

Senate Committee: Education and Employment

QUESTION ON NOTICE Additional Estimates 2014 - 2015

Outcome: Agency: ASQA

Department of Education and Training Question No. SQ15-000088

Senator Xenophon, Nick provided in writing

Complaints to ASQA

Question

I refer to new research by the University of Sydney's Business School on behalf of the Australian Education Union which found that privatisation of vocational training and TAFEs has led to a drop in quality of courses and huge taxpayer funded profits to providers. The research showed that the average profit made by sharemarket-listed for-profit providers was around 30 per cent, with Australian Careers Network earning 51 per cent annual profit. Furthermore, there are no limits on what the providers can charge for courses through the FEE-HELP system and students are being burdened with massive debts.

1. How many complaints has ASQA received about RTOs in each year since it was established in 2011?
2. What is the process by which these complaints are assessed and investigated?
3. What are ASQA's KPIs with regards to timeframes for addressing complaints?
4. Can ASQA provide a breakdown of the status of complaints (eg. addressed, unsubstantiated, etc) in 2014 and the timeframe in which they were addressed?
5. How many audits have been conducted by ASQA in each year since inception?
6. How often are providers routinely inspected?
7. I note the annual report of ASQA last year found that 75 per cent of Registered Training Organisations (RTOs) failed to meet minimum standards on a first inspection.
 - a. What action can ASQA take if a provider is found to be non-compliant?

Answer

The Australian Skills Quality Authority has provided the following response.

1. From commencement on 1 July 2011 to 31 March 2015 the Australian Skills Quality Authority (ASQA) had received 4503 complaints. Complaint figures were lower for the 11/12 financial year as ASQA did not have regulatory responsibility for Tasmania, South Australia and Queensland for all of this period.

ASQA Complaints by Financial Year				
FY 11-12	FY 12-13	FY 13-14	1 Jul 14-31 Mar 15	TOTAL
729	1274	1398	1102	4503

2. Complaints about providers are assessed by a dedicated team within ASQA.

Complaints are assessed through a "triage" process, which includes checking that the complaint is within ASQA's jurisdiction. If not, ASQA refers the complaint to the relevant body and provides details of the relevant body to the complainant.

ASQA also checks that the complainant has accessed the RTO's internal complaints process. If not, the complainant is advised to initially pursue that avenue in an effort to resolve their complaint.

ASQA usually informs the RTO of the complaint, requires information or action by the RTO and requests a response within a specified timeframe. ASQA reviews the response and decides whether and what further investigation or action is required. Further action may include requests for additional information or action, referring the complaint to the ASQA Compliance team for audit and the potential imposition of a sanction.

The most serious allegations are given priority, noting that ASQA has the power to conduct an unannounced compliance audit of a RTO at any time. Allegations involving serious criminal activity are referred to the appropriate law enforcement agencies.

3. As ASQA implements a new organisational structure and transitions to a risk based regulatory model business processes and procedures are being redeveloped and updated, accordingly the ASQA's Complaints Procedure Manual is under review.

The move to a risk based regulatory model means ASQA is focused on high risk providers.

There are a number of key timeframes for the management of complaints about vocational education and training providers. These timeframes are not linear; that is, they are subject to, or suspended by, a range of factors such as the time taken for complainants and providers to respond to requests for information or evidence, other regulatory responses such as an audit, renewals and scope change or investigation and the availability of resources.

Key timeframes in the Manual include:

- Acknowledgement and initial assessment of complaints – 1 day
- Allocation to a Complaints Officer for action – 1 week
- Responding to complainant and RTO regarding complaint outcome between 10- 15 days
- Give notice of complaint to provider and request response (and evidence, if applicable) – 10- 21 business days from notice
- Require provider to undertake specified action – 10 business days
- Once evidence pertaining to the allegation is obtained and the regulatory response decisions made a referral to Audit or Investigations – 5- 7 business days. These matters are then integrated into workflows and prioritised.

The timeframes for management of complex complaints or groups of complaints that indicate systemic non-compliance will be dependent upon a range of complex processes, including response and appeal processes and litigation processes.

4. ASQA received 1,508 complaints about vocational education and training providers in 2014 (1 January 2014 – 31 December 2014). Of the 1,508 complaints, 13.3 per cent (201) are currently being actioned and 2.9 per cent (44) were withdrawn or cancelled by the complainant.

Of the finalised complaints (83 per cent, 1263) the outcomes recorded:

- 25 per cent - Substantiated - the provider was required to undertake remedial action
- 18 per cent - Unsubstantiated - allegations were investigated but no breach was found
- 42 per cent - Insufficient Evidence/ Allegations not Investigated - allegations were unable to be investigated due to inability of complainant to provide any or sufficient information pertaining to the allegation or the provider

- 15 per cent - Not within Jurisdiction - Threshold after analysis, were found to be outside ASQA's jurisdiction and the complainant was referred to other relevant agencies

For complaints received in the 2014 calendar year (closed), the cumulative time taken to finalise complaints was:

- 37 per cent in less than 30 days
- 56 per cent in less than 90 days
- 85 per cent in less than 180 days
- 98 per cent in less than 12 months

5. From its commencement on 1 July 2011 to 31 March 2015 ASQA had completed 4693 audits.

ASQA Completed Audits				
FY 11-12	FY 12-13	FY 13-14	1 Jul 14-31 Mar 15	Total
773	1364	1515	1041	4693

6. ASQA can initiate an audit at any time it deems appropriate. An ASQA audit can be triggered in a number of ways, these include:
- through the lodgement of an application
 - as part of "Post initial" audit (i.e. an audit undertaken 12 months after initial registration)
 - as the result of a complaint(s)
 - as the result of a Strategic Review
 - as part of a review process (Administrative Appeals Tribunal or ASQA Reconsideration process)
 - as part of an special regulatory strategy or initiative (e.g. ASQAs VET FEE-HELP strategy)

On occasion ASQA is also involved in enforcement action such as criminal and civil proceedings and has the capacity to issue infringement notices.

ASQA's move to a risk-management strategy, and \$68 million in funding, is allowing ASQA to focus its resources on high-risk providers.

7. ASQA has a range of actions available to it if a provider is found to be non-compliant. ASQA's regulatory interventions scale according to the nature and extent of the non-compliance under consideration. For minor issues ASQA may employ written directions, reduce or place conditions on a provider's scope of registration or issue infringement notices. For serious cases, where the risks to the quality and reputation of Australia's training sector are significant, ASQA may pursue criminal/civil proceedings, act to suspend a provider's registration or act to cancel a provider's registration entirely.

Since commencing operation on 1 July 2011 to 31 March 2015, ASQA has made some 760 regulatory decisions in response to non-compliances it has identified.