

# Memorandum of Understanding

## **Australian Skills Quality Authority (ASQA)** Commonwealth Government



## **Training Accreditation Council (TAC)** State Government of Western Australia



## **Victorian Registration and Qualifications Authority (VRQA)** State Government of Victoria



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# 1. Parties to the Memorandum

## 1.1. Australian Skills Quality Authority (ASQA)

ASQA is the listed entity established under the *National Vocational Education and Training Regulator Act 2011* (Cth) (NVETR Act).

Under the NVETR Act, the National VET Regulator (NVR) regulates all RTOs that provide nationally recognised VET in referring states as defined in section 5 of the NVETR Act. The NVR also regulates all Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) providers offering VET to international (on-shore) students on a student visa.

## 1.2. Training Accreditation Council (TAC), Western Australia

The Training Accreditation Council (TAC or the Council) is Western Australia's independent statutory body for quality assurance and recognition of VET services. The Council is established under the *Vocational Education and Training Act 1996* (WA).

TAC regulates RTOs that provide VET to domestic students in Western Australia only, or in both Western Australia and Victoria, and where delivery includes off-shore sites.

## 1.3. Victorian Registration and Qualifications Authority (VRQA)

The Victorian Registration and Qualifications Authority (VRQA) is Victoria's education and training regulator.

The VET sector in Victoria is supported by the application of federal and state legislation and standards, including:

- *Education and Training Reform Act 2006* (Vic)
- VRQA Guidelines for VET Providers
- Australian Quality Training Framework (AQTF).

VRQA regulates RTOs that provide VET to domestic students in Victoria, or only in Victoria and Western Australia, and where delivery includes off-shore sites.

# 2. Terminology

**Accreditation of a VET course** means approved by a VET Regulator and listed on the National Register.

**ASQA** means the Australian Skills Quality Authority.

**CRICOS** means the Commonwealth Register of Institutions and Courses for Overseas Students.

**Memorandum** means this Memorandum of Understanding

**NVETR Act** means the *National Vocational Education and Training Regulator Act 2011*.

**National Register** means the register on training.gov.au (TGA) or its successor.

**NVR** means the National VET Regulator established by section 155 of the *National Vocational Education and Training Regulator Act 2011*.

**RTO** means a registered training organisation.

**TAC** means the Training Accreditation Council, Western Australia.

**VET** means vocational education and training.

**VET records** means records related to the RTO including applications to change registration, audit reports, risk assessments, annual declarations, quality indicator reports and any relevant information that relates to the registration and regulation of the RTO.

**VET Regulator** means ASQA, TAC or VRQA.

**VRQA** means the Victorian Registration and Qualifications Authority.

### 3. Purpose

The purpose of this Memorandum is to record the parties' agreement to:

- coordinate the transfer of information about RTOs where registration transitions between the VET Regulators, as determined by the application of Commonwealth and State legislation
- confirm the arrangements for the accreditation of courses between the VET Regulators
- collaborate, exchange data and share information to ensure efficient and effective regulation across all jurisdictions.

### 4. Background

VET Regulators are required to undertake their functions in accordance with national *Standards for VET Regulators 2015* (Standards) and as prescribed under State or Commonwealth legislation.

The purpose of the Standards are to ensure:

- the integrity of nationally recognised training by regulating RTOs and VET accredited courses using a risk-based approach that is consistent, effective, proportional, responsive and transparent;
- consistency in the VET Regulator's implementation and interpretation of the RTO Standards and Standards for VET Accredited Courses; and
- the accountability and transparency of the VET Regulator in undertaking its regulatory functions.

ASQA administers legislation including, but not limited to, the NVETR Act, *Education Services for Overseas Students Act 2000* and associated regulations. The NVR regulates all RTOs that provide nationally recognised VET in referring states as defined in section 5 of the NVETR Act. The NVR also regulates all CRICOS providers offering VET to international (on-shore) students on a student visa.



Neither Victoria nor Western Australia is a 'referring State' within the meaning of that expression in section 5 of the NVETR Act.

TAC and VRQA regulate all RTOs that provide VET in their respective States and where that delivery includes off-shore sites.

The application of the NVETR Act and *National Vocational Education and Training Regulator (Transitional Provisions) Act 2011* in a non-referring State is specified in subsection 4(3), and when the application takes effect in a non-referring state is specified in subsection 8(4) of the NVETR Act.

The application of the NVETR Act in a non-referring State means that when an RTO changes its operations in relation to providing services in a referring State or Territory, or its CRICOS registration, the RTO should transition its registration between ASQA, TAC and/or VRQA as determined by the RTO's operational change.

## 5. Consultation and Collaboration

The following principles underpin the ongoing relationships between VET Regulators, with parties agreeing to collaborate with a view to:

- building confidence in the quality of VET qualifications which in turn supports confidence in the abilities of VET graduates
- maximising consistency and continuous improvement in regulation
- providing clear lines of accountability and responsibility for quality of VET
- ensuring a coordinated response to emerging quality and risk issues in the sector.

The parties have identified a range of processes for conducting regular and ongoing collaboration, included in **Schedule A** of this Memorandum. Pursuant to the signed Memorandum, the schedules can be updated on an ongoing basis, as agreed by the memorandum contact officers identified in **Schedule B** of this Memorandum, where these amendments are in line with the overall intent of this Memorandum and are operational in nature.

## 6. Information Sharing

The parties commit to exchange information about various matters or persons where such information is relevant to the performance of an agency's statutory functions. The parties also commit to keep each other promptly updated in relation to matters and developments that are relevant to the other parties, to ensure that the parties can coordinate their responses to matters of mutual concern and interest.

The parties have identified a range of processes for conducting regular and ongoing information sharing, included in **Schedule A** of this Memorandum. Pursuant to the signed Memorandum, the schedules can be updated on an ongoing basis, as agreed by the memorandum contact officers identified in **Schedule B** of this Memorandum, where these amendments are in line with the overall intent of this Memorandum and are operational in nature.

## 7. Confidentiality and Privacy Considerations

The parties to this agreement will comply with the privacy principles as prescribed under State or Commonwealth legislation.

For the avoidance of doubt, this Memorandum does not require either party to disclose information where such disclosure may:

- I. be in breach of the relevant Information Privacy Principles
- II. give rise to liability for defamation
- III. give rise to liability for breach of confidence
- IV. give rise to civil liability for any other reason, or
- V. would otherwise be unlawful.

## 8. Freedom of Information Consultation

ASQA, TAC and VRQA agree to enter into an arrangement about consultation for the purposes of s 26A of the *Freedom of Information Act 1982* (Commonwealth).

TAC and ASQA agree to enter into an arrangement about consultation for the purposes of the *Freedom of Information Act 1992* (WA).

VRQA and ASQA agree to enter into an agreement about consultation for the purposes of the *Freedom of Information Act 1982* (Vic).

## 9. Review and Renewal or Termination

The Memorandum applies from the date of signing to a date where any party wishes to withdraw from the Memorandum with one month's prior notice in writing.

The parties commit to reviewing the substance of the Memorandum at the end of each three year term.

This Memorandum is taken to continue in the event of Machinery of Government changes.

## 10. No Legal Effect

This Memorandum is not intended to create legal relations between the parties and is of no binding legal effect. However, the parties agree to apply their best endeavours to implement this Memorandum in good faith.

If a dispute arises in giving effect to this Memorandum, the contact officers identified in **Schedule B** of this Memorandum will use their best endeavours to settle the dispute through direct negotiation, acting in the spirit of cooperation.

If the contact officers identified in **Schedule B** of this Memorandum are unable to resolve the dispute, the parties shall refer the dispute to the Chairperson, TAC, CEO, VRQA and the CEO, ASQA, as appropriate.

## 11. Signatories

**Organisation:** Australian Skills Quality Authority (ASQA)

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**Name:** Saxon Rice

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**Title:** Chief Executive Officer

**Date:** 11/6/21

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**Signature:**



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**Organisation:** Training Accreditation Council, Western Australia

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**Name:** Anne Driscoll

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**Title:** Chairperson

**Date:** 10/6/21

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**Signature:**



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**Organisation:** Victorian Registration and Qualifications Authority

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**Name:** Jonathan Kaplan

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**Title:** Chief Executive Officer

**Date:** 22/06/2021

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**Signature:**



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## 12. Schedule A – Scope of Memorandum

The parties to the Memorandum agree to the following schedule. The parties agree to support continuous improvement of the schedule as necessary.

Version 1 – 10 June 2021

### 12.1. Transition of RTO registration between regulators

Description / Process
12.1.1. The parties recognise that over the course of an RTO's registration their business circumstances may change necessitating the transition of registration between the parties.
12.1.2. The parties agree to manage the transition of registration and transfer of VET records in a cooperative and timely fashion to ensure the minimum of disruption to the operation of the RTO subject to compliance with any restrictions imposed by any law.
12.1.3. The parties note a transition of regulation from ASQA, TAC or VRQA will be required when an RTO changes its operations in relation to offering or providing, delivery and/or assessment services. This is determined based on the following: <ul style="list-style-type: none"> <li>a) ASQA has regulatory responsibility for RTOs that provide or offer to provide nationally recognised training to:               <ul style="list-style-type: none"> <li>• international (on-shore) students on a student visa (CRICOS), and</li> <li>• domestic students where delivery and/or assessment occurs across jurisdictions.</li> </ul> </li> <li>Where ASQA has regulatory responsibility for the RTO, it is also the regulatory body for any off-shore VET delivery by that provider.</li> <li>b) TAC and VRQA regulate RTOs that provide or offer to provide nationally recognised training to:               <ul style="list-style-type: none"> <li>• domestic students where delivery and/or assessment occurs in Western Australia and/or Victoria.</li> </ul> </li> <li>Where TAC or VRQA has regulatory responsibility for the RTO, it is also the regulatory body for any off-shore VET delivery by that provider.</li> </ul>
12.1.4. The parties note that prior to the transition of registration from one party to another a review will be undertaken to verify and substantiate details provided by the RTO to support the eligibility for registration.
12.1.5. The parties agree to provide VET records of RTOs subject to transition to each other that include the legal and trading names of the RTOs, their respective national identification number, registration expiry date, contact names and details, RTO scope of registration, and all RTO audit and compliance history information. The parties will provide VET records in electronic format wherever possible.
12.1.6. The parties agree that records on the National Register will be amended by: <ul style="list-style-type: none"> <li>a) the outgoing regulator noting the changes to registration on the National Register; and</li> <li>b) the incoming regulator amending the registration on the National Register.</li> </ul>
12.1.7. The parties may request that another party seek information to determine the ongoing eligibility of an RTO to be regulated by either ASQA, TAC or VRQA.



## 12.2. Accreditation of Courses

Description / Process	
12.2.1.	<p>The responsibility for course accreditation is dependent on the following:</p> <ul style="list-style-type: none"> <li>a) If the course owner is an RTO under ASQA's jurisdiction, the RTO is required to apply to ASQA for the accreditation of courses.</li> <li>b) If the RTO is regulated by TAC or VRQA, then the RTO must apply to TAC or VRQA respectively.</li> <li>c) If the course owner is not an RTO, then they can apply to any of the parties for course accreditation.</li> </ul> <p>The parties agree to inform each other of these applications on a regular basis and the parties agree to ask whether the course owner has applied to another regulator for accreditation of the particular course(s).</p>

## 12.3. Collaboration and Information exchange

Description / Process	
12.3.1.	<p>The parties agree to meet on a quarterly basis to discuss issues of mutual concern in the delivery of high quality regulation including but not limited to:</p> <ul style="list-style-type: none"> <li>a) risks and emerging issues</li> <li>b) proposed legislation, policy and/or regulatory changes</li> <li>c) national VET reform matters</li> <li>d) exchange of high level VET regulatory data</li> </ul> <p>One party can request additional meetings with the other parties in between regular quarterly meetings.</p>
12.3.2.	<p>The parties agree to exchange copies of their regulatory strategy, annual reports, and outcomes of strategic and other major reviews.</p>
12.3.3.	<p>The parties commit to sharing VET information with each other, in line with each agency's relevant legislative provisions for sharing information.</p> <ul style="list-style-type: none"> <li>a) For ASQA – s 205 of the <i>National Vocational Education and Training Regulator Act 2011</i></li> <li>b) For TAC – s 31 of the <i>Vocational Education and Training Act 1996</i></li> <li>c) For VRQA – ss. 4.9.4 and 5.5.26 of the <i>Education and Training Reform Act 2006</i></li> </ul>

## 12.4. Complaints handling

Description / Process	
12.4.1.	<p>The parties will manage complaints from members of the public in line with the <i>Standards for VET Regulators 2015</i>.</p>
12.4.2.	<p>The parties agree that if complaints are assessed as being outside a party's jurisdiction, the complainant will be informed of this assessment and advised of the regulator with appropriate jurisdiction to investigate their complaint, and their contact details.</p>

## 13. Schedule B – Memorandum Contact Officers

The parties to the Memorandum agree to the following schedule, which may be subject to change as necessary.

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The following persons serve as liaisons between the parties.

### Australian Skills Quality Authority

**Jacqueline Pellow, Director, Regulatory Policy, Evaluation and Design**

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### Training Accreditation Council, Western Australia

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### Victorian Registration and Qualifications Authority

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