

# Change of Organisational Status

(Version 2.0)

POLICY	CHANGE OF ORGANISATIONAL STATUS
NVR Ref:	Standard 7
IBI Ref:	IBI-3-C 2
Statement	<p>IBI will ensure compliance with the requirements of the NVR Standards for Registered Training Organisations (RTOs) 2015 which require the Institute to be diligent in informing the designated authority in writing about the following instances:</p> <ul style="list-style-type: none"> <li>• The Institute is expected to advise the designated authority (ASQA and Skills Victoria) about any changes to their ownership and/or management as soon as practicable <b>before</b> the changes take effect.</li> <li>• The Institute is expected to advise the designated authority about any changes to their high managerial agents(see Definitions) as soon as practicable <b>before</b> the changes take effect or within 10 days of the change when the effects cannot be determined beforehand</li> <li>• The designated authority must have information on the new owner or high managerial agent in order to make an assessment under the conditions of registration (ie that they are fit and proper to be registered through ASQA and Skills Victoria)</li> <li>• IBI will advise Skills Victoria within 24 hours if the organization registration is suspended or cancelled</li> <li>• If IBI, for whatever reason, becomes insolvent or RTO registration is suspended or cancelled by ASQA, both Skills Victoria and the Regulator (ASQA) must be notified within 24 hours by CEO on notice of action</li> </ul> <p>In addition, the Institute undertakes to notify the ASQA or Skills Victoria of any significant changes to its:</p> <ol style="list-style-type: none"> <li>a) financial viability or debt ratio;</li> <li>b) financial Guarantor arrangements</li> <li>c) ownership structure of the ultimate holding company</li> <li>d) changes membership status of any Tuition Assurance Scheme or fee insurance arrangement (if applicable)</li> <li>d) mechanisms for securing student fee payments for the period, from receipt of funds to the students' commencement of studies</li> </ol> <p>The Institute will ensure that it protects the interests of students and preserves the integrity of the registration process. It is imperative that students are not disadvantaged or placed in a position where they are receiving training from a non-registered training organisation. Consequently, this policy is designed to facilitate a smooth transition for all parties where the legal entity is responsible</p>

	<p>for the RTO changes.</p> <p>A Certificate of Registration is granted on the following conditions:</p> <ul style="list-style-type: none"> <li>• Assurances that the training organisation will comply with the requirements of the NVR Standards for Registered Training Organisations (RTOs) 2015.</li> <li>• Signed declaration that the person with the responsibility for the conduct and management of the training organisation understands the conditions of registration, and the NVR Standards for Registered Training Organisations (RTOs) 2015.</li> <li>• The training organisation has met and will continue to meet all other registration and legislative requirements.</li> </ul> <p>The Certificate of Registration is not a transferrable commodity or asset. It cannot be transferred, sold or otherwise assigned to another individual, legal entity or organisation, unlike a business which may be bought or sold.</p> <p>The policy covers the following aspects:</p> <ul style="list-style-type: none"> <li>• Sale as a private company</li> <li>• Changes in the Institute's partnership structure</li> <li>• The dissolution as an incorporated association</li> <li>• If the Institute merges with another RTO and seeks to relinquish RTO status</li> <li>• If there is a change in name but not a change of the legal status of the Institute</li> <li>• If there is a change in the legally responsible person, contact person, contact details or change of address</li> <li>• financial viability or debt ratio;</li> <li>• financial Guarantor arrangements</li> <li>• membership status of any Tuition Assurance Scheme or fee insurance arrangement</li> <li>• mechanisms for securing student fee payments for the period, from receipt of funds to the students' commencement of studies</li> </ul>
<p><b>Scope</b></p>	<p>The Policy applies to all management practices and operating procedures of the Institute</p>
<p><b>Definitions</b></p>	<p><b>Designated Authority:</b> A person responsible under the laws of a State or the Commonwealth for approving providers to provide courses to students in that state. In Australia, the ASQA (Australian Skills and Qualifications Authority) is the “designated authority”.</p> <p><b>High Managerial Agent:</b> An employee, agent or officer of the provider with duties of such responsibility that his or her conduct may fairly be assumed to</p>

represent the provider in relation to the business of providing courses. Examples of the categories of person to be captured under this amendment – officers with management responsibility, consultants, principals and include teachers. The purpose of this is to prevent persons with a history of non-compliance, who are not providers or associates of providers (both currently captured by the legislation), from taking up positions of responsibility with other providers. So, wherever an employee, consultant, principal, or teacher has sufficient responsibility within an organisation to make decisions with regard to the operation of the provider, a test of their suitability would be applied.

**Ownership / Management:** To be registered a provider must be a resident of Australia. A company must be incorporated in Australia, carry on business in Australia and have its central management and control in Australia. An unincorporated body must carry on its business in Australia and have its central management and control in Australia.

The National authority must be satisfied that the new owners or management are fit and proper to be registered through as an RTO.

**ASIC (Australian Securities and Investments Commission):** ASIC is Australia’s corporate, markets and financial services regulator, an independent Commonwealth Government body, which administers the Australian Securities and Investments Commission Act (ASIC Act), and carries out most of its work under the Corporations Act.

Procedure	Change of Organisational Status
NVR Ref:	Standard 7
IBI Ref:	IBI-3-C 2
Action / Method	<p style="text-align: center;"><b>1. Changes to Ownership or Management</b></p> <p><b>1.1</b> In the event the Institute proposes to sell, transfer or otherwise assign the business to a training organisation that desires to be registered, the CEO must:</p> <p>1.1.1 notify the immediately the agreement has been finalised (eg. the contract of sale has been signed) and at least 30 days prior to the settlement date;</p> <p>1.1.2 advise the proposed new provider of the requirement to apply immediately for registration and to nominate a suitable person to be the responsible person;</p> <p><b>1.2</b> Until the proposed new provider gains registration and the transfer and sale is completed, the Institute would:</p> <p>1.2.1 continue in the role of "responsible person" and offer training and assessment services for continuing students, including issuing qualifications and statements of attainment</p> <p>1.2.2 place continuing students with another registered training organisation</p> <p>1.2.3 offer students a refund of any monies owed for the original enrolment</p> <p><b>1.3</b> If the student accepts placement with another provider, the student will be requested to sign a document to indicate acceptance of such placement. In this instance, the new provider will not be liable to refund any monies owed for the original enrolment.</p> <p><b>1.4</b> If the student does not accept placement with another registered training organisation, the student will be offered a refund of all the course money paid by the student to date for that course.</p> <p><b>1.5</b> On receipt of the application for registration the 'designated authority' may immediately approve the registration conditional upon the applicant organisation being audited and achieving compliance.</p> <p><b>1.6</b> Immediately a contract of sale is settled with the Institute, the CEO, with legal responsibility for the conduct and management of the Institute, will notify the 'designated authority' [ASQA] that the settlement has been completed.</p>

- 1.7** The new provider must apply for registration to cover all continuing students and pay the appropriate fees, or place those continuing students with another registered training organisation, immediately the contract of sale is signed.
- 1.8** The CEO will return the certificate of registration to the 'designated authority' immediately as the certificate of registration is issued to a new legal identity.
- 1.9** To meet compliance requirements with the NVR Standards for Registered Training Organisations (RTOs) 2015, the Institute will provide:
- 1.9.1 Copies of the written notification to the designated authority about changes to ownership or high managerial agents;
- 1.9.2 a process for obtaining information to assist the designated authority in assessing whether a high managerial agent of the provider passes the 'fit and proper' test; and
- 1.9.3 Evidence that an offer of refund has been made (and of a student's response to the offer) where a student has been offered a refund because there has been a change to a provider's legal entity.

## **2. Change to Legal Name but not Legal Status**

- 2.1** If the Institute changes its legal name, it will notify the 'designated authority' within 14 days of such change, and forward a copy of the Certificate issued under the relevant statute, eg Corporations Act 2001. There will be no requirement to submit a new Form A.
- 2.2** The Institute is incorporated under the Corporations Act 2001 and its legal identifiers are its ACN (Australian Company Number) (nine digits) and ABN (Australian Business Number) (eleven digits).
- 2.3** Should the Institute wish to change its name and retain its legal identity, i.e. the same ACN or ABN, a special resolution by the Institute to change its name would be required, and the necessary documents lodged with the Australian Securities and Investment Commission (ASIC).
- 2.4** The Institute will comply with any requirements requested by the 'designated authority' or government legislation, if there is a change in trading names, legally responsible person and/or organisation management details.
- 2.5** The Institute may change its business name (trading name) under the Business Names Act 2002, but not any other aspects of the organisation.
- 2.6** Where there is a change of 'high managerial agent' at the Institute, contact details or

	<p>change of address, then the person with the legal responsibility for the operations and management of the Institute will forward details of all changes to the 'designated authority'.</p> <p><b>3. Other Changes and Reporting Requirements</b></p> <p>In addition to the above requirements, the Institute undertakes to notify the designated authority of any significant changes to the Institute's:</p> <ul style="list-style-type: none"> <li>3.1 Financial viability or debt ratio;</li> <li>3.2 Financial Guarantor arrangements;</li> <li>3.3 Membership status of any Tuition Assurance Scheme or fee insurance arrangement;</li> <li>3.4 Mechanisms for securing student fee payments for the period from receipt of funds to the student's commencement of studies;</li> </ul>
<p>Related Legislation</p>	<ul style="list-style-type: none"> <li>• National Vocational Education and Training Regulator Act 2011</li> <li>• Standards for Registered Training Organisations (RTOs) 2015</li> <li>• AQTF 2010 - Essential Conditions and Standards for Continuing Registration</li> <li>• Corporations Act 2001</li> <li>• Business Names Act 2002</li> <li>• ASIC Act 2001</li> </ul>
<p>Related Documentation</p>	<ul style="list-style-type: none"> <li>• Refund Policy</li> <li>• Fees and Charges Policy</li> <li>• Continuous Improvement Business Model</li> <li>• Certificate of Incorporation</li> <li>• Position Description – CEO</li> <li>• VRQA - Change of RTOs Organisational Status Guidelines</li> <li>• Written Evidence of Notification to "designated authority"</li> </ul>

**VERSION CONTROL**

**Review/ amendment history**

**Policy Approved by:** Chief Executive Officer

**Responsible Officer:** Chief Executive Officer

**Next Policy Review Date:** April 2017

Version	Date	Details
1.0	July 2014	Policy issued
2.0	Dec 2014	Updated to reflect Standards for Registered Training Organisations (RTOs) 2015
3.0	April 2015	Updated to reflect NVR 2015 Standards
4.0	April 2016	No material changes