about you.

ASQA will (unless exceptional circumstances exist) notify the provider concerned to advise that it has been named as the subject of a complaint and may suggest that the provider takes action to ensure it remains compliant with its regulatory obligations.

Providers will be advised of the nature of the complaint but ASQA will not disclose the name of complainants.

The information contained in the report will be recorded and ASQA will assess all the information that it holds in relation to your organisation to determine if further regulatory scrutiny is warranted. If further regulatory scrutiny is required, ASQA's established [audit procedures](#) apply.

## 4 Authority

The legislation establishing ASQA as the National VET Regulator recognises the importance of protecting students undertaking or proposing to undertake Australian VET, by ensuring the provision of quality VET ('Objects of the Act' - section 2A, NVR Act).

To enable its objects to be achieved, the NVR Act describes the functions of the National VET Regulator (section 157). These functions are designed to ensure the effective regulation of the Australian VET sector. Section 157 (5), requires ASQA to have regard to any reports or information it receives about matters relating to the NVR Act. This includes information ASQA receives through complaints about providers.

In addition, the NVR Act provides that, with the agreement of the Ministerial Council, the Minister may make standards which apply to VET Regulators. The *Standards for VET Regulators 2015* (the Regulator Standards) require the VET Regulator to establish and maintain effective communication with stakeholders, including communicating clear and accurate information and advice.

As the VET Regulator, ASQA is required by the Regulator Standards (Standard 3.5) to implement a policy to manage and respond to reports of an RTO's non-compliance with the *Standards for Registered Training Organisations 2015*.

In consideration of those provisions, and the benefit of the intelligence gained through the receipt and management of complaints about providers, ASQA has determined that it is appropriate to receive and manage complaints about providers using a risk-based approach.

## 5 Roles of other complaint handling bodies

There are a range of complaint handling bodies that may be able to assist a complainant if they have been unable to resolve their complaint with their provider.

ASQA's website will provide information on other complaint handling bodies and provide guidance on the most appropriate agency for dealing with particular issues. This information will help to delineate between the responsibilities of ASQA in managing complaints and those of other agencies, such as the Fair Work Ombudsman, the Overseas Students Ombudsman, the VET Student Loans Ombudsman, and State and Territory Ombudsmen.

The website will also advise students seeking a refund from their provider that contractual disputes with providers over fees and refunds are not dealt with by ASQA, but are the responsibility of consumer protection agencies. The website will provide a link to the Australian Competition and Consumer Commission and other State and Territory consumer protection agencies.

Complaints from students whose enrolment is assisted by VET FEE-HELP (under *the Higher Education Support Act 2003*) or VET Student Loans (under the *VET Student Loans Act 2016*) may be the responsibility of ASQA or the VET Student Loans Ombudsman. Generally, complaints or reports relating to standards of training are managed by ASQA whereas the VET Student Loans Ombudsman investigates complaints in relation to VET student loan schemes.

The National Training Complaints Hotline within the Australian Government Department of Education and Training receives complaints and queries about the Australian training sector and, where considered to be within ASQA's regulatory jurisdiction, refers complaints to ASQA for response.

## 6 Reporting on management of complaints about providers

ASQA provides a report to the Minister on at least a quarterly basis in relation to its handling of reports of non-compliance about providers.

## 7 Responsible position within ASQA

ASQA's Manager, Risk Intelligence and Data Strategy has overall responsibility for ensuring the implementation of the *Managing complaints about providers* policy.