

Response to Australian Skills Quality Authority
Discussion Paper
July 2012

By Adult Learning Australia Inc

Context

Adult Learning Australia is the peak body for Adult and Community Education (ACE) in Australia with both individual and organizational members in every state and territory of Australia. Our mission is to achieve access to Lifelong and Lifewide Learning for All Australians.

ALA's 380 members include approximately 80 not for profit RTO's. These RTO's are based in all states of Australia and in the Northern Territory, however the vast majority are in NSW and Victoria. In these states Community Colleges, Neighborhood Houses, and Community Learning Centres have a strong history of providing predominantly entry-level accredited courses and programs to disadvantaged learners.

A significant body of research exists to suggest that the ACE sector plays a role in the Australian VET sector that is not replicated by either the TAFE system or private for profit VET providers i.e. they:

- Offer small class sizes and informal venues that appeal to learners with poor previous experiences of institutional learning,
- Operate in even the smallest communities where thin markets make delivery by institutions like TAFE difficult and where there is no financial incentive to attract private providers
- Provide non-formal and informal learning, volunteer support and other opportunities to develop skills amongst Australians who would otherwise struggle in mainstream VET,
- Provide other community services alongside adult education providing a wrap around service for learners with high needs. (see Bowman 2006)

Not for Profit ACE RTO's are struggling to remain viable in increasingly marketised state VET systems in part because of the increased regulatory burden brought on by wide spread and very public roting in the for profit VET sector. In 2013, more than 10% of Victorian ACE RTO's failed to meet the requirements for a contract with the Higher Education and Skills Group in that state. In NSW the number of not for profit

Community Colleges has also declined over recent years. The fee increases outlined in this document are likely to further reduce the amount of ACE providers delivering entry level VET in Australia, particularly in small and remote communities.

Cost Recovery Principle:

We believe that cost recovery based on a simple “actual cost of service” approach is not fair or reasonable when applied to the not for profit (NFP) sector for a number of reasons:

Firstly, NFP providers frequently focus on disadvantaged groups and difficult communities where it is hard to cover costs much less turn a profit. It is not fair that they are forced to pay comparable costs to providers whose mission does not constrain them from cherry picking the easiest markets. As ACOSS and others have pointed out compliance costs in the NFP sector don’t represent loss of profit, they represent “resources that would have been best used to serve the community, including assistance provided to low income and disadvantaged people.” (ACOSS 2010)

Secondly, NFP providers are not motivated by profit (although sustainability and viability are key drivers.) We believe that the principle within the Australian Government Cost Recovery Guidelines that “providers pay for the commercial advantage they receive” doesn’t apply to NFP activity in the same way as for profit delivery as growth and profit and tempered by the constraints of the not for profit mission.

Thirdly, the social mission of NFP providers means that they often manage “mixed businesses” where education and training sit within a range of social and community services. The Productivity Commission Research Report, Contribution of the Not for Profit Sector, 2010 identified that this ‘mixed business’ or ‘holistic approach to service’ returned significant benefits to the community but incurred significant compliance costs. (Productivity Commission 2010, Overview, pg. xxxii)

Competitive Neutrality

The ASQA discussion paper reflects the current trend within Australian governments to be “sector neutral” for fear of impacting competitive neutrality in the newly marketised VET environment. However we believe that this concern is misplaced and doesn’t take into account the unique role played by NFP ACE providers nor the challenges they face.

The Productivity Commission was specifically asked to explore the impact of NFP tax benefits on Competitive Neutrality. It found that:

“The finding by the Industry Commission (1995) inquiry that income tax exemptions have few adverse consequences appears to remain relevant.”

Further that the instances where competitive neutrality was affected were largely confined to a small number of instances notably public hospitals. NFP training providers are not amongst this small number of instances. (Productivity Commission 2010, Overview, pg. xxxi)

We would argue that the demands put on NFP ACE providers by their communities, by their missions to meet the needs of challenging VET clients and thin markets, and by the regulatory burdens outlined in the Productivity Commission report means that for profit providers have a distinct financial advantage over the NFP ACE sector. This needs to be recognised in costs of compliance.

Notion of Risk

We welcome the two tiers of costs for 1 – 4 qualifications and for higher amounts of qualifications. However we would like to see a greater relationship between costs to the provider and the real costs of compliance. For example, we believe that there is a significantly lesser risk attached to a provider based in a local community for decades, with long standing financial relationships with state governments and registration with an ACFE Board or ACE department compared to a new entrant to the market with no such history or associations.

There are a number of instances where the specific role of NFP's and their low risk to regulators is recognised in charging policies by Australian governments. For example to register an Australian company with ASIC costs \$433, a managed investment scheme, \$2171 but “a registered Australian body by a body incorporated or registered under a law dealing with the incorporation of associations” i.e. a small NFP is only \$357. (ASIC Information Sheet 30)

The VRQA has a not for profit ACE rate. ASQA should do similarly.

Summary:

1) Not for profit ACE RTO's are long standing community assets that play a significant niche equity role in the broader VET sector. They play a specific role in

small and remote communities. Their capacity to continue to fulfill this important need will be jeopardized by the proposed fee increases in this discussion paper.

2) Not for profit ACE RTO's have historically represented a very low risk to regulatory bodies. This should be reflected in the costs they incur from funding bodies.

3) There are other comparable instances where governments have separate fee regimes for NFP providers.

Recommendations:

1. That separate For Profit and Not for Profit rates be established and that the not for profit rates be within the range of the current pricing regime plus CPI.
2. That the pricing regimes not just consider amount of qualifications but also high and lower risk qualifications with higher prices charged for high-risk qualifications.
3. That providers with headquarters in small and remote communities be charged heavily reduced fees. To prevent rorting similar regulations to those used by ASIC to determine a legitimate head office could be used.

References:

ACOSS submission to the Productivity Commission Research Report, Contribution of the Not for Profit Sector, 2010, p. 29

ASIC Information Sheet 30. Fees for commonly lodged documents, www.asic.gov.au viewed 9 April 2013

Bowman, Kaye, 2006, The Value of ACE Providers, Adult Learning Australia, Canberra

Productivity Commission Research Report, Contribution of the Not for Profit Sector, January 2010

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