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VICTORIA
State
Government

Education
and Training

THE DEPARTMENT OF EDUCATION AND
TRAINING'S REPORT TO THE INDEPENDENT
BROAD-BASED ANTI-CORRUPTION
COMMISSION IN RESPONSE TO **OPERATION
LANSDOWNE**

DECEMBER 2018

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INTRODUCTION

Across 2018, the Department of Education and Training (the Department) has worked closely with TAFE institutes to promote the highest standards of governance, integrity and conduct across the TAFE sector.

The Independent Broad-based Anti-corruption Commission's (IBAC) work throughout Operation Lansdowne exposed weaknesses in the systems and controls of two TAFE institutes. The Department fully supports the findings and recommendations made in the Operation Lansdowne Special Report.

Over the course of 2018, the Department has used these findings and recommendations as a catalyst for a major program of TAFE integrity based reforms.

Through the Department's Integrity Reform Program, which was implemented in response to IBAC's Operation Ord and Operation Dunham, the Department has taken significant steps to strengthen its three lines of defence against integrity risks in both the corporate and schools settings. This means strengthening the conduct of leaders and staff at the first line, establishing strong, intuitive systems, processes and policies at the second line, and implementing robust, independent auditing as the third line of defence.

The TAFE integrity reforms apply the learnings from the Department's own Integrity Reform Program to the governance and management of TAFEs to promote a culture based on public sector values. The reforms are intended to support TAFEs to build their own capacity to strengthen the three lines of defence to prevent corruption and build a positive high performance culture.

The **TAFE Integrity Reform Program** is built around three key streams of work, which have been developed in partnership with TAFE institutes:

- Supporting TAFEs to build a **culture** based on Victorian public sector values as part of the first line of defence.
- Developing and implementing a new **internal governance framework** for TAFE institutes, which includes consideration of strong and transparent complaint handling; second line of defence systems and controls; and third line independent assurance.
- Clarifying and confirming **VET Funding Contract compliance** obligations, particularly with respect to third party arrangements.

Further, the Department has worked closely with Bendigo Kangan Institute and South West TAFE to support them in responding to the issues identified through Operation Lansdowne.



A Departmental steering committee of senior executives, chaired by the Deputy Secretary, Higher Education and Skills Group, was convened to oversee this program of work. Public sector governance expert John Watson serves as an independent member of the Committee. The

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Department is also supported by a reference group of TAFE Board Chairs, who serve as a conduit between the Department and TAFE institutes in developing this work and ensure buy-in for the integrity reforms.

The actions described in this report acquit the Department against IBAC's recommendations in the Operation Lansdowne Special Report, and are designed to safeguard against the risk of similar issues to those identified through Operation Lansdowne reoccurring.

While significant progress has been made across 2018 in strengthening governance and integrity arrangements within the TAFE sector, more work needs to be done. The Department will continue to work with TAFE institutes to ensure that governance and administrative arrangements are consistent with the high standards expected of publicly funded education providers. The Department's future work plan will focus on embedding integrity reform across the TAFE network as part of the transformation of TAFE institutes to high-performing accountable organisations.

CONTEXT: TAFE GOVERNANCE IN VICTORIA

The TAFE network in Victoria is made up of 12 autonomous stand-alone TAFE institutes, and four dual sector universities that deliver TAFE programs. **Figure 1** below describes the governance and accountability arrangements for stand-alone TAFE institutes.

Stand-alone TAFE institutes are established by Orders in Council made under the *Education and Training Reform Act 2006*, while dual sector-universities are established through individual Acts of the Victorian Parliament.

TAFEs are governed by independent boards, which are accountable to the Minister for Training and Skills for the good governance of their institute. In turn, the Minister is accountable to the Parliament. The Department is responsible for supporting the Minister.

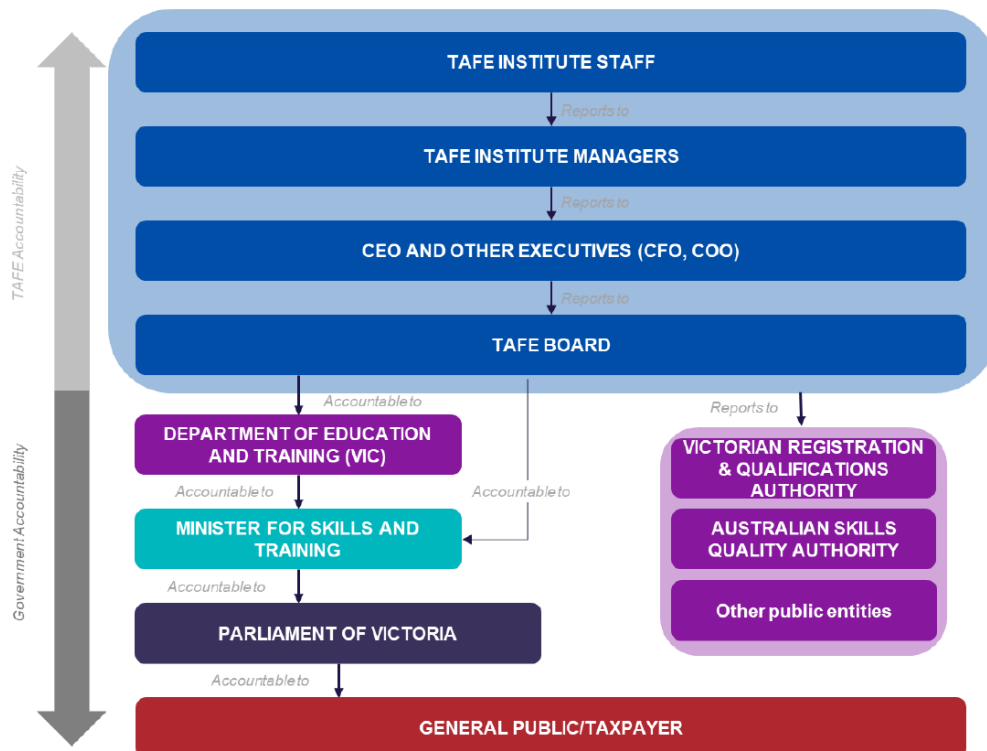
TAFE institutes have the legislated function of facilitating student learning, knowledge acquisition, skills for employment and vocational education and training through excellent teaching, innovation and educational leadership that delivers quality outcomes.

The Minister has legislated responsibilities in relation to TAFE Board appointments, strategic planning, financial monitoring and reporting and the use of TAFE assets.

On the other-hand, the TAFE operations of dual-sector universities are governed through the internal administrative arrangements of the relevant universities. The Minister has no direct legislated responsibilities in relation to the TAFE operations of dual-sector universities.

Bendigo Kangan Institute and South West TAFE are both ‘stand-alone’ TAFE institutes.

Figure 1: TAFE Governance Map



THE DEPARTMENT OF EDUCATION AND TRAINING'S RESPONSE TO OPERATION LANSDOWNE

RECOMMENDATION 2

The Secretary of the Department of Education and Training to provide IBAC with a report by 31 December 2018 on how the Department will strengthen systems and controls in relation to TAFEs, to minimise the risk of the conduct identified in Operation Lansdowne reoccurring, including by:

- a. ensuring TAFEs understand their obligations under service agreements with the Department
- b. strengthening proof of identity requirements for Victorian students, including by reference to Australia's National Identity Proofing Guidelines
- c. raising awareness within TAFEs of corruption and fraud risks, and how those risks can be mitigated
- d. ensuring TAFEs have robust complaint handling systems and understand requirements for appropriately internally escalating and/or externally reporting suspected fraud and corruption.

Developing an Internal TAFE Governance Framework to strengthen governance and integrity arrangements at TAFE institutes

The Department's response to the Special Report committed the Department to working with TAFE institutes to develop and implement a new bespoke governance framework, representing a significant strengthening of end to end systems and controls based on the three lines of defence model. To this end, following an extensive co-design process, the 'Model TAFE Internal Governance Framework' was finalised on 26 October 2018.

Good governance is the cornerstone of an efficient, effective and high performing organisation. The overarching purpose of the framework is to enable TAFE institutes to quality assure their approaches against better practice governance arrangements, and provide the Department with a level of assurance that appropriate governance arrangements are in place at all TAFE institutes. To enable this to occur, the framework includes a self-assessment tool which looks at a range of different elements of governance. The tool is designed to allow TAFEs to identify where they are meeting best practice, and where there are areas for improvement.

The framework was co-developed with TAFE institutes via the Board Chair Reference Group. The Department also engaged a professional services firm to assist in developing the framework. The professional services firm conducted a series of consultations with key stakeholders within the TAFE sector, including TAFE CEOs and education executives in developing the framework.

Importantly, the framework addresses a number of key matters which were identified through Operation Lansdowne, including supporting TAFE institutes to:

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- implement appropriate systems and controls based on the three lines of defence
- develop robust complaint handling systems, including requirements for internally escalating and/or externally reporting suspected fraud and corruption
- understand and comply with key compliance obligations, including obligations under the VET Funding Contract.

More broadly, the framework provides advice about best practice arrangements in relation to the following topics:

- public accountability
- leadership and culture
- strategy and performance
- stakeholder engagement
- risk, compliance and oversight.

Following the provision of the framework to TAFE institutes, all institutes were requested to conduct an initial self-assessments across the course of November and mid-December 2018, with the results to be provided to the Department.

The Department will use the outcomes of the self-assessments to identify good practice across the TAFE sector, and will work with leading TAFEs to share this practice across the sector. Similarly, the Department will provide immediate support to TAFEs who have identified areas of deficiency to support them in developing appropriate governance systems and arrangements.

It is the Department's expectation that the governance framework will form a regular part of each Board's governance processes. To this end TAFE Boards will be required to regularly monitor improvement against the framework, with self-assessments to be provided to the Department annually.

Ensuring TAFEs understand their obligations under service agreements provided by the Department

In August and September 2018 the Department ran a series of workshops with TAFE institutes and Dual Sector universities aimed at building a shared understanding of the VET Funding Contract. In particular, the Department sought to explain the rationale and context for Contract settings and gain feedback about what additional support could be given to assist understanding of the Contract.

Each workshop was tailored to the audience by way of a pre-survey of attendees on areas of concern. Importantly, it provided an opportunity for TAFEs to engage with each other and the Department in dialogue about their experience of the Contract. Written questions and answers arising from the workshops were circulated to all attendees.

All TAFE and Dual Sector universities were represented at four workshops, with 54 attendees in total, drawn from middle to senior management positions.

The workshops are reflective of the Department's Training Market Services Division's increased engagement function to support voluntary compliance and quality training, with a focus on TAFEs at the centre of the training system. The initial round of workshops has provided specific areas of focus that will inform an ongoing program of engagement, including future consultation and feedback on a new Contract for 2020.

The Department wrote to all TAFE CEOs and Dual Sector universities in November 2018 to provide each with their hardcopy 2019 'curated' version of the two-year (2018-19) VET Funding

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Contract. The correspondence itemised all variations to the Contract, along with the rationale for the change.

This work was in addition to the current Departmental supports for TAFEs and other contracted training providers to maximise understanding of, and promote voluntary compliance with their obligations under the VET Funding Contract. This includes:

- information sessions at the commencement of each Contract cycle, and at critical points during the cycle (for example, in advance of annual data submissions)
- a range of written guidance including a fact sheet detailing the key features of the Contract, and additional fact sheets providing in-depth guidance on specific clauses or requirements. In 2018, the Department released 29 Contract Notifications, with 25 of these relevant to TAFEs
- responses to individual enquires submitted via the Skills Victoria Training System (SVTS)
- a funded program of professional development workshops on aspects of training delivery under the *Skills First* Contract (with TAFEs receiving an entitlement to additional attendance places per workshop). In 2018, 128 staff from TAFEs took advantage of this training.

Strengthening proof of identify requirements for Victorian systems, by reference to Australia's National Identity Proofing Guidelines

Through the *Skills First* VET Funding Contract, the Department requires training providers to establish students' eligibility to enrol in subsidised training (with reference to identity documents), and retain evidence of eligibility for the purposes of funding assurance.

The Department engaged a professional services firm to undertake an independent assessment of identity related risks associated with the Department's enrolment and eligibility requirements. The objective of the risk assessment was to identify any areas where the Department should consider additional or amended mitigation strategies, including an analysis of whether introducing an identity proofing process (with reference to the National Identity Proofing Guidelines (NIPG)) would reduce identity related fraud risk, while having regard to implications for students' privacy and the costs and administrative burden for training providers.

The scope of the risk assessment encompassed two key risks:

- student perpetrated fraud – students seeking to claim eligibility for subsidised training to which they are not entitled
- training provider perpetrated fraud – a training provider claiming payments to which they are not entitled [REDACTED]

The risk assessment found that there are inherent disincentives to student perpetrated fraud (such as having a qualification issued in an assumed name) that result in a low risk.

The risk assessment noted that the measures across the subsidised VET market are more sophisticated than in 2013 when the conduct observed in Operation Lansdowne emerged. The risk assessment found that the Department has extensive controls in place to effectively mitigate the risk of training provider fraud, including a strengthened training provider selection process (for non-TAFE providers) and a robust Audit and Review Strategy.

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In particular, the risk assessment highlighted continuous improvement over time in the Department's requirements for eligibility assessment, including by facilitating the adoption of the Document Verification Service (DVS), which is currently used by a number of TAFEs and Dual Sector training providers to sight/verify proof of eligibility documents.

The report noted the following improvements have been implemented through the *Guidelines for Determining Student Eligibility and Supporting Evidence* (the Guidelines):

- From 2013 – 2015 there was a requirement for training providers to sight evidence of eligibility and retain a declaration that the evidence had been sighted.
- In 2016, the requirements were strengthened so that, prior to the commencement of training, the training provider must sight and retain the required evidence. Compliance with this requirement is monitored by provider audits, including Evidence of Eligibility audits.
- In 2018, the Guidelines were again amended to streamline requirements for those providers using the Document Verification Service (DVS) to verify evidence of eligibility. The DVS is a secure, national online system that confirms that the details on an evidence of identity document match records held by the government authority that issued it (via an approved entity, and for a fee). Where the DVS is used, the training provider need only retain secure log in access to the administrative function in order to confirm the type of document checked, and that the details were verified. This eliminates the need to retain copies of evidence of eligibility documents protects students' privacy by reducing the risk of these documents being fraudulently misused.
- To align with the introduction of the Commonwealth Unique Student Identifier (USI), (established by the Student Identifiers Act 2014), training providers are required to collect and report a USI for every student at the point of enrolment. The USI is a reference number made up of ten digits and letters that creates a secure online record of recognised training and qualifications gained in Australia by all students undertaking recognised training that provides access to their training records and transcripts. The USI application process requires that individuals provide basic personal information such as; name, date and place of birth and contact details, as well a valid form of identification (e.g. Australian Passport, Drivers Licence), which are verified via the DVS. This information is then used to determine the identity of the individual and to ensure that the USI assigned is 'unique' to that individual.

The risk assessment observed that the NIPG are primarily designed to substantiate an individual's claim to an identity, which mitigates against the risk of student perpetrated fraud. As such, the risk assessment concluded that a dedicated identity proofing process would be unlikely to reduce the risk of training provider fraud, but would instead increase the administrative burden for all training providers and may affect student access to training.

The risk assessment recommended that the most effective measure in the short term to mitigate fraud would be for the Department to consider expanding the use of the DVS. The primary benefit identified would be training providers no longer needing to retain copies of evidence of eligibility documents, thus reducing the likelihood of personal/identity information being compromised for fraudulent purposes. The DVS also provides verification that a specific document was actually issued by a government entity and has not been fabricated.

The Department is investigating the feasibility of expanding the use of the DVS as an integral element of eligibility assessment. This will include consulting with contracted providers on

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awareness of DVS and working with existing users (particularly TAFE and dual sector providers) to fully explore:

- the extent of its current (or intended) use amongst contracted providers, and the preferred Gateway Service Providers used to access the DVS,
- the costs and implications of using the DVS, and
- the benefits of its use, including by streamlining eligibility assessment within online enrolment processes.

The investigation will inform the development of the next VET Funding Contract in 2020, due to be finalised in mid-2019.

Further improvement in Contract settings will also be informed by a Victorian Auditor General's Office (VAGO) audit into the efficiency of TAFE's enrolment and eligibility processes; and a Departmental evaluation of *Skills First* reforms.

Reviewing *Skills First* audit regime to ensure continued best practice

The *Skills First* Audit and Assurance Program supports a comprehensive and transparent approach to compliance, which is a key mechanism in assuring the public and other stakeholders of the integrity of the training system, and ensuring that the objectives of the Government's policy for vocational education and training are met.

Since its initial development in 2011, substantial internal work has been undertaken to improve what was audited and the methodology. In the current demand driven VET system, the Program has performed strongly and has provided the Department with better quality information for decision making.

An independent review and validation of the existing *Skills First* Audit and Assurance Program audit methodology and sampling methodology is currently being undertaken by a professional services firm. The review commenced in September 2018, and a Final Report is expected by the Department by the end of December 2018.

Raising awareness within TAFE's of corruption and fraud risks, and how those can be mitigated

In responding to this recommendation from IBAC, the Department took the opportunity to apply the learnings of the Department's own Integrity Reform Program in schools and corporate workplaces to TAFE's.

Education and awareness are key to strengthening an organisation's first line of defence against integrity risk and building a positive ethical culture. In order to build an ethical culture, leaders and staff need to be clear about what acting with integrity looks like in practice to ensure they can identify, avoid and manage risks, and support each other to do the right thing.

The project undertaken by the Department was in two parts:

- a masterclass series for TAFE leaders to lift capability and set tone from the top
- the development of education resources to build risk management and ethical decision making skills in TAFE leadership teams and business units responsible for advising on or making key business decisions.

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Masterclass Series

The masterclass series was designed to address key integrity risk areas or topics, chosen based on the issues identified in Operation Lansdowne, the Department's learnings from the Integrity Reform Program and consultation with key stakeholders.

Over the second part of 2018, the following four masterclasses were delivered:

- a presentation to TAFE Board Chairs from Dr Paul Grimes, Victorian Public Sector Commissioner, on public sector governance, integrity issues and the specific duties of directors in the public sector
- a presentation to TAFE CEOs from Peter Collins, Director for the Centre of Ethical Leadership, on ethical leadership, applying ethical decision-making in the workplace, setting the tone from the top and building an ethical culture.
- a joint masterclass for both TAFE Board Chairs and CEOs, to build a shared understanding of responsibilities in relation to reporting suspected fraud and corruption, and conflicts of interest, delivered by the Deputy Victorian Ombudsman and the CEO of IBAC.

The masterclass series has been well received by TAFE leaders, and will continue in 2019. The Department will continue to seek out senior public sector and integrity leaders to present to and engage with TAFE leaders. Future topics are likely to include integrity risk management, red flags in recruitment and employment, and how to encourage a speak up culture.

Development of Integrity Resources

A TAFE resources working group, comprising representatives from eight TAFEs and one dual sector university, has been established to discuss and develop resources to assist TAFE staff to build a shared understanding and awareness of integrity. The working group serves to build a community of practice amongst those responsible for integrity education and awareness within TAFEs. Members of the working group have discussed common integrity issues and reviewed and adapted resources originally developed for the Department's corporate and schools workforces. The new resources developed include scenarios that are commonly-experienced to maximise engagement and impact with TAFE staff.

Resources developed, and issues discussed, have included:

- a conflict of interest quick guide including TAFE-specific case studies such as recruitment of staff, other employment, procurement, gifts benefits and hospitality, and staff relationships with students
- values conversation cards to promote discussions about common ethical dilemmas, using TAFE-specific scenarios
- guidance and resources in relation to "Thanks is enough", an awareness campaign that encourages people to let suppliers and others know that thanks is enough and no gifts are needed
- guidance about the Department's whistleblower service, including lessons learned from the development of the service
- guidance and resources in relation to "Words that work", a resource to assist staff to respond constructively to ethical dilemmas in the workplace.

The resources working group will continue to meet in 2019.

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Ensuring TAFEs have robust complaint handling systems and understand requirements for appropriately internally escalating and/or externally reporting suspected fraud and corruption

The Department has taken steps to build understanding and capability across the TAFE sector in relation to complaints handling.

The Model TAFE Internal Governance Framework provides TAFE with clear advice around what are best practice complaint handling procedures. This advice was supplemented by a masterclass delivered by the IBAC CEO in October 2018 on managing protected disclosures, which was attended by TAFE Board Chairs and CEOs.

Outside of this, a number of TAFE institutes, including Bendigo Kangan Institute and South West TAFE have moved to implement externally managed complaint handling systems, known as 'speak up' services. The purpose of these services is to enable whistle blowers to make anonymous complaints. The Department has worked closely with these TAFEs to share its experiences from successfully implementing a similar service following Operation Ord and Operation Dunham.

A new position of Manager, Public Sector Assurance has also been created within the Higher Education and Skills Group of the Department. The key function of this role is to work with public providers to improve capability in relation to complaint handling.

In the first instance, the Department will use the self-assessments against the governance framework conducted by TAFEs across November and December to test how robust the complaints handling systems are for each institute. This will be measured annually through future self-assessments, with the Department continuing to provide support as required. In addition, through the Manager, Public Sector Assurance role, the Department will continue to monitor complaints received by the Department in relation to TAFE institute behaviour.

Supporting and monitoring Bendigo Kangan Institute and South West TAFE in how they are addressing the issues identified through Operation Lansdowne

Across the course of 2018, the Department has worked closely with Bendigo Kangan Institute and South West TAFE to ensure that appropriate governance arrangements and control mechanisms are implemented and maintained.

The Department has met with both institutes on a number of occasions throughout the year to provide advice on these matters, and to share the Department's learnings from responding to Operation Ord and Operation Dunham. Targeted funding has also been provided through the Department's Organisational Capability and Development Program to ensure that both TAFEs are adequately resourced to implement the required organisational transformation.

More broadly, the Chairs of South West TAFE and Bendigo Kangan Institute have been actively involved in the Department's program of integrity reforms, as members of the Board Chair Reference Group. Similarly, integrity reform was a key agenda item at the strategic dialogues for both institutes held in November. The strategic dialogues are conducted with Board Chairs and CEOs, and senior Departmental executives, and are a Departmental / TAFE platform for retaining a focus on integrity reform.

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RECOMMENDATION 3

The Department to review TAFE training delivered via other third-party agreements, to verify the legitimacy of that training in light of the corruption vulnerabilities identified in Operation Lansdowne.

Review of third party training arrangements

The Department's response to the Special Report noted that it had commenced a review of third party training arrangements across all TAFE institutes and Dual Sector universities to determine whether the issues identified as part of Operation Lansdowne were also present at other institutes.

In October 2017, the Deputy Secretary, Higher Education and Skills Group wrote to all TAFEs and Dual Sector universities seeking an attestation of compliance with the VET Funding Contract, and key assurance and control requirements, particularly in relation to the third party delivery of training. Responses were received from all institutions in November 2017.

The Department conducted a detailed review of all responses between December 2017 and January 2018, which included cross-checking against the Department's database of known issues. Where responses did not provide adequate assurance to the Department, or were inconsistent with the Department's records, further information was sought from those institutions.

Following the conclusion of the attestation project in March 2018, a number of matters identified through the attestations were referred to the Department's Training Market Services Division to be managed through business as usual practices. In addition, the outcomes of the attestations were used to inform the development of the Governance Framework.

Since 2017, TAFEs have been required to seek Departmental approval of all subcontracting arrangements and all providers, including TAFEs, are now required to demonstrate that any proposed subcontracting arrangement is genuine, specialised and limited. Further, providers are limited to subcontracting no more than 40% of their total course commencements (enrolments) and are limited to subcontracting no greater than 200 course commencements (enrolments) to any one subcontractor.

These controls appear to have reduced the extent of third party delivery across the training market. In 2018, the TAFE Network engaged approximately 35 entities to deliver training and assessment on their behalf, compared to around 120 in 2014.

The Department continues to closely monitor the use of third party training providers by TAFE institutes through its audit regime and compliance monitoring systems.

CONCLUSION

There has been comprehensive Departmental and TAFE institute efforts across 2018 to act on the governance and management of integrity in TAFE institutes.

Integrity reform initiatives have followed a three lines of defence approach, focusing on culture, governance arrangements and the VET Funding Contract.

The release of an Internal TAFE Governance Framework is a pivotal step in raising awareness and improving the practice of good governance. The Framework is a practical tool that is being used by TAFEs and the Department alike.

A series of VET Funding Contract workshops have also proved to be beneficial in building a shared understanding of contract requirements to support compliance and promote quality training.

The Department has been pleased with the attendance and participation in the masterclass series on public sector governance, integrity issues and ethical leadership.

The TAFE Integrity Reform Program in 2018 has proven to be effective in raising the bar on workplace and institute integrity and provides a solid platform to build on in 2019. The Program benefitted from the positive engagement and focus of the TAFE sector's leaders – Board Chairs, CEOs and their senior executives – who have demonstrated resounding support to secure the reputation of TAFE as a trusted provider.

Guided by the TAFE Governance Framework, the Department will continue to work TAFE sector leadership in 2019 to actively monitor and promote continuous improvement in relation to governance, integrity and conduct across all TAFE institutes.