

ERTO A DISCUSSION PAPER
on
VET REGULATION

**A VET regulatory system that facilitates
workforce development in Australia's business
enterprises**

October 2009

INTRODUCTION

1. Members of the Enterprise RTO Association (ERTO A) are focused on the development of their workforce and engage with the National Training Framework (NTF) and Training Packages as enablers for achieving better business outcomes. Most members limit their scope of registration to qualifications closely linked to the main job roles performed by their staff. A significant minority of members engage with the NTF because of compliance needs (for example members from the financial services sector) or to assist them in employing trainees and accessing available traineeship funding. (See Attachment 1 for additional information about ERTO A.)

The membership of ERTO A has grown since it was formally incorporated as an association, and at September 2009 stood at 40. These 40 members employ in excess of 1 million Australians or almost 10% of the 10,772,000 Australians in work at the end of July 2009.

More information about the Association and a full list of members is available at: www.ertoa.org.au
2. The majority of ERTO A members receive no government assistance in skilling their employees and providing access for staff to gain nationally recognised qualifications. Whilst meeting external compliance requirements and accessing external funding sources have been important business drivers for the establishment of enterprise RTOs (ERTOs); the additional benefits of involvement with the NTF include being seen as an employer of choice, using the AQTF to underpin the quality of all training and assessment in the enterprise, meeting external standards, and offering staff pathways to training and development opportunities.¹

Case studies #1

An ERTO A member in the transport industry comments: "Being an ERTO provides my organization with the opportunity to continue developing our frontline leaders. These employees have lacked development for some time and the incentives available to RTOs have allowed our business to aggressively engage in workforce development. We anticipate that in the next financial year we will have trained, assessed and credentialed over 2000 staff. The next step is to move to the middle manager and supervisor level. Would this have happened without funding? No - our ERTO provides the vehicle to develop our staff.

On the other hand another ERTO A member states that 'There is no national or provider equality in the contestable funding system at present. TAFEs are able to access a great deal of funding that is not available to ERTOS.'

3. ERTO A members make a significant but largely unrecognised contribution to the skilling of Australian workers. During 2007/08 the 22 ERTO A members who provided responses to a profiling survey reported the issuance of 9,815 nationally recognised qualifications and 168,998 individual competencies to employees during that year.² However, with the exception of AVETMISS reporting associated with government-funded training places, most ERTO effort is not recorded in national VET statistics.

¹ See additional details on the business drivers for ERTO set up and registration at: <http://www.ertoa.org.au/library/RTO%20business%20case%20review%20paper.pdf>

² The full results from the survey are at <http://www.ertoa.org.au/library/2008%20member%20profile%20report.pdf>

4. ERTOA members represent about 20% of approximately 250 enterprise RTOs listed on NTIS. A rough extrapolation of the data collected from ERTOA members to the full complement of 250 NTIS-listed ERTOs indicates a total output of around 100,000 full qualifications and nearly 2 million competencies issued annually by ERTOs. ERTOs themselves represent a small part of the 80% of Australian businesses offering their employees formal structured training.³ If the ERTO training model were extended to the majority of these businesses the total annual VET output would be substantial.

THE CHARACTERISTICS OF WORKFORCE DEVELOPMENT IN ENTERPRISE RTOs

4. The considerable effort in skilling and re-skilling workers conducted within ERTOs occurs in a significantly different training model to private and public VET providers. The majority of ERTOA members operate to support the business in ensuring employees have the skills to do their work. ERTOs also have a role in quality assurance of training more generally within the enterprise. Training needs analyses, training interventions, performance appraisals and training evaluations are designed from a business need and are mapped to Training Package qualifications post development. Trainers and assessors are primarily concerned with meeting business needs. The benefit an ERTO brings to the enterprise is assessed in terms of business performance.
5. Whilst the limited scope of RTO registration maintained by ERTOA members illustrates core business for enterprises, nearly all ERTOA members have relationships with traditional RTOs to deliver additional development opportunities to staff.
6. Many ERTOs operate across State and Territory borders in developing the skills of their workers. Variable State and Territory based regulations in the VET sector are an irritant to effective business if they mean that the ERTO has to develop different policies and processes in different jurisdictions, or has to re-brand existing business documentation to meet local RTO compliance requirements.

Case studies #2

A large international hotel company with over 8000 employees in Australia implements several 'on the job' training programs which are aligned to Certificate II and Certificate III traineeships. To ensure training was continued during the economic crisis, State funding opportunities were sought in addition to Federal funding. This resulted in a more complicated approach to record keeping and the learning and development department has needed to change structures to support this and hence created additional cost to the business. The L and D manager commented: "Each State operates on a different reporting structure which is again different to the Federal system. In addition, the forms for sign-off and management of completion are different in each State, which means that there are different procedures for each trainee restricting our ability to have a national company procedure. Further complications arise if an employee signed up as a trainee transfers to a hotel in another State."

7. Enterprises with RTOs see their engagement with the VET sector as serving a business need. They see themselves as clients of the VET sector as well as players in the sector. If

³ Australian vocational education and training statistics: Employers' use and views of the VET system 2007 – Summary NCVET 2007

cumbersome regulatory frameworks were to make the operation of ERTOs problematic, enterprises will continue to develop their staff but outside the AQTF.

8. Many ERTOA members have a series of additional regulatory layers to interact with including licensing, business requirements and internal audit and compliance regimes. This can add significant complexity and confusion to the accredited training operations of the enterprise RTO.

Case studies #3

A national company involved in extractive industries needs to meet a variety of parallel requirements to operate. In NSW they utilise the Extractive Industries Training Package and additionally need to meet legislative requirements which aren't covered by the Training Package. In Queensland, the relevant authority requires quarry operators to be deemed competent by their quarry manager, and they completely disregard if the operator has been deemed competent under the Training Package. In contrast to this, in NSW the DPI would never accept the quarry manager deeming an operator competent, but they do accept evidence that an operator has been deemed competent under the Training Package.

The company also needs to meet Workcover requirements. The RTO manager comments ".. with Workcover an operator is deemed competent on a piece of equipment, WorkCover won't accept that under the Training Package. They insist that the operator be deemed competent by a WorkCover approved assessor, using the WorkCover approved assessment tool."

Another ERTOA member comments, "Although all states are working toward a national solution to licensing requirements (ie. High risk work licenses) and the TLI07 package on our scope now has LIC units of competence, QLD have their own 'courses' for licensing requirements (30497QLD - Operate Cranes, Rigging & Scaffolding Equipment & 30496QLD - Operate Load Shifting Equipment) An accredited assessor to issue licenses in QLD must be aligned to an RTO, and the RTO must have these courses on their scope of registration. Initial advice from DEIR and DETA in QLD was that although our company is an RTO I would need to register in QLD as an RTO to have these on scope. Subsequent to this, after submitting paperwork, I received conflicting advice that I would need to submit through my registering body VRQA. This issue has been going on without resolution since November 2008."

PRINCIPLES OF VET REGULATION FOR SKILLS DEVELOPMENT IN ENTERPRISES

9. ERTOA members have a strong commitment to the National Training Framework. They do, however, see many opportunities in a streamlined VET regulatory framework that will allow them to facilitate more effective and efficient workforce development. Principles ERTOA members would like to see underpin VET regulation include:
 - Policy is developed to suit the operation of all RTOs including enterprise RTOs
 - Policy is developed nationally, regulated nationally and implemented consistently across all jurisdictions
 - Funding follows skills development and acknowledges that development and assessment occurs in work places under a variety of different methods
 - Funding is managed nationally, including incentive funding such as User Choice and Productivity Places

- All ERTO regulation and audit is underpinned by a strong outcomes based framework focusing on business performance improvement. Audit processes within ERTOs should focus on partnering with enterprises to improve workforce capability development
- RTO regulation is developed nationally with local application based on nationally agreed processes and under national supervision
- Development and review of Training Packages should reflect rapid changes in technology and work practices and should be managed nationally with local intelligence gathered from industry, and should require and reflect strong industry consultation and approval
- Partnerships between different RTOs should be encouraged to leverage best practice and access to industry knowledge and facilities. Duplication of industry facilities should be avoided by strategic partnerships

THE IMPACT OF PROPOSED VET REGULATION ON ERTOA MEMBERS

10. The June 2010 Consultation Paper produced by the Nous Group highlights four layers of VET regulation:⁴
 1. An authorising and oversight layer,
 2. A legal and policy layer,
 3. A product and provide regulation layer and
 4. A market layer.
11. In the day to day running of their ERTOs members are primarily concerned with activities from the Nous levels 2 and 3. The impact of each layer of regulation on ERTOA members is described below:

LAYER 1 - AUTHORISING AND OVERSIGHT

12. ERTOA seeks a national and consistent policy development and implementation regime that acknowledges skilling occurs in many ways including within work places and enterprises. Equal emphasis and value should be placed on skill development by all RTOs with policy and funding acknowledging this. Policy development and implementation needs to fully consider the different ways RTOs operate, including those operating within enterprises. ERTOA supports the view of ACPET that there needs to be representation of providers as equal and valued partners within all levels of VET governance.⁵ ERTOA members are able to bring to these governance discussions input as both providers and industry.

⁴ *Future options for VET regulation. Consultation document, The Nous Group, June 2009, page 5*

⁵ *Position Paper, Future options - Vocational Education and Training Regulation, ACPET, July 2009, page 4*

Case studies #4

We are a multi-jurisdictional RTO registered in one State. We have User Choice contracts in several States which mean that we can be audited under the conditions of these contracts. This year we have had two of these audits and in both situations the auditors asked questions and asked for evidence that should not be part of a User Choice audit. This caused confusion and tension for the teams in those States during the audits. They were prepared to discuss and give evidence on our procedures and processes relating to User Choice funding not items relating to our RTO registration.

In one State, the auditors asked us to change one of our assessment tools, but our training and assessment tools have been approved by our registering body and passed audit. Are we meant to change the documents in this State to suit this particular auditor and be inconsistent nationally? Or, do we keep the documents as they meet the standards of our registering body and risk non-compliance in a User Choice audit?

In the other State, the auditor requested our training and assessment strategies, mapping documents and other materials. These documents are kept in our head office which is in the State where we are registered. In order to keep the auditor 'happy' we sent these documents through to this State during the audit but again, this is not the purpose of a User Choice audit.

These experiences have generated a number of questions about us as a national RTO:

- How can we manage administration if we have different requirements in each State?*
- How can we train and assess our people if we aren't sure which State accepts which document?*
- How many audits should we have?*
- How do we manage the inconsistency of these audits?*
- What do we do if we have passed audit in our registered State, but issues are raised by another State?*

LAYER 2 – LEGAL AND POLICY

13. ERTOs operate across State and Territory boundaries and policy should be nationally developed and locally implemented in a consistent manner. Although ERTOA and its members have well developed relations with national players including DEEWR, national ISCs, TVET, and NCVER, differences across political boundaries mean that enterprises operating nationally or across State boundaries are frustrated.

LAYER 3 – PRODUCT AND PROVIDER REGULATION

14. Multi-jurisdictional ERTOs see benefits and opportunities for change in the regulatory framework at this level. ERTOA members see the Training Package framework as one that readily lends itself to application in a business environment. By not specifying how skills are developed TP competencies can be mapped to enterprise training and assessment.

15. The development and review of Training Packages needs to be managed by national ISCs in close consultation with industry. Members are concerned with the time taken to review Packages and the lag between technology and practice changes, and reflection in Training Packages. ERTOA members see little value in State and Territory-based Skills Councils or ITABs duplicating work that should be done by the national ISC.

Case studies #5

An ERTOA member involved in the automotive industries comments: "Automotive repair technology is changing so rapidly that much of the technology is not captured in Training Packages because they are too specific and not holistic. Learning about the technology is evolving as the product evolves, knowledge is not necessarily known at the start. By the time TP's are updated, or the content mapped the technology has moved in a very new direction. Currently the rate of change in technology is continuous and fluid - TP's as a vehicle cannot match this - three examples, hybrid technology, radar and sonar braking and parking technology in cars, diagnostics of faults - none of these are close to being included in a Training Package."

In a similar comment a large national television network was keen to provide accredited training and recognition for key production roles, but found that the newly revised Screen and Media Training Package was written in such a way that the camera and post-production units assumed tape as the recording medium. The network had recently upgraded all camera and post-production equipment to the latest tapeless recording media, and the requirements of the units could therefore not be met.

16. The design of Training Packages needs to acknowledge and allow for many methods of delivery and assessment (including entirely on-the-job) and existing workers. Units of competency must be written (and interpreted by auditors) in such a way as to allow ERTO's freedom in contextualisation to match their workplace and business requirements.
17. Implementation of new or revised Training Packages needs to be coordinated. ERTOA members operating across State boundaries are severely disadvantaged when States and Territories have different implementation dates.

Case studies #6

One ERTOA member advises: "Being registered with VRQA I was following their advice on the implementation date for the TLI07 package when swinging across from the superseded TDT package. This advice was the 1/12/08 however when we went to sign up 150 trainees in QLD into the TDT package prior to 1/12/08 was advised by DETA in QLD that QLD implementation date was the 1/7/08. This necessitated me bring forward change of scope requirements to accommodate the QLD date."

Another ERTOA member involved in the fast food industry commented: "The Retail Services Training Package (SIR07) was endorsed in October 2007. The national implementation date is 12 months from date of endorsement. Several States decided to change this implementation date, and in some cases this was contrary to the dates published in their Purchasing/Implementation Guides.

QLD: We could not enroll trainees into Certificate II or III unless it was SIR07 after May 2008.

WA: We could not enroll trainees into Certificate II or III unless it was SIR07 after May 2008.

SA: We could not enroll students into SIR07 until December 2008.

NSW: NSW Board of Studies would not accept school based traineeships unless they were on SIR07, so Certificate II in Retail for school based students had to commence in January 2008 while normal Certificate II in Retail had a national implementation date. We could not enroll trainees into Certificate III in Retail until November 2008.

VIC: National implementation date was adhered to.

The results of this were:

- We were not able to commence traineeships in QLD and WA until late September 2008 as our application for amendment to scope was waiting to be assessed for several months.*
- We had trainees on several different versions of traineeships throughout 2008 which caused an administration nightmare and confusion."*

18. A strong AQTF linked to output measures supports ERTOA members use of the Framework. The development of AQTF 2007 was managed in a collaborative way. The development of an ERTOA guide to implementing the AQTF has meant that ERTOs can utilise existing business processes and documentation at registration and re-registration. An audit regime that seeks to assist enterprises to improve their learning and development processes would support the implementation of the AQTF. ERTOA members are concerned about their public profile and see AQTF audits as an opportunity to ensure they are exhibiting good practice.
19. The Quality Indicators, whilst accepted as a good idea by ERTOA members, have been managed poorly and resulted in a redundant and cumbersome set of tools whose use in ERTOs will add complexity, cost and frustration whilst adding no real value to their businesses. This was an example of provider concerns not being addressed despite repeated and consistent concerns being raised about the tools by a number of significant enterprise RTOs and ERTOA.

Case studies #7

We are a large iconic Australian company employing 34,000 Australians. Development of our workforce is critical to ongoing operational effectiveness. In this regard it is critical that the effectiveness and efficiency of our training and development is measured and reported. What exists internally is a detailed, multi-layered framework of measurement and evaluation that goes far beyond the QI questionnaires developed for the AQTF. The QIs will increase the cost of training and development in our organisation through duplication of data, re-working of processes and increased strain on IT resources for no additional benefit. This is not sustainable in the longer term and will not be tolerated by the business.

In a similar vein the RTO manager in a national retail business comments that additional regulatory complexity will put their commitment to the NTF at risk. "The additional work we now need to do to meet the National Quality Indicators will be the 'straw that breaks the camel's back'. Operating across States and meeting all their complex regulations is hard enough. If we have to employ additional staff to comply with this extra QI requirement then management will again question why we are an RTO."

20. ERTOA members see a national process of allocating and managing user choice and other training funding as supporting their business models. Whilst acknowledging local skills shortage needs may differ, there is frustration in inconsistency in existing worker programs and Productivity Places where access differs widely across jurisdictions. National enterprises don't view skill development defined by jurisdictional boundaries. User choice audits should be managed to avoid over-lap and potential scope creep with AQTF audits.
21. ERTOA members see a national registering body as a major advantage to their multi-jurisdictional operation. Members who have been able to move to NARA have commented on the style of service and the collaborative customer focussed approach. There are many irritations in the current system of State based registration but members are most concerned about a lack of consistency. Any additional regulatory requirements applied at the State or Territory level hinder the operation of national ERTOs, add compliance costs, and put the continuation of the enterprise's association with the NTF at risk.

22. ERTOA agrees with the comment by ACPET regarding duplication and inefficiency: 'The current regulatory framework causes barriers to effective and efficient regulation. Currently the structure of the regulatory framework encompasses different State and Territory VET Departments and different State and Territory VET legislation and regulation. This framework is particularly burdensome for RTOs that operate in multiple jurisdictions and can result in the benefits of regulation being offset by unduly high compliance and implementation costs.'⁶
23. National consistency in registration and accreditation is a high priority for ERTOA members. Given current experience, this is something that may only be achievable with a single, national regulator.
24. Whilst not part of the discussion for this paper it is worth noting that ERTOs and their parent businesses need to work within other regulations related to OH & S, workers compensation, licensing requirements and so on. There would be benefit in these requirements being met by aligning with competencies from Training Packages.

LAYER 4 - MARKETING

25. ERTOs do not see themselves actively involved in an open market for training. With very few exceptions ERTOA members only provide training to their own staff. They do not need to establish a commercial training identity other than to be seen as value within their organisations. For many of them, this training would continue without national competencies and the NTF, but there would be no national consistency, no measurement of training effort, and no industry engagement with the VET sector.

MORE INFORMATION

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⁶ *Position Paper, Future options - Vocational Education and Training Regulation, ACPET, July 2009, page 5*

ATTACHMENT 1 – THE ENTERPRISE RTO ASSOCIATION (ERTO A)

The Enterprise RTO Association was formed in late 2006 and represents business enterprises with embedded RTOs. The key attribute of an enterprise RTO is that its principal business is not the provision of training and assessment services. The Association has two broad aims:

1. To support and assist the member enterprise RTOs and their staff to operate effectively and efficiently by enabling members to:
 - ✓ Seek advice, exchange ideas and experiences with colleagues from other organisations on all aspects of setting-up and running an enterprise RTO;
 - ✓ Participate in regular meetings with colleagues from other enterprises to discuss issues of concern, exchange ideas and give and take advice; and,
 - ✓ Participate in, and contribute to, an association that has a mandate to commission and publish research on specific issues facing enterprise RTOs.

2. To provide formal representation and promote the interests of members by:
 - ✓ Interacting as an association, and in a coordinated way, with State Training Authorities, Industry Skills Councils, Department of Education Science and Technology and other VET players, on the issues faced by enterprise RTOs in order to promote greater recognition of enterprise RTO activities and interests;
 - ✓ Participating as a formal association with a 'seat at the table' whenever discussions occur, and decisions are made, affecting enterprise RTOs; and,
 - ✓ Influencing the Australian VTE sector regarding enterprise RTO issues and interests.

The membership of ERTOA has grown strongly since it was formally incorporated as an association, and at September 2009 stood at 40. Member enterprises currently employ in excess of 1 million Australians or almost 10% of the 10,772,000 Australians in work at the end of July 2009.

More information about the Association and a full list of members is available at: www.ertoa.org.au