

# Training Accreditation Council Policy and Procedure for the Application of Sanctions

The Training Accreditation Council (the Council) acknowledges that Western Australian Registered Training Organisations (RTOs) have made a significant commitment to establishing and maintaining their obligations under the *Vocational Education and Training Act 1996* (VET Act). However, from time to time RTOs are identified as presenting a significant risk to the VET Sector due to their failure to comply with the *Standards for Registered Training Organisations (RTOs) 2015 (Standards for RTOs)* or meet other criteria required for registration with the Council under the VET Act.

This policy outlines the grounds on which sanctions can be applied, the types of sanctions that the Council may apply to RTOs under the VET Act and the procedure for application of the sanctions.

## Scope

This policy is applicable to all RTOs registered by the Council.

## Policy Statement

The Council will apply sanctions available to it under the VET Act, to RTOs that fail to comply with the requirements for registration with the Council. As the Registering Body, the Council must ensure that all non-compliance is addressed. The type of sanction to be imposed on an RTO will be determined by the nature and extent of non-compliance and the degree of risk it presents to consumers and the VET Sector.

## Grounds for applying sanctions

Sanctions on RTOs may be applied by the Council on the following grounds:

- Ground 1* The provider does not meet the *Standards for RTOs*
- Ground 2* The provider has contravened a condition to which its registration is subject;
- Ground 3* The provider is not a fit and proper person to be registered;
- Ground 4* The provider has not paid any annual fee in accordance with the Regulations.
- Ground 5* The provider was registered as a result of false or misleading information given by the provider.

## Types of sanctions

The Council may apply the following sanctions under the VET Act:

## Conditions

The Council may impose any of these conditions when registering or varying the registration of a training provider-

- A condition that specifies or limits the approved VET courses for which the provider is authorised to provide training and or assessment;
- A condition that specifies or limits the approved VET qualifications that the provider is authorised to confer under the registration;
- A condition that otherwise relate to or limits operations that the provider is authorised to conduct under registration.

### ***Vary Registration***

The Council may vary a training provider's registration by changing the provider's scope of registration.

### ***Suspension of Registration***

The suspension of an RTO may relate to the whole or part of the provider's scope of registration, and may be on any terms the Council decides to impose. The effect of suspension under the VET Act is that:

A person must not, for any training or assessment that the provider, but for the suspension, would have been authorised to provide, do anything for any of these purposes-

- recruiting or enrolling any person;
- soliciting or accepting any consideration from any person for any person's recruitment or enrolment;
- starting any person's training and assessment.
- unless exceptional circumstances justify the Council in refusing to impose the term, a suspension must include a term that the provider –
- may provide any training or assessment that the provider, but for the suspension, would have been authorised to provide, if it is provided under an agreement entered into by the provider before the suspension had effect; and
- may solicit and accept consideration from a person for training and assessment provided, if it was provided under an agreement entered into by the provider before the suspension had effect.

An RTO which has been suspended does not cease to be a registered provider. For the duration of the suspension, the RTO is expected to comply with all requirements of registration, including financial and reporting obligations.

### ***Cancellation of Registration***

Cancellation of registration terminates the RTO's registration and the provider ceases to be an RTO.

### **Council Decisions**

Decisions by the Council in relation to the application of sanctions on an RTO's registration will be determined on a case by case basis and will depend on a range of factors, including:

- the specific nature of the non-compliance;
- evidence presented to the Council;
- impact on clients and stakeholders;
- the level of impact to the quality of vocational education and training services.

### **When Council's decisions have effect**

A decision of the Council takes effect –

- if no appeal is commenced under section 58G of the Act, when the time for commencing an appeal has passed; or
- if an appeal is commenced under section 58G, when that appeal is determined or is withdrawn; or
- any later day the Council may specify.

### **Removing a sanction (excludes Cancellation of Registration)**

Once a sanction has been applied to the RTO's registration (excludes Cancellation of Registration), the RTO may apply to remove the sanction from its RTO in line with the Training Accreditation Council Compliance Monitoring Audit Policy and Procedure. If an audit is required to remove the sanction, a Compliance Monitoring Audit may be required. Please refer to the TAC website for further information about the Compliance Monitoring Audit Policy and Procedure [www.tac.wa.gov.au](http://www.tac.wa.gov.au)

The RTO may wish to discuss with the Director Training Regulation, any aspect of this Policy or Procedure or seek further clarification of the extent of sanctions that may be applied.

## Procedure for Applying Sanctions

The Council adheres to the following procedure to apply sanctions:\*

Step 1	The Council finds that the RTO is non-compliant with the requirements for registration and that grounds exist to propose that sanctions be placed on the RTO's registration.
Step 2	<p>The RTO is notified that they have been found non-compliant with the requirements for registration on the basis that they have failed to meet the requirements of the <i>Standards for RTOs</i> or any other criteria outlined in the VET Act. The RTO will be advised of the specific non-compliances that exist.</p> <p>The RTO is advised on the possible sanction/s that may be applied in line with the Council's Sanctions Policy, being;</p> <ul style="list-style-type: none"> <li>• the placement of conditions on the provider's registration;</li> <li>• variation of the provider's scope;</li> <li>• suspension of the provider; and</li> <li>• cancellation of the provider as an RTO.</li> </ul> <p>The RTO is provided with an opportunity to submit a response to the Council's proposal to apply a sanction/s to the RTO's registration. The Council does not prescribe the manner in which the response should be presented, however the following may provide some guidance:</p> <ul style="list-style-type: none"> <li>- a written response to the proposal to apply sanction/s outlining any issues the RTO wishes to bring to the attention of the Council; and</li> <li>- evidence to show that action has been taken to fully address the identified non-compliance/s. Any evidence provided should make reference to the relevant Standard/s.</li> </ul>
Step 3	The Council considers the RTO's response.
Step 4	<p>The Council decides, based on the available information provided, to apply or not apply, sanction/s.</p> <p>If the Council decides to apply sanctions on the RTO's registration, the Council will advise the RTO in writing of:</p> <ul style="list-style-type: none"> <li>• the sanction to be applied;</li> <li>• reasons for the decision;</li> <li>• the terms of the sanction;</li> <li>• avenues of appeal against the Council's decision.</li> </ul> <p>If the Council decides not to apply the sanction on the RTO, the Council may advise of further action to be taken.</p>

\*In the event that the RTO is in the process of ceasing operations, or the RTO is not contactable, it is not practicable for the RTO to be notified of any intent to cancel registration.