

Victorian Training Guarantee Compliance Framework



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Foreword

The *Victorian Training Guarantee* is an entitlement to government subsidised vocational training in Victoria and is the key feature of our training system.

Vocational training provides individuals with greater confidence and flexibility in the workforce by giving them opportunity to develop skills that lead to real jobs and to participate fully in the community. Employers and industry benefit from the supply of people with the right kind of skills and who are ready for employment that vocational training creates.

The Department of Education and Early Childhood Development (the Department), enters into contracts (Service Agreements) with a network of training providers to deliver vocational training to eligible individuals under the *Victorian Training Guarantee*. The Service Agreement describes the range of obligations and standards that each provider is required to meet in order to receive payment.

For a modern vocational training system in Victoria to function properly, the Department needs to ensure that we have the framework and processes in place to properly support and monitor the performance of contracted training providers. Being upfront and clear about our expectations of providers, and setting out clearly the Department's approach to ensuring compliance with those expectations is a key part of that.

The compliance framework set out in this document guides the administration of Service Agreements and has been developed to take into account the risks associated with an outsourced, demand-driven service delivery model that is efficient and responsive to changing workforce needs.

This document provides information both about the elements of the framework and the Department's approach to administering them. In adopting a framework that is flexible and fit for purpose, the Department is supporting the performance of contracted providers in a vocational training system that is delivering the right outcomes and has the confidence of individuals, employers and industry.



Kym Peake

Deputy Secretary
Higher Education and Skills Group

Introduction

Since its introduction in 2009, the *Victorian Training Guarantee* has increased access to vocational education and training for eligible students. In 2011, the Department contracted over 600 training providers to deliver government subsidised training with over \$1.3 billion of claims paid.

The Department's funding arrangements are designed to maximise outcomes for individuals, industry and the broader community, by focusing investment where it is most needed. These arrangements rely on providers to deliver training in accordance with the terms and conditions of the Service Agreement, adhere to performance standards, and to correctly report and claim for the training services they have provided.

To make sure that training providers have both the knowledge and tools to do this, the Department offers a range of support. This includes regular information sessions, an online enquiry service and a range of user guides for key aspects of the system.

To complement these activities, the Department takes a risk management approach to verifying compliance. This includes monitoring data reporting and funding claims behaviours, investigating and responding to complaints, conducting exploratory meetings with providers, and contractual, financial and forensic auditing.

The Department's commitment is to continue to provide information and resources to support providers to meet their compliance obligations and, where necessary, to exercise the range of more formal compliance options.

This document details the compliance framework and describes the approach that the Department uses to assure the delivery of training under the Agreement. It applies to all training providers involved in the delivery of government subsidised training.

This comprehensive compliance approach seeks to strengthen the quality of the Victorian vocational education and training system and helps maintain and build a training system that has the confidence of the public, industry, students and providers.



Compliance objectives and principles

A comprehensive and transparent approach to compliance is a key mechanism for assuring the public and other stakeholders of the integrity of the training system, and meeting the objectives of the government's policy for vocational education and training.

The Department recognises that the majority of providers want to do the right thing and will comply if they understand the standards they need to meet, their responsibilities and obligations. Our intent is to maximise the number of training providers that voluntarily comply with their obligations and minimise non compliance.

The Department is committed to delivering high quality information and support to make it easier for training providers to understand their obligations and comply. We recognise that there is mutual responsibility in a high quality compliance program.

Objectives

We are committed to supporting and ensuring high levels of compliance amongst contracted providers so that:

- government funds are used appropriately
- providers are acting within the letter and intent of the *Victorian Training Guarantee*
- the public can have confidence in the quality of the Victorian government subsidised training system

Principles

Training providers can expect the Department to:

- **take a professional approach to compliance activities** by providing timely advice and information and seeking new and improved ways to deliver our compliance programs
- **be open and clear** about provider obligations and our compliance approach and be available to respond to questions in order to help providers comply with program requirements
- **be appropriate in our response** by having a range of proportionate responses that reflect risk and the level of non compliance and being fair and reasonable in their application
- **respect the rights of providers** by explaining our processes and concerns and treating everyone with respect, dignity and courtesy
- **act fairly** towards providers
- **be timely and consistent** in our actions

The Department expects training providers to:

- **be familiar and act in accordance with the requirements of the *Victorian Training Guarantee***, and understand their obligations
- **cooperate with the Department** to demonstrate and verify compliance
- **ensure correct and timely reporting**
- **be responsive** to questions about their activities and compliance
- **take a professional approach** to compliance

Compliance approach

The Department’s approach to compliance activity is risk-based and seeks to identify, assess and rank by priority the risks of non compliance in order to assure the integrity of the *Victorian Training Guarantee* program. The Department conducts an annual risk review of the operating environment to inform its approach to compliance in any one year. The compliance program is based on the evaluation of risks identified in this review, and on indicators of provider behaviour available in the system.

In supporting compliance, the Department recognises it needs to address various levels of behaviour. Figure 1 illustrates these levels and the associated responses.

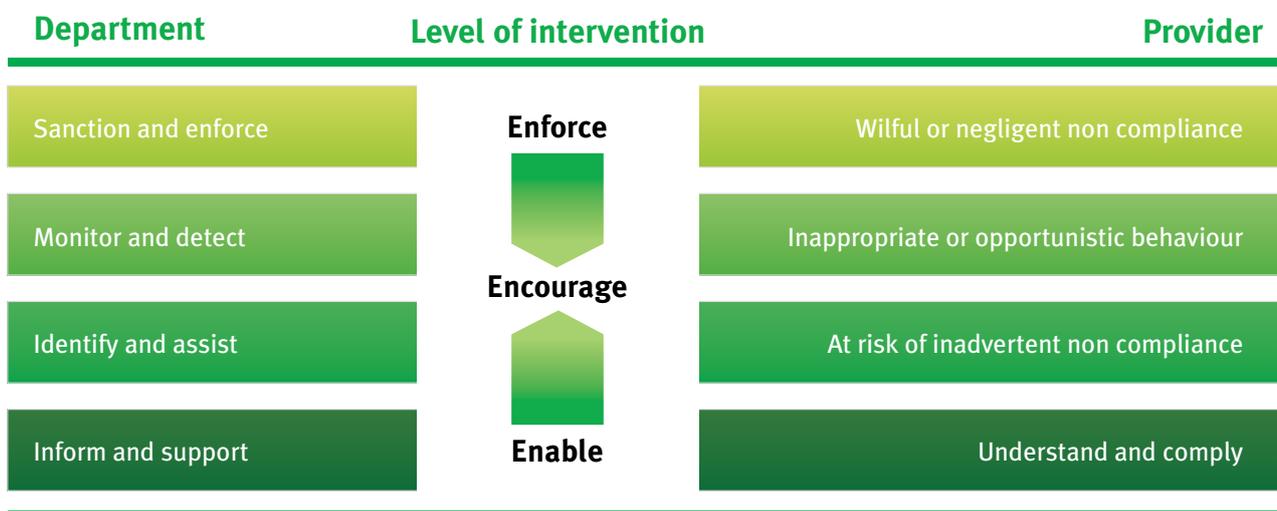


Figure 1: levels of compliance and response

Voluntary compliance

The Department supports the majority of training providers that voluntarily comply. We want to make it easy for providers and the public to do the right thing and we do this by providing high quality, accessible information and support.

Minor or accidental non compliance

We recognise that sometimes providers make mistakes. For example, providers that mistakenly enter incorrect data or that accidentally misapply the requirements of their Service Agreements.

For minor cases of accidental non compliance, we will seek to help providers avoid future errors by providing specific information explaining the issues, and giving reasonable opportunity to respond.

In circumstances where payment has been obtained incorrectly we may seek to recover payment.

Where accidental non compliance suggests negligence, a higher level enforcement response may be required

Medium level non compliance or inappropriate behaviour

There will always be a small number of providers that seek to gain a benefit or advantage to which they are not entitled.

If it has been determined that someone has intentionally sought to gain an incorrect or inappropriate benefit, we will seek recovery of the payment and where appropriate, consider undertaking further audit or investigation activities.

Wilful or negligent non compliance (criminal behaviour and fraud)

A small number of providers may seek to deliberately exploit the program. For example, training providers that intentionally create false claims for training services they did not provide.

The Department has an obligation to identify potentially fraudulent activities and deal with this behaviour according to the law and, if necessary, we will refer matters for criminal prosecution.



Compliance framework

The Department recognises that its activities and responses need to be appropriate to the nature of the issues it encounters, and it works within a framework that features an escalating and proportionate spectrum of interventions.

These range from information and support - helping providers do the right thing in the first instance - through monitoring and program management and if necessary escalation to enforcement activity including withholding payment and suspension or termination of Service Agreements.

Phase	Activities	Compliance response
Ensuring Compliance	Withhold payment Recoup funds Suspend/Terminate contract Referral to regulator	Enforcement and Sanction
	Forensic investigations Financial investigations Off cycle audit	Correcting behaviour
	Correspondence Seeking further information Face to face meeting	
Monitoring and program management	Compliance Audit Program	Providing feedback
	Behaviour Monitoring Data reporting Claims Payments Interaction with Department Complaints investigation	
Information and Support	Providing help and support to comply Guides and information products Enquiries Information sessions User Groups	Supporting Compliance
Setting standards for entry and establishing the Service Agreement	Service Agreement Terms and Conditions	Setting standards
	Entry criteria	
	Registration with a regulator	

Figure 2: Compliance framework

In applying this framework, the Department scans the environment for factors that may affect how well training providers comply with Service Agreement obligations, and uses a broad range of information available to it from a number of systems including training activity data and claims payment systems.

Setting standards for entry

A key part of the framework is the provider selection process, which acts as a filter to make sure that the providers of government subsidised training meet essential standards, and are most likely to comply with Service Agreement requirements. In order to be considered for a Service Agreement, providers must be appropriately registered with a regulator, meet financial viability benchmarks and have a satisfactory history of performance in training delivery and contract compliance.

Registration with a regulator

To be eligible to provide vocational training under the *Victorian Training Guarantee*, organisations must register with the Victorian Registration and Qualifications Authority (VRQA) or the Australian Skills Quality Authority (ASQA). Both regulators use national standards to assess the suitability of organisations to be registered.

These standards ensure that registered providers: can provide quality training and assessment, adhere to principles of access and equity, have sound financial management and governance arrangements, comply with legislation, hold relevant insurance and meet the requirements for delivering within the Australian Qualifications Framework.

Financial viability

In order to ensure that government funds are provided only to financially viable organisations, training providers seeking a Service Agreement are subject to rigorous testing of their financial viability.

Providers seeking a Service Agreement are required to submit audited financial accounts and related documents for independent analysis.

Training delivery and broader contract performance

Providers are required to have a satisfactory history of performance in the provision of quality training and assessment services, as well as a satisfactory history of contract performance. In addition to meeting the minimum standards for ongoing registration, providers must also be able to demonstrate performance against contract requirements.

In selecting providers for contract, the Department may take into consideration information from the regulators and any available information from compliance auditing and broader contract monitoring. The development of practice standards and quality measures such as independently administered student and employer surveys will further enhance the Department's ability to measure provider performance in the future.

Service Agreement Terms and Conditions

The Terms and Conditions of the Service Agreement represent the requirements that training providers must abide by to maintain compliance as contracted providers in receipt of government subsidy. The Service Agreement sets standards of behaviour, as well as prescribing minimum requirements with regard to provider practice in the delivery of training services. The Terms and Conditions of the Agreement are reviewed annually in response to emerging risks and provider behaviour.

Standards and relevant legislation

Contracted training providers must maintain registration as registered training organisations and deliver nationally registered training. They must comply with registration standards – whichever of the Australian Quality Training Framework (AQTF) or Standards for NVR Registered Training Organisations applies to their registration, and comply with all applicable laws and regulations including privacy, anti-discrimination and equal opportunity legislation, the Disability Act 2006, the Working with Children Act 2005 and the Charter of Human Rights and Responsibilities Act 2006.

Student engagement

There are a number of obligations relating to engagement with students described in the Service Agreement. For example: providers are required to meet all requirements in relation to determining student eligibility, completing student enrolments, imposing and collecting fees, applying fee concessions and waivers, and collecting and maintaining evidence of student participation.

Training quality and provider behaviour

Training providers are expected to demonstrate a high level of professional behaviour, care and skill in their delivery of government subsidised training, and are required to fulfil their obligations in a timely and efficient manner.

The Department may consider industry or employer references when determining the capability of a provider to deliver particular courses under government subsidised arrangements.

Providers are also required to demonstrate high ethical standards so as not to damage, ridicule or bring into disrepute the Government, the Department, or the vocational education and training sector more broadly.

Reporting

Training providers must make available reports of their activities that comply with the Victorian VET statistical standard, and reports that the Department requires for monitoring purposes.

Participation in audits

Providers are required to participate in audits and to rectify any non compliance that may be found.

Managing performance

The Department may withhold, suspend or cancel payment of funds, require the return of moneys already paid, and in some circumstances may terminate the Service Agreement with a provider where there has been a material breach.

Providing help and support to comply

The Department provides a number of products and services designed to help providers understand and apply the requirements of the Service Agreement. Voluntary compliance is the most cost-effective and desirable outcome, and the Department supports providers to do this by publishing guides, holding regular information sessions and maintaining an enquiry service.

User groups, such as the Non-TAFE Strategic Reference Group, the TAFE CEO Forum and the Skills Victoria Training System (SVTS) User Group provide reference points both for identifying risks and providing information to the sector.

Provider Information Sessions

The Department holds regular provider information sessions in both metropolitan and regional areas. Information sessions cover key aspects of the Service Agreement, as well as topics such as audit and compliance, data reporting, claims and payments.

Skills Victoria Training System

The Skills Victoria Training System (SVTS) is the Department's web-based system for managing transactions between the Department and providers. It provides: general communication and advice, data reporting capability, and claims and payment management.

Announcements and general communication, Service Agreement Notifications, key documents and Frequently Asked Questions are all made available to contracted providers through SVTS.

Providers are strongly encouraged to use the Enquiries function of SVTS for all Service Agreement and related enquiries. On average, the Department responds to around 100 SVTS enquiries from providers per week.

User Guides and products

The Department provides a range of publications designed to assist providers to meet their obligations. These offer advice on student eligibility, tuition fees, contract compliance and audit, claims and payments, and operational advice on navigating SVTS.

Tools and Resources

There are also a number of products and services designed to provide information to stakeholders such as students, parents, industry and the public. These include: the information hotline, websites for students, employers and industry, and factsheets & policy documents.

Monitoring behaviour

Providers are monitored for the duration of their Service Agreement in a number of ways. This monitoring occurs at an individual provider level and for the whole of the system, with levels of monitoring increasing where risks are identified.

Data reporting

Training activity data must be reported accurately and be a timely representation of actual training activity because it is the basis for payment. Reported data is regularly reviewed to detect abnormal trends. In addition, the Department's data system (SVTS) enables ad hoc data enquiries to be undertaken from time to time on particular aspects of delivery.

Claims patterns

The pattern of funding claims for an individual provider, and for the system as a whole is regularly analysed to identify abnormalities and outliers.

Third party information

The Department regularly receives information about training providers from a range of third parties, including formal complaints. These are routinely investigated.

Market Monitoring Unit

A Market Monitoring Unit (MMU) has been established as an independent unit within the Department's Regional Support Group to monitor the efficiency of the government subsidised vocational education and training market, including aspects such as quality, price and competition for government subsidised training.



Auditing to assess compliance

The Compliance Audit Program is risk-based and features a range of audit types. The Audit Program aims to confirm funding has been expended appropriately, promote provider regulatory and standards compliance and support provider process quality.

The Department applies a range of audit types to assess different aspects of provider compliance. The majority of providers selected for audit are chosen based on their risk profile, being identified through a robust assessment process as high and medium risk providers. The program is rounded out, however, by the inclusion of a small random sample of low risk providers. Audits types include:

Business Process Audit

Business Process Audits enable the Department and its auditors to obtain an understanding of key business processes employed by a provider that directly impact its capacity to comply.

This phase of audit activity assists the Department to identify and assess the risk of non compliance with the Service Agreement and to identify high level themes and opportunities for improvement for a provider.

Transactional Compliance Audit

Transactional Compliance Audits are designed to identify compliance or non compliance with the Service Agreement and involve the detailed examination of a sample of student records to test whether the provider has effectively implemented controls.

Audit Satisfaction Survey

We are committed to ensuring that the Department's Audit Program is effective and fair for all stakeholders. Providers are given the opportunity to complete an audit satisfaction survey upon the completion of an audit to encourage open and honest feedback. The survey asks training providers to rate their experience of the audit against a variety of indicators, and the Department uses this feedback for improvement.

Investigating non compliance and correcting behaviour

Where it is identified that a provider may be non compliant with the Service Agreement, we will invoke action at a level appropriate to the situation. In the first instance, with a view to ensuring procedural fairness, a provider may be asked to provide a written explanation as to its actions, or to meet with the Department to discuss any issues identified. In some instances, this level of action will suffice, with the provider demonstrating to the satisfaction of the Department that the matter has been addressed.

If further investigation is required, the Department may engage the provider in a more detailed transactional compliance audit. These audits may focus on whether the provider has sufficient evidence of a student's eligibility, concession entitlement or participation in training to support their claims for funding.

Where an issue may relate to concerns around the quality of training, in addition to engaging with relevant regulators, the Department has the capacity to consider a more detailed review of learning and assessment practice and student outcomes. In reviewing contract performance, including quality of training provision, the Department may consider information sourced through a range of activities such as:

- desktop analyses and interviews relating to individual providers
- themed reviews examining a particular issue across the system
- audits of marketing and pricing practice or peer reviews commissioned by the Market Monitoring Unit
- expert reviews of teaching and assessment practices, and
- industry moderated assessment processes.

In more serious circumstances, the Department may also refer the provider to a financial or forensic audit in order to gain a more fulsome picture of the provider's operations and compliance.

Escalation and enforcement

The Department will sanction providers with the full force of the Agreement if it is suspected that funds are not being appropriately used. In these instances the Department may withhold funds until the issue is resolved.

Where providers are found to be non compliant, the Department may recoup funds, suspend or terminate a provider's Service Agreement and/or make a referral for further investigation.

For the small number of providers that may seek to intentionally, recklessly or negligently gain a benefit from the government subsidised training program to which they are not entitled, criminal or civil proceedings may be issued against them. Any actions relating to suspicions of fraud are managed within the Department's Fraud and Corruption Control Policy and Procedures.



