ACFIPS Report to Training Services New South Wales
Review of Apprenticeship and Traineeship Act 2001

Summary
Thank you for this opportunity to provide some input into discussions regarding the review of the Apprenticeship and Traineeship Act 2001.

ACFIPS view is that the Apprenticeship and Traineeship Act provides a workable framework for the establishment of Apprenticeships and Traineeships and ongoing oversight.

The Act sets out comprehensive rules and regulations that employers and Apprentices/Trainees must adhere to during the training period. As with any legalistic framework, there are always areas where improvements can be made. Our submission will outline suggestions for improvement where we believe they would be more ‘industry friendly’ and meet the needs of Apprentices and Trainees.

However, it is our view that the Apprenticeship and Traineeship Act cannot be reviewed in isolation.

The VET system is based on the provision of nationally recognised training, a cornerstone of which is nationally consistent qualifications. The current system of training packages and accredited courses has been in place for some time, although changes have been made periodically to address issues that have arisen.

The latest Commonwealth model has an Australian Industry and Skills Committee (AISC) which oversees Industry Reference Committees which are supported by Service Skills Organisations (SSO’s).

The AISC structure is meant to reinforce the role of industry. John Pollaers AISC Chair said that “the focus is on establishing a training package development system that both considers national priorities and is tailored to the needs of individual industries and driven from ground up rather than a one-size fits all approach.”

Apprenticeships and Traineeships are based on the nationally endorsed training packages. From our ITAB perspective we have been able to work within the existing framework to introduce Apprenticeship and Traineeship pathways that have met the needs of industry.

The ICT and Printing Industries are examples of where there have been huge changes in technology. It has required more streamlined and targeted Apprenticeship and Traineeship pathways. In the Printing Industry there has been an emphasis on Digital Technology and we have recently seen improvements in Apprenticeship commencements.

In the case of the ICT industry ‘convergence’ between Telecommunications and IT meant that training packages were consolidated to reflect the convergence of industries and common skills. The previous silo approach has been replaced with one that promotes multi-skillling and job mobility.
In looking at future industry requirements, it was seen that there had been an erosion in the skills base particularly for Telecommunications trades person. An apprenticeship pathway was developed which has led to a dramatic increase in numbers of Apprenticeships in Telecommunications since 29 February 2016.

What these examples illustrate is that the current Apprenticeship and Traineeship framework is flexible enough to accommodate changing requirements of industry and the Commonwealth

Reform objectives
The A key objective of COAG, Industry and AISC is ‘a national system of streamlined industry-defined qualifications that is able to respond flexibly to major national and state priorities and emerging areas of skills needs’.

Issues for consideration

Vocational Training Orders

Are Vocational Training Orders still required?
Yes. You must have some sort of system that takes into account the needs of employers, industry in general and checks the fine detail of the training package qualifications

The reality is that industry, employers and individual students don't think about which qualifications should provide apprenticeship or traineeship pathways.

- Their concerns are about outcomes;
- For industry it is having the right training to meet the needs of the particular industry - for instance are there enough apprentices to meet skills shortages.
- For employers it is having access to well trained and skilled workers.
- For individuals it is having the right training and qualifications that will provide a good job and career opportunities.

A Vocational Training Order is really only a system of checking qualifications and specific units of competency, hours of delivery etc. However, you must have a process and the Vocational Training Order provides an efficient model. Vocational Training Orders or similar process is required

Do Vocational Training Orders restrict innovation?
The answer to this question is that vocational Training Orders do not restrict innovation.

In the case of ACFIPS we can show many examples over the years where the process of the Vocational Training Order has assisted in promoting innovation. Consultation is a key part of the development of Vocational Training Orders. As already mentioned the ICT and Print Industries have Apprenticeships and Traineeships that reflect industry best practice and innovation.

How can we increase flexibility to meet employer or apprentice/trainee needs?
The current ACT is a framework that includes various rules, regulations and compliance mechanisms. It is not a big picture document. As such there needs to be an element to the drafting of the document that encompasses some of the ideas that have been mentioned in various reports and documents to date.
We talk about the linkages between VET and the Tertiary level and in a practical sense there is great movement between the systems. Should the Act more adequately reflect the realities of what is occurring and will only intensify in the future?

Perhaps the ACT could cover Apprenticeships, Traineeships and Cadetships. The Commonwealth is also talking about Internships. The recognition of these extra types of training should be included in the Act.

Make allowance for casual workers to engage with training.

Of critical importance is completions. Overall completion rates are not good across most Traineeships and Apprenticeships. (Some exceptions such as electricians)

What is well known is that pre-apprenticeships, screening i.e. pre-testing, and mentoring can dramatically improve completion levels. These type of program areas should be defined as part of a new Act.

**Do Vocational Training Orders (VTO's) adequately support competency based progression and completion of apprenticeships and traineeships.**

Yes. VTO’s must support competency based progression. It is the basis of Apprenticeships and Traineeships.

As stated previously, VTO’s are an internal department mechanism. Essentially the VTO’s must be based on competency based progression – as this underpins the training package intent. Given that consultation takes place as part of the VTO process, then the fact of competency based progression is reinforced within consultations and underpins the drafting of the VTO.

The average employer would not know or care about a VTO. However, they will come into contact with a representative from the Australian Apprentice Support Network (i.e. Apprenticeship Support Australia- Australian Business or MEGT being two examples) or representative from a Group Training Company or a staff member from one of Training Services NSW regional offices. It is an important part of the sign up process for Apprenticeships and Traineeships that employers are aware of competency based progression. The Training Plan should also reinforce this reality.

**Are there any other ways that the Act or the Department’s policies and procedures could better facilitate flexibility in apprenticeship and traineeship arrangements?**

The uptake of school based traineeships and apprenticeships are still very poor. We have huge needs in ICT workers as an example where we need to increase numbers by 70,000 by 2020. In NSW high schools and TAFE NSW we are showing a declining trend in ICT enrolments. New innovative strategies must be considered.

Re-drafting elements of the Act will not have much effect on this reality. However, removing any administrative barriers to School based Apprenticeships and Traineeships could be a starting point.

Schools should be encouraged to promote more vocational education as only 30% of school students end up going to university.

Employers need to engage more with secondary students
Decisions to take up Apprenticeships and traineeships need to be made in Years 9 and 10. Important STEM years as students may need to select particular subjects in order to succeed in particular Apprenticeship or Traineeship.

Given the use of the word ‘flexibility’ the department should be open to funding innovative projects outside specific models. (This does not relate to the act itself but could be seen as flexible policy initiate)

In years past the department had a special projects funding area. Ideally the reintroduction of something similar could be a boost to increasing numbers of Apprenticeships and Trainees.

A focus should be increasing the take-up of school based Apprenticeships and Traineeships. The Construction Industry Apprenticeship Engagement Forum is an example of a successful industry partnership that has had great success at local levels with a group of High Schools. ACFIPS will be launching the ICT Engagement Forum in 2017 which will focus on a group of schools with the objective of increasing the take-up of ICT Apprentices and Trainees.

**Alternative models for apprenticeships and traineeships.**
The discussion paper summarises a number of models which are already in use in NSW. All have particular advantages.

The pre-apprenticeship can be very effective especially where a candidate may need to be job ready to enter an apprenticeship or traineeship.

A block of institutional training and completion of several competencies followed by the registration of apprenticeship where the learner is given credit for the successfully completed competencies. This can be of particular interest to public providers where there has been particular investment in buildings and teaching resources.

Accelerated apprenticeship for skilled workers – RPL and skills gap training. Very important to a number of industries, especially where there has been a loss of tradespeople due to retirement etc. Skilled workers benefit as well as the employer and the industry in general.

A shortened apprenticeship for workers who have prior qualifications relevant to the trade and which provide credit and shortened nominal term to achieve the trade qualification. Given convergence of technologies in some industries this option can be attractive to individuals and employers.

An apprentice internship for individuals who have completed a qualification through an institutional pathway but want to fulfil on the job training of an apprenticeship.

Although the concept of an internship is worthy it is the practical application that can be a means of exploiting labour. I have seen a number of examples in a variety of industries whereby the individual may gain some work experience, but this does not lead to a real job.

Examples exist in the tertiary sector where large companies offer volunteering opportunities (popular in Finance industries) for graduates – where the interns are largely used as free labour with only a few gaining employment.

I’ve also personally come across a university graduate in Graphic Design that undertook internship which had no job outcome.
Given that one of the selling points of vocational education is that it is competency based and there are real job outcomes – I would not personally like to see the proliferation of internships that do not enhance job outcomes. The Commonwealth has recently announced an internship program that provides incentives for employers plus a payment to interns on top of their existing benefit.

Essentially the range of approaches to delivery of apprenticeships and traineeships that have been listed provide flexibility to individuals and employers.

Strengthening the existing approaches by ensuring they are customer friendly and that unnecessary red tape is removed is preferable than trying to think up new models.

**Are there any international apprenticeship models that are applicable to NSW?**

I have reviewed some documentation on apprenticeship systems in both Germany and the UK.

We can learn some insights from the German and UK models. However, our model has not been static and rather than trying to implement new models some minor improvements can be made.

Overall the Australian model, if implemented effectively provides a flexible system that can deliver the right outcomes for individuals, employers and industry in general.

Failures in the Australian system particularly low completion rates, can be attributed to many factors. Some, but not all factors include; employer non-compliance, inadequate resourcing, lack of pre-testing of candidates prior to sign-up, poor supervision of Apprentices/Trainees in the workplace, No adherence to the Training Plan, poor work attitudes of apprentice/trainee, no mentor support, poor support from RTO, poor management and leadership at the job site.

The Australian Apprenticeship and Traineeship system has been evolving to accommodate the needs of Apprentices/Trainees and industry since the introduction of the Apprenticeship and Traineeship Act of 2001. Essentially the legislative framework has not unduly held back innovation or flexibility.

’T he current Australian Apprenticeship system is characterised by a user choice approach, which offers individuals several pathways to obtaining vocational qualifications at levels II, III or IV qualifications framework. One of the main components of this approach is that apprenticeships and trainees may obtain off-the-job knowledge and practical components not only at TAFE institutes but at any registered training organisation (RTO) with the relevant courses on its scope of registration. RTO’s may include large private companies as well as small not for profit organisations’.

Governments at both the Commonwealth and State levels are looking for industry to play a larger role in the VET system. Empirical evidence points towards significant net investment by Australian training firms at least in the traditional trade sector of the economy.

In Germany there are similarities with our own Apprenticeship system and some features which are very different.

Germany has a more rigid High school structure which effectively streams students from a younger age – similar to when in NSW we had defined Technical High schools with High schools that had a focus on the tertiary level, i.e. University.

In NSW although we have selective High Schools for high achievers, most High Schools follow a pattern whereby schools and careers advisors tend to have a focus on the tertiary level. There is an
emphasis on an Attar ranking for final Year 12 students to gain admission to university after leaving school.

Despite major changes in job roles and technology about 60% of school leavers in Germany enrol in an Apprenticeship.

Although Germany is a federation there is a standard system for all of Germany. The Federal Institute for Vocational Education and Training has a tripartite governing board. This board has responsibility for modernisation of training occupations. This has meant that the new service industry and technology sectors have been brought into the Apprenticeship system.

Within the Australian system we have tended to see Apprenticeships as the preserve of traditional trades and have expanded Traineeships to cover service sectors and other emerging technology based areas of employment.

One of the current criticisms of the Australian system is that traineeships often don’t have the same rigor of training/assessment, or support from employers. Whereas there is a long tradition of traditional trades seeing investment in training apprenticeships, a number of employers in other sectors see trainees as part of their overall strategy to contain labour costs.

The German system currently has 330 Apprenticeship occupations in all sectors provided by the ‘dual system’ which combines in company training of about 3 days with off the job vocational training of 2 days in a working week. The content of company training is defined in a training regulation which is legally binding in Germany for every company involved in training apprentices. The average term for an Apprenticeship in Germany is 30 -36 months. German firms also invest an average of $10,800 per apprentice for training.

The British system seems to share some of the features of the German and Australian systems with some distinct features. The UK Government undertook a review of their apprenticeship system in November 2012. The review lead by Doug Richard made a number of recommendations to make the program more rigorous and more responsive to employer’s needs.

The main focus in the UK are new entrants – young people over the age of 16 years. It is a competency based system with employers being the key driver. All apprentices must have reached Level 2 in English and Maths before they can complete their Apprenticeship.

The UK model of Apprenticeships is being progressively introduced now and some changes to be implemented in 2017-2018. There are a number of radical changes that have not been fully implemented. These include industry levies to increase funding and the introduction of high level Apprentices especially in Science and Engineering.

Degree Apprenticeships bring together the best of higher and technical education. Apprentices can achieve a full Bachelor or Master’s Degree as part of their apprenticeship. There is a trail blazes program which is really about various groups undertaking change management strategies to bring about the implementation of the new Apprenticeship model. Industry is given the key role of oversight in this system.

An independent Institute for Apprenticeships is being formed to regulate and oversee the quality of Apprenticeships. The Chair will lead a small board made up primarily of employers and business leaders to ensure that employers continue to drive up apprenticeship quality to the highest level.
There are more commonalities than differences between the three Apprenticeship models in NSW, Germany and UK. What we can learn from the German and UK

Industry plays a major role in all systems. In the case of the UK the new model strengthens the role of industry. In the Australian system the Commonwealth is trying to strengthen industry involvement.

Within the UK the concept of Apprenticeships that also incorporate tertiary qualification is also being implemented. This is an interesting concept given huge changes in technology and need for specialist skilled workers.

A characteristic of the NSW Apprenticeship and Traineeship is its flexibility. We have an ability to include pathways for mature students and have options for those that are in the workforce and looking to upgrade their skills to a trade or certificate through a combination of RPL and Skills Gap training.

**Is the current apprenticeship model of an integrated program of paid work, on the job training and attainment of the relevant qualification still relevant?**

Yes. The basic concept of an Apprenticeship or Traineeship is still valid. The idea of ‘learn while earn’ is very attractive to many young people. Unfortunately, the image and marketing of Apprenticeships Traineeships has not been as effective as the idea of going to University for many students and their parents.

**Does the Act or do the Departments policies and procedures create any barriers?**

The reality is that the people most interested in the provisions of the Act are those who work directly with the Act. Employers, Apprentices or Trainees would have the vaguest idea of its existence.

There are probably a number of barriers in the Act that need to reviewed. The ACT is a regulatory framework. What is needed in addition to the Act is a plain English document that spells out a few key points that are easily understood by employers wanting to take on Apprentices/Trainees. Equally Apprentices should understand the nuts and bolts of an Apprenticeship/Traineeship (their obligations, employer obligations) and know who to talk to if they are in trouble.

Simplification of rules around School based Trainees and Apprentices also needs to be undertaken. In addition, within the Schools structure itself there are barriers within the Schools administration that makes it difficult for those seeking to take up schools based Apprenticeships and Traineeships.

**Should casual employees be able to enter into training contracts for an apprenticeship or traineeships?**

Yes. The reality of the labour market is that there has been a huge growth in casual employment. Unless casual employees have access to training they will be marginalised within the labour market.

**Should independent contractors be able to undertake an apprenticeship if they are able to nominate an independent qualified person as a supervisor.**

There should be a provision that allows independent contractors to undertake an apprenticeship. The ICT industry and particularly Telecommunications is an example of an industry where there are large numbers of independent contractors employed.
The roll out of the NBN is an example of this reality. Many people are hired to undertake specific roles such as cabling. Once the contract for cabling is completed in a particular area they may find themselves unemployed. Given the needs for ICT skills in general there is a need to provide any opportunities for individuals to build their skills and for the economy to benefit from more highly skilled workers.

Are there any measures that could be taken to simplify the current process of establishing Apprenticeships or traineeships?

The current system whereby VTOs establish Apprenticeships and Traineeships works quite effectively. Any new process would have to look at the same elements, and would also need the consultative mechanisms with Industry that NSW ITABs provide.

Is there a need for the Act to deal with the roles and responsibilities of a third party acting on the employer’s behalf in relation to the establishment of apprenticeship or traineeship arrangements?

The Act should reflect the real work situations. If there are roles that third parties are acting on employer’s behalf in relation to the establishment of apprenticeship or traineeship arrangements, then they should be recognised within the regulatory framework.

Training contracts are binding

Is it appropriate to maintain the classification of trainee apprentice? My own view is that the classification of ‘trainee apprentice’ is not appropriate. However, it should be up to the construction industry itself to provide comment as to whether this is still appropriate.

Roles and responsibilities

In regard to the issues for consideration I will only make a couple of general comments.

As to the Apprenticeship and Traineeship Act 2001 it is essentially a government document that must be drafted in a particular style and must cover various legal considerations of Apprenticeships and Traineeships. It is the nature of such documents to be prescriptive.

Documents that promote Apprenticeships and Traineeships should be written in plain English and convey the key elements of Apprenticeships and Traineeships.

The development of the Training Plan

The development and maintenance of a training plan is an important tool in setting out training that the apprentice/trainee will undertake. It sets out where training will be delivered and how assessments will occur. Importantly it reinforces competency based training and how the apprentice trainee will be deemed competent. It is a collaborative document between apprentice/Trainees, Employer and RTO.

It is not a question of any barriers to or impediments. The training plan is meant to be used and should be used.
The Act needs merely to outline that the Training Plan is an important tool and is required to be used.

The current policy is adequate. What is required is the reinforcement that a Training Plan is a requirement of the Apprenticeship or Traineeship.

**Cancellation of Apprenticeships and Traineeships**

The submission paper has already identified a list of instances where an Apprenticeship or Traineeship may need to be cancelled. Given that this list is based on situations that may have already occurred then the cancelation provisions of the Act should reflect the reality.

The legal draftspersons should include the list of circumstances already identified in the submission and add in the appeal processes as identified;
subject to the affected parties given the opportunity to;
Make representations etc.
Show cause etc.

**Certification**

I have not personally been involved in any situations with Craft Certificates so cannot comment

**Registration of group training organisations**

In regard to Group Training Organisations I am not in a position to comment on the issues of consideration. As an ITAB we are supportive of the role undertaking by Group Training Organisations.

**Dealing with disputes, complaints, appeals**

ACFIPS has not been involved with any instances of disputes, complaints or appeals over the past years. As such any comments are offered in a general sense.

Mediation to resolve any issues should be the preferred option for dealing with disputes. Training Services NSW should have an appropriate mediation process. Training Officers should be empowered to review without the need to refer to the Review Panel especially for minor disputes.

In terms of dealing with disputes processes should be streamlined, so if for instance the NSW Civil and Administrative Tribunal act as the body to resolve complaints then there is no reason to maintain a duplicate body VTRP.

In general, if for instance the Training Plan is central to success of Apprenticeship completions and an RTO is failing to meet their obligations regarding an Apprenticeship/Traineeship then there should be a mechanism to deal with this issue under a disputes process.

**Sanctions**

ACFIPS has not had any experience in this area. The only comment I would make is that for sanctions to be effective they need to reflect the level of the ‘crime’. Sanctions should work hand in hand with the Disputes process. You should grade the sanctions from misdemeanor to the highest level.
For instance, an RTO that has failed to complete the Training Plan may be issued with a fine in the first instance. The examples listed in the submission paper, prohibition, suspension/limitation, monetary fines or financial restitution are good places to start.

**Trades Recognition**
Our ITAB has not been involved in the Trade Skills Recognition area so cannot offer any comments.

**Conclusion**
In regard to the review of the Apprenticeship and Traineeship Act we have offered a number of suggestions that may improve the Act.

However, the Act is only a regulatory framework. Overall the NSW Apprenticeship and Traineeship model, if implemented effectively provides a flexible system that can deliver the right outcomes for individuals, employers and industry in general.

Failures in the NSW system particularly low completion rates, can be attributed to many factors. Some, but not all factors include; employer non-compliance, inadequate resourcing, lack of pre-testing of candidates prior to sign-up, poor supervision of Apprentices/Trainees in the workplace, No adherence to the Training Plan, poor work attitudes of apprentice/trainee, no mentor support, poor support from RTO, poor management and leadership at the job site.

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