



Australian Government
Australian Skills Quality Authority

REPORT

Targeted audits of VET FEE-HELP providers



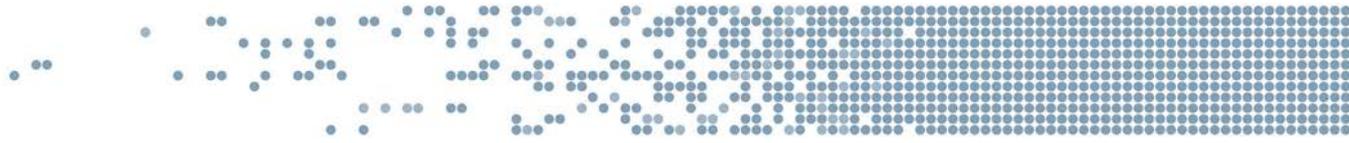


Table of contents

Executive summary	2
1 Introduction	7
1.1 Funding of vocational education and training in Australia	7
1.2 Overview of the Australian Skills Quality Authority	7
1.3 VET FEE-HELP and ASQA	8
1.4 ASQA’s regulatory model	8
1.4.1 Compliance by RTOs	9
2 Overview of the VET FEE-HELP program.....	10
2.1 How the Australian Government’s VET FEE-HELP loan scheme works	10
2.2 Background.....	10
2.3 Growth of the VET FEE-HELP scheme, 2009 – 2015.....	11
3. ASQA targeted audit project.....	13
3.1 Identifying the systemic risk posed by VET FEE-HELP providers	13
3.2 Complaints to ASQA about VET FEE-HELP	14
3.3 Addressing system risks outside ASQA’s jurisdiction.....	15
3.4 Ongoing concerns about the VET FEE-HELP program	15
3.5 Introduction of VET FEE-HELP program reforms.....	16
3.6 Implementation of the <i>Standards for Registered Training Organisations (RTOs) 2015</i>	17
3.7 Brokers and recruitment agents.....	18
3.8 Liaison with other relevant agencies.....	18
3.9 Methodology—targeted audits	19
3.9.1 Identifying providers to target	19
3.9.2 Scope of the audits	19
3.9.3 Audit process	20
3.9.4 Student interviews	20
3.10 Post audit	21
3.10.1 Procedural fairness.....	21
3.10.2 Decision to impose a condition on a registered training organisation	21
4 Findings	22
4.1 Overview of compliance results for RTOs audited	22
4.2 ASQA regulatory scrutiny of other RTOs approved as VET FEE-HELP providers	28
4.3 General findings.....	28
Appendix A—Standards reviewed at audit.....	30



Executive summary

As the national regulator for Australia’s vocational education and training (VET) sector, the Australian Skills Quality Authority (ASQA) ensures that registered training organisations (RTOs) deliver quality training and assessment.

In doing so, ASQA is supported by a framework of legislation and standards that outline the requirements that a training organisation must meet in order to be registered on the national register of training organisations and courses in Australia, training.gov.au, as an RTO.

ASQA regulates registered training organisations—and those training organisations seeking to become registered training organisations—against the *National Vocational Education and Training Regulator Act 2011* (the NVR Act) and the *Standards for Registered Training Organisations 2015* (the Standards).

ASQA accepts complaints about RTOs and uses information received through these complaints to inform how it regulates these organisations, at both the level of the individual RTO and at the systemic level. In 2014, ASQA recorded an increase in complaints with a VET FEE-HELP component. In order to address what appeared to be a systemic issue with certain approved VET FEE-HELP providers, ASQA initiated this project, which included a targeted audit of certain RTOs that were also registered as VET FEE-HELP providers. The project was announced by the Hon. Senator Simon Birmingham, then Assistant Minister for Education and Training, on 24 February 2015.

This project has involved cooperation with Australian consumer law agencies. In March 2014, Australian consumer law regulators (led by NSW Fair Trading) established the *Training Providers National Project*, which aimed to undertake compliance and enforcement activities against not compliant traders, in addition to educating consumers and traders about their rights and obligations under the Australian consumer law.

The scope of this project does not include an examination of the administration of the funding of VET. ASQA does not play a role in the funding of training providers in Australia (refer to [section 1.1](#) of this statement for clarification of funding roles) or the regulation of funding. The VET FEE-HELP scheme—which is a student loans scheme—is administered by the Australian Department of Education and Training, under the *Higher Education Support Act 2003* (HESA) and the *VET Guidelines 2015*. While ASQA is not responsible for the administration of the VET FEE-HELP scheme, it does have a key role in ensuring that the practices of RTOs in recruiting students for training under the VET FEE-HELP scheme and the training and assessment delivered to them as a result is done in a way that meets the requirements of the Standards.

There has been a range of allegations of unethical and inappropriate action taken by RTOs in relation to the VET FEE-HELP loan scheme that is outside the scope of either the NVR Act or the Standards. The complex nature of the allegations means that responsibility for their investigation and response is shared across a number of agencies. This led ASQA to the conclusion that a more integrated response across the responsible agencies was likely to lead to better outcomes. ASQA is continuing to work with both the Department of Education and Training and Australian consumer law agencies including the Australian Competition and Consumer Commission (ACCC) to ensure that all aspects of concerning behaviour are addressed by the relevant authority.

As part of a range of reforms to the VET sector, on 12 March 2015, Senator the Hon. Simon Birmingham, at that time the Assistant Minister for Education and Training, announced eight key reforms to the VET FEE-HELP loan scheme, to be implemented over the course of 2015 and 2016. ASQA welcomes these reforms and will continue to share all



relevant regulatory information with the Department of Education and Training to assist them to enforce the new requirements.

As part of a separate program of reforms, new standards for existing RTOs also came into effect on 1 April 2015. In relation to the introduction of the new Standards, ASQA has already observed an increase in RTOs' compliance since April 2015.

As such, this project has been undertaken in the context of a changing regulatory landscape in relation to the VET FEE-HELP scheme.

ASQA had recorded 110 complaints relating to RTOs that were also approved for VET FEE-HELP in the period to 31 December 2014. These complaints relate to RTO behaviour that occurred prior to the introduction of the changes to the Standards and program guidelines. While the number of complaints as a proportion of VET FEE-HELP students, which was some 200,000 in 2014, may be relatively minor there may be under reporting of complaints by these students, many of whom may be reluctant to make a formal complaints.

Further, most complaints ASQA receives are related to its jurisdiction (e.g. complaints about the RTO's compliance with the VET Quality Framework). Complaints about RTOs that are approved VET FEE-HELP providers are also directed to the Department of Education and Training and to the relevant consumer law agencies. ASQA understand that the Department of Education and Training received 888 complaints from 1 July 2014 to 30 September 2015.

ASQA does not regulate brokers (sometimes referred to as third parties) unless there is reason to believe that the broker is purporting to be an RTO. The new Standards do, however, give ASQA additional powers to hold RTOs accountable for the actions of brokers acting on their behalf. The new Standards also require RTOs to notify ASQA of brokers that they have entered into agreements with.

In relation to the allegations within ASQA's jurisdiction, ASQA has sought to identify non-compliance by RTOs registered with ASQA that are also approved VET FEE-HELP providers against the NVR Act and the Standards. ASQA is in the process of addressing the issues within its jurisdiction through the action identified in [section 4](#) of this report.

This project involved analysing the 110 complaints and identifying 16 RTOs approved for VET FEE-HELP that were of concern to ASQA; ASQA had received complaints from two or more students about each of these RTOs. An additional control group of five RTOs for which there had not been any recent complaints were included—these RTOs were selected because each was a large provider with a significant number of students enrolled under VET FEE-HELP arrangements.

ASQA then audited the 21 RTOs, and interviewed 417 students enrolled with these RTOs. The audits tested compliance with three key concerns identified through this project—in relation to breaches of the VET Quality Framework and/or the NVR Act:

- the accuracy of marketing and information provided to potential students
- the advice provided to potential students during enrolment, and
- the information provided to students before enrolment.

The results of the targeted audits have indicated that there are levels of non-compliance with the national Standards among certain RTOs approved for VET FEE-HELP. The audit results can be broadly categorised into four key RTO groups.



1. **Seven** RTOs were able to demonstrate full compliance with the relevant requirements of the VET Quality Framework and NVR Act at the conclusion of the audit: ASQA does not intend to take any further action in relation to these RTOs.
2. **Eight** RTOs that were able to demonstrate full compliance with the relevant requirements of the VET Quality Framework and NVR Act at the conclusion of the audit: ASQA has determined that the imposition of certain conditions is warranted, based on the issues examined during the audit and the commitments made by these RTOs to address these issues.
3. **One** RTO has had its registration cancelled under NVR Act and the *Education Services for Overseas Students Act 2003* (ESOS Act). This RTO has been notified of this outcome and its ability to seek a review of this decision by the Administrative Appeals Tribunal.
4. **Five** RTOs that are still subject to ongoing regulatory scrutiny. ASQA is currently finalising its regulatory scrutiny in relation to these RTOs.

In parallel to ASQA's regulatory scrutiny, the ACCC has also been investigating serious breaches of Australian consumer law by a range of providers and brokers. Where appropriate, ASQA and the ACCC have shared relevant information on the details of the allegations and on regulatory investigations underway. This ensures that the work of each agency is not inadvertently compromised by the regulatory activity of the other agency and that the best possible outcomes are achieved. Much of the work being undertaken by the ACCC remains confidential at the time of this statement.

ASQA continues to receive complaints in relation to RTOs that are approved for VET FEE-HELP. The most common causes for concern in these complaints continue to be marketing and information provided to students and potential students, as well as enrolment in appropriate courses.

Since 1 January 2015, ASQA has received some further 162 complaints with a VET FEE-HELP component. Eighty-one of these complaints were in relation to the 21 RTOs audited as part of this project. Twenty-five of the complaints received this year relate to a further five providers of concern for ASQA. Of these five RTOs, four are currently subject to regulatory activity which has not yet been finalised at the time of this report. The fifth, Phoenix Institute of Australia Pty Ltd (RTO ID: 21582), had been notified of ASQA's intention to cancel registration at the time of publishing, but is yet to respond to this notice and no decision has been taken.

This project has been of significant benefit to students and the community by assisting ASQA to target its regulatory scrutiny at the areas of poor RTO behaviour within its jurisdiction and to work with other agencies to address the broader harms outside of its jurisdiction. The general learnings of this project for ASQA include that:

- complaints have been a reliable indication of RTOs that may be in breach of the Standards
- ASQA's evolving risk based approach to its regulatory task is appropriate and will assist ASQA to more quickly and effectively address systemic issues, and
- working more closely with other agencies leads to improved outcomes for students and the community.

In response to what it has learnt through its targeted audits of VET FEE-HELP RTOs, ASQA will implement a number of actions which it believes will ensure the risk of any unethical or inappropriate action taken by RTOs in relation to the VET FEE-HELP loan scheme is minimised.



Action One—further regulatory action underway

In light of the ongoing concerns, ASQA will continue to apply close regulatory scrutiny to RTOs where warranted. ASQA will continue to closely monitor and target RTOs approved for VET FEE-HELP where complaints and intelligence data, and the outcomes of this project, indicate this is necessary.

Action two—coordination with relevant agencies

This project has indicated the importance of interagency cooperation in relation to RTOs approved as VET FEE-HELP providers. There are significant benefits to close coordination of regulatory work, especially where the concerns about an RTO lie wholly or partially outside of ASQA's regulatory jurisdiction. Coordinated effort across agencies can potentially improve outcomes for VET consumers.

ASQA will continue to engage with the Australian Competition and Consumer Commission and the Department of Education and Training to share regulatory intelligence and coordinate regulatory action to ensure RTOs doing the wrong thing are penalised to the full extent of the respective laws.

ASQA will also continue to work with the Australian Competition and Consumer Commission, Australian consumer law agencies and the Department of Education and Training to develop **joint communications and training exercises** where these may help improve the understanding and behaviour of RTOs.

Action three—establish a dedicated working group with the Department of Education and Training (DET)

ASQA's shift to risk-based regulation has involved increasing reliance on the use of data and intelligence to inform its regulatory work, and enable it to better target areas of risk and potential harm. To be successful, ASQA requires access to sophisticated and current information available to all players in this space.

It is proposed to establish of a dedicated working group with DET to continue sharing intelligence on areas of risk and emerging risk, including data analytics on indicators of risk in DET's VET FEE-HELP data submitted by RTOs. This working group would meet on a regular basis to assist ASQA to better target RTOs with key indicators of risk.



Action four—enhanced communication and education for providers and potential students

As part of a risk-based regulatory approach, ASQA uses a range of tools to assist providers to understand and meet their requirements. ASQA will develop additional information about the *Standards for RTOs 2015* that are frequently raised in complaints about RTOs approved for VET FEE-HELP, as well as information to assist potential students make informed decisions about choosing a training provider. ASQA is using the findings of this project to develop a range of **communication material** aimed at:

- RTOs—to improve their understanding of and compliance with the requirements of the relevant standards
- Students—to provide them with relevant information and assist them to make informed decisions.



1 Introduction

1.1 Funding of vocational education and training in Australia

The funding for VET, like many other policy areas, is shared between the Australian Government and the states and territories. The Australian Government contributes approximately 30 per cent of the total cost of training subsidies.

The states and territories provided around \$5.9 billion in VET subsidies systems in 2014-15. This includes the \$1.8 billion the Commonwealth provides¹ for:

- Direct funding through its own program, the majority of which are incentive payments for the apprenticeship system; language, literacy and numeracy programs; and funding to employers to purchase training on a co-contribution basis
- Income-contingent loans (through VET FEE-HELP and Trade Support Loans) to support students in diploma level or higher and apprenticeship courses
- Direct financial assistance to support eligible students and apprentices e.g. Youth Allowance, Austudy and ABSTUDY.

The Australian Government Department of Education and Training is responsible for the administration and regulation of Commonwealth funding programs, such as the Higher Education Loan Program (HELP), which includes VET FEE-HELP. The management of both schemes falls under the remit of the Department as the administrator of the program.

In the VET context, under Schedule 1A of the *Higher Education Support Act 2003* (HESA), the Secretary, through the Department, can take action to terminate provider access to VET FEE-HELP if the *HESA—VET Guidelines 2015* (VET Guidelines) have been breached. The Department makes the determination as to whether or not the program guidelines have been breached.

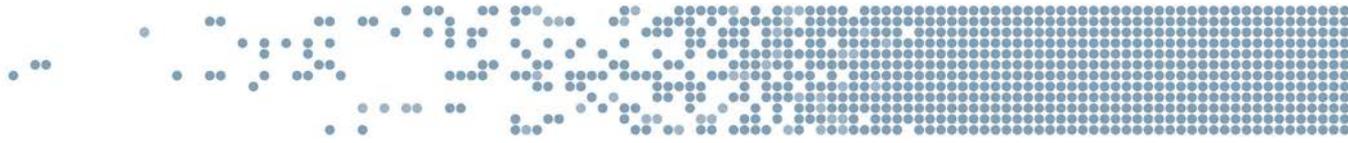
The national VET regulator (ASQA) does not play a role in the management or regulation of the VET FEE-HELP program. Rather, ASQA is responsible for ensuring that RTOs (including those registered for VET FEE-HELP), are compliant with the VET Quality Framework. ASQA seeks to ensure that all providers (including VET FEE-HELP providers) are meeting their obligations to deliver and assess training, in accordance with the rules of their ASQA registration.

ASQA's provides intelligence to the Department about provider risk (collected through complaints and audits of provider compliance against the VET Quality Framework), which may in turn lead to identification of non-compliance against the VET Guidelines. ASQA supports collaboration with the Department to ensure critical information about provider risk is shared in a timely manner.

1.2 Overview of the Australian Skills Quality Authority

As the national regulator for Australia's VET sector, ASQA seeks to ensure that the sector's quality is maintained through the effective, nationally consistent regulation of RTOs. ASQA also regulates accredited VET courses and

¹ Reform of the Federation White Paper Part B, page 17.



providers listed on the Commonwealth Register of Institutions and Courses for Overseas Students, including those delivering English Language Intensive Courses to Overseas Students.

ASQA regulates VET training providers against the National VET Quality Framework, which includes the *Standards for Registered Training Organisations 2015 (the Standards)*.

As the national regulator, ASQA seeks to make sure that students and employers have confidence that providers are delivering good-quality programs. Employers can have confidence that VET graduates have the skills and competencies that they need for employment. Students can be confident that training will be of a high standard and meet their needs.

1.3 VET FEE-HELP and ASQA

VET FEE-HELP is an Australian Government loan scheme that assists eligible students to pay their tuition fees for higher-level VET courses (at the diploma-level and above) undertaken at approved VET FEE-HELP providers.

'Approved VET FEE-HELP providers' are RTOs that have been approved under the *Higher Education Support Act 2003* to offer VET FEE-HELP loans to eligible students. Approved VET FEE-HELP providers are listed at www.studyassist.gov.au.

The Higher Education Loan Program (HELP)—including VET FEE-HELP—is administered by the Australian Department of Education and Training. There are, however, areas of commonality between the *Standards for RTOs 2015* and the *VET Guidelines 2015* and the agencies are able to share relevant information to assist each other to monitor compliance with their respective frameworks.

Providers applying to the Department of Education and Training for funding under the VET FEE-HELP scheme are required, as a first step in the process, to be registered with ASQA as an RTO. A training provider that has met the relevant requirements to be registered with ASQA is then listed on the national register, training.gov.au.

Following listing on the register, a registered training organisation may then apply to the Department of Education and Training to become an approved VET FEE-HELP provider. The Department of Education and Training will confirm that the RTO meets certain legislative eligibility requirements and then consider the RTO's application. Should the RTO's application be successful, the Department of Education and Training is responsible for monitoring the RTO's compliance with the requirements of the VET Guidelines.

As at 31 July 2015, there were 273 RTOs approved as VET FEE-HELP providers in Australia, of which 251 were regulated by ASQA, 15 RTOs were regulated by the Training Accreditation Council Western Australia and five were regulated by the Victorian Registration and Qualifications Authority.

1.4 ASQA's regulatory model

As a contemporary regulator, ASQA applies a risk-based regulatory approach. This approach allows ASQA to direct its resources towards areas that pose the greatest risk to quality vocational education and training outcomes for the Australian community, while seeking to minimise regulatory burden for those it regulates.



ASQA's Regulatory Risk Framework is the vehicle by which ASQA identifies and evaluates risks to the quality of vocational education and training in Australia at the macro (whole of sector) and micro (provider) level. The framework helps ASQA to:

- respond in a proportionate but effective way to risks posed, and
- invest time and effort in risks of a significant nature.

The **primary risk** for ASQA to manage is an RTO certifying that a person has competencies that do not reflect his/her skills, knowledge and attitudes. The potential damage flows not just to the individual, but to employers, and the wider community.

There are likely to be other risks—beyond those posed by individual providers—that ASQA may have responsibility for managing. For example, provider practice associated with funding or immigration incentives. ASQA acknowledges responsibility for addressing these types of risks only to the extent it has jurisdictional authority to do so.

ASQA fulfils its responsibility to manage risks to the quality of VET outcomes for students, employers and the community by managing risk on two levels: strategic (systemic risk) and operational (provider risk).

- *Systemic risk* is a risk likely to exist across the sector or in a number of providers. If left untreated, significant risks of this type can have a detrimental impact on the quality of training and assessment for individuals, industry and the wider community and may lead to loss of confidence in the sector.
- *Provider risk* is the risk an individual provider presents through their choices and actions, which, if left untreated, could have a significant detrimental impact on training and assessment outcomes for students, industry and the community.

Systemic risks are identified through environmental scanning, with the most significant treated with systemic risk projects such as this VET FEE-HELP project. Provider risks are identified using mechanisms such as credible and reliable provider reports (including reports from other agencies), or unusual provider activity. ASQA draws on a range of escalating regulatory responses to proportionately respond to provider risk. This can range from taking no action to using audit or enforcement powers.

1.4.1 Compliance by RTOs

The 2014–15 financial year saw the phased introduction of new *Standards for Registered Training Organisations (RTOs) 2015*. The impact of the new Standards and the significant communication and education campaign that ASQA undertook to implement the Standards are reflected in improved levels of compliance by RTOs. ASQA is now finding that 33 per cent of RTOs are fully compliant at initial audit, with that number rising to 87 per cent² following a 20-day period in which RTOs can address any non-compliance found.

However, in relation to the 13 per cent of RTOs that consistently demonstrate non-compliance, ASQA recognises that its regulatory response must adequately respond to RTOs with no intention of or capacity to deliver quality training. There are a small number of RTOs in the VET market that do not demonstrate good faith in complying with requirements, including those RTOs that seek to exploit the Australian Government's VET FEE-HELP scheme. A risk-based regulatory approach has allowed ASQA to identify these seriously not compliant, poor-quality RTOs as a risk to the quality of the VET sector.

² <http://www.asqa.gov.au/news-and-publications/compliance-with-training-standards-increasing.html>



Since its inception in 2011, ASQA has taken significant regulatory action to cancel, suspend or not renew the registrations of 379 RTOs.

2 Overview of the VET FEE-HELP program

2.1 How the Australian Government's VET FEE-HELP loan scheme works

VET FEE-HELP is an Australian Government loan scheme that assists eligible students to pay their tuition fees for higher level VET courses (at the diploma-level and above) undertaken at RTOs that are approved VET FEE-HELP providers.

'Approved VET FEE-HELP providers' are organisations (RTOs) that have been approved by the Department of Education and Training under the HESA to offer VET FEE-HELP loans to eligible students. Approved VET FEE-HELP providers are listed at www.studyassist.gov.au.

The scheme is administered by the Australian Department of Education and Training.

The HESA provides for loans, called VET FEE-HELP assistance, to be made available to students enrolled in certain vocational education and training courses (Diploma level and above). The Department of Education and Training makes advanced payments to RTOs of VET FEE-HELP based on the RTO's estimates of the VET FEE-HELP loans they expect will be accessed by students.

In 2015, the FEE-HELP loan limit was \$97,728 for most students.³ Persons taking out a VET FEE-HELP loan commence repayments (in the 2015-16 income year) once their income reaches \$54,126 or above.

The cost of a course is determined solely by the RTO. Neither ASQA, nor the program's administrator, the Department of Education and Training, are responsible for determining course costs.

A student incurs a debt (and the loan limit is reduced) after a census date for a unit of study which must be posted on an RTO's website.

2.2 Background

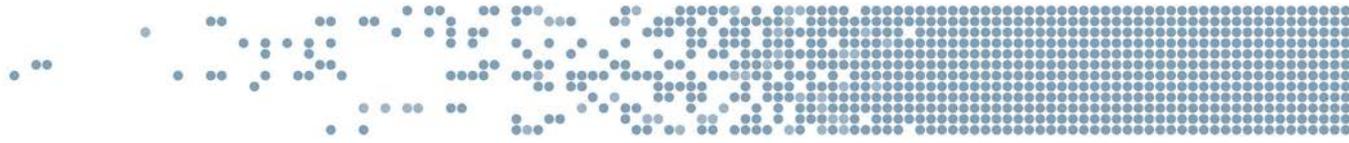
The Australian Government has offered a loan scheme for higher education since 1989, when the Higher Education Contribution Scheme (HECS) was first introduced. HECS allowed students to defer the costs of university tuition until their taxable income reached a certain level at which repayments commence.

In 2003, there were major reforms to higher education, including significant changes to HECS. These reforms were legislated by the HESA and came into effect in 2005. Additional loan types were added and the program was renamed the Higher Education Loan Program (HELP).

In 2009, the Australian Government introduced VET FEE-HELP for students studying VET qualifications.

VET FEE-HELP was initially only available for students undertaking full-fee paying diploma-level and above courses (Diploma, Advanced Diploma, Vocational Graduate Certificate and Vocational Graduate Diploma).

³ Students enrolled in medicine, dentistry or veterinary science courses that lead to provisional registration to practice in one of those fields have a FEE-HELP limit of \$122,162.



A trial—due to end in December 2016—is currently underway to further extend VET FEE-HELP to a small number of Certificate IV-level qualifications in certain states and territories. VET FEE-HELP can only be used to pay for a student’s tuition fees and the students must be studying at an RTO also approved to offer VET FEE-HELP.

2.3 Growth of the VET FEE-HELP scheme, 2009 – 2015

Data in this section has been provided by the Department of Education and Training.

As at 31 July 2015, there were 273 RTOs approved as VET FEE-HELP providers in Australia, of which 251 were regulated by ASQA, 15 providers were regulated by the Training Accreditation Council Western Australia and five were regulated by the Victorian Registration and Qualifications Authority.

Since the introduction of VET FEE-HELP, the number of students accessing the scheme has increased significantly. Between 2012 and 2013, the number of students almost doubled and between 2013 and 2014, the number of students doubled again.

Table 1: Number of students accessing VET FEE-HELP and number of approved VET FEE-HELP providers, 2009 – 2015

	2009	2010	2011	2012	2013	2014	2015
Students accessing VET FEE-HELP	5262	26,112	39,124	55,115	100,035	202,776	N/A
Approved VET FEE-HELP providers	45	71	92	118	181	254	273 ⁴

Source Data provided to ASQA by the Department of Education and Training, October 2015

⁴ This figure includes RTOs that are regulated by ASQA, the Training and Accreditation Council Western Australia, and the Victorian Registration and Qualifications Authority that are also approved VET FEE-HELP providers

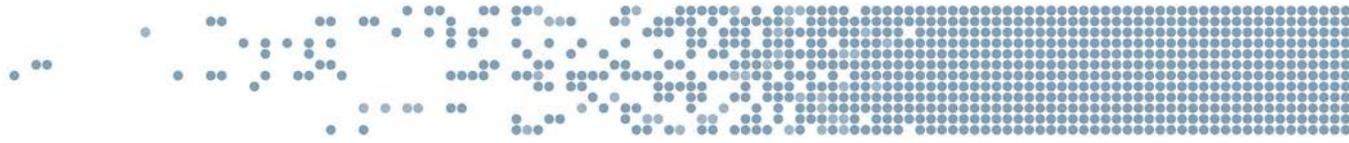
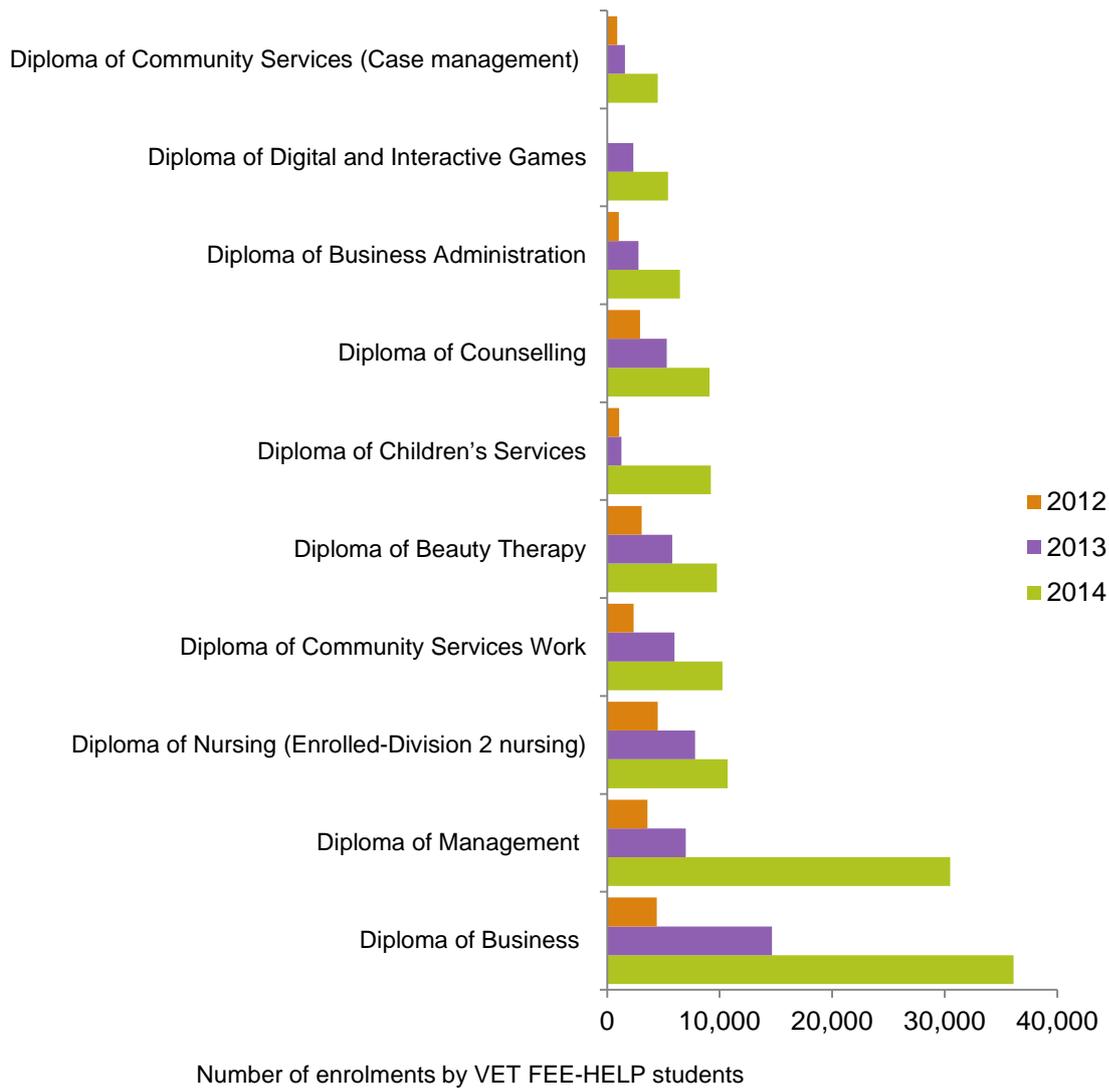


Figure 1: Ten most common enrolments by VET FEE-HELP students in 2014, showing growth in enrolments 2012-2014



Source Data provided to ASQA by the Department of Education and Training, October 2015

There has been significant growth in the enrolment of VET FEE-HELP students in the qualifications shown in Figure 1. In particular, the Diploma of Business and Diploma of Management, in which enrolments increased from 4421 in 2012 to 36,116 by 2014; similarly, enrolments in the Diploma of Management increased from 3599 in 2012 to 30,482 by 2014.)



3. ASQA targeted audit project

At the inception of this project, ASQA recognised that the major harm to be addressed was the issue of vulnerable students being enrolled in inappropriate qualifications without accurate advice on their training and VET FEE-HELP debt.

ASQA also recognised that it was not wholly responsible for or able to unilaterally address this harm. While it had an important role in ensuring the compliance of the relevant RTOs against the Standards, the cooperation of other agencies—for example, consumer law agencies and the administrator of the VET FEE-HELP program—was essential if this harm was to be addressed.

In an effort to ensure that the broader harms were addressed, ASQA initiated a regulatory project.

This project involved:

- **Audits of RTOs approved VET FEE-HELP operating as providers**—some with a high number of VET FEE-HELP related complaints—along with audits of a control group of RTOs. (The control group were providing training under the program, and ASQA had not received any VET FEE-HELP complaints).
- **Interviews of vulnerable students** that were enrolled in the VET FEE-HELP scheme by these RTOs.
- **Liaison with other relevant authorities**, including the Australian Competition and Consumer Commission and the Department of Education and Training, to share relevant information.

3.1 Identifying the systemic risk posed by VET FEE-HELP providers

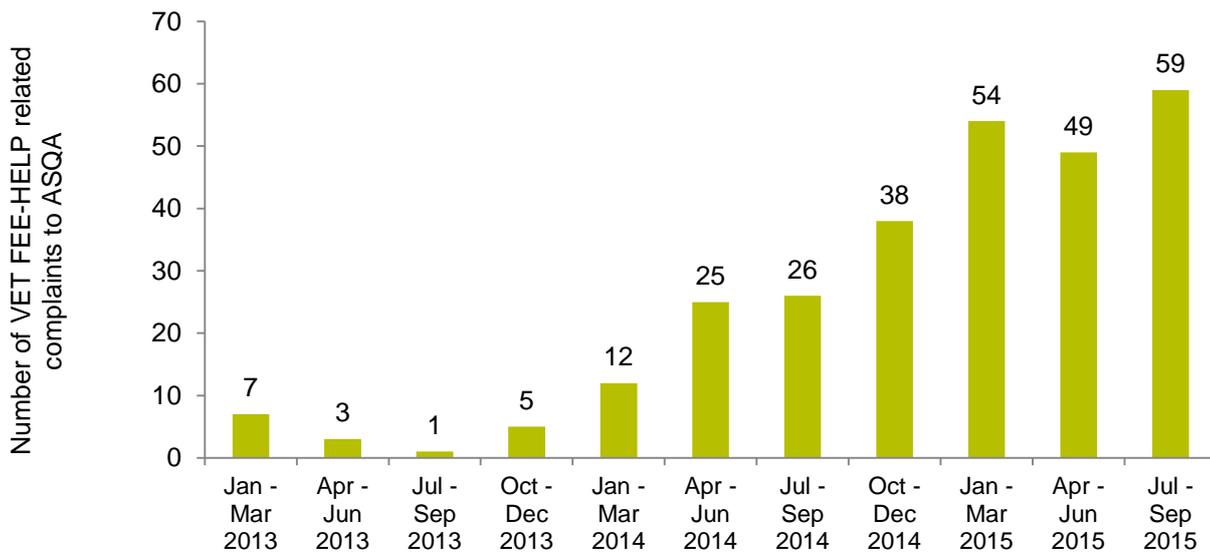
ASQA undertakes annual environmental scans ('e-scans') to identify systemic risks facing the VET sector.

The 2014 e-scan identified concerns with diploma-level qualifications from the Business Services Training Package. An analysis of complaints associated with these diplomas identified that many complaints included a VET FEE-HELP component. VET FEE-HELP was also receiving increasing media attention and increasing attention from consumer law agencies and the Department of Education and Training.

ASQA subsequently analysed VET FEE-HELP related complaints and confirmed that there was an increase in these complaints in 2014. This increase is illustrated in Figure 2.



Figure 2: Complaints to ASQA about RTOs with a VET FEE-HELP component, 2013 – 2015



Source: ASQA

Further analysis of the complaints received between January 2013 and December 2014 found allegations about a range of behaviours exhibited by RTOs approved for VET FEE-HELP. The complex nature of the allegations meant that responsibility for their investigation and response was shared across a number of agencies. This led ASQA to the conclusion that a more integrated response across the responsible agencies was likely to lead to better outcomes for students and the community.

3.2 Complaints to ASQA about VET FEE-HELP

Between 1 January 2013 and 31 December 2014, ASQA received 110 complaints with a VET FEE-HELP component. ASQA analysed these complaints and found that:

- 76 complaints included matters relating to the operations of 16 RTOs. As a result, these RTOs were audited as part of this project, and
- 34 complaints included matters relating to the operations of other RTOs.

Of the 110 complaints, 67 were within ASQA’s jurisdiction to take action. Twenty-two were referred to other authorities as the matters were outside of ASQA’s jurisdiction and 21 were closed as there was insufficient evidence to allow ASQA to investigate the complaint. A number of the complaints also included allegations against brokers.



3.3 Addressing system risks outside ASQA’s jurisdiction

ASQA’s analysis of complaints relating to RTOs approved for VET FEE-HELP showed allegations about a range of behaviours exhibited by these providers. While some of these complaints were within ASQA’s jurisdiction, some complaints related to areas in which ASQA has no legislative capacity to take action.

Complaints about VET FEE-HELP providers were found to be in three main categories

- **Complaints relating to a provider’s compliance with the *Standards for NVR Registered Training Organisations 2012 (now the Standards for RTOs 2015)* and/or the NVR Act:** These may include complaints about the information provided to students or inaccurate marketing. A summary of the Standards which relate to the allegations of poor behaviour by RTOs that are also approved VET FEE-HELP providers is shown in Appendix A. Complaints against these standards fall within ASQA’s jurisdiction.
- **Complaints relating to a provider’s behaviour under Australian consumer law:** These may include complaints relating to, for example, unfair contract terms or false and misleading claims made by RTOs or marketers/agents acting on their behalf. This component of a complaint is likely to fall within the jurisdiction of Australia’s consumer law agencies, for example, the Australian Competition and Consumer Commission.
- **Complaints relating to a provider’s non-compliance with the VET Guidelines:** These may include complaints about non-compliance with the HESA (for example, about enrolling students and allowing them to incur debts without their knowledge). These program complaints—complaints relating to the regulation of VET FEE-HELP loans—fall within the jurisdiction of the Department of Education and Training.

The complaints tended to be complex, and to raise allegations that were covered by more than one jurisdiction. To ensure that complaints were comprehensively and appropriately addressed, ASQA mapped the alleged behaviours that were the subject of a complaint to their legal jurisdiction and shared this work with other relevant regulators.

Where the behaviours raised in these complaints were outside ASQA’s legal jurisdiction, ASQA shared relevant information with the appropriate agencies—the Department of Education and Training (as the administrator for the scheme), and Australian consumer law agencies (where concerns related to breaches of consumer law). While ASQA routinely shares relevant regulatory information with other government agencies, in relation to this project, greater engagement with the other relevant agencies was undertaken with frequent meetings held to discuss respective regulatory progress.

3.4 Ongoing concerns about the VET FEE-HELP program

The VET FEE-HELP scheme attracted considerable negative media attention over the past 12 months. This media attention has focused on a number of themes, including:

- the actions of education brokers in identifying and recruiting students, for example, the offering of inducements, targeting of disadvantaged peoples, failure to provide adequate information about courses to prospective students and enrolling students in courses that may not be suitable
- the enrolment of students concurrently in more than one diploma, whereby the student incurs multiple VET FEE-HELP debts
- providers creating barriers to withdrawal from courses to prevent students withdrawing before the census date



- the growth in the cost of the scheme and the inability for the Government to recover debts
- the high cost of courses being charged by some providers compared to others, and
- limited or no training being provided

As with other sources of intelligence, ASQA used the information published in the media to inform its regulatory strategy. All complainants were encouraged to bring their concerns to ASQA.

3.5 Introduction of VET FEE-HELP program reforms

On 12 March 2015, Senator the Hon. Simon Birmingham, then Assistant Minister for Education and Training, announced specific VET FEE-HELP loan scheme reforms to be implemented in 2015:

- From 1 April 2015, prohibited inducements—such as, but not limited to, cash, meals, prizes, vouchers or laptops— to encourage potential students to enrol and sign up for VET FEE-HELP loans were banned. A provider is not able to enrol a person who has been offered a prohibited inducement to enrol in a VET course.
- From 1 July 2015, strengthened requirements in relation to marketing and recruitment practices came into effect to ensure that advice and information about the availability of VET FEE-HELP is marketed accurately.

These requirements include that a VET provider must:

- enter into a written agreement with all its agents. The written agreement must specify the responsibilities and requirements the agent must comply with in carrying out activities on behalf of the provider, including providing full, accurate and up-to-date information about VET FEE-HELP
- list all agents with whom they have a written agreement
- publish withdrawal procedures and not have any barriers in place to a student withdrawing from a VET unit of study or VET course of study, and
- make information available on fees and census dates on publicly accessible locations on their websites.

Additionally, a VET provider and its agents must:

- provide clear and accurate information about VET FEE-HELP assistance and the fees that apply to any VET course of study. This will ensure clarity of the responsibilities, obligations and rights of a student who requests a VET FEE-HELP loan, to ensure students are not misled as to the nature of VET FEE-HELP, and
- not market payment for training via a VET FEE-HELP loan as ‘free’ or ‘government-funded’ and make it clear to prospective students that VET FEE-HELP is a loan that is expected to be repaid.

Further reforms from 1 January 2016 will require VET providers to:

- Not charge a student the total course tuition fees once the first census date is reached: this will result in students only incurring a debt as they progress through a course.
- Issue a student with a VET FEE-HELP Invoice Notice at least 14 days prior to each census date for a VET unit of study—this will ensure students are fully aware of the debts they may incur after the census date.
- Not accept a VET FEE-HELP loan request from a student until a two-day ‘cooling off’ period has elapsed after enrolment. This will help stop the high pressure sales tactics that saw people enrolling in a course and taking out a loan at the same time.



The Government has also introduced amendments to legislation that, if passed by the Parliament, will from 1 January 2016:

- protect students under the age of 18 years by requiring a parent or guardian's signature before the young person is entitled to VET FEE-HELP assistance
- introduce an infringement notice scheme attached to civil penalties for breaches of certain VET Guidelines
- introduce minimum trading history requirements for new applicants
- make it easier for students to have debts that have been unfairly applied (due to breaches of HESA or the VET FEE-HELP Guidelines) cancelled, a cost that will be recouped from the relevant provider, and
- require providers to ensure students have the necessary prerequisites to complete a diploma or advanced diploma qualification.

3.6 Implementation of the *Standards for Registered Training Organisations (RTOs) 2015*

The Council of Australian Governments (COAG) Industry and Skills Council is responsible for endorsing vocational education and training (VET) standards for RTOs. The purpose of these standards is to:

- describe the requirements that an organisation must meet in order to be an RTO in Australia, and
- ensure that training delivered by RTOs meets industry requirements (set out in the training package or accredited course).

The two VET regulators (ASQA and the Training and Accreditation Council Western Australia) are responsible for ensuring that RTOs fully comply with the Standards at all times as a condition of their registration⁵.

The Standards are enabled by the NVR Act, the Act under which ASQA operates.

On 26 September 2014, the COAG Industry and Skills Council agreed to new regulatory standards for training providers and regulators. These provider Standards were implemented from 1 January 2015 for new RTOs and from 1 April 2015 for existing RTOs. In late 2014, ASQA published a mapping summary, which maps the *Standards for NVR Registered Training Organisations 2012* to the new *Standards for Registered Training Organisations (RTOs) 2015*.

The new Standards include, among other requirements, stronger requirements that also address areas of concern for those RTOs that are also approved VET FEE-HELP providers.

The new Standards include new provisions requiring RTOs to:

- provide details to learners about any schemes, such as VET FEE-HELP, associated with the RTO's provision of services to the learner
- have a formal agreement with any broker recruiting students on the RTO's behalf
- notify the regulator of any such agreement, and

⁵ Victoria has yet to implement the necessary legislative amendments for the Victorian Registration Qualifications Authority to implement the *Standards for RTOs 2015*.



- ensure that any brokers operating on an RTO's behalf meet the Standards relating to providing information about the course and potential debts.

3.7 Brokers and recruitment agents

Many RTOs use brokers or recruitment agents to assist them to recruit students for their courses.

The *Standards for Registered Training Organisation 2015* include a number of clauses that set out how registered training organisations (RTOs) should engage and manage their relationships with third parties, including:

- other RTOs
- employment/job services agencies
- non-registered training providers, and
- recruitment agents or brokers.

The brokers are subject to the relevant consumer law. ASQA does not regulate the operations of brokers, except in limited circumstances. Where ASQA suspects that a broker may be operating in contravention of the relevant provisions of the NVR Act, ASQA contact the organisation, requiring it to remedy or cease the offending behaviour. This action is taken under sections 122-125 of the Act which deal with circumstances where a person is making false or misleading representations. ASQA does regulate certain aspects of RTOs' relationships with brokers in accordance with the relevant standards.

3.8 Liaison with other relevant agencies

3.8.1 Consumer law agencies

Through this project, ASQA has sought to address those issues within its jurisdiction, for example, those issues that relate to contraventions of the NVR Act and/or the VET Quality Framework.

However, there are a great number of serious issues with certain VET FEE-HELP providers that relate to broader areas of 'misleading and unconscionable conduct'. Some of these broader issues fall under the jurisdiction of Australia's consumer law agencies, including the Australian Competition and Consumer Commission. .

This project was developed through cooperation with Australian consumer law agencies. In March 2014, Australian consumer law regulators (led by NSW Fair Trading) established the *Training Providers National Project*, which aimed to undertake compliance and enforcement activities against not complaint traders, in addition to educating consumers and traders about their rights and obligations under the Australian consumer law aimed at training providers, marketers and students.

The ACCC is currently investigating a range of concerns about a number of RTOs approved for VET FEE-HELP. In March 2015, a joint ACCC and NSW Fair Trading taskforce was established to investigate VET FEE-HELP providers and their brokers targeting vulnerable consumers.

This investigation focuses on approximately ten providers and relates to misleading and unconscionable conduct (for example vulnerable people) and providers entering into unsolicited agreements with students.

The ACCC and NSW Fair Trading investigations are ongoing, and the details are confidential as at the time of this statement.



ASQA met with the ACCC and the New South Wales Office of Fair Trading (the lead agency for the states and territories) in the lead up to this project and through the project's implementation. The purpose of these meetings was to share intelligence and information about investigations of potential breaches of Commonwealth and state and territory laws and to ensure regulatory activity was appropriately coordinated.

3.8.2 Australian Government Department of Education and Training

ASQA and the Department have worked closely throughout this project.

The Department provided ASQA with VET FEE-HELP student data to assist in scoping the RTO audits and in framing the student interview questions. ASQA has provided information to the Department gathered during the project to assist the Department as the VET FEE-HELP program manager.

3.9 Methodology—targeted audits

3.9.1 Identifying providers to target

ASQA analysed complaints received as at 31 December 2014 and identified the RTOs to audit for this project based on the following criteria:

- ASQA had received two or more VET FEE-HELP related complaints about the provider, or
- ASQA had received at least one complaint about and there was an association with another provider that had received two or more VET FEE-HELP related complaints.

Eighteen RTOs were initially identified as meeting these criteria. In addition, ASQA also selected—as a control group—five RTOs approved for VET FEE-HELP about which there had been no VET FEE-HELP related complaints received by ASQA as at 31 December 2014. These RTOs were selected because each was a large provider with a significant number of students enrolled under VET FEE-HELP arrangements. From this initial group of 23 RTOs, numbers were reduced to 21 after further analysis.⁶

3.9.2 Scope of the audits

Prior to the audits, ASQA analysed complaints relating to the RTOs selected for audit to identify:

- training products complained about
- any partnering arrangements mentioned in complaints, and
- allegations that could influence the scope of RTOs' audits.

ASQA established a steering committee in order to establish which standards should be considered as part of these targeted audits. The following standards were reviewed at audit for all RTOs in this project, with full detail provided at [Appendix A](#).

- **Standard 1** The RTO's training and assessment strategies and practices are responsive to industry and learner needs and meet the requirements of training packages and VET accredited courses.

⁶ It had been originally intended to audit 23 RTOs. However, it was identified that two RTOs did not have VET FEE-HELP approval at time of audit. As a result, these two RTOs were removed from the project group.



- **Standard 2** The operations of the RTO are quality assured.
- **Standard 4** Accurate and accessible information about an RTO, its services and performance is available to inform prospective and current learners and clients.
- **Standard 5** Each learner is properly informed and protected.

In some cases, where the audit activity had commenced prior to the project, or where complaints indicated concerns with other standards, ASQA also included additional standards in the scope of an RTO's audit.

ASQA assessed RTO compliance against the Standards, which came into effect for registered training organisations from 1 April 2015. Where audits were conducted before 1 April 2015, ASQA assessed RTOs' compliance against the previous standards, the *Standards for NVR Registered Training Organisations 2012*.

3.9.3 Audit process

The audits for this project were conducted between 26 February 2015 and 29 May 2015.

Typically, ASQA provides several months' notice prior to an audit. In exceptional cases, including where there are indications of critical non-compliance or fraudulent behaviour, ASQA conducts short-notice or unannounced audits. For the VET FEE-HELP targeted audit program, ASQA conducted 'short-notice' audits and notified providers approximately five days before the audit. Providers in the control group were given ten days' notice.

Each audit focused on the RTO's practices in relation to courses approved for VET FEE-HELP and assessed the RTO's compliance with the VET Quality Framework.

RTOs were notified at audit that a number of student interviews would be part of the audit process.

3.9.4 Student interviews

ASQA contacted 1226 students from the RTOs being audited as part of the VET FEE-HELP project. Of those contacted, 417 agreed to be interviewed.

ASQA used data provided by the Department of Education and Training to identify students with certain characteristics as 'at-risk'.

For the purpose of the VET FEE-HELP audit project, ASQA sought to interview students enrolled after 1 July 2014:

- who were older or younger than the average age of VET students
- who were of lower socio-economic status
- who reported as Aboriginal or Torres Strait Islander
- whose prior education levels did not align to the qualification in which they were enrolled
- who spoke English as a second language
- who possessed a Humanitarian visa
- who have a disability, and/or
- who live in remote areas.

While these factors alone do not necessarily indicate that students are vulnerable to potential exploitation, ASQA sought to identify where high percentages of students in one or more at-risk categories were enrolled in a qualification.



3.10 Post audit

3.10.1 Procedural fairness

ASQA operates under a regulatory framework that provides a number of opportunities for RTOs to demonstrate they are compliant with the RTO standards:

- Where an RTO is found not compliant, it is normally given 20 working days to provide rectification evidence.
- Following the rectification stage, if an RTO is still not compliant, ASQA will issue a Notice of Intention to impose a sanction (for example, to remove a qualification from the RTO's scope of registration or cancel the RTO's registration).
- RTOs have the right to respond to a notice to impose a sanction and provide new evidence to demonstrate compliance.
- Evidence provided in response to a notice to impose a sanction is examined and ASQA makes a decision whether or not to impose the sanction.
- Where at the end of this process ASQA decides to impose a sanction, the RTO has the right to seek a review by the Administrative Appeals Tribunal (AAT) and introduce new evidence.

Where an RTO exercises its full set of appeal rights, final regulatory outcomes may be delayed for some time. ASQA notifies other relevant agencies of its intention to impose a regulatory sanction. This allows other agencies to consider whether sufficient risk exists for them to undertake their own due diligence process, for example, in relation to the regulation of funding contracts that they may administer.

3.10.2 Decision to impose a condition on a registered training organisation

Under Section 29 (1) of the NVR Act, ASQA may make a decision to impose a condition on a registered training organisation's registration.

These conditions may include cooperation with ASQA including by retaining and/or providing specifically requested information. The RTO has the right to seek a review of this decision by the AAT and to introduce new evidence.



4 Findings

4.1 Overview of compliance results for RTOs audited

As part of this project, ASQA audited 21 providers registered under the VET FEE-HELP program. The results of these audits are described below.

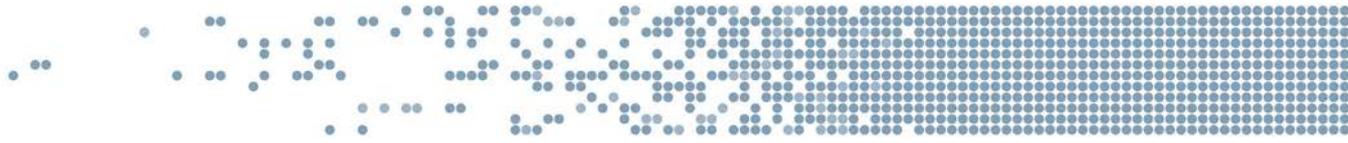
Of the 21 RTOs audited, the following five RTOs had **no complaints** recorded against them prior to the audit:

- Flight Training Adelaide Pty Ltd
- Holmesglen Institute
- International Skills Institute Pty Ltd
- Unity College Australia Incorporated
- The Academy of Interactive Entertainment Ltd.

The following **seven** providers were found **compliant** with the relevant requirements of the VET Quality Framework and NVR Act at the conclusion of the audit. ASQA does not intend to impose any additional conditions on these organisations.

Table 2: RTOs found compliant at audit; no additional conditions

Legal name	Trading name/s	RTO identity
Australis College Pty Ltd	Australis College Australis Natural Health College Beauty Skills Academy Ipswich School of Beauty Lauder Beauty	31518
Pragmatic Training Pty Ltd as trustee for Training Trust	Pragmatic Training Pty Ltd Pragmatic Training Courses National Academy of Early Childhood National Academy of Beauty National Academy of Technology Australian Institute of Business Leadership	121391
Unity College Australia Incorporated	Unity College Australia	6330
Flight Training Adelaide Pty Ltd	Flight Training Adelaide/Adelaide Flight Training Centre Adelaide Flight Training Centre	40173
The Academy of Interactive Entertainment Ltd	N/A	88021



Legal name	Trading name/s	RTO identity
Australian Careers Institute Pty Ltd	Sage Academic & Sage Massage Sage Institute of Child Care Sage Institute of Sales Sage Institute of Fitness Sage Institute of Education Sage Institute of Aged Care Sage Institute of Massage Sage Institute of Business	110070
Sunraysia Institute of TAFE	Sunraysia Institute of TAFE	4693

The following **eight** providers were found **compliant** with the relevant requirements of the *Standards for RTOs 2015* and NVR Act at the conclusion of the audit. ASQA, however, has determined that the imposition of certain conditions on their registration is warranted based on the issues examined during the audit and the commitments made by the RTO to address these issues. These RTOs have been notified of this outcome and advised of their right to apply to the Administrative Appeals Tribunal (AAT) for a review of ASQA’s decision under section 203(2) of the NVR Act. The AAT is an independent review authority that has the power to affirm, vary or set aside ASQA’s decisions.

Set out below is a summary of the audit findings in relation to these RTOs.

Access Group Training Pty Ltd (RTO Identity 90867) —trading as: Access Group Training

The audit that took place on 21 April 2015 examined the RTO’s compliance against the *Standards for RTOs 2015*. At the audit, the RTO outlined measures it had taken to terminate third-party agreements and refine remaining its third-party agreements. The RTO also outlined steps it had taken to review student enrolment procedures and confirm the status of individual students’ participation and progress withdrawals where appropriate.

Notwithstanding these changes, the audit found non-compliance with the Standards and, in response, the RTO implemented further strategies to improve its assessment practices, and its practices and the resources allocated to systematically monitoring third-party arrangements.

On this basis, ASQA found the RTO compliant at the conclusion of the audit. On the basis of the audit findings, however, ASQA considers it necessary to monitor the RTO’s implementation of its improved procedures and for further documentation to be collected to allow ASQA to effectively undertake this monitoring. As a result, ASQA has imposed, under section 29(1) of the NVR Act, the following conditions on the RTO’s registration:

- the RTO is required to retain enrolment and assessment records for 12 months, and
- the RTO is required to report data back to ASQA on a regular basis.

This will allow ASQA to check the improved practices have been implemented and to monitor these improvements.



ACTE Pty Ltd (RTO Identity 31455)—trading as: Australian College of Training and Employment; EVOCCA College; Nuvocca; and EMPACER

The audit that took place on 27 April 2015 examined the RTO's compliance against the *Standards for RTOs 2015*. At the audit, the RTO outlined measures it had implemented including pre-enrolment assessment of student eligibility and capability; mechanisms to monitor progression of enrolled students; enhanced student support mechanisms; improvement in the information provided to prospective learners prior to enrolment; and in the monitoring of services delivered on its behalf, including recruitment of prospective students.

Notwithstanding these changes, the audit found non-compliance with the Standards regarding the RTO's assessment system, the accuracy of its marketing, and its complaint and appeals policies and procedures. In response, the RTO provided rectification evidence of how it had addressed these matters.

On the basis of the audit findings, ASQA found the RTO compliant at the conclusion of the audit. On the basis of the audit findings, however, ASQA considers it necessary to monitor the RTO's implementation of its improved enrolment and assessment procedures and for further documentation to be collected to allow ASQA to effectively undertake this monitoring. As a result, ASQA has imposed, under section 29(1) of the NVR Act, the following conditions on the RTO's registration:

- the RTO is required to retain enrolment and assessment records for 12 months, and
- the RTO is required to report data back to ASQA on a regular basis.

This will allow ASQA to check the improved practices have been implemented and to monitor these improvements.

Careers Australia Education Institute Pty Ltd (RTO Identify 22479)—trading as: Careers Australia Education Institute Pty Ltd; ACAE Aust College of Applied Education

The audit that took place on 8 – 9 April 2015 examined the RTO's compliance against the *Standards for RTOs 2015*. At the audit, the RTO advised that it had recently changed its practices in response to concerns it had identified in relation to its enrolment process and assessment of students prior to enrolment. The RTO also advised that it had terminated contracts with some of its recruitment agents.

ASQA reviewed these changes as part of the RTO's existing practice applying at the time of the audit. ASQA found the RTO compliant with the Standards. On the basis of the audit findings, however, ASQA considers it necessary to monitor the implementation of these changes. As such ASQA has imposed, under Section 29 (1) of the NVR Act, a condition on the RTO's registration:

- The RTO is required to retain and report data to ASQA on the details of all learners enrolled, the results of all completions, and details of all qualifications or statements of attainment issued for the next 12 months.

This will allow ASQA to check the improved practices have been implemented.

Gurkhas Institute of Technology Pty Ltd (RTO Identity 22088)—trading as: Royal Gurkhas Institute of Technology (RGIT) Australia; and Gurkhas Institute of Hospitality & Management

The audit that took place on 8 – 9 April 2015 examined the RTO's compliance against the *Standards for RTOs 2015*. The audit found non-compliance in the areas of student recruitment and assessment. The RTO provided rectification evidence as to how it had addressed these matters.



On the basis of the audit findings, ASQA found the RTO compliant at the conclusion of the audit. On the basis of the audit findings, however, ASQA considers it necessary to monitor the RTO's implementation of its improved enrolment and assessment procedures and for further documentation to be collected to allow ASQA to effectively undertake this monitoring.

As a result, ASQA has imposed, under section 29(1) of the NVR Act, the following conditions on the RTO's registration:

- the RTO is required to retain enrolment and assessment records for 12 months, and
- the RTO is required to report data back to ASQA on a regular basis.

This will allow ASQA to check the improved practices have been implemented and to monitor these improvements.

International Skills Institute Pty Ltd (RTO Identity 40541) —trading as International Skills Institute

This RTO was selected as part of the control group as ASQA had not received any complaints against it.

The audit that took place on 10 April 2015 examined the RTO's compliance against the *Standards for RTOs 2015*. The audit found that the RTO did not demonstrate that:

- its assessment tools met the requirements of the training package
- it had taken into account prospective learners existing skills and competencies prior to enrolment; or
- it provided sufficient information for a prospective learner to make an informed decision on enrolment.

The RTO provided evidence as to how it had addressed each of these matters. On the basis of the audit findings, ASQA found the RTO compliant at the conclusion of the audit. On the basis of the audit findings, however, ASQA considers it necessary to test the implementation of these strategies. As a result, ASQA has imposed, under Section 29 (1) of the NVR Act, the following conditions on the RTO's registration:

- The RTO is required to retain enrolment records for 12 months.

This will allow ASQA to check the improved practices have been implemented.

MHM Australasia Pty Ltd (RTO Identity 6980) trading as: Australasian College Broadway

The audit that took place on 14 – 15 April 2015 examined the RTO's compliance against the *Standards for RTOs 2015*. The audit found area of non-compliance in the areas of student recruitment and assessment. The RTO provided rectification evidence as to how it had addressed these matters.

On the basis of the audit findings, ASQA found the RTO compliant at the conclusion of the audit. On the basis of the audit findings, however, ASQA considers it necessary to monitor the RTO's implementation of its improved enrolment and assessment procedures and for further documentation to be collected to allow ASQA to effectively undertake this monitoring. As a result, ASQA has imposed, under section 29(1) of the NVR Act, the following conditions on the RTO's registration:

- the RTO is required to retain enrolment and assessment records for 12 months, and
- the RTO is required to report data back to ASQA on a regular basis.

This will allow ASQA to check the improved practices have been implemented and to monitor these improvements.



Smart City Vocational College Pty Ltd (RTO Identity 6494)—trading as: Smart City Vocational College Pty Ltd

The audit that took place on 30 April 2015 examined the RTO's compliance against the *Standards for RTOs 2015*. At the audit, the RTO advised that it had changed its enrolment and marketing practices to address concerns raised with it. These actions included ensuring that no inducements were being offered for enrolment, enhancing the training of its recruitment staff, and increasing the amount of training provided.

Notwithstanding these changes, the audit found non-compliance with the Standards in relation to assessment practices and marketing material. In response, the RTO has implemented strategies to address these issues.

On the basis of the audit findings, ASQA found the RTO compliant at the conclusion of the audit. On the basis of the audit findings, however, ASQA considers it necessary to monitor the RTO's implementation of these strategies and for further documentation to be collected to allow ASQA to effectively undertake this monitoring. As a result, ASQA has imposed, under section 29(1) of the NVR Act, the following conditions on the RTO's registration:

- the RTO is required to retain enrolment and assessment records for 12 months, and
- the RTO is required to report data back to ASQA on a regular basis.

This will allow ASQA to check the improved practices have been implemented and to monitor these improvements.

The Health Arts College Pty Ltd (RTO Identity 21588) – Trading As: The Health Arts College Pty Ltd

The audit that took place on 12 –13 March 2015 examined the RTO's compliance against the *Standards for RTOs 2015*. The audit found non-compliance in the areas of student recruitment and assessment. The RTO provided rectification evidence as to how it had addressed these matters.

On the basis of the audit findings, ASQA found the RTO compliant at the conclusion of the audit. On the basis of the audit findings, however, ASQA considers it necessary to monitor the RTO's implementation of its improved enrolment and assessment procedures and for further documentation to be collected to allow ASQA to effectively undertake this monitoring.

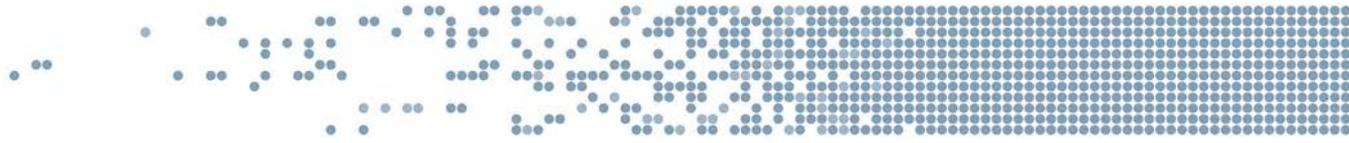
As a result, ASQA has imposed, under section 29(1) of the NVR Act, the following conditions on the RTO's registration:

- the RTO is required to retain enrolment and assessment records for 12 months, and
- the RTO is required to report data back to ASQA on a regular basis.

This will allow ASQA to check the improved practices have been implemented and to monitor these improvements.

Unique International College Pty Ltd (RTO Identity 91350)—trading as: Unique International College

The following RTO has been found **non-compliant** at the conclusion of the audit process. A Notice of Intention to cancel the RTO's registration under the NVR and ESOS Acts was issued to the RTO inviting it to submit further evidence as to why ASQA should not impose this sanction. After reviewing the further evidence submitted by the RTO, ASQA has decided to cancel the RTO's registration. The RTO is able to seek a review of ASQA's decision by the Administrative Appeals Tribunal.



There has been substantial regulatory scrutiny of the following **five** RTOs and this is not yet finalised.

Table 3: RTOs audited for this project for which regulatory action is not yet finalised

Legal name	Trading name/s	RTO Identity
Holmesglen Institute	Holmesglen Institute	0416
Cornerstone Investment Aust Pty Ltd	Australian Institute of Commerce & Language EMPOWER INSTITUTE	5500
Study Group Australia Pty Ltd	ACPE Academy Martin College Australian Institute of Applied Sciences Embassy English	5806
College of Creative Design and Arts Pty Ltd	College of Creative Design and Arts Keystone College	32401
Australian Institute of Professional Education Pty Ltd	AIPE Australian Institute of Professional Education Studyonline Study Connect	91437



4.2 ASQA regulatory scrutiny of other RTOs approved as VET FEE-HELP providers

ASQA continues to receive complaints related to VET FEE-HELP RTOs with the number of complaints increasing at around the same rate as the rate of student growth.

In 2015, ASQA received 162 complaints with a VET FEE-HELP component, with 81 of these complaints relating to an RTO included in this project. Of the other 81 complaints, 25 relate to the operations of five other RTOs. Of these five RTOs, four are currently subject to regulatory activity which has not yet been finalised at the time of this report. The fifth, Phoenix Institute of Australia Pty Ltd (RTO ID: 21582), has been notified of ASQA's intention to cancel registration at the time of publishing, but is yet to respond to this notice and no decision has been taken.

4.3 General findings

Vocational education and training makes a significant contribution to the Australian economy as well as to the wider community. It provides the skills that individuals need so that they can make a positive contribution to their workplace. Importantly, the Australian VET sector also ensures that the skills being developed meet the needs of employers. The VET FEE-HELP loan scheme provides an opportunity for prospective workers to get the skills they need while delaying the payment of course fees until they are earning above a certain amount.

The general learnings of this project for ASQA include that:

- complaints have been a reliable indication of RTOs that may be in breach of the Standards, with the compliance outcomes for those RTOs without complaints generally better than for those with complaints
- ASQA's evolving risk-based approach to its regulatory task is appropriate, and
- working more closely with other agencies leads to improved regulatory outcomes.

In response to what it has learnt through its targeted audits of VET FEE-HELP RTOs, ASQA will implement a number of actions which it believes will ensure the risk of any unethical or inappropriate action taken by training providers in relation to the VET FEE-HELP loan scheme is minimised.

Action One—further regulatory action underway

In light of the ongoing concerns, ASQA will continue to apply close regulatory scrutiny to RTOs where warranted. ASQA will continue to closely monitor and target RTOs approved for VET FEE-HELP where complaints and intelligence data, and the outcomes of this project, indicate this is necessary.



Action two—coordination with relevant agencies

This project has indicated the importance of interagency cooperation in relation to RTOs approved as VET FEE-HELP providers. There are significant benefits to close coordination of regulatory work, especially where the concerns about an RTO lie wholly or partially outside of ASQA’s regulatory jurisdiction. Coordinated effort across agencies can potentially improve outcomes for VET consumers.

ASQA will continue to engage with the Australian Competition and Consumer Commission and the Department of Education and Training to share regulatory intelligence and coordinate regulatory action to ensure RTOs doing the wrong thing are penalised to the full extent of the respective laws.

ASQA will also continue to work with the Australian Competition and Consumer Commission, Australian consumer law agencies and the Department of Education and Training to develop **joint communications and training exercises** where these may help improve the understanding and behaviour of RTOs.

Action three—establish a dedicated working group with the Department of Education and Training (DET)

ASQA’s shift to risk-based regulation has involved increasing reliance on the use of data and intelligence to inform its regulatory work, and enable it to better target areas of risk and potential harm. To be successful ASQA requires access to sophisticated and current information available to all players in this space.

It is proposed to establish of a dedicated working group with DET to continue sharing intelligence on areas of risk and emerging risk, including data analytics on indicators of risk in DET’s VET FEE-HELP data submitted by RTOs. This working group would meet on a regular basis to assist ASQA to better target RTOs with key indicators of risk.

Action four—enhanced communication and education for providers and potential students

As part of a risk-based regulatory approach, ASQA uses a range of tools to assist providers to understand and meet their requirements. ASQA will develop additional information about the Standards for RTOs 2015 that are frequently raised in complaints about RTOs approved for VET FEE-HELP, as well as information to assist potential students make informed decisions about choosing a training provider. ASQA is using the findings of this project to develop a range of **communication material** aimed at:

- RTOs—to improve their understanding of and compliance with the requirements of the relevant standards
- Students—to provide them with relevant information and assist them to make informed decisions.



Appendix A—Standards reviewed at audit

Each of the 21 audits conducted as part of this project focused on the RTO’s practices in relation to courses approved for VET FEE-HELP and assessed the RTO’s compliance with the VET Quality Framework.

The audits focused on a subset of clauses from the Standards, which are shown in Table 9 below.

These clauses directly aligned to the areas of concern identified in the complaints lodged with ASQA in relation to VET FEE-HELP providers.

Table 9: Standards reviewed in the targeted of audits of RTOs also approved as VET FEE-HELP providers

Standard

Standard One The RTO’s training and assessment strategies and practices are responsive to industry and learner needs and meet the requirements of training packages and VET accredited courses

Clause 1.1 The RTO’s Training and assessment strategies and practices, including the amount of training they provide, are consistent with the requirements of training packages and VET accredited courses and enable each learner to meet the requirements for each unit of competency or module in which they are enrolled.

Clause 1.2 For the purposes of Clause 1.1, the RTO determines the amount of training they provide to each learner with regard to:

- a) the existing skills, knowledge and the experience of the learner
- b) the mode of delivery, and
- c) where a full qualification is not being delivered, the number of units and/or modules being delivered as a proportion of the full qualification.

Clause 1.7 The RTO determines the support needs of individual learners and provides access to the educational and support services necessary for the individual learner to meet the requirements of the training product as specified in training packages or VET accredited courses.

Clause 1.8. The RTO implements an assessment system that ensures that assessment (including recognition of prior learning):

- a) complies with the assessment requirements of the relevant training package or VET accredited course; and
- b) is conducted in accordance with the Principles of Assessment ... and the Rules of Evidence

Standard Two. The operations of the RTO are quality assured.

Clause 2.3 The RTO ensures it complies with these Standards at all times, including where services are being delivered on its behalf. This applies to all operations of an RTO within its scope of registration.\

Clause 2.4 The RTO has sufficient strategies and resources to systematically monitor any services delivered on its behalf, and uses these to ensure that the services delivered comply with these Standards at all times.



Standard

Standard 4. Accurate and accessible information about an RTO, its services and performance is available to inform prospective and current learners and clients.

Clause 4.1 *in particular, 4.1 (e) and 4.1(l)* Information, whether disseminated directly by the RTO or on its behalf, is both accurate and factual, and:

- a) accurately represents the services it provides and the training products on its scope of registration
- b) includes its RTO Code
- c) refers to another person or organisation in its marketing material only if the consent of that person or organisation has been obtained
- d) uses the NRT Logo only in accordance with the conditions of use specified in Schedule 4
- e) *makes clear where a third party is recruiting prospective learners for the RTO on its behalf*
- f) distinguishes where it is delivering training and assessment on behalf of another RTO or where training and assessment is being delivered on its behalf by a third party
- g) distinguishes between nationally recognised training and assessment leading to the issuance of AQF certification documentation from any other training or assessment delivered by the RTO
- h) includes the code and title of any training product, as published on the National Register, referred to in that information
- i) only advertises or markets a non-current training product while it remains on the RTO's scope of registration
- j) only advertises or markets that a training product it delivers will enable learners to obtain a licensed or regulated outcome where this has been confirmed by the industry regulator in the jurisdiction in which it is being advertised
- k) includes details about any VET FEE-HELP, government funded subsidy or other financial support arrangements associated with the RTO's provision of training and assessment and
- l) *does not guarantee that:*
 - i) *a learner will successfully complete a training product on its scope of registration or*
 - ii) *a training product can be completed in a manner which does not meet the requirements of Clause 1.1 and 1.2 or*
 - iii) *a learner will obtain a particular employment outcome where this is outside the control of the RTO.*

Standard 5. Each learner is properly informed and protected.

Clause 5.1 Prior to enrolment or the commencement of training and assessment, whichever comes first, the



Standard

RTO provides advice to the prospective learner about the training product appropriate to meeting the learner's needs, taking into account the individual's existing skills and competencies. Clause 5.2 (in particular, 5.2(e))

Clause 5.2, in particular 5.2(e) Prior to enrolment or the commencement of training and assessment, whichever comes first, the RTO provides, in print or through referral to an electronic copy, current and accurate information that enables the learner to make informed decisions about undertaking training with the RTO and at a minimum includes the following content:

- a) the code, title and currency of the training product to which the learner is to be enrolled, as published on the National Register;
- b) the training and assessment, and related educational and support services the RTO will provide to the learner including the:
 - i) estimated duration;
 - ii) expected locations at which it will be provided;
 - iii) expected modes of delivery;
 - iv) name and contact details of any third party that will provide training and/or assessment, and related educational and support services to the learner on the RTO's behalf; and
 - v) any work placement arrangements.
- c) the RTO's obligations to the learner, including that the RTO is responsible for the quality of the training and assessment in compliance with these Standards, and for the issuance of the AQF certification documentation.
- d) the learner's rights, including:
 - i) details of the RTO's complaints and appeals process required by Standard 6; and
 - ii) if the RTO, or a third party delivering training and assessment on its behalf, closes or ceases to deliver any part of the training product that the learner is enrolled in;
- e) *the learner's obligations:*
 - i) *in relation to the repayment of any debt to be incurred under the VET FEE-HELP scheme arising from the provision of services;*
 - ii) *any requirements the RTO requires the learner to meet to enter and successfully complete their chosen training product; and*
 - iii) *any materials and equipment that the learner must provide; and*
- f) information on the implications for the learner of government training entitlements and subsidy arrangements in relation to the delivery of the services.

Clause 5.3 Where the RTO collects fees from the individual learner, either directly or through a third party, the RTO provides or directs the learner to information prior to enrolment or the commencement of training and assessment, whichever comes first, specifying:



Standard

- a) all relevant fee information including:
 - i) fees that must be paid to the RTO; and
 - ii) payment terms and conditions including deposits and refunds;
- b) the learner's rights as a consumer, including but not limited to any statutory cooling-off period, if one applies;
- c) the learner's right to obtain a refund for services not provided by the RTO in the event the:
 - i) arrangement is terminated early; or
 - ii) the RTO fails to provide the agreed services.