

## Policy Title: Management of Critical Non-Compliance (Under Delegation)

TRIM no:	2016/00339
Policy executive:	Training Accreditation Council
Policy owner:	Training Accreditation Council Executive Officer
Approved by:	Manger Regulation
Date approved:	5 May 2016
Due for revision:	5 May 2017
Amendments:	
Related policies/documents:	<i>Standards for Registered Training Organisations (RTOs) 2015</i> <i>Standards for VET Regulators 2015</i> Critical Non-Compliance Risk Rating Guideline Policy and Procedure for the Application of Sanctions

### Category:

[Purpose](#)

[Scope](#)

[Definitions](#)

[Policy](#)

[Supporting information](#)

### 1. Purpose

This policy outlines the Training Accreditation Council's (the Council) management of critical non-compliance and rectification timeframes applied to Registered Training Organisations (RTOs).

Critical non-compliance significantly increases an RTO's risk profile. Where the critical non-compliance could lead to the risk of injury or death, the timeframe for rectification will be non-negotiable and is guided by the TAC Critical Non-Compliance Risk Rating Guideline.

### 2. Scope

This policy is applied to all RTOs registered with the Council.

### 3. Definitions

Term	Definition
Audit	A planned systematic and documented process used to assess an applicant's or an RTO's compliance with the <i>Standards for Registered Training Organisations (RTOs) 2015</i> . RTOs can conduct internal audits to assess their compliance with the <i>Standards for RTOs</i> and their own policies and procedures as part of their continuous improvement processes.
Compliance	The requirements of the <i>Standards for RTOs</i> have been met, based on the evidence reviewed.
Critical Non-compliance	The requirements of the <i>Standards for RTOs</i> have not been met based on the evidence reviewed, and there is a critical adverse impact on learners and/or consumers of goods and services produced in the training environment or the current (or future) workplace.
Critical non-compliance (risk of injury or death)	In extreme situations evidence from audit may indicate risk of injury or death to people in the training environment or the current (or future) workplace. In such instances, the level of risk and potential impact on learners and/or other consumers of goods and services produced in the training environment or the current (or future) workplace warrants immediate rectification.
Significant non-compliance	The requirements of the <i>Standards for RTOs</i> have not been met based on the evidence reviewed and there are indications of a significant adverse impact on learners and/or other consumers of goods and services produced in the training environment or the current (or future) workplace.
Minor non-compliance	The requirements of the <i>Standards for RTOs</i> have not been met based on the evidence reviewed but there is no or minor adverse impact on learners and/or other consumers of goods and services produced in the training environment or the current (or future) workplace.
Registering Training Organisation (RTO)	A training organisation registered by a jurisdiction registering body in accordance with the <i>Standards for RTOs</i> within a defined scope of registration.
Registration	Formal recognition by a registering body, in accordance with the <i>Standards for VET Regulators 2015</i> .  A training organisation must be registered in order to deliver and assess nationally recognised training and issue nationally recognised qualifications. Initial registration is when a training organisation meets the requirements of the <i>Standards for RTOs</i> . Re-registration refers to the process of seeking another registration period as a registering training organisation and meeting the requirements of the <i>Standards for RTOs</i> .
Sanction	An action that a registering body imposes on an RTO for non-compliance with the <i>Standards for RTOs</i> . Sanctions may include: <ul style="list-style-type: none"> <li>• The imposition of specific conditions on the RTO's registration (which can cover any aspect of its registration, including scope of registration, the locations where it may provide training or the type of delivery and assessment activities it may provide)</li> <li>• Amendment of registration (including a reduction in the RTO's scope of registration)</li> <li>• Suspension of registration</li> <li>• Cancellation of registration</li> </ul>

## 4. Policy

The Council is responsible for ensuring all applications for registration and RTOs meet the requirements of the *Standards for RTOs*.

The TAC Secretariat schedules audits to ascertain RTO compliance. Audits are conducted by Council contracted auditors who have the responsibility to report on compliance and non-compliance in relation to the *Standards for RTOs*.

When an RTO has not demonstrated compliance with all of the requirements of the *Standards for RTOs*, auditors will assign an overall level of non-compliance. This level of non-compliance is recorded on the report and is one of the factors that informs an RTO's risk rating. The levels of non-compliance are outlined in the National Guidelines for a Registering Body as minor, significant, critical, critical (risk of injury or death)

Where RTOs are found to have critical non-compliance, with a risk of injury or death to learners and/or staff in the training environment or the current (or future) workplace, auditors will assign the likelihood of the risk occurring as outlined in the Critical Non-Compliance (Risk of Death or Injury) Guideline (refer Attachment 2).

The TAC Executive Officer, under delegation of the Council, will determine the rectification timeframe in relation to the level of risk to RTO staff, students and the public.

Should an RTO fail to address a critical non-compliance within the set timeframe, the TAC Executive Officer will refer the matter onto the Council.

### 4.1. Requirements

Council contracted Auditors are required to:

Ensure non-compliances are detailed in an audit report and an overall level of non-compliance is categorised as minor, significant or critical. The audit report is to include evidence sighted and findings.

Assign a risk level as per the Critical Non-Compliance Risk Rating Guideline in Attachment 2 to determine if the critical non-compliance could lead to risk of injury or death to learners and/or staff in the training environment or the current (or future) workplace.

Once this risk has been observed, the Lead Auditor must contact the Manager Regulation (VET Audit & Registration) at the TAC Secretariat immediately to discuss the concerns.

It is essential that the TAC Secretariat is contacted on the same day of the audit to allow the TAC Secretariat to treat the non-compliances appropriately. In some cases it may be determined that the audit should not continue.

The TAC Executive Officer, under delegation of the Council, is required to:

Consider the risk level, assign a rectification timeframe and inform the RTO.

Confirm rectifications have been successfully implemented within the agreed timeframe and refer the matter to the Council if the RTO fails to address the critical non-compliance within the set timeframe.

The Council is required to:

Consider the registration of the RTO where non-compliance is not rectified within the applicable period or if any required evidence is not provided within the applicable period.

#### **4.2. Responsibilities**

Council contracted Auditors have the responsibility to ensure the required level of detail for minor, significant or critical non-compliances is provided in the TAC audit reports.

The TAC Executive Officer, under delegation of the Council, has the responsibility for imposing rectification timeframes.

The Council has the responsibility to consider the RTO's registration if the RTO fails to rectify non-compliance within the given timeframe.

#### **4.3. Approval/review**

This policy will be submitted to the Council for endorsement.

The Council will review and endorse the policy or return with advice to amend.

The policy will be reviewed annually from the date of endorsement.

#### **4.4. Recordkeeping and publication**

The date of approval will be entered electronically and the document made final in RM8.

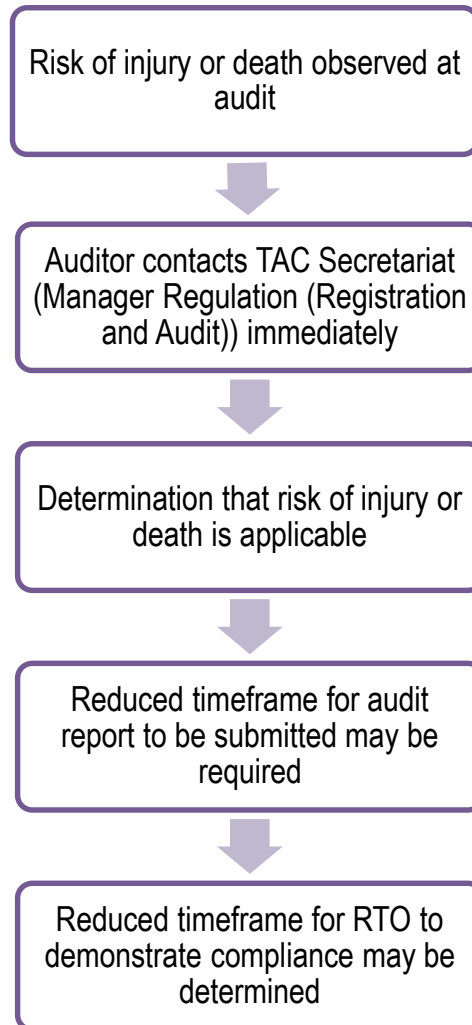
An electronic version of policy will be available via the TAC website.

Communication regarding the policy will be to all employees affected in a manner commensurate with the significance of changes.

### **5. Supporting information**

- *Standards for Registered Training Organisations (RTOs) 2015*
- *Standards for VET Regulators 2015*
- *Critical Non-Compliance Risk Rating Guidelines*
- *Vocational Education and Training Act 1996*
- *Vocational Education and Training (General) Regulations 2009*
- *Policy and Procedure for the Application of Sanctions*

Attachment 1: Critical Non-Compliance (Risk of Injury of Death) Flowchart



## Attachment 2: Critical Non-Compliance Risk Rating Guideline

• LIKELIHOOD OF RISK OCCURRING	<ul style="list-style-type: none"> <li>• Almost Certain</li> </ul>	<ul style="list-style-type: none"> <li>• Current practices may lead to risk of injury or death to learners and/or staff in the training environment or the current (or future) workplace.</li> <li>• Evidence that training/assessment practices may lead to risk of injury or death to learners in the training environment or the current (or future) workplace.</li> <li>• Evidence that the training/assessment practices may lead to risk of injury or death to consumers of goods and services produced in the training environment or the current (or future) workplace.</li> </ul> <ul style="list-style-type: none"> <li>• Rectification Timeframe: 24 Hours</li> </ul>
	Likely	<ul style="list-style-type: none"> <li>- Current practices may lead to risk of injury or death to learners and/or staff in the training environment or the current (or future) workplace.</li> <li>- Evidence that training/assessment practices may lead to risk of injury or death to learners in the training environment or the current (or future) workplace.</li> <li>- Evidence that the training/assessment practices may lead to risk of injury or death to consumers of goods and services produced in the training environment or the current (or future) workplace.</li> </ul> <p>Rectification Timeframe: Up to 3 Days</p>
	Possible	<ul style="list-style-type: none"> <li>- Current practices may lead to risk of injury or death to learners and/or staff in the training environment or the current (or future) workplace.</li> <li>- Evidence that training/assessment practices may lead to risk of injury or death to learners in the training environment or the current (or future) workplace.</li> <li>- Evidence that the training/assessment practices may lead to risk of injury or death to consumers of goods and services produced in the training environment or the current (or future) workplace.</li> </ul> <p>Rectification Timeframe: Up to 10 Days</p>
	Unlikely	<ul style="list-style-type: none"> <li>- Current practices may lead to risk of injury or death to learners and/or staff in the training environment or the current (or future) workplace.</li> <li>- Evidence that training/assessment practices may lead to risk of injury or death to learners in the training environment or the current (or future) workplace.</li> <li>- Evidence that the training/assessment practices may lead to risk of injury or death to consumers of goods and services produced in the training environment or the current (or future) workplace.</li> </ul> <p>Rectification Timeframe: Up to 20 Days</p>
	Rare	<ul style="list-style-type: none"> <li>- Current practices may lead to risk of injury or death to learners and/or staff in the training environment or the current (or future) workplace.</li> <li>- Evidence that training/assessment practices may lead to risk of injury or death to learners in the training environment or the current (or future) workplace.</li> <li>- Evidence that the training/assessment practices may lead to risk of injury or death to consumers of goods and services produced in the training environment or the current (or future) workplace.</li> </ul> <p>For example: No current enrolments in the training product.</p> <p>Rectification Timeframe: Up to 20 Days</p>