



# Smart and Skilled Operating Guidelines

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# Smart and Skilled

## Operating Guidelines

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## Introduction

The Operating Guidelines are part of the Contract and should be read in conjunction with the remainder of the Contract, including:

- the Contract Terms and Conditions; and
- the Fee Administration Policy.

The Operating Guidelines may be added to, amended or replaced from time to time.

The Dictionary and Interpretation provisions of Schedule 1 of the Contract Terms and Conditions apply to the Operating Guidelines. In addition the following definitions apply:

**eReporting** has the meaning given to it in paragraph 18

**Smart and Skilled website** means the Department's website hosted at [www.smartandskilled.nsw.gov.au](http://www.smartandskilled.nsw.gov.au).

## 1. Marketing and information on Smart and Skilled

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### 1.1. Marketing of Smart and Skilled

The Provider can only market, publicise or otherwise communicate in connection to Smart and Skilled in accordance with the Contract.

All marketing, promotional, communication and information materials used by the Provider related to Smart and Skilled (including the Provider's Approved Qualifications) must display the Provider's legal name and code as displayed on the national register, [training.gov.au](http://training.gov.au).

The Provider must develop and implement strategies for the effective marketing and promotion of Smart and Skilled including all of their Approved Qualifications. These strategies must not rely solely on activities undertaken by the Department and via the Smart and Skilled website for promotion.

*Record keeping obligation: The Provider must keep a copy of these strategies and all marketing and promotion materials to demonstrate implementation of the strategies.*

The Provider must take steps to ensure that any Prospective Student, who may be reasonably considered to be eligible to receive Subsidised Training, is properly informed about the availability of Subsidised Training under Smart and Skilled. This must be done as soon as practicable after the Prospective Student contacts the Provider.

*To be clear, the Provider has no obligation to market or promote any Approved Qualifications where the Financial Cap has been or is likely to be exceeded.*

### 1.2. Department intellectual property

The Provider may not use any logo, product names, icons, trademarks or other intellectual property of the Department, or the NSW Government, including in connection with Smart and Skilled without written permission from the Department or the NSW Government and subject to any guidelines that are issued from time to time.

### 1.3. Acknowledgement of source of subsidies and restrictions on promotion

The Provider must explicitly acknowledge in marketing and information for Prospective Students the availability of subsidies from the NSW Government.

In any communications about Smart and Skilled (including regarding Approved Qualifications) the Provider must use the statement:

*'This training is subsidised by the NSW Government.'*

The Provider cannot suggest, or allow there to be any misunderstanding, that the Subsidised Training is 'free of charge', discounted or subsidised by the Provider or any other third party.

Smart and Skilled will enable students to select a Provider based on considerations regarding quality, not price. The Provider must not, and must ensure that its agents and contractors do not, market, publicise or otherwise communicate information about the training or engage in any other conduct that

may have the effect of encouraging students to choose a Provider based on price or other inducements (including any financial or other benefit).

To be clear, this includes the following types of inducements (including any gift, financial or other benefit):

- (a) the provision of an electronic device (e.g. tablet or an iPad) that is not specifically required to receive the Subsidised Training
- (b) an inducement to enrol by a particular date; or
- (c) an inducement to refer any students to the Provider.

#### 1.4. **Provider website**

The Provider must maintain a current and accurate website. The homepage of the Provider's website must contain a direct link to the Smart and Skilled website so that any person accessing the Provider's website should be able to easily and directly navigate to the Smart and Skilled website.

The Provider's website should include the following:

- (a) the details of all of the Provider's Approved Qualifications
- (b) details of the Notification of Enrolment Process and the Provider's enrolment process including the information and evidence that the student must provide (such as, all consents and declarations the student must make) together with details of when such information and evidence is required as set out in paragraph 6
- (c) the process for obtaining a Unique Student Identifier; and
- (d) the Student Information in accordance with paragraph 5.2.

#### 1.5. **Requirement to maintain data**

The Provider must maintain data stored by the Department about its organisation and its Approved Qualifications through the Portal. The data required includes information associated with:

- (a) personnel and course delivery;
- (b) Notification of Enrolment;
- (c) eReporting;
- (d) training delivery and assessment, and
- (e) insurances.

Portal is defined in Schedule 1 of the Contract Terms and Conditions and includes the secure website hosted at [www.training.nsw.gov.au/about\\_us/login.html](http://www.training.nsw.gov.au/about_us/login.html) and any other websites, portals or systems made available to the Provider by the Department in connection with this Contract.

The Department may publish the information provided on the Smart and Skilled website to inform Prospective Students about the Approved Qualifications

available under Smart and Skilled. The Provider consents to the Department using the information in this way.

Information regarding the Provider which may be published on the Smart and Skilled website includes:

- (a) name (legal or trading) and national code
- (b) website address and logo
- (c) contact details for general enquiries and specific delivery locations
- (d) whether the Provider is a VET Student Loans Program Approved Provider
- (e) delivery sites and regions
- (f) delivery modes (work based, classroom, online/correspondence or mixed mode)
- (g) attendance modes (full time, part time, block release or flexible (which includes self-paced)); and
- (h) indication of the facilities available at the delivery sites (child care, disability access and/or learning resource centre).

The additional data that must be maintained by the Provider but is not published by the Department includes the details of:

- (i) the payment process elected by the Provider (electronic funds transfer or cheque)
- (j) the bank account that payments under the Contract are to be sent to or address to which cheques are to be sent
- (k) email addresses to receive recipient created tax invoices (RCTI) and remittance advices
- (l) the Provider's Representative
- (m) persons with organisational control of the Provider (such as major shareholders, directors, managing partners, member of the board of management, trustees, owners, or senior government representatives); and

*To be clear, the obligations in clause 32 (Change in Control) of the Contract Terms and Conditions and in paragraph 22 below may apply to a change of persons with organisational control.*

- (n) senior management team (such as chief executive officer\*, institute director, officer (as defined by the *Corporations Act 2001* (Cth)), general manager, finance director or financial controller, operations director or manager, chief compliance manager or site, centre or branch managers, or senior government representative).

The Provider must ensure that the information provided is current, complete and accurate. In particular, the Provider is to develop and implement strategies to



ensure that the information on the Smart and Skilled website is constantly reviewed and updated so that published information is accurate.

The Provider must follow instructions provided by the Department on how to provide and maintain the information published on the Smart and Skilled website.

*\*Note: The details of the chief executive officer are taken from the Provider's details on [training.gov.au](http://training.gov.au). The Provider must ensure these details are correct. The Provider must contact ASQA to request changes to the details of the chief executive officer.*

### 1.6. **Provider's Representative**

The Provider's Representative is the operational point of contact for the Provider and must have the knowledge and information to be able to answer the Department's questions about contract related issues. The Department will address operational correspondence to the Provider's Representative (with the exception of correspondence relating to matters that have been escalated to the Provider's chief executive officer and RCTIs and remittance advices). The Provider's Representative must have a level of authority to provide any requested information to the Department and to make commitments on behalf of the Provider.

## 2. **Access to training**

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The Provider will provide for all Prospective Students all reasonable opportunity to enroll and undertake learning opportunities and outcomes in an environment free from discrimination and harassment.

The Provider must not discriminate between Prospective Students when accepting enrolment for Approved Qualifications. The Provider will treat all students fairly and equitably in accordance with all relevant legislation.

More information on Australia's anti-discrimination laws can be found at: [www.austlii.edu.au/au/legis/nsw/consol\\_act/aa1977204/](http://www.austlii.edu.au/au/legis/nsw/consol_act/aa1977204/)

### 2.1. **Report wellbeing of under 18 year olds**

The Provider must report concerns about the safety, welfare and well-being of students protected under the *Child Protection (Working with Children) Act 2012*, to the NSW Department of Family & Community Services in accordance with the legislative requirements.

### 2.2. **Child-related screening**

The Provider must conduct, as and when required, the appropriate child related employment screening of employees, agents or individuals engaged by the Provider, in accordance with the requirements established by the Office of the Children's Guardian or their successors. The following link is to the process that the Provider must undertake:  
[www.kidsguardian.nsw.gov.au/Working-with-children/working-with-children-check](http://www.kidsguardian.nsw.gov.au/Working-with-children/working-with-children-check).

The Provider must adhere to the *Child Protection (Working with Children) Act 2012* and the *Child Protection (Working with Children) Regulation 2013* found at: [www.legislation.nsw.gov.au/inforcepdf/2012-51.pdf?id=ce1a6392-786e-627e-f060-ba23ea2bf2f3](http://www.legislation.nsw.gov.au/inforcepdf/2012-51.pdf?id=ce1a6392-786e-627e-f060-ba23ea2bf2f3) and [www.legislation.nsw.gov.au/inforcepdf/2013-156.pdf?id=8dfc7213-b8a8-eb5e-cd03-bc106883e742](http://www.legislation.nsw.gov.au/inforcepdf/2013-156.pdf?id=8dfc7213-b8a8-eb5e-cd03-bc106883e742)

### 2.3. Disadvantaged students

Disadvantaged students may include those people who are eligible for a Needs Loading including Australian Aboriginal or Torres Strait Islander people, people with a disability and individuals who are long term unemployed. However, the Provider may identify other students who are also disadvantaged for a variety of reasons.

The Provider must make all reasonable effort to make adjustments to support the special needs of disadvantaged students. The Provider must inform such students how it will plan, deliver and assess training to take into account these special needs.

If the Provider does not have the resources to offer a student with special needs the support they require, it is the responsibility of the Provider to:

- (a) make adjustments to accommodate the special needs; or
- (b) assist the student in locating another Provider who can offer Subsidised Training that has the necessary resources.

The Provider must comply with the Disability Standards for Education found at <https://education.gov.au/disability-standards-education>.

### 2.4. Training to meet student's needs and requests

The Provider, when advising a Potential Student on the most suitable Qualification, must take into account the Potential Student's requests, the appropriate pathway to achieve the Potential Student's goals and the Potential Student's abilities.

The Provider must not direct Potential Students towards certain Approved Qualifications to best suit the Provider. The Provider must ensure that Training in all of its Approved Qualifications is available to Potential Students and must enrol Potential Students in the most appropriate Approved Qualification for the Potential Student.

The Department will take into account the Provider's compliance with this obligation when offering future Approved Qualifications Activity Schedules.

## 3. Provider Consumer Protection Policy

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### 3.1. Provider Consumer Protection Policy

The Provider must develop and implement their own consumer feedback and complaints handling policies, procedures and systems (the **Provider Consumer Protection Policy**).

The Provider Consumer Protection Policy must:

- (a) be in line with ASQA requirements under the VET Quality Framework, the Consumer Protection Strategy and the Contract
- (b) be clear and accessible
- (c) set out the student's rights relevant to consumer protection

- (d) set out how the Provider will manage and respond to queries, complaints or allegations (including any queries, complaints or allegations involving the conduct of any member of the Provider's staff or subcontractors)
- (e) set out how the Provider will ensure timeliness of investigation and response; and
- (f) identify a dedicated consumer protection officer and make their contact details readily available.

### 3.2. **Consumer Protection Information**

The Provider must make the following information available to students:

- (a) the Provider Consumer Protection Policy (including the contact details of the consumer protection officer)
- (b) the Consumer Protection Strategy; and
- (c) the contact details for the Department's Customer Support Centre (as provided by the Department from time to time),

(the **Consumer Protection Information**).

## 4. **Fee Information**

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The Provider must develop and implement its own policies and processes in relation to Fees in accordance with the Contract (in particular the Fee Administration Policy) (the **Fee Information**).

## 5. **Information pre-enrolment**

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### 5.1. **Unique Student Identifier (USI)**

- (a) The USI may be used for:
  - (i) the Notification of Enrolment Process; and
  - (ii) reporting Training Activity Data to the Department,
 with the consent of the student in accordance with paragraph 6(a).
- (b) The Provider must:
  - (i) assist students to apply for a USI from the Student Identifiers Registrar (as defined in the legislation) (including publishing on the Provider's website, information for students on how to obtain a Student Identifier); or
  - (ii) apply to the Student Identifiers Registrar for a Student Identifier to be assigned to a student (if authorised by the student to do so).
- (c) The Provider must ensure that every Prospective Student sets their access controls in relation to their USI to allow the Department and the Provider the appropriate levels of access to their USI records.

- (d) The Provider must request the Student Identifiers Registrar to verify that an identifier is the USI of that student prior to using it or providing it to the Department.

## 5.2. Student Information

The Provider must ensure that all Students considering enrolling in Subsidised Training receive, or are aware of how to access, certain information, either electronically or in hard copy form before enrolment which is designed to make these students aware of policies relating to their training, including their rights and responsibilities and avenues for complaint (the **Student Information**).

The Student Information must include:

- (a) the Fee Information (see paragraph 4)
- (b) information regarding Recognition of Prior Learning, Credit Transfer, deferring or discontinuing Subsidised Training (including any implication on fees)
- (c) VET Student Loans Program Information (if applicable) (see paragraph 20)
- (d) Consumer Protection Information (see paragraph 3.2)
- (e) Subcontractor Information (if applicable) (see paragraph 21.5)
- (f) what the Enrolled Student should do if they want to defer or discontinue their Training
- (g) how to access support and assistance during the training; and
- (h) contact details for various support services within the Provider, e.g. interpreter services.

## 6. Notification of Enrolment Process

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*The following process applies to the notification to the Department of the enrolment in Subsidised Training of eligible Prospective Students. This process does not apply to the School Based Apprenticeship and Traineeship Program.*

The Provider must adhere to the eligibility criteria for students, outlined in the Contract which can be found in Schedule 2 of the Contract Terms and Conditions.

The Provider must only carry out notifications of enrolment via the Portal in accordance with the following process (the **Notification of Enrolment Process**):

- (a) **(Consent)** the Provider must first obtain the consent of the Prospective Student to the Department's use of the Prospective Student's information by:
  - (i) the Prospective Student signing or electronically accepting (including by ticking a check box) a consent form that includes the wording set out in Schedule 1 of these Operating Guidelines or
  - (ii) the Prospective Student verbally providing their consent provided that a consent statement is recited to the Prospective Student or is made available for the Prospective Student to read

*To be clear, if the Prospective Student does not provide their consent, the Provider must not proceed with the Notification of Enrolment Process.*

*The wording set out in Schedule 1 of these Operating Guidelines has been drafted for the purpose of allowing the Provider to provide personal information collected from students to the Department for use by the Department and other government agencies, including those in other States and Territories in Australia. The disclosure should be in addition to the Provider's other notification and disclosure obligations in relation to privacy and does not relieve the Provider of its responsibilities under the Privacy Act and other applicable privacy laws. The Provider must use the exact wording in the attached form but may incorporate this wording in its own notification/consent forms or use the form as an additional disclosure/consent.*

- (b) **(subcontractor)** if the Provider has approval from the Department for any part of the Approved Qualification to be delivered by a subcontractor, the Provider must notify the Prospective Student (and any relevant employer) of the subcontracting arrangement
- (c) **(Provider Calculator)** the Provider must use the Provider Calculator to validate eligibility, input details of any Credit Transfers or Recognition of Prior Learning and generate details of the Fee chargeable and the applicable Subsidy together with any Loadings (if applicable). The Provider must provide the Prospective Student with details of the Fee chargeable
- (d) **(Notification of Enrolment Report – Provider Copy)** the Provider should generate and maintain a hard copy or electronic copy of the Notification of Enrolment Report – Provider Copy that can be referred to where the Fee and Subsidy is adjusted after the Commitment ID is issued.
- (e) **(prospective student declaration)** the Provider must confirm that the Prospective Student has signed or electronically accepted a declaration confirming:
  - (i) all information provided by the Prospective Student to the Provider, in connection with the Notification of Enrolment Process is true, accurate, complete and not misleading in any way
  - (ii) the Prospective Student is aware of any subcontracting arrangements (if applicable); and
  - (iii) the Prospective Student had been provided with the details of the Fee chargeable and the Student Information.

Successful completion of the Notification of Enrolment Process will result in the issue of a Commitment ID.

The Notification of Enrolment Process must be carried out simultaneously with the Provider's enrolment process and must be completed before the Provider delivers any Training to the student.

## 7. Credit Transfer and Recognition of Prior Learning

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*The Provider must note the difference between a Credit Transfer and Recognition of Prior Learning and ensure that the correct process is carried out and the correct UoC Outcome Code is reported.*

### 7.1. Credit Transfer

The Provider must comply with the VET Regulator's guidelines in connection with granting Credit Transfers.

*Record keeping obligation: When granting Credit Transfer, the Provider must obtain and keep all the evidence used to establish Credit Transfer. This includes the student's Statement of Attainment or transcript and any of the evidence types listed in paragraph 17.8.*

*Reporting obligation: To report a Credit Transfer, the Provider must use the UoC Outcome Code 60. The start and end dates should reflect the date of granting Credit Transfer.*

### 7.2. Recognition of Prior Learning

The Provider must ensure that its Recognition Process aligns with the NSW Recognition Framework as published from time to time.

Recognition of Prior Learning for Apprenticeships and Traineeships must comply with all Applicable Laws, including the Apprenticeship and Traineeship Act 2001.

*Record keeping obligation: Providers must maintain records for all Subsidised Training and for all Enrolled Students as evidence of Recognition of Prior Learning. This can include any of the types of evidence listed in paragraph 17.8.*

*Reporting obligation: To report a Recognition of Prior Learning, the Provider must use the UoC Outcome Code 51. The dates should reflect the start and end dates of the Recognition of Prior Learning process.*

## 8. Deferring students

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If an Enrolled Student indicates that they wish to defer Subsidised Training in an Approved Qualification, the Provider must make every effort to assist Enrolled Students to continue training where possible. The Provider must develop and implement strategies that accommodate Enrolled Students who wish to defer their Subsidised Training. If the Enrolled Student proceeds with the deferral of Subsidised Training in an Approved Qualification, the Provider may only permit a deferral or deferrals totalling no more than 12 months from the date of receipt of notice from the Enrolled Student. The Provider must advise students of the Fee implications of deferring their Subsidised Training in accordance with the Fee Administration Policy.

*To be clear, an Enrolled Student must start within 12 months of enrolment despite any deferrals.*

Enrolled Students who do not recommence Subsidised Training within a 12 month period of deferral must be reported as discontinuing Subsidised Training in accordance with paragraph 9 below.

*Reporting obligation: The Provider must submit the relevant Training Activity Data (including reporting Code D) and update:*

- *the end dates for any Unit of Competency for which a UoC Outcome Code of 70 has been reported; and*
- *the start date and end date for any Unit of Competency which has not been Commenced.*

*Record keeping obligation: The Provider must keep records of all requests for/notices of deferral or keep a file note or log of such requests/notices together with evidence of all deferrals made.*

*To be clear, a student who wishes to recommence training after discontinuing an Approved Qualification must be treated as a new student and the Notification of Enrolment Process must be carried out.*

## 9. **Discontinuing students**

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If an Enrolled Student indicates they wish to discontinue their Training in an Approved Qualification without completing the Approved Qualification, the Provider must first ascertain if the reason for discontinuing relates to the performance of the Provider including in respect of the delivery of Subsidised Training. If that is the case, the Provider must ensure that reasonable efforts are made to address concerns of the Enrolled Student related to the delivery and assessment of training. If the Enrolled Student proceeds to discontinue their Training, the Provider must:

- (a) attempt to obtain formal notification from the Enrolled Student of the date the Training will end
- (b) comply with the Fee Administration Policy including with respect to the refund of any applicable Fee
- (c) issue the Enrolled Student with a Statement of Attainment and associated transcript for completed Units of Competency within 30 days of notification of the discontinuance
- (d) update the Training Plan listing all Units of Competency where an outcome has been achieved, commenced but not completed and/or not commenced
- (e) provide the updated Training Plan to the Enrolled Student
- (f) return results of any outstanding completed training activities and/or assessments to the Enrolled Student
- (g) for Apprentices or Trainees, notify the local Training Services NSW Regional Office within 14 days of notification of the discontinuation of Training; and
- (h) submit Training Activity Data to finalise the record and, if eligible, receive any further payments or Subsidies and Loadings.

*Reporting obligation: The Provider must submit the relevant Training Activity Data (including reporting Code TNC).*

*Record keeping obligation: The Provider must keep records of all requests for/notices of discontinuation or keep a file note or log of such requests/notices together with evidence of all discontinuations made including evidence that the Provider fulfilled its obligations above.*

*To be clear, the Provider must not report the UoC Outcome Code 40 (Withdrawn) for any Unit of Competency in which the Enrolled Student did not Participate in Subsidised Training.*

## 10. Transferring students

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### 10.1. Transfer Out Process

If there is to be a transfer out of an Enrolled Student, the Provider will provide advice to the Enrolled Student as soon as practically possible.

Where the Enrolled Student elects to transfer out, the Provider must follow paragraphs 10.1(c) to 10.1(h).

In the event that the Provider's Smart and Skilled Contract is terminated or suspended the Transfer Out Process must be commenced prior to the termination of the Contract and/or ending the delivery of Subsidised Training to the relevant Enrolled Student.

The Provider must comply with all directions from the Department in relation to the transfer out of students.

The advice to the Enrolled Student and actions of the Provider will include:

- (a) the date of forthcoming termination of the Contract or of ending the delivery of Subsidised Training
- (b) options for continuing training, which may include:
  - (i) referring the Enrolled Student to the Smart and Skilled website to identify an alternative RTO who can provide Subsidised Training (an **Alternative Provider**)
  - (ii) referring the Enrolled Student to the local Training Services NSW Regional Office for assistance
  - (iii) the Enrolled Student opting to remain with the Provider and continue training on a "fee-for-service" basis (that is without the benefit of Subsidies); or
  - (iv) the Provider suggesting an alternative Provider.
- (c) fee arrangements for transferring Enrolled Students (in accordance with the Fee Administration Policy)
- (d) issuing of Statements of Attainment/Qualification credentials reflective of their actual training and assessment progress to date
- (e) issuing an updated Training Plan listing all Units of Competency where an outcome has been achieved, commenced but not completed and/or not commenced



- (f) ensure all current Enrolled Students in training receive any refunds owed in accordance with the Fee Administration Policy
- (g) return results of any outstanding completed training activities and/or assessments to the Enrolled Student; and
- (h) submit Training Activity Data to finalise the record and, if eligible, receive any further payments of Subsidies and Loadings.

*Reporting obligation: The Provider must submit the relevant Training Activity Data (including reporting Code TNC if applicable). If the Enrolled Student is an Apprentice or Trainee, the Provider must follow the process required for the change of RTO named on the Training Contract.*

*Record keeping obligation: The Provider must keep records of all requests for/notices of discontinuation or keep a file note or log of such requests/notices together with evidence of all discontinuations made including evidence that the Provider fulfilled its obligations above.*

## 10.2. **Transfer In Process**

A student transferring in to the Provider should be treated as a new student and the Provider must carry out the Notification of Enrolment Process (the **Transfer In Process**).

As described in the Fee Administration Policy, the Provider may need to contact the Department to determine the Fee.

*Reporting obligation: If the Enrolled Student is an Apprentice or Trainee, the Provider must follow the process required for the change of RTO named on the Training Contract as part of the Transfer In Process.*

## 11. **Training and assessment compliance**

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### 11.1. **VET Quality Framework**

The Provider must comply with the requirements set out in the VET Quality Framework, including the Standards for National VET Regulator Registered Training Organisations.

The Provider must apply the principles within the VET Quality Framework, and keep up to date with any changes to the VET Quality Framework.

### 11.2. **Vocational Training Order requirements**

The Provider must deliver Subsidised Training that is in accordance with the relevant Vocational Training Orders for Enrolled Students undertaking Apprenticeships and Traineeships.

A Vocational Training Order is the legal instrument that establishes an Apprenticeship or Traineeship in New South Wales. The Vocational Training Order specifies the qualification, nominal term of the Apprenticeship or Traineeship, probationary period and any other conditions relating to the Apprenticeship or Traineeship.

Copies of Vocational Training Orders (grouped by industry) are available as attachments to the Commissioner's Information Bulletin on the Training Services NSW website at: [www.training.nsw.gov.au/cib\\_vto](http://www.training.nsw.gov.au/cib_vto).

## 12. Industry engagement requirements

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The Provider is expected to engage with industry, which includes engaging with Employers, industry associations and/or specific enterprises.

Consistent with Training Package Qualification requirements, the addition of industry and/or organisation-specific information to a Unit of Competency to address the standard of performance required in the workplace will improve the outcomes associated with training and assessment.

This engagement will see the Provider confirm with industry that the program of training and assessment (including content, structure, duration, training and assessment materials, trainers and assessors, and other resources and components) will result in individuals who are equipped with the ability to participate in the industry.

Industry engagement will also support trainers and assessors to maintain vocational competence and comply with the requirements of SNR 4.4 and SNR15.4 in the Standards for National VET Regulator Registered Training Organisations, and the National Skills Standards Council determination. The determination can be found at:

<https://docs.education.gov.au/system/files/doc/other/determinationfortrainerandassessorcompetencies.pdf>.

### 12.1. Participating in industry networks and partnerships

Industry engagement can be facilitated by partnerships with NSW Industry Training Advisory Bodies, Industry Skills Councils, and employer industry associations, and by consulting at the enterprise or organisation level.

The Provider is expected to participate actively in industry networks and partnerships to ensure the relevance and quality of their training and assessment services.

### 12.2. Industry Training Advisory Bodies

Industry Training Advisory Bodies in collaboration with Training Services NSW may:

- (a) help to communicate new arrangements under Smart and Skilled
- (b) promote training, including Apprenticeship and Traineeship training, to industry and advise on what training is available under Smart and Skilled
- (c) broker workforce development and training solutions; and
- (d) sponsor and promote skills development and career pathways in industry areas.

Training Services NSW can provide information and advice to Providers on industry engagement, workforce development and training options, and bring together experts from other sources into an effective partnership.

*Record keeping obligation: The Provider must maintain evidence to demonstrate how it is engaging with industry.*

## 13. Training Plans

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### 13.1. Enrolled Students (except Apprentices and Trainees)

The Provider must develop a Training Plan for each Approved Qualification that an Enrolled Student (except an Apprentice or Trainee) is receiving Subsidised Training in under the Smart and Skilled Entitlement Foundation Skills Program, the Smart and Skilled Entitlement Full Qualification Program and the Smart and Skilled Targeted Priorities Program within 12 weeks of Commencement. The Training Plan should:

- (a) include name and contact details of the Provider
- (b) specify and direct the training activity for both the Provider and the Enrolled Student
- (c) include details of the support services that Enrolled Students will receive from the Provider including if they:
  - (i) are Australian Aboriginal or Torres Strait Islander
  - (ii) have a disability; or
  - (iii) are long-term unemployed
- (d) include any Recognition of Prior Learning and/or Credit Transfer granted
- (e) comply with the relevant Training Package Qualification requirements relating to training delivery and assessment, and include the following information:
  - (i) name, code and Australian Qualifications Framework level of the Approved Qualification (including Training Plans for Smart and Skilled Targeted Priorities Prevocational and Part Qualifications)
  - (ii) name and code of Units of Competency to be attained
  - (iii) scheduled hours for each Unit of Competency to be attained
  - (iv) the proposed timeframe for achieving competency including the intended start date and end date of each Unit of Competency
  - (v) delivery modes to be used for each Unit of Competency
  - (vi) details of any customisation included to respond to the needs of the Enrolled Student and/or work locations and/or Employers
  - (vii) proposed learning strategies and resources that are appropriate for the Enrolled Student; and
  - (viii) names of individual(s) responsible for the training and/or assessment of each Unit of Competency; and
- (f) be signed by the Enrolled Student and the Provider.

The Provider should ensure that all Enrolled Students have input into developing their Training Plan, and are provided with a copy of the Training Plan within 12

weeks of Commencement. Training Plans for Enrolled Students (other than Apprentices and Trainees) may be prepared for a group of Enrolled Students where the training and assessment is similar, subject to the individual requirements of the Enrolled Student. If the Training Plan consists of more than one document, the documents must:

- (a) clearly address all requirements above; and
- (b) be collated, including when provided to the Enrolled Student.

*Record keeping obligation: The Provider must retain a hard copy or electronic copy of each Training Plan (including a collated version if the Training Plan comprises of more than one document).*

### 13.2. Apprentices and Trainees

The Provider must develop a Training Plan for the delivery of Subsidised Training for each Enrolled Student who is an Apprentice or Trainee (including School Based Apprenticeships and Traineeships (SBATs)) in accordance with the *Apprenticeship and Traineeship Act 2001*, which governs the establishment of Apprenticeships and Traineeships in New South Wales.

The Provider must develop the Training Plan:

- (a) in consultation with the Employer and Enrolled Student within 12 weeks of approval of the Training Contract; and
- (b) in a customised manner considering the nature of the Employer's business and the Enrolled Student's duties within the workplace.

The Provider should ensure that all Enrolled Students have input into developing their Training Plan, and are provided with a copy of the Training Plan within 12 weeks of approval of the Training Contract. The Training Plan must be signed by the Enrolled Student, the Provider and the Employer.

Guidelines for developing Training Plans for Apprenticeships and Traineeships (including SBATs) are available from the Training Services NSW website at: [www.training.nsw.gov.au/forms\\_documents/apprenticeships\\_traineeships/trainingplan\\_guidelines.pdf](http://www.training.nsw.gov.au/forms_documents/apprenticeships_traineeships/trainingplan_guidelines.pdf). Training plan instructions and further information are available at: [www.training.nsw.gov.au/training\\_providers/apprenticeships\\_traineeships/training\\_plans/index.html](http://www.training.nsw.gov.au/training_providers/apprenticeships_traineeships/training_plans/index.html)

The Apprenticeship and Traineeship Logbook App for students is a WEB based app where training providers can create a Training Plan for an Apprentice or Trainee. Further information is at:

<https://stsatlas.nsw.gov.au/start>

*Record keeping obligation: The Provider must retain a hard copy or electronic copy of each Training Plan.*

## 14. Training and assessment requirements and validation

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### 14.1. Training and assessment requirements

The Provider must deliver Subsidised Training that is:

- (a) consistent with the Australian Qualifications Framework qualification type learning outcomes descriptor 'Volume of learning' for each qualification level
- (b) compliant with the requirements of the relevant Training Package or accredited course and the outcomes of the qualification/accredited course being delivered (including Unit(s) of Competency requirements, entry requirements, corequisite and prerequisite requirements, employability skills and/or foundation skills and required trainer and assessor competencies)
- (c) inclusive of assessment strategies, tools and tasks that:
  - (i) are compliant with the assessment guidelines in the relevant Training Package or the assessment requirements in the accredited course
  - (ii) incorporate the evaluation of sufficient, valid, current and authentic evidence to enable judgements to be made about whether competency or a group of competencies in holistic assessment have been attained
  - (iii) have clear and sufficient instructions for Enrolled Students (and their Employers if applicable)
  - (iv) have clear and sufficient instructions to guide assessors to make consistent decisions about the competency of the Enrolled Student
  - (v) address the entirety of the Unit(s) of Competency being assessed
  - (vi) adequately cover both the on- and off-the-job components of the training (and incorporate validation by Employers of the acquisition and application of skills on the job if applicable)
  - (vii) clearly specify the standard of performance required
  - (viii) cover areas of workplace performance incorporating the dimensions of competency (including task skills, task management skills, contingency management skills, job role/environmental skills and transfer skills)
  - (ix) incorporate a level of difficulty that is appropriate to the Unit(s) of Competency being assessed
  - (x) have exemplars, benchmarks and/or checklists for use in making the assessment decision
  - (xi) secure the Employer's support and agreement regarding the Apprentice's or Trainee achievement of competence for each Unit of Competency prior to issuing any Qualification or Statement of Attainment

- (d) in accordance with the relevant Commonwealth, state or territory legislative, regulatory and licensing requirements as relevant to the Training Package or accredited course; and
- (e) consistent with the NSW Recognition Framework.

*Recording keeping obligation: The Provider must maintain documents that demonstrate how the training and assessment meets these requirements.*

#### 14.2. **Validation and contextualising of training and assessment resources**

Validation of training and assessment resources means checking that the training resources address the requirements of the Units of Competency and Training Package to provide the depth of training required, and that assessment tools produce valid, reliable, sufficient, current and authentic evidence to enable reasonable judgements to be made as to whether the requirements of the relevant aspects of the Training Package or accredited course had been met. It includes reviewing and making recommendations for future improvements to the training and assessment resources, process and/or outcomes.

Contextualising means the addition of the industry or enterprise/organisation specific information to a Unit of Competency to tailor the standard to reflect the immediate operating context and thereby increase its relevance. Contextualisation must be guided by Training Package contextualisation guidelines. Contextualising also means modifying training and/or assessment according to a student's learning needs or preferences.

### 15. **Independent validation of assessment requirements**

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Independent validation of assessment is important for ensuring quality assessment outcomes that are consistent and meet industry expectations. The Provider is encouraged to engage in independent validation of assessment.

#### 15.1. **What is independent validation of assessment?**

Independent validation of assessment is a process that ensures that the assessment practices of the Provider are appropriate to the outcomes of training, are consistently applied, meet standards for assessment, and are aligned with industry and Training Package requirements for Unit(s) of Competency. It involves:

- (a) checking:
  - (i) the validity, reliability, sufficiency and currency of the assessment tool
  - (ii) that assessment strategies meet the needs of industry
  - (iii) learners' assessment tasks to determine whether the requirements of the relevant aspects of the training have been met
  - (iv) that assessors are making consistent judgements
- (b) reviewing and making recommendations for future improvements to the assessment tool, process and outcomes.

The key aspects of assessment that are reviewed through a validation process are:

- (c) *the assessment process* — policy, enrolments and assessments, recording, reporting and appeals
- (d) *assessment tools* — specific assessment tasks, instructions for candidates, instructions for assessors, evidence guides, checklists, assessment criteria, rules of judgement, and examples of acceptable responses to, and descriptions of, typical competent performance
- (e) *evidence of assessment* — for example, third-party reports, observation and simulation
- (f) *application of assessment tool* — assessors use of the tool
- (g) *recognition of prior learning process* — tools and evidence of assessment.

#### 15.2. **Who undertakes independent validation of assessment?**

Independent validation of assessment is undertaken by individuals or agencies that are independent of the Provider. It can involve industry representatives, other registered training organisations, specialist assessors, and experts in education and assessment.

#### 15.3. **What are the benefits of independent validation of assessment?**

The benefits of an independent process for assessment validation include:

- (a) obtaining industry acceptance of VET outcomes
- (b) ensuring assessment strategies meet industry needs
- (c) gathering feedback to improve assessment processes
- (d) building assessor confidence and capabilities
- (e) fostering the development of informal networks
- (f) facilitating assessor acquisition of up-to-date industry knowledge; and
- (g) assisting assessors to apply consistent standards and make consistent judgements.

### 16. **Professional development and continuous improvement**

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The Provider must ensure all of its Personnel undertake professional development and continuous improvement and maintain currency of relevant qualifications. The Provider is also required to implement a continuing professional development policy. The Provider should refer to the Smart and Skilled Teaching and Leadership Policy as a guide, which is available at: [www.training.nsw.gov.au/smartandskilled/contract\\_policy.html](http://www.training.nsw.gov.au/smartandskilled/contract_policy.html).

Professional development and continuous improvement activities are further described in the RTO Standards and may include:

- (a) organisational governance

- (b) registration compliance
- (c) government contract management
- (d) delivery of specialist student support services (e.g. counselling)
- (e) training to support industry regulations (e.g., training in Child Protection, Workplace Health and Safety)
- (f) training design and delivery
- (g) assessment and/or recognition; and
- (h) industry collaboration.

*Record keeping obligation: The Provider must maintain records of the professional development undertaken by all staff.*

## 17. Record Keeping

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### 17.1. How the Department uses records

The Department uses the evidence and records (including Training Activity Data) the Provider creates, collects, keeps and, in some instances, reports to the Department, for performance monitoring, audit, verification, research, statistical analysis, program evaluation, post-completion surveys and internal management purposes. It is also used by the Department to report to the National Centre for Vocational Education and Research (**NCVER**).

These records form part of the evidence to be provided for any performance monitoring activities conducted by the Department. The Provider must also submit such evidence as is required as part of the NCVER VET Non-Financial Audit, which audits Subsidised Training at a Unit of Competency level. Issues raised during the NCVER audit can also inform the Department's performance monitoring activities.

Students must be made aware by the Provider that the information supplied by them (including their personal details and identification) will be used by the Department, and all students must give their consent in accordance with paragraph 6(a).

### 17.2. Record Keeping Requirements

The Provider is required to create, collect and maintain records for all Subsidised Training and for all Enrolled Students, as evidence of:

- (a) student identity
- (b) student eligibility
- (c) Fees including any Fee refunds or Fee Exemptions or Concessions granted
- (d) Notification of Enrolment Process (see paragraph 6)
- (e) enrolments



- (f) the student's eligibility for Credit Transfer (see paragraph 7.1)
- (g) the student's eligibility for Recognition of Prior Learning (see paragraph 7.2)
- (h) the delivery of Subsidised Training, including evidence of Participation in Subsidised Training
- (i) the assessment of training delivered
- (j) UoC Outcome Achievements, including supporting documentation
- (k) anything required by Applicable Laws, including the RTO Standards
- (l) Statements of Attainment and Testamurs issued (including any relevant Parchment Number or Parchment Issue Date); and
- (m) any learning support provided to students.

Evidence must be valid, readily accessible, current, sufficient, authentic and capable of verification by the Department. These records can be either soft or hard copy unless otherwise specified.

### 17.3. **Electronic Signatures**

If the Provider is to accept or use electronic signatures, the Provider must have evidence:

- (a) that the signature can be properly attributed to the individual that is alleged to have signed and
- (b) that the individual applied the signature electronically.

This electronic audit trail may be confirmed, for example, through email correspondence. For assessors, a declaration may be applied to the document which states that the assessor applied the signature based on their own determination regarding competence in the task/Unit of Competency.

### 17.4. **Training Activity Records**

The Provider is required to retain all training activity records as evidence of the delivery of training and assessment, and outcomes achieved. Training activity records will identify the Unit of Competency they relate to and the Enrolled Student they belong to.

### 17.5. **Record Keeping for online delivery**

Where Subsidised Training is delivered via online delivery and where, for instance an attendance sheet is not marked, the Provider's online delivery platform must be capable of capturing the details of an Enrolled Student's engagement and Participation in Subsidised Training. For example, if required the Provider would be able to supply the Department with a report of when, what times and for what Units of Competency an Enrolled Student logged onto the online delivery platform to undertake online learning and/or to complete an assessment task(s).

### 17.6. Record Keeping for delivery by correspondence

Where Subsidised Training is delivered via correspondence and where, for instance an attendance sheet is not marked, the Provider must retain phone logs, emails, copies of assessments and any other training activities submitted by the Enrolled Student.

### 17.7. Required length of time

Records must be retained by the Provider in a readily accessible format for a minimum of three (3) years after the later of:

- (a) the completion of each qualification
- (b) issuance of qualification; or
- (c) an Enrolled Student's exit from the Subsidised Training.

*To be clear, the Provider must comply with the 3 year period of record retention despite any shorter periods under the Applicable Laws.*

### 17.8. Examples of Evidence

A list of documents that must be kept and submitted to the Department upon request is outlined in the Fee Administration Policy.

The table below outlines a non-exhaustive list of additional records that the Provider is required to keep and submit to the Department upon request.

| Records required for:                                   | Evidence type:  |
|---|---|
| <b>Training Activity</b>                                |   |
| <b>Training Plan</b>                                    | <ul style="list-style-type: none"> <li>• Training Plan for each Enrolled Student</li> </ul>   |
| <b>Attendance</b>                                       | <ul style="list-style-type: none"> <li>• Class roll with dates and signatures</li> <li>• Online course attendance record</li> <li>• Phone logs, emails, assessments and other training activities submitted</li> </ul>  |
| <b>Participation in Subsidised Training</b>             | <ul style="list-style-type: none"> <li>• Documented evidence that the Enrolled Student has interacted and participated in the Subsidised Training in the relevant Unit of Competency in a manner that exceeds mere attendance or accessing training materials.</li> </ul> |
| <b>Learning resources</b>                               | <ul style="list-style-type: none"> <li>• Learning materials/resources supplied to an Enrolled Student, structured learning guides or navigation tools</li> <li>• Acknowledgement of receipt of learning materials/resources by Enrolled Student</li> </ul>                |
| <b>Support</b>  | <ul style="list-style-type: none"> <li>• Record of support provided to the Enrolled Student, including primary evidence, a log and/or file notes</li> </ul>   |
| <b>Release from work (for Apprentices and Trainees)</b> | <ul style="list-style-type: none"> <li>• Record of release from work for training and/or assessment purposes</li> </ul>   |
| <b>Assessment</b>                                       |   |
| <b>Workplace relevance</b>                              | <ul style="list-style-type: none"> <li>• Documents that demonstrate how the assessment meets the requirements of the relevant Training Package and standard of performance required in the workplace</li> </ul>   |

| Records required for:  | Evidence type:   |
|--|--|
| <b>Assessment plan</b>   | <ul style="list-style-type: none"> <li>• Outlines the Unit(s) of Competency</li> <li>• The standard of performance/criteria required by the Unit(s) of Competency in the workplace</li> <li>• The assessment strategies/tools/tasks to be used</li> </ul>  |
| <b>Completed assessments</b>   | <ul style="list-style-type: none"> <li>• Completed assessment strategies/tools/tasks for each Unit of Competency for each Enrolled Student, including the evidence used to support assessment outcomes</li> </ul>  |
| <b>Employer's support and agreement on achievement of competence (for Apprentices or Trainees)</b> | <ul style="list-style-type: none"> <li>• the Employer's signature on the Training Plan supporting the achievement of competence, or other such record which clearly identifies the Enrolled Student and the Unit(s) of Competency</li> </ul>   |
| <b>A summary record of assessment progress and/or outcomes for each Unit of Competency</b>         | <ul style="list-style-type: none"> <li>• The name and signature of the Enrolled Student</li> <li>• The Unit of Competency or module and its identifier (National Code)</li> <li>• The actual result consistent with assessment (e.g. Competency Achieved/Pass or Competency Not Achieved/Fail)</li> <li>• The type of evidence used in the assessment</li> <li>• An assessment record that supports Enrolled Student activity in the Unit of Competency or module</li> <li>• The date of the assessment</li> <li>• The name and signature of the assessor</li> <li>• Evidence of participation in Subsidised Training by the Enrolled Student</li> <li>• The date of participation in Subsidised Training</li> </ul> |
| <b>Qualifications and Recognition</b>  |  |
| <b>Credentials issued</b>  | <ul style="list-style-type: none"> <li>• Certified copies of credentials issued</li> </ul>   |
| <b>Completion details</b>  | <ul style="list-style-type: none"> <li>• Outcomes of specific qualifications, part qualifications or accredited courses delivered</li> </ul>   |
| <b>Credit transfer</b>   | <ul style="list-style-type: none"> <li>• Testamur or Statement of Attainment</li> </ul>  |
| <b>Recognition of Prior Learning</b>   | <ul style="list-style-type: none"> <li>• Observation of workplace performance, demonstration, simulation</li> <li>• Third-party evidence, e.g. reports from workplace supervisors references from past and/or present employers; testimonials from clients</li> <li>• Challenge tests on elements</li> <li>• Work samples collected and/or documented</li> </ul>   |
| <b>Other</b>   |  |
| <b>Other</b>   | <ul style="list-style-type: none"> <li>• Any other evidence requested by the Department</li> </ul>   |

## 18. Reporting Training Activity Data

The Provider must maintain a data housing and reporting system that supports submission of data to the Department as required by the Contract. The data files submitted must comply with the relevant technical specifications for the *RTO Contract Services, Smart and Skilled eReporting* section of the Portal (**eReporting**).

The Provider must submit data with the Department, for all Enrolled Students through eReporting by uploading one set of data files for all Enrolled Students

(including where there has been no change to the data for an Enrolled Student since the last submission). All data submitted to the Department must also comply with the AVETMIS Standard.

#### 18.1. **Training Activity Data for Submission**

The Training Activity Data must include:

- (a) the Commitment ID
- (b) the Training Contract ID (**TCID**) if the Enrolled Student is an Apprentice or Trainee (see paragraph 18.2 below)
- (c) the USI
- (d) any identification number for the Approved Qualification as shown on the relevant Approved Qualification Activity Schedule for Smart and Skilled Targeted Priorities Prevocational and Part Qualifications
- (e) any Credit Transfer or Recognition of Prior Learning; and
- (f) any other data required to meet the AVETMIS Standard.

#### 18.2. **Training Contract ID**

The Provider is responsible for obtaining and submitting the TCID to ensure correct submission of data. The TCID can be accessed from:

- (a) the Enrolled Student or in the case of an Enrolled Student under the School Based Apprenticeships and Traineeships Program, the school; or
- (b) the Employer; or
- (c) the Australian Apprenticeship Network Provider; or
- (d) the Training Contract search in the Portal; or

#### 18.3. **Submission of Training Activity Data**

The Provider will submit Training Activity Data in accordance with the process specified by the Department.

*If the Training Activity Data is not correctly submitted it will be rejected. No records of rejected Training Activity Data is kept by the Department.*

#### 18.4. **Unit of Competency start and end dates**

Where training is yet to start and/or be completed for the Unit of Competency, then the proposed dates must be entered. The dates entered must then be updated if they change and when the actual start date or end date is known (if they differ from the proposed dates).

#### 18.5. **Qualification issued**

If a Qualification has been issued to an Enrolled Student, the Provider must notify the Department by including a "Y" in the Qualification Issued flag section and submit as part of the Training Activity Data. Following this submission, the

Training Activity Data for this Enrolled Student in the Approved Qualification does not need to be submitted again.

This reporting requirement is not applicable to any Smart and Skilled Targeted Priorities Prevocational and Part Qualifications unless the Approved Qualification is a recognised Skills Set from a Training Package.

**IMPORTANT:** Providers should note that the Department may **rely on** reported Qualifications issued to verify that an Apprentice or Trainee is either eligible for completion of the Apprenticeship or Traineeship in accordance with the Vocational Training Order. Based on this advice the Department may then initiate action with the Employer and Enrolled Student to complete the Apprenticeship or Traineeship.

#### 18.6. Checklist for reporting Training Activity Data

The following reference list can be used to ensure that appropriate information for the Enrolled Student is included in all Training Activity Data submitted:

- (a) USI
- (b) Commitment ID
- (c) Details including name, date of birth and gender
- (d) contact details including mobile telephone number and email address should be included
- (e) all Unit of Competencies as specified in the Training Package (for an Approved Qualification that is a full qualification) or as specified on the Approved Qualifications Activity Schedule (for an Approved Qualification that is a Smart and Skilled Targeted Priorities Prevocational and Part Qualification)
- (f) the qualification national code, all Unit of Competency names and all Unit of Competency national codes
- (g) the start and end dates for each Unit of Competency in accordance with paragraph 18.4
- (h) the expected ("Scheduled") hours of Training for each Unit of Competency
- (i) the existence of a NAT00130 row for the student, and a "Y" in the Qualification Issued flag (if applicable)
- (j) "TNC" or "D" (if applicable)
- (k) the TCID (for Apprentices or Trainees)
- (l) relevant identification and reference detail should be included as specified for Approved Qualifications (for the Smart and Skilled Targeted Priorities Prevocational and Part Qualifications Program); and
- (m) Parchment Number and Parchment Issue Date, if issued by the Provider.

## 19. Performance Monitoring

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### 19.1. Purpose of Performance Monitoring

Performance Monitoring will be undertaken by the Department in connection with the Contract and will have the purpose of:

- (a) reviewing information submitted as part of the Application to ensure that the same standard of operations is maintained during the Activity Period
- (b) reviewing Provider compliance with all terms and conditions of the Contract, including:
  - (i) confirming the eligibility of Enrolled Students and that the correct Fee is charged
  - (ii) confirming the delivery of Subsidised Training to Enrolled Students is consistent with the Approved Qualifications Activity Schedule
  - (iii) reviewing completeness and accuracy of records, reporting and payments (including those associated with reported UoC Outcomes)
  - (iv) confirming whether the Provider is delivering Subsidised Training in accordance with their Approved Qualifications Activity Schedule(s)
- (c) reviewing performance and progress against Financial Caps
- (d) investigating any complaint received about the Provider
- (e) informing Provider risk profile
- (f) establishing benchmarks for continuous improvement and identifying areas for professional development; and
- (g) reviewing performance in relation to performance indicators.

### 19.2. Methods of Performance Monitoring

Performance Monitoring will be carried out by a variety of different activities, including:

- (a) desk audits, where the Department assesses and reviews information provided by the Provider or obtained from other sources  
*Please see paragraph 19.3 below.*
- (b) site visits, where the Department attends the Provider's site  
*Please see paragraph 19.4 below.*
- (c) survey and interviews, where the Department carries out surveys or interviews; and  
*Please see paragraph 19.5 below.*
- (d) Internal reviews, where the Provider carries out a review of its own performance.  
*Please see paragraph 19.6 below.*

### 19.3. Requirement to provide information

The Provider must provide information and documentation to the Department on its request in accordance with clause 14.1 of the Contract Terms and Conditions.

### 19.4. Assistance with site visits

If requested by the Department, the Provider must within 7 days of receipt of notice from the Department allow and facilitate the visit of any person nominated by the Department to the Provider's premises (including, all places where Subsidised Training takes place and the business headquarters/administrative offices).

During such site visits the Provider must ensure that the Department's nominee is able to carry out any required activity, including:

- (a) inspecting and taking copies of any relevant documents and records
- (b) inspecting and taking copies of documents relating to the Provider's financial and business affairs, including accounts and any other information verifying or evidencing the Provider's financial standing; and
- (c) carrying out surveys or interviews in accordance with paragraph 19.5 below.

### 19.5. Surveys and interviews

If requested by the Department, the Provider must allow and facilitate surveys or interviews to be carried out by any nominee of the Department with the Provider and/or its Enrolled Students, employees, executive officers, subcontractors, accountants, bookkeepers, auditors, agents or any other party the Department requests. The Provider must not say or do anything that has the intention or effect of obstructing, hindering, influencing, coercing or interfering with the surveys, interviews or their process in any way.

### 19.6. Internal review

If requested by the Department, the Provider must conduct an internal review to establish compliance and risks, and to determine where improvements are required to meet the provisions of the Contract. The Department will specify the areas that must be covered in the internal review. Internal reviews must:

- (a) be undertaken in the format that the Department prescribes
- (b) describe the organisation as it is at the time of the internal review (where so requested)
- (c) contain information that is meaningful, accurate, correct, complete and not misleading in any way
- (d) be maintained fully with all documentation referenced as supporting evidence
- (e) where appropriate, reference documentation provided to the Department as part of the internal review by recording the document name, document reference number and version or such other method to allow documentation to be clearly identified

- (f) set out any identified non-compliances and list the actions that the Provider will undertake to rectify the non-compliances and the proposed timeframes for correction of the non-compliances
- (g) specify a person who is authorised by the Provider to be the point of contact for the Department in respect of addressing noncompliance and monitoring the progress of remediating the noncompliance; and
- (h) be submitted to the Department in the required format via email to [training.market@industry.nsw.gov.au](mailto:training.market@industry.nsw.gov.au) within one month of the Department's request.

*Record keeping obligation: Internal review records should be maintained by the Provider.*

The Provider must update their internal review as any identified non-compliances are addressed, together with appropriate evidence to demonstrate compliance.

## 20. **VET Student Loans Program Information**

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If the Provider is a VET Student Loans Program Approved Provider, the Provider must:

- (a) inform all students that they are a VET Student Loans Program Approved Provider and of the availability of VET Student Loans; and
- (b) provide details on how students can access VET Student Loans

(the **VET Student Loans Program Information**).

The Provider must ensure that any information on the VET Student Loans Program used for marketing purposes adheres to all guidelines and policies provided by the Commonwealth Government from time to time.

## 21. **Subcontracting and Brokering Arrangements**

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Subcontracting includes an arrangement where the Provider defers day-to-day responsibility for all or part of the material operative or administrative functions of the Provider or the management and conduct of training delivery and assessment activities for Subsidised Training to another individual or organisation (the **subcontractor**). Brokering Arrangement is defined in the Contract Terms and Conditions. A **broker** is any person who enters into a Brokering Arrangement with the Provider.

The Provider must comply with this paragraph 21 and the Smart and Skilled Subcontracting and Brokering Arrangement Approval Policy.

### 21.1. **The Provider must apply for approval from the Department**

If the Provider wishes to appoint a subcontractor or enter into a Brokering Arrangement, the Provider must first lodge an application to Training Services NSW for approval of this subcontracting arrangement or Brokering Arrangement 28 days prior to the intended commencement of any such arrangement, for each Approved Qualification (or the relevant Unit of Competency) in each Region.



The application must include a justification for the selection and use of the subcontractor in delivering Subsidised Training or broker.

Any written agreements between the Provider and the subcontractor or broker are to be subject to Performance Monitoring.

If a subcontracting application has not been approved, the Provider must either:

- (a) make arrangements to deliver the Subsidised Training itself or
- (b) advise Enrolled Students that the Subsidised Training cannot proceed.

*To be clear: (i) subcontracting any part of the delivery or assessment of Subsidised Training; or (ii) entering into a Brokering Arrangement, without the approval of the Department is an Event of Default.*

The Provider maintains responsibility for ensuring that all activities conducted under a subcontracting arrangement or Brokering Arrangement comply with all requirements of the Contract.

## 21.2. Preferred subcontracting arrangements

Subcontracting should support innovation and flexibility to achieve improved training and assessment outcomes, particularly in regional areas. Where subcontracting arrangements exist, they should be the result of the Provider seeking out a secondary registered training organisation to fulfil a need.

## 21.3. Setting up subcontracting arrangements

### (a) Between the Provider and the subcontractor

Subcontracting arrangements between the Provider and the subcontractor must be documented and transparent. The information in the subcontracting arrangement must include but not be limited to the following:

- (i) the training and assessment that the subcontractor will provide
- (ii) the responsibilities of each party to the subcontracting agreement, the development and maintenance of the Training Plan, and the issuing of Qualifications and Statements of Attainment; and
- (iii) the quality assurance, monitoring and validation arrangements that are in place to ensure that the training and assessment is of an appropriate quality.

The Provider is responsible for oversight of the subcontract and must develop and implement a plan for monitoring the performance of, and compliance with the Provider's obligation in the Contract by, the subcontractor.

### (b) Between the Provider and the Prospective Student and/or Employer

The Provider must inform Prospective Students (and any Employer if applicable) prior to enrolment that a subcontracting arrangement exists and that it is the Provider's responsibility to ensure the quality of the training and assessment, develop the Training Plan, and issue qualifications and

statements of attainment. If at any stage after enrolment a subcontractor is appointed, the Provider must inform the Enrolled Student (and Employer if applicable) of the above immediately.

The Prospective Student and Employer must acknowledge that they are aware of the subcontracting arrangement.

The Enrolled Student and/or Employer's agreement is with the Provider, not the subcontractor. The subcontractor is not to charge fees directly to the Enrolled Student or the Employer (where applicable).

The Provider's obligations to the Enrolled Student under Smart and Skilled extend to the subcontractor, and it is the Provider's responsibility to ensure that these are met.

#### 21.4. **Provider responsibilities if approved to subcontract**

The Provider is accountable for, and must systematically monitor, compliance with the Contract, including all training and assessment provided by the Provider through any subcontractor. The Provider must also ensure that the subcontractor does not subcontract.

The Provider is not permitted to subcontract reporting activities and must maintain all records associated with Participation in Subsidised Training, and a summary of training and assessment to support any UoC Outcomes reported to the Department.

The Provider's Consumer Protection Policy must manage and respond to allegations involving the conduct of any subcontractor and its trainers, assessors or other staff.

Any subcontracting arrangement the Department considers is not in the best interests of affected Enrolled Students must be ceased.

In cases where a subcontractor fails to perform the responsibilities associated with subcontracted activities satisfactorily:

- (a) the Department may withdraw its approval of the subcontracting arrangement
- (b) the Department may suspend or terminate the Contract
- (c) a subcontractor, who also has a contract with the Department to deliver Subsidised Training, may also have their contract suspended or terminated; and/or
- (d) future applications to subcontract made by the Provider may be refused.

#### 21.5. **Subcontractor Information**

If an Approved Qualification is to be delivered in part or in full by a subcontractor, the Provider must inform any Prospective Student who wishes to enrol in the Approved Qualification:

- (a) of the existence of the subcontracting arrangement including:
  - (i) providing details of the sub-contractor, including the Department's

- sub-contracting approval number; and
- (ii) identifying which Units of Competency are to be delivered by the sub-contractor.
- (b) that it remains the responsibility of the Provider to:
  - (i) ensure the quality of the training and assessment
  - (ii) administer fees and additional costs (if applicable)
  - (iii) develop and issue the Training Plan
  - (iv) issue Certificates, Qualifications or Statements of Attainment; and
- (c) of the roles and the responsibilities of both the Provider and the subcontractor including providing assistance and support to the Prospective Student.

(the **Subcontractor Information**).

#### 21.6. **Setting up Brokering Arrangements**

##### (a) **Between the Provider and the broker**

Brokering Arrangements must be documented and transparent. The information in the Brokering Arrangement must clearly outline all the activities that the broker will undertake for the Provider.

The Provider is responsible for oversight of the broker and must develop and implement a plan for monitoring the performance of, and compliance with the Provider's obligation in the Contract by, the broker.

##### (b) **Between the Provider and the Prospective Student and/or Employer**

The Provider's obligations to the Enrolled Student under Smart and Skilled extend to the broker, and it is the Provider's responsibility to ensure that these are met.

#### 21.7. **Provider responsibilities if approved to use a broker**

The Provider is accountable for, and must systematically monitor, compliance with the Contract, including all activities arranged by the Provider through the broker. The Provider must also ensure that the broker does not subcontract.

The Provider's Consumer Protection Policy must manage and respond to allegations involving the conduct of the broker (including its staff).

Any Brokering Arrangement the Department considers is not in the best interests of Enrolled Students must be ceased.

In cases where a broker fails to perform the responsibilities associated with the Brokering Arrangement activities satisfactorily:

- (a) the Department may withdraw its approval of the Brokering Arrangement
- (b) the Department may suspend or terminate the Contract; and/or
- (c) future applications relating to approval of a Brokering Arrangement made by the Provider may be refused.

## 22. **Change in Control and assignment of Contract**

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The Provider may not allow circumstances resulting in a change in Control or requiring an assignment of the Contract without first applying for the approval of the Department. The Department will request information from the Provider and will notify the Provider whether the approval is granted and, if so, of any conditions applicable to the Department's approval. Any approval will be at the absolute discretion of the Department.

## 23. **Regions**

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The Regions are defined by the Department by reference to the table found at: [www.training.nsw.gov.au/forms\\_documents/smartandskilled/deliver\\_training/regions\\_postcodes.pdf](http://www.training.nsw.gov.au/forms_documents/smartandskilled/deliver_training/regions_postcodes.pdf).

## Schedule 1

## Consent Wording

**CONSENT TO USE AND DISCLOSURE OF PERSONAL INFORMATION TO THE NSW  
DEPARTMENT OF INDUSTRY AND OTHER GOVERNMENT AGENCIES**

I \_\_\_\_\_

*(First, middle and last Name)*

of \_\_\_\_\_

*(current residential address)*

with date of birth \_\_\_\_\_

understand and agree that personal information (information or an opinion about me), collected from me, my parent or guardian, such as my name, Unique Student Identifier, date of birth, contact details, training outcomes and performance, or sensitive personal information (including my ethnicity or health information) (together **Personal Information**) collected by [*insert name of the Provider*] may be disclosed to the NSW Department of Industry (**Department**).

The Department may disclose my Personal Information to other Australian government agencies, including those located in States and Territories outside New South Wales.

The above government agencies may use my Personal Information for any purpose relating to the exercise of their government functions, including but not limited to the evaluation and assessment of my training, the determination of my eligibility to receive subsidised training or for any Fee Exemptions or Concessions. My Personal Information may also be disclosed to other third parties if required by law.

I consent to the collection, use and disclosure of my Personal Information in the manner outlined above.

I also acknowledge and agree that the Department may contact me by telephone email or post during or after I have ceased subsidised training with [*insert name of the Provider*] for the purposes of evaluating and assessing my subsidised training.

PRINT FULL NAME: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_ DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_

*Note: If under 18 years of age at the time of giving consent, then the consent of their guardian is required*

PRINT FULL NAME OF GUARDIAN: \_\_\_\_\_

SIGNATURE OF GUARDIAN: \_\_\_\_\_ DATE: \_\_\_\_/\_\_\_\_/\_\_\_\_

## Schedule 2

## Defined interstate NSW border areas

| Location                               | Postcode    |
|--|-------------|
| One of the towns in the postcode area: |             |
| <b>Australian Capital Territory:</b>   |             |
|  | 2600 - 2612 |
|  | 2614 - 2617 |
|  | 2900 - 2906 |
|  | 2911 - 2914 |
| <b>Jervis Bay Territory:</b>           |             |
| Wreck Bay                              | 2540        |
| <b>Queensland:</b>                     |             |
| Elanora                                | 4221        |
| Currumbin                              | 4223        |
| Coolangatta                            | 4225        |
| Tallebudgera                           | 4228        |
| Texas                                  | 4385        |
| Goondiwindi                            | 4390        |
| Hebel                                  | 4486        |
| Bollon                                 | 4488        |
| Bungunya                               | 4494        |
| Talwood                                | 4496        |
| Thallon                                | 4497        |
| Kioma                                  | 4498        |
| <b>Victoria:</b>                       |             |
| Nangiloc                               | 3494        |
| Red Cliffs                             | 3496        |
| Irymple                                | 3498        |
| Mildura                                | 3500        |
| Hattah                                 | 3501        |
| Cabarita                               | 3505        |
| Echuca                                 | 3564        |
| Koondrook                              | 3580        |
| Shepparton                             | 3630        |
| Yalca                                  | 3637        |
| Kotupna                                | 3638        |
| Barmah                                 | 3639        |
| Katunga                                | 3640        |
| Ulupna                                 | 3641        |
| Cobram                                 | 3644        |
| Chiltern                               | 3683        |
| Rutherglen                             | 3685        |
| Barnawartha                            | 3688        |
| Wodonga                                | 3690        |
| Bonegilla                              | 3691        |
| Bandiana                               | 3694        |

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