

## Managing Non-Compliance against the Standards for RTOs

To assure the quality of registered training organisations, the Training Accreditation Council implements a range of regulatory approaches, one of which is conducting audits against the *Standards for Registered Training Organisations (RTOs) 2015*.

Two possible outcomes can result from a TAC audit: **Compliance** or **Non-compliance**. This fact sheet explores what constitutes the overall level of non-compliance and how RTOs may manage non-compliances identified at audit.

Information specific to the audit process including what occurs prior, during and after the audit, is available on the [TAC website](#).

### Level of non-compliance

TAC Auditors prepare an audit report which indicates the overall level of non-compliance. These levels are categorised as follows:

#### Minor Non-Compliance

The requirements have not been met, and there is **minor** or **no impact** on learners and/or other consumers of goods and services produced in the training environment or on the learner's current (or future) workplace. Evidence viewed could indicate that one or more of the following has occurred:

- the non-compliance identified does not demonstrate a serious breakdown of the RTO's systems for the provision of quality training and assessment;
- continuous improvement systems are in place; and/or
- data from the quality indicators or other sources shows that clients are generally satisfied with services and outcomes from the RTO.

An example of a minor non-compliance is where the RTO did not demonstrate how their industry engagement ensures the relevance and currency of their trainers' and assessors' industry skills (Clause 1.6b) and no systemic issues were identified.

## **Significant Non-Compliance**

The requirements have not been met, and there are indications of **significant adverse impact** on learners and/or other consumers of goods and services produced in the training environment or the learners' current (or future) workplace. Evidence viewed could indicate that one or more of the following has occurred:

- training and assessment systems are not sufficiently focused on quality training and assessment outcomes and meeting individual learners' needs in some areas of the RTO's operations;
- systems to continuously improve the RTO's operations are inadequate;
- data from the quality indicators or other sources shows that a range of clients have expressed dissatisfaction with services and outcomes from the RTO; and/or
- previously identified minor non-compliance has not been rectified or evidence of improvement within the applicable period has not been provided.

An RTO's non-compliance reported against assessment (Clause 1.8) is considered significant as the impact on learners and the industry would be concerning and rectification requirements will cause great inconvenience to all parties. A common significant non-compliance is where assessments for a training product do not meet all requirements of the training package.

## **Critical Non-Compliance**

The requirements have not been met, and there are **critical adverse impacts** on learners and/or other consumers of goods and services produced in the training environment or the learners' current (or future) workplace. Evidence viewed could indicate that one or more of the following has occurred:

- training and assessment systems are not achieving quality training and assessment outcomes and are not meeting individual learners' needs;
- there is a breakdown in, or absence of, effective management systems;
- there is no systematic approach to continuous improvement; and/or
- data from quality indicators or other sources shows that there is widespread or persistent dissatisfaction with services and outcomes.

An RTO's non-compliance reported against the requirements of trainer/assessor competence (Clauses 1.13 and/or 1.14) may be considered critical as the RTO may have inappropriately qualified trainers and assessors. The impact on learners and the industry would be concerning and the rectification required could cause great inconvenience to all parties.

## **Critical Non-Compliance (risk of injury or death)**

In extreme (and rare) situations, evidence from audit may indicate **risk of injury or death** to people in the training environment or the learners' current (or future) workplace. In such instances, the level of risk and potential impact warrants immediate rectification. Evidence viewed could indicate that one or more of the following has occurred:

- training and assessment systems are not achieving quality training and assessment outcomes and are not meeting individual learners' needs;
- there is a breakdown in, or absence of, effective management systems;
- there is no systematic approach to continuous improvement;

- data from quality indicators or other sources shows that there is widespread or persistent dissatisfaction with services and outcomes; and/or
- there is a risk of injury or death to people in the training environment or the current (or future) workplace.

An example would be where an RTO providing training which leads to High-Risk Work Licence outcomes and the resources being used are evidently unsafe and a danger to the operator, learner and RTO representatives (Clause 1.3d, 1.4). In this case it is likely the Council would direct the RTO to immediately stop delivery and report the potential danger to the relevant authority such as WorkSafe.

### **How does the auditor determine the overall level of non-compliance?**

Many factors will influence an Auditor's judgement on assigning an overall level of non-compliance. Auditors will consider the scale and scope of the RTO and whether issues identified are systemic or one-off, easily rectified or involve considerable effort to rectify. Most importantly, in line with the overall level of non-compliance definitions, Auditors will consider the impact of non-compliance on learners, the industry, and workplaces.

### **What to do when a non-compliance has been identified.**

At the conclusion of every audit, the Auditor will write a formal report that forms a detailed record of the audit findings, including any non-compliance which may have been identified and the overall level of non-compliance. Any reported non-compliance will be noted and details of the evidence and audit findings will be documented. RTOs will need to consider the findings in developing their own plans for the corrective actions to be taken in response.

On reading the audit report, RTOs may at times consider that the audit findings contained in the report are not an accurate reflection of what was presented to the Auditor or observed by the Auditor. In the first instance, RTOs are encouraged to seek clarification from the Auditor regarding the audit findings. At times this clarification can remove any confusion or misunderstandings. If the clarification does not provide resolution, the RTO is able to follow TAC's [disputes or appeals](#) process.

### **So, what does all this mean for my RTO?**

If an RTO is non-compliant at an audit with **significant** or **critical** levels of non-compliance, the applicant/RTO is provided with 20 working days<sup>1</sup> to provide any supporting evidence for review. The 20-day rectification period commences from the day the RTO receives the audit report from TAC.

Also at this point in the process, TAC advises the RTO that it [proposes to reject \(for applications\) or, proposes to sanction](#) the RTO. RTOs are invited to provide a response to the proposal to reject or sanction within the 20-day rectification period.

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<sup>1</sup> In rare cases where critical non-compliance with a risk of injury or death is reported, a reduced rectification period may be considered.

If an RTO is non-compliant at an audit with **minor** non-compliance the applicant/RTO is provided with 20 working days<sup>2</sup> to provide any supporting evidence for review and TAC will provide the RTO with an opportunity to address non-compliances [without the proposal to reject or sanction](#).

## **What do I need to do to address an identified non-compliance?**

Many non-compliances can be easily rectified, however there will be those that require significant effort and resources to address. It is important that RTOs review the underlying cause of the issues identified so that all implications are considered. For example a non-compliance that relates to marketing materials that do not correctly identify the code and title of the training product, as published on [training.gov.au](http://training.gov.au) (Clause 4.1h) might seem a simple edit to the RTO's marketing materials (website, flyers, student handbooks), however it could also mean:

- recall of all published marketing materials to remove them from circulation;
- direction to all those concerned to revise the materials accordingly;
- revision of policies and procedures related to production and approval of marketing and promotion materials to ensure no repeat of the issue; and
- provision of staff development for those responsible for marketing and promotion.

This example highlights that in order to address what might be considered a simple editorial error could have significant impact on the operations and resources of the RTO.

In all cases where non-compliance is identified it is incumbent on the RTO to determine if the:

1. non-compliance is potentially systemic affecting the RTO's complete scope of registration and not just those training products sampled for review at audit;
2. non-compliance is because of poor implementation of the RTO's own policies or procedures;
3. RTO's own policies and procedures contribute to the non-compliant practice; and
4. RTO's own quality assurance and continuous improvement practices are sufficiently rigorous to identify non-compliant practice and to ensure continued compliance.

To assist RTOs understand their compliance obligations, TAC has developed a comprehensive suite of [Fact Sheets, professional development opportunities](#) including workshops and webinars and a [Users' Guide to the Standards](#).

## **How should rectification evidence be presented to the Auditor?**

On receipt of the main audit report, in most instances an RTO will have 20 working days to provide rectification evidence to the Auditor. The review of an RTO's rectification evidence is a desktop audit process.

As the Auditor will not be visiting the RTO's location again, the onus is on the RTO to provide clear and readily interpreted evidence to demonstrate compliance. Evidence provided in

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support of compliance should be organised and clearly referenced to the Standards/Clauses to which the audit findings relate.

When evidence is not presented in an organised manner, the risk is that this may lead to non-compliance being reported because the Auditor may not be able to easily draw links between the evidence to the relevant Clause.

Well-presented, relevant and accurate evidence will assist Auditors to review evidence in a timely and efficient manner. When providing evidence, RTOs are strongly encouraged to:

- create a summary document that correlates the evidence to the Standard and Clause for which it should be considered. In some instances, one piece of rectification evidence may address non-compliances recorded against more than one Standard and/or Clause;
- nominate what page or paragraph contains the relevant evidence if the documentary evidence also contains other possibly non-related content e.g. if the evidence is in a revision of a Student Handbook;
- state what the RTO did to address the non-compliance and why the RTO believes the rectification evidence provided addresses the identified non-compliance; and
- where the non-compliance relates to a systemic issue, provide a plan for the RTO's roll-out of the proposed rectification processes for consideration by TAC.

**Below are three examples of how non-compliant findings have been addressed.**

## **CASE STUDY 1**

### **NON-COMPLIANCE – COMPLAINTS POLICY**

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RTO 1 was subject to a renewal of registration audit. It was found to be non-compliant (minor) against the requirements of Standard 6, Clauses 6.1 a, b, and c.

The Auditor found the RTO's complaints policy did not demonstrate how it would respond to allegations involving the conduct of:

- a) the RTO, its trainers, assessors, or other staff;
- b) a third-party providing services on the RTO's behalf, its trainers, assessors, or other staff; or
- c) a learner of the RTO.

At the time of audit, the RTO provided evidence in the form of:

- Documented grievance policy
- Student Handbook
- Reference to the RTO website
- Third party agreement with XYZ Enterprises

The Auditor reported that while the RTO had a "grievance" policy, this policy did not have sufficient detail for it to apply to complaints about the conduct of its trainers, assessors, other staff, or learners; nor did it make mention of a third-party providing services on behalf of the RTO. This "grievance" policy was replicated in the Student Handbook and on the RTO

website. The RTO had not revisited its grievance policy since the introduction of the Standards for RTOs.

It was also noted that a documented third-party agreement was in place between the RTO and XYZ Enterprises, however it was found this agreement was silent on the management of complaints.

TAC provided the RTO with the opportunity to rectify the identified non-compliance within 20 days, directing the RTO through the audit report to provide evidence it had:

- revised its complaints policy to reflect the requirements of Clause 6.1a, b, and c;
- revised all documentation (including the RTO website) which includes references to the complaints policy to reflect the requirements of Clause 6.1a, b, and c;
- removed from circulation any documentation that contains non-compliant advice about the RTO's complaints policy;
- revised the third-party agreement with XYZ Enterprises to include references to the management of learner complaints that comply with the requirements of Clause 6.1a, b, and c; and
- ensured all staff members were informed of the changes to the complaints policy.

In response, the RTO advised it had revised its complaints policy to also provide for the management of appeals. It provided the following information to the Auditor within the stipulated rectification period.

1. a revised Complaints and Appeals Policy which is based on the wording of Standard 6. This policy had a new document control reference and version date;
2. a record in the RTO continuous improvement register of the revisions made to documentation related to complaints and appeals;
3. a revised Student Handbook containing the revised Complaints and Appeals Policy;
4. a revised learner enrolment form noting the change of name from "Grievance Policy" to "Complaints and Appeals Policy";
5. a link to the RTO website where the revised Complaints and Appeals Policy is located;
6. a copy of an addendum to the third-party agreement with XYZ Enterprises being a clause that discusses the management of complaints and appeals. This addendum was signed by both parties;
7. minutes of a staff meeting where the revised Complaints and Appeals Policy was an agenda item; and
8. the RTO advised that no Student Handbooks are in circulation, as it is the practice of the RTO to provide learners access to the handbook via the website or directly by email.

### Outcome following the Evidence Review

Acting on the recommendations of the Auditor, TAC found the RTO to be compliant with the requirements of the Standards. The RTO registration was renewed for a further seven years.

## CASE STUDY 2

### NON-COMPLIANCE – ASSESSMENT

RTO 2 was subject to a renewal of registration audit. It was found to be non-compliant (significant) against the requirements of Standard 1, Clause 1.8 a, and b.

The Auditor found the RTO's assessment system had not ensured its assessments for two sampled units of competency from the *CHC32015 Certificate III in Community Services* qualification complied with the assessment requirements of the CHC training package; and that its assessments had not been conducted in accordance with the Principles of Assessment (validity and reliability) and the Rules of Evidence (validity and sufficiency).

At the time of audit, the RTO provided evidence in the form of:

- documented Assessment Policy and Procedures (including references to RPL);
- Training and Assessment Strategy for the CHC32015 Certificate III in Community Services qualification;
- Delivery and Assessment Plans for the two sampled units of competency:
  - CHCCOM005 Communicate and work in health or community services; and
  - CHCDIV001 Work with diverse people.
- assessment resources both knowledge and practical for two sampled units;
- mapping matrices as evidence to demonstrate how all the requirements of the sampled units of competency are to be met by the assessment resources;
- pre-use assessment validation records for the two sampled units of competency;
- student records including completed assessment instruments and records of assessment judgements; and
- RPL instruments for the sampled units of competency.

The Auditor reported:

- the Training and Assessment Strategy for the CHC32015 qualification and the Delivery and Assessment Plans for the two sampled units of competency did not provide guidance to the assessor informing them that practical assessment activities would need to be demonstrated on multiple occasions;
- the mapping matrices did not demonstrate all the performance requirements of the sampled units of competency would be demonstrated;
- the RTOs assessment practices and resources were not valid nor reliable as they did not demonstrate how all the performance requirements of the CHCCOM005 and CHCDIV001 units of competency would be met, and the Auditor in reviewing learner records confirmed learners had not demonstrated the multiple performance evidence requirements of each of the units;
- the assessment judgement records did not confirm sufficient assessment evidence had been considered as learners had not completed the practical performance requirements on multiple occasions as required by each unit of competency; and
- the RPL instruments reviewed did not confirm applicants would provide evidence of having demonstrated the performance evidence requirements on multiple occasions as expressed in each of the sampled units of competency.

The Auditor also reported this non-compliance indicated systemic problems existed within the RTO's assessment system. This was evident due to those undertaking the RTO's pre-use assessment validation processes having overlooked the performance requirements of the CHCCOM005 and CHCDIV001 units of competency when completing the pre-use validation activities.

Based on the recommendations of the Auditor, TAC [proposed to reject](#) the RTO's application to renew its registration and provided the RTO with the opportunity to rectify the identified non-compliances within 20 working days, directing the RTO through the audit report to provide evidence it had:

- revised its assessment system to ensure all the requirements of the CHC training package will be met, including the processes by which it confirms assessment resources are fit for purpose;
- reviewed the assessment requirements for each unit of competency from the CHC32015 Certificate III in Community Services qualification and where necessary revise its assessment practices and resources including RPL, to ensure all requirements will be met,
- for current students completing the CHC32015 Certificate III in Community Services qualification, undertake an analysis of all completed assessments and where necessary implement a process to ensure each student completes additional assessments so that sufficient, valid, and reliable evidence will be considered in making assessment judgements, and
- for all other training products on the RTOs scope of registration provide a plan for how the RTO will review its assessment practices and resources detailing its intended practices and the expected timeframe for its implementation and completion.

In response, the RTO provided the following to the Auditor within the stipulated rectification period:

1. a revised Assessment Policy and Procedure that included a strengthened pre-use validation process utilising a qualified individual independent of the RTO;
2. revised Training and Assessment Strategies and Delivery and Assessment Plans for the CHC32015 qualification and units of competency indicating how the assessment practices of the RTO are to be implemented;
3. revised mapping matrices for each of the units of competency from the CHC32015 qualification now indicating how all performance requirements have been addressed;
4. revised assessment resources including judgement records for each of the units of competency from the CHC32015 qualification;
5. an email the RTO has sent to all students currently enrolled in the CHC32015 qualification advising them of the additional assessment they will be required to complete;
6. a plan for the conduct of the additional assessments to be conducted prior to learners completing the qualification; and
7. a plan outlining when and how the RTO is to review all other Training Products on its scope of registration. This plan indicates when the review is to be completed and by whom it will be completed. It also indicates the resources the RTO is to commit to the revision of resources should the need arise.

## Outcome following the Evidence Review

Acting on the recommendations of the Auditor, TAC found the RTO to be compliant with the requirements of the Standards. The RTO registration was renewed for a further seven years, however TAC also advised the RTO of its intention to undertake a monitoring audit within the next 12 months to confirm the RTO had:

1. implemented its plan for revision of its assessment system and resources for all training products on its scope of registration; and
2. undertaken additional assessment activities for students completing the CHC32015 Certificate III in Community Services.

## **CASE STUDY 3**

### NON-COMPLIANCE – MARKETING

RTO 3 (New Applicant) was subject to an initial registration audit. This organisation intended to deliver units of competency that lead to a High Risk Work Licence outcome. It also intended to deliver vendor specific training that is not nationally recognised. The applicant was found to be non-compliant (minor) against the requirements of Standard 4, Clause 4.1 and Standard 5, Clause 5.2.

At the time of audit, the applicant provided evidence in the form of:

- marketing policy;
- marketing materials checklist;
- organisation web site (draft – not yet live);
- Student Handbook;
- course brochures (draft for five high risk work licences); and
- enrolment form (draft).

The Auditor determined the applicant's intended marketing materials did not:

- provide for inclusion of the RTO code on the organisation's proposed website;
- use the NRT logo in accordance with the specifications outlined in Schedule 4 of the Standards. The logo was found to be included on the Student Handbook with no reference to national training products;
- use the code and title of the training products as they appear on the national training register. The programs were referred to as "Forklift, EWP, Rigging or Dogging";
- clearly distinguish which of the organisations promoted products lead to issuance of AQF certification through delivery of nationally recognised training. The organisation's intended website (draft) promoted both nationally recognised training and vendor training with no distinction made between each of the products; and
- provide sufficient enrolment information for potential learners to make informed decisions about the organisation, its policies, procedures, and the services it intends to provide. No information was provided about the costs of each program nor the location where training and assessment is to be provided.

TAC provided the RTO with the opportunity to rectify the identified non-compliance within 20 working days, directing the RTO through the audit report to provide additional evidence to demonstrate compliance.

In response the applicant provided:

1. a revised draft of its intended website making provision for the RTO code;
2. the revised website distinguished between nationally recognised training and the organisations vendor training by having each appear on separate dropdown menus;
3. the references to nationally recognised training products now appear on the draft website and on the revised course brochures as they do on [training.gov.au](http://training.gov.au);
4. the National Training Logo removed from the Student Handbook;
5. the revised website and the course brochures now include information detailing the costs of each program and location each will be delivered; and
6. the applicant had also revised its proposed enrolment form to include program costs.

### Outcome following the Evidence Review

Acting on the recommendations of the Auditor, TAC found the applicant to now be compliant with the requirements of the Standards and initial RTO registration was approved for two years.

### **Summary**

It is important to note that Auditors consider a range of issues in arriving at their final judgement as outlined in this Fact Sheet. No two audits are the same, even when an RTO is audited two or three times within the space of a year. Staff changes and policy changes within an RTO may impact on compliance outcomes.

Judgements about compliance are point in time and are founded on evidence reviewed by the Auditor either at site audit or as part of an evidence review.

RTOs are encouraged to apply effective continuous improvement processes to ensure compliant outcomes and quality training and assessment.