Committee Secretary
Senate Education, Employment and Workplace Relations Committees
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

Tuesday, 8 March 2011

Dear Sir or Madam,

Surf Life Saving Australia (SLSA), an RTO registered in NSW but overseeing the accredited training of over 150,000 lifesaving members and tens of thousands of community clients across Australia, wishes to make the following submission to the Senate Inquiry into the National Regulator.

There is no doubt that the current VET regulatory framework is in need of attention. With multiple jurisdictions and therefore multiple interpretations and applications of supposedly common rules and systems, the implications for a national organisation such as ourselves (which must deal with all of these jurisdictions) are very challenging to say the least. Among the many issues with the current system, we note in particular:

- Inconsistency of interpretation of training package requirements across jurisdictions;
- Inconsistency of auditing requirements and auditing outcomes across jurisdictions;
- Multiple data collection and reporting requirements;
- Multiple implementation dates and transition periods across jurisdictions making it difficult for a national organisation to coordinate resource development and record management;
- Multiplicity of audits, including variations in requirements and interpretations;
- Multiple authorities to negotiate with when seeking to secure nationally consistent rulings or provisions.

A move to a single, national regulator is therefore a logical and desirable outcome. In making this move, we would expect such benefits as:

- A single point of contact for referrals/enquiries regarding interpretation of training package and audit requirements, reducing inconsistency across state borders;
- A single point of contact for negotiations regarding data collection and reporting requirements, allowing confidence in development of management systems;
- A single, consistent and unambiguous application of regulatory and auditing protocols, and a single, consistent interpretation of training package requirements and holistic assessment systems.

SLSA would encourage Western Australia and Victoria to delegate their powers to the national regulator so that we have a true, single, national system. At the moment we have eight regulators, but even the proposed national regulator arrangement will leave us with three. While this is an improvement, it is still not the ideal.

While supporting the principle of a single national regulator, SLSA is concerned about some of the provisions in the Act. On first reading, it would appear that the Act is assuming that all RTOs are the same – a training organisation whose sole purpose is the delivery (commercial or otherwise) of training and education. But this is not the reality. There are over 250 RTOs like SLSA – where the training function is a small part of a larger organisation in which the primary (core) business is NOT training and education. Among these are large, national enterprises such as the Commonwealth Bank, IAG Australia, QANTAS, the Australian Tax Office and the Australian Defence Forces.

These organisations between them employ (and are therefore responsible for the training of) hundreds of thousands (some estimates suggest millions) of Australians. But the training function and the RTO embedded within these organisations may involve just a handful of staff.

Australian for life.
Surf Life Saving Australia t +61 2 9215 8000 f + 61 2 9215 8180 w sls.com.au
789 Botany Rd, Rosebery NSW 2018 | Locked Bag 1010, Rosebery, NSW 2018
ABN 67 449 738 159

With this in mind, SLSA suggests that some of the investigative and enforcement provisions in the Act not only go beyond current arrangements, but are unreasonably and unnecessarily excessive. In addition, given the nature of these organisations – where the vast bulk of staff, resources and associated data and documents have nothing to do with the RTO – assuming that every staff member can answer questions about the RTO function or that every document will reveal something about the RTO function, is not only unrealistic and problematic for enterprise RTOs, but may make many of them question the value of their commitment to accredited training.

For example:

- Part 5, Div 1, Sect 62: It is very unreasonable firstly to request a former employee of a training organisation to produce documents or information (which they may not possess) at any time following their employment (and this could be years), and then secondly to make it a criminal offense if they are unable to comply. Anyone who has worked for multiple RTOs would not be able to supply any documents or information regarding any but their current employer. Holding a person responsible for something completely out of their control or influence is completely unreasonable and therefore, we would have thought, unenforceable.
- Part 5, Div 2, Sect 67: It is unreasonable for an officer of the regulator, whether with consent or under a warrant, to have the power to SEARCH ANYWHERE OR ANYTHING ON A PREMISES, INSPECT OR COPY ANY DOCUMENT or OPERATE ANY ELECTRONIC EQUIPMENT ON THE PREMISES. Enterprise RTOs are usually larger enterprises whose core business is NOT training and education, but who have registered as RTOs to provide accredited training to staff or others. This means that these enterprises will have commercially sensitive or private documents and materials COMPLETELY UNRELATED TO THE TRAINING FUNCTION – yet this section allows the regulator's officer to inspect and copy documents like confidential letters and memos, sensitive board papers, employee records, commercially sensitive financial or business records, etc, (none of which relate to training). This provision will threaten the viability of one of the largest of the VET delivery sectors.
- No distinction is made in the Act between the property of the RTO (or the RTO business unit), the property of the larger (non-RTO) organisation or its contractors, or even the personal property of staff or visitors. Under the Act as written, for example, the regulator could inspect and even seize personal mobile phones, ipads, or the personal contents of briefcases (even lunchboxes!). According to the Act, by merely being "on the premises", any object is available to the regulator.
- Part 5, Div 2, Sect 71: It is unreasonable, especially in an enterprise RTO, for an authorised officer to have the power to question ANYONE on the premises. In a typical enterprise RTO, even if the enterprise itself employees many thousands of staff, the RTO (and/or training function) is normally managed by only a handful of people. Allowing an officer to question staff members outside of that function on matters regarding the RTO, and then making them guilty of an offense if they are unable to answer satisfactorily, is completely unreasonable.

I trust this submission is useful to you. I remain available to answer any questions or provide further information.

CRAIG DELAHOY
National Training and Education Manager
Surf Life Saving Australia