

TRAINING ACCREDITATION COUNCIL

APPLICATION OF SANCTIONS POLICY

EFFECTIVE: 9 SEPTEMBER 2021

VERSION: 1.0

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1. PURPOSE

The Training Accreditation Council's (the Council) primary role is to assure the quality of training and assessment delivered in the Western Australian VET sector through effective regulation of providers.

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) and/or meet other criteria required for registration with the Council under the VET Act and its subsidiary legislation - the *Vocational Education and Training (General) Regulations 2009* (VET Regulations).

2. POLICY

For RTOs that fail to comply with the requirements for continuing registration with the Council, the Council may vary, suspend or cancel registration, or impose conditions when registering or varying the registration of a provider (VET Act, Part 7A, Division 1, s.58B).

For the purpose of this policy and its application, the actions to vary, suspend, cancel or impose conditions on a provider's registration will be collectively referred to as 'sanctions'.

This policy outlines the grounds on which the Council may apply sanction/s, the types of sanctions that the Council may apply under the VET Act against an RTO's registration, and the procedure for the application of the sanction/s.

The type of sanction to be imposed on an RTO's registration will be determined by the nature and extent of non-compliance and the degree of risk it presents to students, industry and the VET sector.

3. SCOPE

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

4. DEFINITIONS

Compliance	The requirements of the Standards for RTOs and/or other criteria required for registration have been met based on the evidence reviewed.
Non-compliance	The requirements of the Standards for RTOs and/or other criteria required for registration have not been met based on the evidence reviewed for the audit.
Registered Training Organisation	A training organisation registered by the Council for a defined scope and period of registration.
Registration	A training organisation must be registered by a VET regulator in order to deliver and assess nationally recognised training and issue certification for nationally recognised training products. An RTO is required to meet the Standards for RTOs and/or other criteria required for registration at all times during its registration.

5. GROUNDS FOR APPLYING SANCTIONS

Sanctions on an RTO's registration may be applied by the Council on the following grounds (r.19 of the VET Regulations):

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

6. TYPES OF SANCTIONS

The Council may apply the following sanctions:

CONDITIONS

As provided for under r.13 (3) of the VET Regulations, the Council may impose any of the following conditions when registering or varying the registration of a 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 relates to or limits operations that the provider is authorised to conduct under registration.

VARIATION TO REGISTRATION

As provided for under r.17 of the VET Regulations, the Council may vary a provider's registration by the removal of approved VET qualification/s or approved VET course/s from the provider's scope of registration.

Once removed, the provider ceases to be able to enrol new learners, continue to train or assess existing learners or issue Australian Qualifications Framework (AQF) certification documentation for removed VET qualification/s or VET course/s.

SUSPENSION OF REGISTRATION

The suspension of an RTO's registration (r.19, VET Regulations) 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 (VET Regulations, r.18, r.19) terminates the RTO's registration and the provider ceases to be an RTO.

On cancellation of the registration, the RTO will not be able to advertise, enrol students in, deliver and assess, or certify nationally recognised training.

7. 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.

Where the Council's decision is likely to have a significant impact on the operations of an RTO (for example, where the operations of the organisation may cease following the cancellation of registration) the Council will invite the RTO to meet with the Council.

WHEN COUNCIL'S DECISIONS HAVE EFFECT

A decision of the Council takes effect –

- if no appeal is commenced under section 58G of the VET Act, when the time for commencing an appeal has passed; or
- if an appeal is commenced under section 58G, should the appeal not be allowed under section 58J or is withdrawn; or
- on any later day the Council may specify.

8. REMOVING A SANCTION

An RTO may apply to remove a sanction from its registration (excludes Cancellation of Registration and Variation to Registration). If an audit is required to remove the sanction, a Compliance Monitoring Audit (CMA) may be required and the RTO must apply in writing to the Council to request a CMA.

Please refer to the TAC website for further information on the CMA Policy and Procedure www.tac.wa.gov.au

PROCEDURE FOR APPLYING SANCTIONS

The Council adheres to the following procedure:*

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 Standards for RTOs 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"> • the placement of conditions on the provider's registration; • variation of the provider's registration; • suspension of the provider's registration; and • cancellation of the provider's registration. <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"> • 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 • evidence to show that action has been taken to fully address the identified non-compliance/s.
Step 3	The Council considers the RTO's response, the outcome of the evidence review and, if applicable, the RTO's presentation to the Council.
Step 4	<p>The Council decides, based on the available information provided, to apply or not apply, sanction/s and sets out its reasons for the decision.</p> <p>If the Council decides to apply sanction/s on the RTO's registration, the Council will advise the RTO, in writing, of:</p> <ul style="list-style-type: none"> • the sanction to be applied; • reasons for the decision; • the terms of the sanction; • avenues of appeal against the Council's decision; and • when the decision takes effect. <p>Once the decision takes effect the sanction (regulatory decision) will be published on the National VET Register.</p> <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.

9. SHARING OF INFORMATION

As provided for under the VET Act (Part 4, s.31) audit outcomes and audit reports may be provided to relevant government agencies for secondary purposes that are directly related to, or provide benefit to the Council's primary function of quality assuring vocational education and training.

10. RELATED POLICIES, LEGISLATION AND OTHER RELEVANT DOCUMENTS

Standards for Registered Training Organisations (RTOs) 2015

Standards for VET Regulators 2015

Vocational Education and Training Act 1996

Vocational Education and Training (General) Regulations 2009

Compliance Monitoring Audit Policy and Procedure

11. POLICY REVIEW AND APPROVAL

Council approval is required for this policy.

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

Where amendments following a review are significant and change the overall intent of the policy, the policy will be submitted to the Council for endorsement.

RECORDKEEPING AND PUBLICATION

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

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

12. CONTACT INFORMATION

Manager Regulation

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