

# **MANAGEMENT OF CRITICAL NON-COMPLIANCE POLICY**

## **(RISK OF INJURY OR DEATH)**

EFFECTIVE: 30 JUNE 2023

VERSION: 3.0

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## 1. PURPOSE

This policy outlines the Training Accreditation Council (the Council)'s management of critical non-compliance and rectification timeframes applied to Registered Training Organisations (RTOs) in the rare event that critical non-compliance could lead to the risk of injury or death.

Where the critical non-compliance could lead to risk of injury or death, the timeframe for rectification will be guided by the TAC Critical Non-Compliance (with a risk of injury or death) Risk Rating Guideline (**Attachment 1**).

This policy recognises the need for immediate assessment and decision making and provides the authority for the Director Training Regulation to decide the rectification period in instances where critical non-compliance could lead to the risk of injury or death by applying Council approval principles.

## 2. SCOPE

This policy is applied to all RTOs registered with the Council.

## 3. DEFINITIONS

Term	Definition
Audit	A planned, systematic and documented process used to assess an applicant's or an RTO's compliance with the <i>Standards for Registered Training Organisations (RTOs) 2015</i> (Standards for RTOs). RTOs can conduct internal audits to assess their compliance with the Standards for RTOs and their own policies and procedures as part of their continuous improvement processes.
Compliance	The requirements of the Standards for RTOs have been met, based on the evidence reviewed.
Critical non-compliance (risk of injury or death)	In extreme situations, evidence from audit may indicate risk of injury or death to people in the training environment or the current (or future) workplace is occurring or has occurred. In such instances, the level of risk and potential impact on learners and/or other consumers of goods and services produced in the training environment or the current (or future) workplace warrants immediate rectification.
Critical non-compliance	The requirements of the Standards for RTOs have not been met based on the evidence reviewed, and a critical adverse impact on learners and/or consumers of goods and services produced in the training environment or the current (or future) workplace is occurring or has occurred.
Significant non-compliance	The requirements of the Standards for RTOs have not been met based on the evidence reviewed and there are indications of a significant adverse impact on learners and/or other consumers of goods and services produced in the training environment or the current (or future) workplace.
Minor non-compliance	The requirements of the Standards for RTOs have not been met based on the evidence reviewed but there is no or minor adverse impact on learners and/or other consumers of goods and services produced in the training environment or the current (or future) workplace.

Term	Definition
Registering Training Organisation (RTO)	A training organisation registered by a VET regulator for a defined scope and period of registration.
Registration	<p>A training organisation must be registered by a VET regulator in order to deliver and assess nationally recognised training and issue certification for nationally recognised training products.</p> <p>An RTO is required to meet the Standards for RTOs at all times during its registration.</p>

## 4. POLICY

The Council is responsible for ensuring all applications for registration and RTOs meet the requirements of the Standards for RTOs.

The Council undertakes audits to ascertain RTO compliance against the Standards for RTOs. Audits are conducted by Council contracted auditors who have the responsibility to report on RTO compliance and non-compliance with the Standards for RTOs.

When an RTO has not demonstrated compliance with all requirements of the Standards for RTOs, auditors will assign an overall level of non-compliance. This level of non-compliance is recorded in the audit report. The levels of non-compliance are reported as minor, significant, critical, critical (risk of injury or death).

Where RTOs are found to have critical non-compliance, with a risk of injury or death to learners and/or staff in the training environment or the current (or future) workplace, auditors will also assign the likelihood of the risk occurring as outlined in the TAC Critical Non-Compliance (with a risk of injury or death) Risk Rating Guideline available at **Attachment 1**.

The Director Training Regulation, under the authority of the Council, will decide the rectification timeframe in relation to the level of risk to RTO staff, students and the public.

Should an RTO fail to address a critical non-compliance within the set timeframe, the Director Training Regulation will refer the matter to the Council.

### CRITICAL NON-COMPLIANCE WITH A RISK OF INJURY OR DEATH – THE PROCESS

Council contracted auditors are required to undertake the following:

- ensure non-compliance is detailed in an audit report. The audit report outlines evidence sighted and findings.
- assign a risk level as per the Critical Non-Compliance (with a risk of injury or death) Risk Rating Guideline (refer **Attachment 1**) to determine if the critical non-compliance could lead to risk of injury or death to learners and/or staff in the training environment or the current (or future) workplace.
- if the risk has been observed, the auditor must contact the Manager Regulation immediately to discuss the concerns.

It is essential that the auditor contact the TAC Secretariat on the same day of the audit to allow the TAC Secretariat to treat the non-compliance/s appropriately. In rare cases, it may be determined that the audit should not continue.

The Director Training Regulation, under the authority of the Council, is required to:

- consult with the Council's Chairperson, if available.
- consider the risk level, assign a rectification timeframe and inform the RTO.
- inform the Council's Chairperson of the actions to be taken, including details of the RTO and the identified risk.
- confirm rectifications have been successfully or unsuccessfully implemented within the timeframe and refer the matter to the Council for consideration and recommended action.

The Council is required to:

- consider the registration of the RTO where non-compliance is not rectified within the applicable period or if any required evidence is not provided within the applicable period.

## RESPONSIBILITIES

Council contracted **auditors** have the responsibility to ensure the required level of detail for non-compliance is provided in TAC audit reports.

The **Director Training Regulation**, under the authority of the Council, has the responsibility for imposing reduced rectification timeframes, where applicable.

The **Council** has the responsibility to consider the RTO's registration if the RTO fails to rectify non-compliance within the given timeframe.

## 5. RELATED POLICIES, LEGISLATION AND OTHER RELEVANT DOCUMENTS

- Critical Non-Compliance (with a risk of injury or death) Risk Rating Guideline
- Policy and Procedure for the Application of Sanctions
- *Standards for Registered Training Organisations (RTOs) 2015*
- *Standards for VET Regulators 2015*
- *Vocational Education and Training (General) Regulations 2009*
- *Vocational Education and Training Act 1996*

## 6. POLICY REVIEW AND APPROVAL

Council approval is required for this policy.

The policy will be reviewed annually from the date of endorsement.

Where amendments following a review are significant and change the overall intent of the policy, the policy will be submitted to the Council for endorsement.

## RECORDKEEPING AND PUBLICATION

The date of approval will be entered electronically and the document made final in Content Manager.

An electronic version of policy will be available on the TAC website.

## CONTACT INFORMATION

Manager Regulation | T: 08 9224 6510 | E: [tac@dtwd.wa.gov.au](mailto:tac@dtwd.wa.gov.au)

## 7. ATTACHMENT 1 - CRITICAL NON-COMPLIANCE (WITH A RISK OF INJURY OR DEATH) RISK RATING GUIDELINE

<b>LIKELIHOOD OF RISK OCCURRING</b>	<b>Almost Certain</b>	<ul style="list-style-type: none"> <li>• Current practices may lead to risk of injury or death to learners and/or staff in the training environment or the current (or future) workplace.</li> <li>• Evidence that training/assessment practices may lead to risk of injury or death to learners in the training environment or the current (or future) workplace.</li> <li>• Evidence that the training/assessment practices may lead to risk of injury or death to consumers of goods and services produced in the training environment or the current (or future) workplace.</li> </ul> <p><b>Rectification Timeframe: 24 Hours</b></p>
	<b>Likely</b>	<ul style="list-style-type: none"> <li>• Current practices may lead to risk of injury or death to learners and/or staff in the training environment or the current (or future) workplace.</li> <li>• Evidence that training/assessment practices may lead to risk of injury or death to learners in the training environment or the current (or future) workplace.</li> <li>• Evidence that the training/assessment practices may lead to risk of injury or death to consumers of goods and services produced in the training environment or the current (or future) workplace.</li> </ul> <p><b>Rectification Timeframe: Up to 3 Days</b></p>
	<b>Possible</b>	<ul style="list-style-type: none"> <li>• Current practices may lead to risk of injury or death to learners and/or staff in the training environment or the current (or future) workplace.</li> <li>• Evidence that training/assessment practices may lead to risk of injury or death to learners in the training environment or the current (or future) workplace.</li> <li>• Evidence that the training/assessment practices may lead to risk of injury or death to consumers of goods and services produced in the training environment or the current (or future) workplace.</li> </ul> <p><b>Rectification Timeframe: Up to 10 Days</b></p>
	<b>Unlikely</b>	<ul style="list-style-type: none"> <li>• Current practices may lead to risk of injury or death to learners and/or staff in the training environment or the current (or future) workplace.</li> <li>• Evidence that training/assessment practices may lead to risk of injury or death to learners in the training environment or the current (or future) workplace.</li> <li>• Evidence that the training/assessment practices may lead to risk of injury or death to consumers of goods and services produced in the training environment or the current (or future) workplace.</li> </ul> <p><b>Rectification Timeframe: Up to 20 Days</b></p>
	<b>Rare</b>	<ul style="list-style-type: none"> <li>• Current practices may lead to risk of injury or death to learners and/or staff in the training environment or the current (or future) workplace.</li> <li>• Evidence that training/assessment practices may lead to risk of injury or death to learners in the training environment or the current (or future) workplace.</li> <li>• Evidence that the training/assessment practices may lead to risk of injury or death to consumers of goods and services produced in the training environment or the current (or future) workplace.</li> </ul> <p>For example: No current enrolments in the training product.</p> <p><b>Rectification Timeframe: Up to 20 Days</b></p>