Response to the NQC Consultation Paper: protecting student fees paid in advance
About ACPET

Established in 1992, the Australian Council for Private Education and Training (ACPET) is the national industry association for private providers of post-compulsory education and training. ACPET has over 1,100 members nationally delivering a full range of higher education and vocational education and training (VET), including apprenticeships and traineeships, and English language courses across all States and Territories.

ACPET’s mission is to enhance quality, choice, innovation and diversity in Australian education and training. ACPET works with governments, education and training providers, industries, and community organisations, to ensure vocational and higher education and training services are well-targeted, accessible, and well-delivered with courses of high quality, and providing for choice and diversity.

Introduction

With the dramatic increase in college closures since 2008 ACPET as a Tuition Assurance Scheme (TAS) Operator agrees that protecting student fees is an issue of paramount importance to individual students and the Australian education industry.

ACPET believes that having more clarity and definition around Condition 5 of the Australian Quality Training Framework (AQTF) will improve the mechanisms for consumer protection for students in Australia. However, whilst ACPET supports the introduction of more principles and guidelines, there are some concerns regarding the definitions provided in the Consultation Paper regarding the TAS Operators and some questions regarding clarity of definitions.
Response to Questions for Feedback

ACPET has considered the information provided by the National Quality Council (NQC) in its Consultation Paper on Condition 5 and here outlines its response to the questions raised in the paper on behalf of its members, and as a TAS Operator.

SECTION A – PROPOSED AMENDMENTS TO THE AQTF USERS’ GUIDES FOR INITIAL AND CONTINUING REGISTRATION

Are the changes proposed practicable, in that they:

- define clearly what is an ‘approved’ TAS and the process and criteria for becoming approved (Option 2)?
- describe clearly and fully the principles to be used by Registering Bodies in determining an alternative fee protection measure of equal rigour (Option 5)?
- clarify any other issues with each option?

Where there are concerns as to the practicality or clarity of the proposed guidance, please suggest additional or alternative guidance or wording.

ACPET has addressed the definition of an ‘approved’ TAS Operator (Option 2) in Section B.

ACPET has addressed the principles regarding an alternative fee protection measure (Option 5) in Section C.

Is there any critical information that is missing or are there other issues that need to be clarified in the Users’ Guides?

Student fees

ACPET would like to request more clarity around Option 3 – Limiting the amount of fees paid in advance.

In particular, more information would be useful in regards to training arrangements that are not a simple ‘fee for service arrangement’, such as apprenticeships and any Federal Government funded courses that provide employers with incentives whilst the RTO receives payment as a retrospective claim.

In this same vein ACPET suggest that if payments in advance also include employer payments to the RTO that this be specified so that it is also protected. This may be included with a change to the wording to read “individual student or payment on behalf of the individual..."
student”. It is assumed by ACPET that the intention of this option is to also include employer payments if this is on behalf of a student.

Initial registration

It is noted that Condition 5 applies at the initial registration and the continuing registration stage. However, ACPET as a TAS Operator does not accept members into the TAS without registration confirmation for the training company and for each course they wish to cover. ACPET believe this may also be a standard utilised by other TAS Operators. As a result of this RTOs would not have Option 2 available to them at the time of registration; it would only be applicable after registration is confirmed. This limitation would prevent RTOs from taking Option 2; they would therefore be required to select one of the other options, which tend to be more costly, particularly for small RTOs. Option 2 is also the only option that focuses specifically on relocation of students in the event of a closure, rather than a refund of fees.

SECTION B – DRAFT CRITERIA FOR DETERMINING AN APPROVED TUITION ASSURANCE SCHEME (OPTION 2)

How often should a TAS be required to undergo a re-approval process (e.g. 3 years, 5 years)?

ACPET is taking the lead in supporting and encouraging quality compliance for private education and training providers and has recently strengthened its Code of Ethics for members. This code outlines the professional standards expected of members and sets conditions for admission to, and continuing membership of ACPET. As part of this, ACPET has also developed a set of benchmarks and criteria for TAS coverage to ensure minimum standards. ACPET supports the use of such frameworks by peak bodies /associations as part of a suite of tools to manage risk. As such, ACPET feel that a longer timeframe for re-approval would be suitable as the processes for quality are already in place.

In light of this ACPET also supports the proposal for a rigorous approval and re-approval process for TAS Operators. However, in order to make suggestions on the re-approval process there is more clarity required on the measures to be used in this auditing process. In particular the criteria for sustainability of a TAS would need to be further defined – for instance, would the process include an assessment of the TAS Operator financials? Would it include an audit of all RTOs that are members of the TAS to ensure that their courses are matchable for placement?

It is ACPETs view that more detail on the assessment measures to be used in approving and re-approving a TAS would be useful in determining a reasonable timeframe for the process.
Are the draft eligibility criteria described above:

- **Practical - from the perspective of RTOs, TAS Operators (if appropriate), Registering Bodies, auditors?**

- **Clear in their meaning?**

In terms of the practicality from a RTO perspective, ACPET would like to express some concerns regarding the criteria of "agree to take displaced students from other TAS RTOs within a timeframe that minimises disruption to the student’s course of study".

The ability to take displaced students is dependent on various factors, which need to be acknowledged so that the accepting college does not suffer the same fate as the closed college. It is not always financially viable for all RTOs to accept students at any time. ACPET believe that recognition of the existing financial constraints on colleges, along with the financial burden of credit free tuition period, and class availability, need to be understood within any conditions of belonging to a Tuition Assurance Scheme.

**Guarantee of suitable placement**

As a TAS Operator, ACPET have concerns regarding the “guarantee” that student placement can occur in order to accept members into the TAS.

In an ideal scenario ACPET would be able to place all students, however as the last two years of multiple closures have shown; at times this is a challenging exercise.

There are several factors that can impact the ability of a TAS to provide students with a “...suitable placement, within a timely manner” these include, but are not limited to:

**Circumstances of closure**

In the aftermath of a college closure it is of paramount importance that the TAS Operator and State Regulatory bodies receive full cooperation from the former college owner/principal or the Administrator in order to have updated and complete academic and financial records for all students.

To place students into new colleges without academic and financial records is a significant burden on time and finances for the new college as they will need to undertake Challenge Tests/RPL for each student.

A lack of financial records also means that students may not receive their full and fair entitlements. Many students do not keep their receipts for payment to a college and if there are no records from the closed college it becomes impossible for a credit free tuition period to be provided as the value is unknown.
Current climate in the education industry

With the downturn in enrolments some private colleges have had to decrease their classes in particular areas (e.g. cookery). This limits the options for a TAS Operator to place students as less colleges offer the courses required at the capacity required.

If colleges have no available vacancies in a class or have no classes running (this is a common occurrence when a college closes at end of the year) or if the closure is so large that student numbers cannot be absorbed into other colleges without causing extreme financial pressure the ability of the TAS Operator to place students is dramatically decreased.

Course speciality

As part of ACPET’s TAS coverage the assessment of course matches to other RTOs is undertaken. This is done at the course level – with delivery method, location, and the course fees all taken into account. With these factors a risk category is assigned and coverage can be refused if there are no other colleges with the same variables for the particular course. However, the level of detail does not extend to the unit level of a course.

This means that with large training packages where colleges can deliver with a speciality focus (for example, the multimedia training package can be delivered with a focus on animation, broadcasting or web design) the units offered by the placement RTO may differ so starkly that students will receive very few academic credits once relocated. This may mean that students are required to study for a longer period of time than initially intended and possibly change to a different specialisation of study, which they may not wish to undertake.

If a closed college was delivering a course that is offered by many other RTOs it would seem that placing the students would be an easy task, however, if they were specialising in an area in which no other RTO specialises the students would either have to change their area of study or move to another location where the speciality could be matched. Neither scenario would be ideal for students.

Geographical location

As a TAS Operator involved in over 30 closures in the past two years ACPET strives to match the location of the closed RTO and placement RTO for displaced students as closely as possible. However there are no guidelines on the acceptable distance for placement, therefore ACPET seeks the development of guidelines on the geographical location requirements for TAS placement.
Similar fees

As part of the placement ACPET believe that mention should be made to the fees that displaced students would pay to a placement RTO. Once their “credit free tuition period” has been utilised the student is expected to pay regular fees to continue their studies. Fee structures between RTOs can differ significantly which can have a detrimental impact on a student who has been placed with a new provider that has higher fees than the closed RTO, particularly if the student has much of their course yet to be completed.

With these factors in mind ACPET suggest that as an alternative to suggesting a “guarantee” of placement ACPET believes that a more appropriate criterion for an approved TAS could be:

“Make every reasonable attempt to offer the students of TAS RTOs a suitable placement, within a timely manner, in the event of the RTO being unable to provide the student’s course of study...”

The issue of a “guarantee” also applies to the condition that RTOs only be accepted to a TAS:

“..where a suitable placement can be guaranteed for the courses for which TAS coverage is sought....”

As per the barriers to this guarantee listed earlier ACPET would like to suggest the following alternative wording to this section:

“..where there is a high probability that a suitable placement can be made for the courses for which TAS coverage is sought....”

Governance arrangements

ACPET feel that there could be further definition around the "scale of scheme" in relation to governance arrangements. For instance, how is the scale of the scheme to be assessed? How will the proportionate fee schedule be calculated? Will this also be reviewed as part of the re-approval process?

Viability and sustainability of the scheme

Further definition regarding how the viability and sustainability of the scheme would be demonstrated would be beneficial to ACPET in determining if this criterion is practical.

Where there are concerns as to the practicality or clarity of the criteria, please suggest additional or alternative criteria or wording.
In implementing these criteria by 1 July 2011:

As there are several definitions yet to be clarified, ACPET would suggest that the timeline of 1 July 2011 may need to be adjusted. Once the terms of the conditions are clear there will then need to be a process of:

TAS Operators making any amendments to their operations regarding scale of fees, proving viability and sustainability, and criteria for RTO membership; and

TAS Operators applying to become nationally “approved” under these criteria

Only then would it be possible for RTOs to be part of an approved Tuition Assurance Scheme. Until this time Option 2 of Condition 5 would not be available, thus forcing RTOs to utilise one of the other options.

It should also be acknowledged that if some RTOs are to be rejected from a TAS based on new criteria there would need to be a fair transition time for them to adjust their structures to meet one of the other options to meet Condition 5.

The criteria regarding TAS Operators would mean that a review of all members of the TAS would need to be undertaken to ensure that all RTOs meet these criteria. Those that do not will need to make arrangements for one of the other options.

What guidance would help the NQC / NSC implement the eligibility criteria?

What communication is needed to support their implementation (e.g. key messages, target audiences, timelines)?

As a peak industry body, ACPET would be pleased to be involved in the implementation of eligibility criteria for RTOs in a capacity deemed appropriate by the NQC. Our services would be particularly useful in communicating with our existing members and providing training to these RTOs.

It would also be important that the TAS Operators receive training from the NQC regarding the criteria that applies to their approval. ACPET feel that this guidance from the NQC would be valuable in understanding the definitions regarding Option 2.
In terms of timelines, ACPET suggest that communication should commence as soon as the amendments have taken effect. However, the transition period would need to be long enough to allow amendments to existing TAS Operators and RTOs in order to comply with Condition 5. In some instances RTOs may need to be rejected from the TAS due to the definitions now listed, they would then need time to make arrangements for another Option to comply with Condition 5. ACPET suggest at least one year from the time of implementation to the time that compliance is audited would be appropriate.

SECTION C – DRAFT PRINCIPLES UNDERPINNING ALTERNATIVE FEE PROTECTION MEASURES OF EQUAL RIGOUR (OPTION 5)

Are the draft principles described above:

- Practical – from the perspective of RTOs, Registering Bodies, auditors?
- Clear in their meaning?

Where there are concerns as to the practicality or clarity of the criteria, please suggest additional or alternative criteria or wording.

ACPET agree that it is valuable to note that the fee protection measure must “...apply when the agreed training and assessment for which the student has paid for in advance is not provided, no matter the reason “as the reasons for non-delivery do not change the financial disadvantage of the student.

In implementing these principles by 1 July 2011:

What guidance would help Registering Bodies to implement the principles?

What communication is needed to support their implementation? (e.g. key messages, target audiences, timelines)

ACPET is of the belief that a similar timeframe and communication to that noted in Section B would be suitable for this section also.

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