

Adam Johnston

From: Adam Johnston
Sent: Thursday, October 20, 2016 10:52 AM
To: 'feedback@skillsiq.com.au'
Subject: Review of VET
Attachments: Reform of VET; Thank you for your email to Senator the Hon Simon Birmingham, Minister for Education and Training. [SEC=UNCLASSIFIED]

Dear Sir,

I was given your email by a family member and, while a former VET student, it seems important to write to an industry body consultation. Firstly, as a student, I have lost practically all confidence in the sector and would not recommend it to anyone. This is because, as a student, the recognition of VET qualifications is very uncertain. Having been assured by an employment services provider and the VET provider themselves that their courses were 'nationally accredited,' I undertook a course in Small Business Management.

When seeking advanced standing from my professional body (the Law Society) for the purposes of a Practice Management Course, I was told the Society did not recognise any part of the VET course. This was even after providing the Law Society Registry with documents stating the course was nationally accredited and, providing documents about the Accreditation Authority itself. The irony was, but for a few specialist modules relating to the *Legal Profession Act*, the College of Law's Practice Management Course paralleled the Certificate IV small business training, when it came to running an enterprise.

With this example, I aim to ask one question. If no-one outside the VET system can be guaranteed to recognise the diplomas and certificates, what is their true value? Thus, while the Government's moves to put caps on fees and charges is welcome, this does not address a more fundamental point of the value of VET qualifications. Even in STEM subjects, unless the qualifications are transferrable and are undisputable when it comes to recognition, there is little point in students completing them, or the Government funding providers. Both industry and the Government need to improve the standing, probity and internal (as well as external) governance of providers. As my attached submission shows, the reservations I had about my provider grew of the duration of the small business course. I stand by these concerns and, was disappointed in the response of the

Minister's Office (second attachment) which seems to be simply a restatement of Government policy.

Should you require anything further, please contact me.

Yours faithfully,



Adam Johnston

Davidson NSW 2085

You can see my paper on the University of New England (UNE), Armidale e-publications at <http://e-publications.unen.edu.au/1959.11/11369> and the Social Science Research Network (SSRN) at: <http://ssrn.com/abstract=1855924>

Libertas inestimabilis res est - Liberty is a thing beyond all price. (Corpus Iuris Civilis: Digesta) (Latin-English Phrase)

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Australian Government
Department of Education and Training

Our Ref MC16-006549

Mr Adam Johnson

Dear Mr Johnson

Thank you for your email of 6 October 2016 to Senator the Hon Simon Birmingham, Minister for Education and Training, concerning the new VET Student Loans program. I have been asked to reply on the Minister's behalf.

Income contingent loans (ICLs) have been a feature of Australian government support for higher education since 1989 and vocational education and training (VET) since 2008. ICLs have been accepted by the Australian community as an effective way to increase access to further education, especially among low income groups. The challenge for the Government is to make them work better by introducing effective and workable reforms when necessity dictates.

With regard to the VET sector, the new VET Student Loans program will be fit for purpose in ways that the VET FEE-HELP scheme was not. In essence, the new program will be affordable, sustainable and student-centred. It will provide greater protection for students and deliver quality and affordable training that has strong links to industry needs, creating better opportunities for employment.

Course eligibility will be limited to courses that have a high national priority, meet industry needs, contribute to addressing skills shortages and align with strong employment outcomes. This will ensure the Government's investment in VET is better targeted and large loan amounts are no longer paid for courses that have limited public good.

The eligible course list, and other factsheets regarding VET Student Loans, are available on the Department of Education and Training's website at www.education.gov.au/vet-student-loans. Stakeholders are invited to provide feedback on the composition of the eligible course list. Feedback must be sent to VETStudentLoans@education.gov.au by 23 October 2016 and entitled 'Feedback on the eligible course list'.

In addition, an eligible student will only be entitled to a loan up to the amount appropriate to the band into which their course is designated – either \$5000, \$10,000 or \$15,000. Pending the passage of the legislation, the Minister will have the power to specify which courses fall under which band, to exclude courses from any band and also to specify exemptions from loan caps for courses that result in a high social good but have high delivery costs.

The VET Student Loans program will also comprise strong, streamlined eligibility and assessment criteria for registered training organisations (RTOs) seeking to offer eligible courses. In response to the traditionally low completion rates in VET, RTOs will be required to demonstrate sound course completions rates and effective student outcomes. Approved providers will be required to submit unit of study and course completion data to the department in a timely manner. All submitted data must be accompanied by a statutory declaration (signed by a senior officer) attesting to its validity.

You will no doubt be pleased to learn that approved providers will be prohibited from using brokers or marketing agents to interact or engage with students at enrolment or any other time throughout their training.

Please bear in mind that any proposals regarding VET Student Loans are subject to the passage through Parliament of the VET Student Loans Bill 2016.

Thank you for taking the time to write to the Minister.

Yours sincerely

Linda White
Branch Manager
Skills Programs Group

19 October 2016

Adam Johnston

From: Adam Johnston
Sent: Thursday, October 6, 2016 4:47 PM
To: 'Minister@education.gov.au'; 'Minister_invitations@education.gov.au'
Cc: 'Falinski, Jason (MP)'
Subject: Reform of VET
Attachments: Submission regarding VET Discussion Paper

Senator the Hon. Simon Birmingham
Minister for Education
107 Sir Donald Bradman Drive
Hilton SA 5033
Phone: 08 8354 1644

Cc: Mr. Jason Falinski MP
Member for Mackellar

Dear Senator Birmingham,

I write to welcome your announcement of the end of the fee help scheme for vocational education. This long overdue.

But can I also emphasise the need to eliminate many of the private registered training providers along with the fee scheme. In my own experience, the Registered Training Organisation was one of the most dubious bodies I have had the misfortune to deal with. There was clearly little or no filtering of the student intake, while many people were taking a clear financial risk and, I doubted many had the money behind them. We were all pension/benefit receipts of some sort and this was another in a long line of “activities”.

From my attached submission to the VET Discussion Paper, please note in particular:

The governments of Australia (State and Federal) need to clarify exactly what VET qualifications are worth and, stand behind them. Outsourcing much to RTOs and the charitable sector is inviting trouble. Certainly, as someone with a disability, I have had a fair few interactions with NGOs and charities. Many are far from the “warm and fuzzy” benevolent bodies of popular culture. Yet, governments of all persuasions are only too happy to “set and forget,” dumping the sick, elderly, disabled and unemployed

with the nearest NGO they can find; RTOs are just the ones which happen to be germane to this review.

Both the taxpayer and the needy are done a great disservice by this lazy policymaking. The qualifications should be State (or Commonwealth) certified and, there should be no question of their not being recognised by a university and/or professional body like a Law Society. Until such points are addressed, there is really no reason for anyone to spend their time or money in the VET system as a student.

Ultimately, after gaining the Certificate I choose not to launch a business under the New Enterprise Incentive Scheme. I had so little faith in those running the relevant Business Enterprise Centre NGO, that entering a lasting business or training relationship was not in my interest. Equally, as a lawyer, I concluded that the contract they offered me verged on the unconscionable. Complaining to your Department at the time, the Department insisted NEIS was fair, reasonable and had worked successfully for a number of years. I remain far from convinced.

There needs to be a determined cull of RTO and the credentials they provide must be recognisable to employers, professional bodies and other educational institutions, much like you would expect a university degree to be recognised. If this is not the case, why would you undertake a VET course? These are the sort of standards I thought would be implicit with the National Accreditation Scheme, but as you will see from the attached submission, the Accreditation Scheme was not recognised by the NSW Law Society.

I would appreciate an opportunity to meet with you when you are next in Sydney, to discuss widening the ambit of the reforms.

Yours faithfully,



Adam Johnston

Davidson NSW 2085

You can see my paper on the University of New England (UNE), Armidale e-publications at <http://e-publications.une.edu.au/1959.11/11369> and the Social Science Research Network (SSRN) at: <http://ssrn.com/abstract=1855924>

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Template for submissions to the *Quality of assessment in vocational education and training – Discussion Paper*

Key consultation areas

The Department of Education and Training (the department) seeks stakeholder input on the *Quality of assessment in vocational education and training – Discussion Paper* (the discussion paper). The paper covers the following broad themes to improve assessment in vocational education and training (VET):

Chapter 1: Foundation reforms

- ensuring the requirements for VET teachers and trainers provide the strongest platform for high-quality assessment
- ensuring those teaching VET skills are highly competent professionals with high-quality, contemporary skills in assessment.

Chapter 2: Reforms to the assessment of VET students

- assuring the quality of assessment through industry engagement with assessment review and control mechanisms as a gatekeeper before qualifications are issued
- ensuring employers have clear and realistic expectations of VET graduate capabilities which align with the assessment of students.

Chapter 3: Reforms to the regulatory framework

- improving the detection of poor quality assessment
- ensuring quick action can be taken against registered training organisations (RTOs) delivering inadequate assessment
- managing the consequences of inadequate assessment by removing invalid qualifications from the system where necessary and supporting students if this occurs.

How to provide feedback

To support the Training and Assessment Working Group to provide the Australian Government Minister for Vocational Education and Skills with recommendations on how to improve assessment, stakeholder consultations will begin with the release of the discussion paper in January 2016 and continue through to Friday 11 March 2016.

Respondents may provide feedback on some or all of the discussion paper's themes. To assist with the compilation and analysis of the views of all stakeholders, respondents are encouraged to provide feedback via this preferred submission template, with attachments as required. Submissions in alternative formats will also be accepted.

All written submissions to the discussion paper and queries on the consultation process may be directed to the department via email at trainingpackages&VETquality@education.gov.au.

All written submissions will be made publicly available on the department's website, unless respondents direct otherwise. See the [terms and conditions for public submissions](#).

Submission details

1. Submission made on behalf of: ☐ Individual ☒ Organisation¹
2. Full name:
3. Organisation (if applicable):
4. Please indicate your interest in this discussion paper:
(i.e. as a student, VET practitioner, RTO, third-party provider, peak body, business, industry representative, regulator or other government agency or community member)
5. Do you want your submission to be published on the department's website or otherwise be made publicly available? ☒ Yes ☐ No
 - a. If yes, do you want your name and organisation (if applicable) to be published alongside your submission, OR would you like for only your submission to be available and your details kept anonymous? ☒ Published ☐ Anonymous
 - b. If no, please advise the department upon submission that you do not want your submission to be published or otherwise be made publicly available.

¹ I operate a one-man consultancy, ADJ Consultancy Services

1. Discussion questions – RTO limitations:

- Is it appropriate for relatively large numbers of RTOs to deliver TAE qualifications or skill sets? Should the number be reduced to a targeted number of RTOs focusing on high-quality provision?
- Should RTOs be restricted from issuing TAE qualifications or skill sets to their own trainers and assessors?
- Are TAE qualifications and skill sets so significant that evidence of competence should not—or cannot—be appropriately demonstrated via recognition of prior learning?
 - Is recognition of prior learning for TAE qualifications or skill sets granted with sufficient rigour to ensure the quality of student assessment? Should the practice be restricted?
- Are there opportunities to improve the assessment skills of the VET workforce through changes to the delivery and assessment of TAE qualifications and skill sets?
 - Should TAE qualifications and skill sets only be delivered by VET practitioners who can demonstrate a specific period of training and/or assessing employment history in the VET sector?
 - What circumstances would support a change requiring some VET trainers and assessors to hold university-level or higher-level VET qualifications, for example, practitioners delivering and assessing TAE qualifications and skill sets?
 - Should the TAE Certificate IV and/or Diploma require a practical component? If so, how long should the practical component be?
 - Should entrants to the TAE Diploma be required to demonstrate employment history in the VET industry before being issued with the qualification? Would this condition help to improve the relevance and validity of assessment? How long would this period of time be?

COMMENT:

The fact that RTOs can issue qualifications to their own trainers, shows a fundamental lack of understanding of the concept of: What is a conflict of interest? It should be remembered that conflict need not be actual in every case, for them to be apparent. Indeed, had I known that there were so many questions over the VET system, its trainers and qualifications, I would never have consented to undertake a Certificate IV in Small Business.

As it was, the course was recommended to me by a Disability Employment Services – entities with as many questions over their integrity as the VET system itself.² I am convinced that the DES provider made the recommendation to place me in an “activity,” and then they could tick a box which allowed them to receive ongoing funding. As part of this inquiry, you should examine not only the behaviour of RTOs and students, but the involvement of third parties in the system and what they receive from referring people to VET courses.

If students are going to undertake TAE qualifications, they should have some significance, be transferable and, clearly be conducted with rigour. This is not happening; I undertook a Certificate IV in Small Business and, in the process of doing so, sought assurances from the RTO that what I was being provided with was a nationally recognised and nationally accredited certificate. They assured me that it was, however, when taking the certificate to the NSW Law Society (seeking advanced standing to undertake the Practice Management Course), the Society refused to recognise any part of the *allegedly* nationally recognised VET course.

Undertaking the Law Society’s Practise Management course, I found it remarkably similar to the VET course, at least in terms of business management principles. I took this up with the Productivity Commission during its recent *Access to Justice Inquiry*,³ and more generally raised issues of mutual recognition (or the lack thereof) in another Productivity Commission inquiry.⁴ As you will see from the attached correspondence with the Law Society, my appeals there came to nought.⁵

The discussion questions deeply concern me in that I would have thought that to be a qualified TAE provider, you would have university (or equivalent) qualifications. A practical component would not be inconsistent with this approach, as many professionals have a “practical component” to their training prior to professional admission (e.g.: solicitors undertake Practical Legal Training before being admitted to the profession). Personally, one had assumed, perhaps erroneously, that my DES

² See my submission to the *Senate Standing Committee on Education and Employment*, (Submission 12) http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Education_and_Employment/Strengthening_Job_Seeker; as at 22 February 2016. Also note my earlier submission regarding Disability Employment Services, during the Senate inquiry: *The administration and purchasing of Disability Employment Services in Australia* <https://senate.aph.gov.au/submissions/committees/viewdocument.aspx?id=a6fa4e6a-eb31-49de-bb0fc9f11849c86c>. (cache HTML) at 18 November 2013

³ See my submissions to the Access to Justice Inquiry at <https://view.officeapps.live.com/op/view.aspx?src=http%3A%2F%2Fwww.pc.gov.au%2Finquiries%2Fcompleted%2Faccess-justice%2Fsubmissions%2Fsubmissions-test%2Fsubmission-counter%2Fsubdr164-access-justice.docx> and <https://view.officeapps.live.com/op/view.aspx?src=http%3A%2F%2Fwww.pc.gov.au%2Finquiries%2Fcompleted%2Faccess-justice%2Fsubmissions%2Fsubmissions-test%2Fsubmission-counter%2Fsubdr297-access-justice.docx> and my evidence at a Commission hearing at <http://www.pc.gov.au/inquiries/completed/access-justice/public-hearings/20140603-sydney-access-justice-transcript.pdf> (pages 203 to 209) as at 22 February 2016

⁴ See my submission to the Productivity Commission’s Inquiry into Mutual Recognition Arrangements at <http://www.pc.gov.au/inquiries/completed/mutual-recognition-schemes-2009/initialsubmissions/subdr58.pdf> as at 5 March 2016

⁵ See “Law Society correspondence,” attached

provider would not spend public money on courses which could be provided by unqualified people. Fortunately, I learnt during the process of my course that the trainer had turned a number of failing businesses around to profitability. And, it showed in his level of practical knowledge.

However, again, one assumed that there were a range of professional qualifications behind him, which allowed the man to be a trainer. Given my reading of the Discussion Paper, there seems limited basis for any such assumption to be made. Unfortunately, this also adds credibility to the NSW Law Society's decision not to recognise my Small Business qualification. Indeed, in light of this Discussion Paper, I cannot be sure of its true standing myself.

The governments of Australia (State and Federal) need to clarify exactly what VET qualifications are worth and, stand behind them. Outsourcing much to RTOs and the charitable sector is inviting trouble. Certainly, as someone with a disability, I have had a fair few interactions with NGOs and charities. Many are far from the "warm and fuzzy" benevolent bodies of popular culture.⁶ Yet, governments of all persuasions are only too happy to "set and forget," dumping the sick, elderly, disabled and unemployed with the nearest NGO they can find;⁷ RTOs are just the ones which happen to be germane to this review.

Both the taxpayer and the needy are done a great disservice by this lazy policymaking. The qualifications should be State (or Commonwealth) certified and, there should be no question of their not being recognised by a university and/or professional body like a Law Society. Until such points are addressed, there is really no reason for anyone to spend their time or money in the VET system as a student.

⁶ See e.g.: my submission to Treasury on Governance in the NGO sector, attached and entitled: "Adam Johnston – Submission re Discussion Paper"

⁷ See e.g.: my submission to the NSW Public Accounts Committee, expressing concern about the growing role of charities/NGOs in the delivery of public services at <http://www.parliament.nsw.gov.au/prod/parlment/committee.nsf/0/BDEDEC83E0A9FF20CA257BCF000C442C> as at 6 March 2016

2. Discussion questions – skills and qualifications of trainers and assessors:

- Should the TAE Certificate IV be changed to a core unit on the design and development of assessment tools? How would this improve assessment outcomes for students?
 - Should the core unit be the existing *TAEASS502B Design and develop assessment tools* unit of competency? Are there alternative approaches, such as developing a new unit on the design and development of assessment tools?
 - Is the *TAEASS502B Design and develop assessment tools* unit of competency a specialist unit that should only sit at the diploma-level on the basis the Certificate IV is currently designed for delivery to new entrants seeking to be trainers and assessors?
- In the case of making any updates to the TAE, is it appropriate to form judgements based on majority considerations? Or is it too risky to do so? Is it a better basis for decision makers to give strong weight to key stakeholders and the nature of the argument put forward?

COMMENT:

It stuns me that you could even be questioning the notion of competency being a core unit or test for training. Equally, it is amazing to think that someone could gain a TAE Diploma qualification, without needing to demonstrate prior competence in the area in which they are going to train others, or an aptitude for training itself. Knowledge of a specialised area is one matter; the ability to successfully impart one's knowledge to others is another entirely.

At a minimum *TAEASS502B* should be a diploma level course for trainers and assessors and, there must be common transferable competencies (even allowing for the variety of courses students may undertake via VET). Ultimately, there must be a clear value proposition for students which says they are getting a qualification of standing, backed by a rigorous government-mandated assurance scheme. Personally, on the basis of my own experience and some of the statements in this Discussion Paper, the VET system cannot be said to meet that value proposition.

No stakeholder or stakeholders should be given a louder voice in this area than necessary. The Government should look for neither a majority view or a consensus. Trainers and assessors, as well as RTOs will look to serve their own interests. This will mean the cheapest training outlays possible for the maximum results; this cannot and does not serve the interest of students. The Government should look to a broader public interest test which aims for a well credentialed training system, whose certificates are recognised and have standing professionally, as well as offering advanced standing for higher-level units. That is, the system should be able to achieve as a matter of standard practise, what it did not offer me when I presented the Certificate in Small Business to the Law Society.

The RTOs should be required to absorb the costs of any improvements (and there will be many) to their training, assessment and audit systems, without passing these costs onto students or the taxpayer. Equally, there must be tighter rules around what RTOs can reasonably ask their students to do. I would still very much assert in my own case that my skills as a lawyer were "lent" upon at best and "abused" at worst. Personally, one felt obliged to assist fellow students, some who had been admitted to the course already having some business or related debts. We were all benefit recipients and, to make matters worse, I was pointed to as "the lawyer in the room". Despite claims to the contrary by the provider, I still say that I never consented (nor was one ever directly

asked) to become a default quasi-legal clearing house. But, no other facility was available to these people, many of whom would be completely impoverished if they did not complete the course. Failure to complete the course would have meant loss of benefits, which could well have resulted in homelessness for some. I could not do that to them, so while furious to this day at the RTO/provider about their failure to address me solely as a student, my ire was never aimed at fellow students.

The Department defended the New Enterprise Incentive Scheme (NEIS), as did ASQA and the then Minister.⁸ They are entitled to their view, but I continue to assert my contrary view as accurate, as was my decision not to sign on and run my business under NEIS. I would still not recommend the NEIS/VET system to anyone, or claim to have confidence about the probity of RTOs within it.

⁸ See generally, the attachments “Your complaint about ASQA”, as well as “Scan0118.jpeg”, “Scan0003” and “Scan0004”.

3. Discussion questions – benefits and purpose of a VET professional association:

- Is there a need to establish a national professional association for Australia's VET system?
 - Specifically, is there a clear role for Australian governments in assisting the development of professional skills of the VET workforce by funding a professional association?
- What are the barriers to establishing a national professional association? How could these be overcome?
- What would be the most useful guiding purpose of a national professional association?

COMMENT:

The Government should not be involved with this matter. If there is to be some sort of association, the impetus should come from grassroots trainers, RTOs and the like.

4. Discussion questions – potential activities of a VET professional association:

- What activities would be most beneficial for a national professional association to undertake? For example, would it:
 - coordinate, approve or design professional development programs
 - develop capability frameworks
 - positively promote the profession of VET trainers and assessors as an employment destination and career path to attract professionals
 - act as an advocate and voice for VET trainers and assessors
 - interact with industry to respond to their emerging needs
 - register VET practitioners?
- What advantages would there be to conducting these activities at a national level rather than through existing professional development undertaken through membership of existing groups, or that which is currently organised by RTOs?
- Are there any existing organisations that could fulfil this role?

COMMENT:

Advocacy and regulation should ideally be separate roles. Bringing the two together makes for a very real danger of conflicts of interest. Equally, a membership body which holds regulatory and advocacy authority will centralise power.⁹ Undue influence may then be brought on government, via this arguably unhealthy combination of forces.

The readiness of State and Federal Governments' to accept "industry self-regulation" or "industry ombudsmen" is a disturbing (if long-standing) process whereby the Crown seems willing to outsource regulatory functions it should hold on behalf of all Australians. It can be difficult for self-regulatory bodies to maintain bona fide independence. After all, if those you oversee are also those who fund your operation, how much critical scrutiny and oversight can you exercise?

⁹ Refer to footnotes 3 and 5 to provide a salutary example, above.

5. Discussion questions – models for a VET professional association:

- Which of the suggested models for a VET professional association would be considered most preferable and viable in the current VET environment? Model A,B or C?
- What value would a VET professional association, or associations, add to the VET sector?
- What mechanism would sustain a professional association, for example, membership fees from individuals or RTOs?
- Should VET teacher and trainer membership with a professional association be mandatory or voluntary?

COMMENT:

Given my answer to the prior question, my view is that Models A and B intermix regulatory and advocacy functions. However convenient this may be on an administrative basis, there are increased dangers of conflicts of interest. Model C, in this light, may be preferred.

In any event, establishment of, or clear linkage to established professional bodies. Personally, given my growing doubts over my own qualification from the VET system, some reassurance would be welcome. Professional bodies could also provide continuing education, so long as these modules were approved by an independent regulator.

I am always a supporter of voluntary association, though still enthusiastic for some sort of ongoing professional education. This is on the proviso that said education does not become an expensive sub-industry of courses, run by one or two providers, and being of dubious value. In my view, many professions are guilty of maintaining such arrangements, to the detriment of their members.

6. Discussion questions – capability frameworks:

- What can be learnt or applied from the capability frameworks that have been developed or are currently being developed?
 - Is there an opportunity to make better use of these frameworks, irrespective of proposals to develop a professional association?

COMMENT:

From personal experience with the VET system, I do not have much confidence in any existing framework. The Discussion Paper itself concedes ASQA has not sanctioned or suspended any provider for breach/non-compliance.¹⁰ ASQA has failed students and any public confidence that may remain in it. This was a view forming at the point at which I wrote my own complaint to ASQA, in response to an ABC 730 Report article, which was far from complimentary about the regulator's performance.

In many ways, ASQA's dismissal of my complaint, followed by the mis-recording of my email address (leaving me to follow up several months later, having heard nothing), only solidified pre-existing views of the regulators interest in, and handling of, complaints.

¹⁰ See Discussion Paper, pp. 23-24

7. Discussion questions – increasing industry confidence:

- Are there alternative approaches not covered in this discussion paper on how industry can increase engagement with the conduct of assessment, but not specifically the validation?
- Are there other ways to ensure industry confidence in assessment without requiring independent validation of assessment? For example, are industry-endorsed, externally administered tests a practical alternative to ensure that VET graduates are competent?
 - What would be the benefits and drawbacks in requiring such tests? Under what circumstances would they be mandated, for example, for particular student cohorts? Should these be specified in training products?
 - Who should regulate the tests?
 - Should such a test be a pass/fail dichotomy, or would it be more important to use the test to identify gap training?
 - Is the concept of an externally administered test, such as a test required before receiving a qualification, inconsistent with the premise of a competency based VET system?
 - Should the results of tests be made public at the RTO level?

COMMENT:

I address these questions another way; unless there is an element of independent validation and assessment, how can we be assured of credibility and quality? While some will say this enlivens a “teach to the test culture,” if you want consistency and competency, you have to have some measurable outcomes of acquired knowledge and, a student’s ability to apply it.

Whether it is politically-correct or not, tests achieve this end. They may also identify systemic, unit or RTO wide issues, but we should never dismiss the important issue of graduate competence. Personally, it is also vital in my view, to make as much information public as possible; this should include at the RTO level. If it is good enough for *MySchool*, it is good enough for RTOs.

8. Discussion questions – the role of industry in assessment:

- What role should industry, for example, employers and industry organisations, play in validation of assessment? Does the varied interpretation of 'industry' inhibit a proper appreciation of the topic and should it be defined? If so, who would best define 'industry' when considering the practice of validating assessment?
- Do employers or industry groups have the skills required to fulfil this role in validating assessment? Is assessment such a specialised skill that industry and employers either do not want to get involved or should not get involved?
- Is there a need to build industry capacity and capability regarding involvement with training and assessment? If so, how might this be done?
- How can we ensure engagement with industry is appropriately targeted so it does not add undue burden and is targeted to those within industry with appropriate expertise required for validation of assessment?

COMMENT:

Employers will soon speak up if they are receiving graduates who are not fit for purpose. However, to expect many employers to start validating assessments (beyond providing an employee's basic work history) may be unreasonable. Employers are busy people running businesses and, while some may well have training budgets, they are not training organisations in the first instance.

9. Discussion questions – specific models:

- How can independent validation be best applied to avoid a ‘one size fits all’ approach? For example should independent validation of assessment be triggered by:
 - improving RTO practice, for example, through a principles based model and best practice guide to support the VET workforce in identifying the most appropriate technique to validate assessment
 - mandatory requirement to lift quality in specific instances, for example, where a qualification is identified as high-risk
 - funding requirement, for example, independent validation of assessment could become a requirement for RTOs seeking to access government funding.
- Should there be an increased role for external assessment by industry, and in which situations? For example, should it be mandatory for certain industries where there is a concern for public safety if a learner is incorrectly deemed competent?
- If independent validation of assessment is to be risk-based, then what factors should be considered in the assessment of risk, for example, public safety, RTO profile, student cohort?
- Should high-risk student cohorts be required to undergo independent reassessment of industry-agreed sets of competencies before being issued with their qualifications?
 - For example, particular qualifications; students undertaking qualifications with RTOs with high levels of non-compliance; or that conduct assessment wholly online or on-the-job; or in areas of public safety.
- Would the burden be too great if independent reassessments were required for an entire student cohort, and should independent reassessment apply to a sample of students instead? If so, how could such a sample be chosen?
- Who would be most appropriate to oversee the reassessment of qualifications?
 - For example, could existing regulators or other organisations (such as firms that specialise in assessing students) take on this role?

COMMENT:

There should be independent validation in all circumstances listed. Furthermore, there should not only be industry feedback where public safety issues are concerned, but a wider public interest test where ASQA and/or the Department take an active role.

Risk-matrix and stratification are used in many industries and professions, from child protection to judging risk of bushfire. It should always be part of the RTO toolkit in assessing students, as well as part of the Government's oversight armory in assessing the performance of RTOs. Industry should certainly be consulted (after all, if they are not receiving competent graduates, there is no point in continuing to fund the VET system) but they should not hold a monopoly.

We should also ask seriously: What a legitimate course is? To my mind, this could never include a celebrity fitness instructor going by the name of "Comando" offering a personal training course that no-one in the rather dubious gymnasium industry will recognise.¹¹ The fact that such situations can occur raise serious questions over the credibility of entire VET system and the certificates or diplomas it hands out.

¹¹ See Eryk Bagshaw, *Biggest Loser star Commando Steve's 'cutting edge' fitness diploma under fire*, March 6, 2016 - 6:43PM - Read more: <http://www.smh.com.au/national/education/biggest-loser-star-commando-steves-cutting-edge-fitness-diploma-under-fire-20160302-gn95a9.html#ixzz429tXUba0> as at 7 March 2016

10. Discussion questions – industry expectations and graduate capabilities:

- Is there a role for Government or industry to develop resources outlining VET graduate expectations for particular training products? If so, who should take this work forward?
 - Do higher order issues need to be resolved regarding terminology such as ‘competent’ (as assessed against the training product) and ‘job ready’ (ready to undertake all aspects of a particular job)? Is there a common understanding of VET system outcomes?

COMMENT:

Most certainly there is a role for government. Federal and State Governments should take this forward. Industry is liable to show a varying degree of interest, depending on their exposure to the VET system.

Even as a student, I did not really have a clear conception of what I was receiving. First of all, it was training. Then, it morphed into: “You are starting a business”. And, the final insult seemed to be that the certificate received at the end of the training course, had no standing with my professional association. RTOs also need to be clear what they are offering students, otherwise students could quite innocently represent to others that they have skills and competencies they may not ultimately be recognised as having.¹²

¹² See ibid

11. Discussion questions – evidence of assessment and graduate competency:

- Should the Standards for RTOs be revised to include strengthened and more specific rules around the conduct of and evidence to support assessment? Which elements that have a clear link to quality of student outcomes need to be strengthened?
- Would a more prescriptive condition of registration, such as a requirement for RTOs to retain all assessment samples for a longer period, improve the quality of assessment?
- How could the focus of regulation move to evaluating assessment outputs, such as samples of students' assessment pieces, without incurring excessive costs or imposing excessive burden on RTOs?
 - Is ASQA the appropriate regulator to oversee this function, or are there better placed agencies such as firms that specialise in assessing students?
- Are there other mechanisms that you would like to see added to the regulatory framework to prevent poor assessment? For example, should training-only RTOs be recognised as a formal part of the regulatory framework?

COMMENT:

ASQA says it takes an approach to assessment of 'cake-making' rather than 'cake testing'.¹³ Elements of both of these approaches would seem essential, for any valid conclusions to be drawn about the quality of the VET system. To carry on the analogy, I am a lousy cook; give me all the ingredients of a cake and I may still render something inedible.

Simarliarly, file notes and other course records may not necessarily reflect what occurs at a RTO. In my case, I heard of instances from other students of submitted documents going missing. This was not assisted by the distinct lack-of-English language barrier between students and the administration staff. My resolution was to submit everything by email with a copy to the trainer.

In short, ASQA's processes are inadequate and incomplete. This is particularly given that they have failed to sanction any RTOs; but how would they know who or what to sanction if they have never tested the outputs. This is a dis-service to students, competent RTOs and the taxpayer alike. Other bodies, like the State Boards of Studies and universities, may be considered appropriate bodies to administer independent testing of students.

¹³ See *ibid.*, p.21

12. Discussion questions – enforcement:

- How could the focus of regulation move to evaluating assessment outputs?
- Which additional regulatory enforcement options should be considered in dealing with RTOs providing inadequate assessment? For example, should the regulator have an explicit administrative power to require a RTO to arrange and fund external reassessment, or should additional civil penalty provisions be created?
- To what extent should the characteristics of the RTO influence the response? Should the size of the RTO or the number of students involved matter?
- Given the need to balance procedural fairness with swift and effective enforcement action, what methods should be available to the regulator to manage RTOs that are repeatedly non-compliant with assessment requirements? How could such repeat offenders be defined?
- What role should regulators have in communicating their activities and findings? Does current regulatory practice provide adequate transparency and disclosure, or are there other approaches that should be taken?

COMMENT:

As stated earlier, it should not be an either/or question of whether ASQA looks at processes or outputs. Equally, ASQA should actually enforce standards and use powers already available to it. If this involves the Government setting targets for ASQA investigations and enforcement activity, then so be it. I do not believe this to be unfair or unreasonable, as my own experience of the VET system, ASQA and, what one has read about it subsequently, convinces me that it is a system riddled with malpractice.

13. Discussion questions – cancellation and reassessment:

- Where inadequate assessment has occurred, should the power to cancel qualifications be exercised more frequently than it has in the past? What factors should affect this decision (for example, potential impact on public safety) and how should they be balanced?
- Should a scheme for the reassessment of students be implemented? If so:
 - Are there any situations where a student should not be offered the chance to be reassessed, for example, student fraud?
 - Should there be a time period after which ASQA should not move to cancel an individual's qualification? Noting potential public and other safety issues, should a decision to cancel consider whether or not the person involved is reliant on the qualification for their current employment?
 - Who should bear the cost of reassessment and any gap training found to be necessary? If the cost is to be recovered from the RTO, should this be pursued regardless of the RTOs financial viability?
 - Who should deliver the reassessment? Are there any circumstances in which it would be appropriate for the original RTO to undertake the reassessment?
 - What should the qualifications be for those doing the reassessment, and what industry experience and currency would they need? To what extent should ASQA, industry or employers be directly involved in the reassessment process?
- Should a tuition assurance fund be set up to further protect students in Australia's VET sector, particularly in the context of any scheme of reassessment or cancellation of qualifications? Should membership be mandatory for all RTOs? Who should operate such a fund, and who should bear the cost of its operation?
- What linkages with income support eligibility should apply for graduates impacted by any recall of qualifications?

COMMENT:

The necessity to cancel credentials on the basis of fraud and/or insufficient assessment seems self-evident. Trainers or RTOs who wish to be reassessed or re-admitted to the VET scheme should pay their own costs for reassessment.

ASQA should be required to publish investigation findings and, any suggestion of fraud (or any other criminal conduct) should be mandatorily reported to police. There must be an independent assurance funds to which all RTOs must contribute to, as part of their continued involvement in the VET system. However, they should have no influence over the assurance fund's operation.

The fund should be independent from ASQA and the RTOs. It should look to ASQA reports and findings, but be able to inform itself of anything it deems relevant, to protect students and the public, as well as to determine when to make pay-outs.