

# False and/or misleading information

## Purpose

This procedure details the process for managing false and/or misleading information as it relates to apprenticeships and traineeships under the *Further Education and Training Act 2014* (FET Act).

## Overview

The FET Act contains provisions that make it an offence to state anything false or misleading in relation to an apprenticeship or traineeship training contract, a training plan for an apprentice or trainee, and a completion agreement.

There are also provisions in the FET Act that make it an offence to give false or misleading information or documents to an inspector or official if the information is significant and influences decisions made under the FET Act.

Common examples of false and misleading information could include provision of false and misleading information in relation to qualified persons (supervisors), falsified signatures on documents, deliberate provision of incorrect dates for commencement, completion and/or cancellation, other significant (materially particular) false and misleading information provided verbally, in emails or in hard copy to inspectors or officials in relation to a training related matter that influences a decision made under the FET Act.

## Process

**Note** – the Racing Queensland Board (RQB) has delegations under the FET Act to manage training contracts with support from the Metro regional office of the Department of Employment, Small Business and Training (DESBT), relating to:

- Stablehand traineeship
- Trackrider traineeship
- Advanced Stablehand traineeship
- Jockey apprenticeship.

The RQB holds delegation for cancellation of a registered training contract by the chief executive where the contract contains false and/or misleading information under section 36(1)(e) of the FET Act, however does not have delegation to take disciplinary action under section 42 or to declare an employer to be a prohibited employer under section 59 of the FET Act.

### **Delegated officer – Department of Employment, Small Business and Training (DESBT), or Racing Queensland Board (RQB) (for specified racing industry occupations, and only in respect of false and/or misleading information related to section 36(1)(e) of the FET Act)**

- Utilise the information supplied and investigate if necessary to establish if false and/or misleading information was provided intentionally by a person (or persons) and whether the information has or would significantly impact on the decision made under the FET Act.
- If appropriate, attempt to resolve the issue/s by taking the necessary steps to correct incorrect records and provide education to the parties about their obligations under the FET Act, noting that where possible it is the objective of the department to support training contract continuation and completion.
- Consider the action that needs to be taken in relation to the training contract or other records including:
  - refusing to register a training contract
  - amending or cancelling a registered training contract
  - changing the mode of delivery of the training plan for an apprentice or trainee

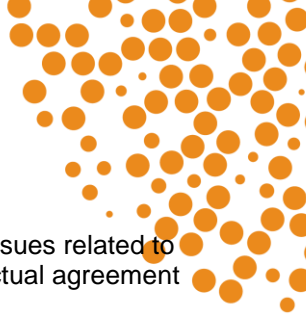
- amending the completion agreement or supporting documentation before deciding to issue the completion certificate
- deciding not to issue the completion certificate
- cancelling the completion certificate.
- Refer to the relevant DESBT policies, procedures and/or DESBT/RQB work instructions for the action to be taken in relation to the issue, including managing any Human Rights implications.
  - **Note** – When considering cancelling a registered training contract under 36(1)(e) of the FET Act – *the contract contains false or misleading information* –
    - **DESBT** - the proposal must be endorsed by the local Regional Director, DESBT and must be actioned through a Show Cause process. For further guidance refer to the procedure [Cancel registered training contracts by chief executive](#).
    - **RQB** – work in consultation with the Metro regional office of DESBT in respect of action related to section 36(1)(e) of the FET Act.
- **DESBT** –
  - Consider the severity of the issue and frequency of any previous actions including situations where the party is failing, or has failed, to comply with their obligations under the FET Act, and decide what action/s should be taken against the party who may have contravened the FET Act by providing false or misleading information.
    - Prior to proceeding, take into account the fundamental 23 Human Rights under the [Human Rights Act 2019](#).
    - For guidance on disciplinary action, refer to the procedure [Discipline – Fines and reprimand](#).
    - For guidance on declaring an employer to be a prohibited employer, refer to the procedure [Prohibited employers](#).
  - Consider whether the false or misleading information has broader implications outside of the FET Act for instance for User Choice funding or employer subsidies and take action using the [Escalation Guide](#) as a reference to ensure the appropriate areas are advised of the issue.
  - Work with the local regional management team as needed to establish appropriate and proportionate actions, taking into account the substance and effect of the false and/or misleading information, in the case or cases being dealt with and whether issues need to be escalated to other areas of DESBT or to external agencies. Refer to [Attachment 1](#) for examples of false and/or misleading information and issues that could be escalated.
- Detailed information must be recorded throughout the investigation process in regard to information and documentation received and provided, and actions taken.
  - **DESBT** – record in CEDRIC against the training contract, together with a copy of all documentation relating to the matter.
  - **RQB** – record on file; also add the information to a Format of Advice and upload it to SharePoint, together with a copy of all associated documentation.

#### **Regional Director, DESBT**

- Endorse, or otherwise, proposals by delegated officers – DESBT to cancel training contracts under section 36(1)(e) of the FET Act.
- Upon receiving notification from a delegated officer of a decision to cancel a training contract under section 36(1)(e), notify the Queensland Apprenticeship and Traineeship Office at [opra@desbt.qld.gov.au](mailto:opra@desbt.qld.gov.au).
- For complaints received or uncovered by a DESBT region or the RQB in the course of an investigation, review the case and evidence and make a determination about whether a referral to Contract Management is required.
- Determine whether matters require advice from DESBT's Legal Services and email requests with supporting evidence to [corporate.legal@desbt.qld.gov.au](mailto:corporate.legal@desbt.qld.gov.au) with a :/cc to QATO via [opra@desbt.qld.gov.au](mailto:opra@desbt.qld.gov.au).

#### **Queensland Apprenticeship and Traineeship Office (QATO), DESBT**

- Provide support in resolving systemic and state-wide issues that cannot be resolved through cross regional co-operation and/or require policy and procedure change or advice to resolve.
- Assist regions to manage ongoing issues with employers, apprentices/trainees, supervising registered training organisations (SRTOs), and qualifications escalated by regions in accordance with the [Ad hoc Management Strategy](#) and [Escalation Guide](#) (documents internal to DESBT), and update the DESBT and Apprentice Connect Australia Provider (Provider) ad hoc registers as appropriate (documents internal to DESBT and Providers).



- Liaise with Providers, the RQB and the Australian Government to work through and refer any issues related to DESBT's Services Agreement with Providers, and/or Agreement with the RQB, and the contractual agreement between the Australian Government and Providers.

**Contract Management (CM), DESBT**

- Manage issues escalated from Regional Managers/Directors and QATO, DESBT relating to SRTOs with Skills Assure Supplier (SAS) status complying with the *Vocational Education and Training (VET) Skills Assure Supplier Agreement* and the [User Choice Policy](#).
- Review matters raised and determine the appropriate course of action as set out in the [Regional complaint Management Flowchart](#) (document internal to DESBT).
- Make determinations about whether advice is required from Legal Services for SAS related matters.

**Legal Services, DESBT**

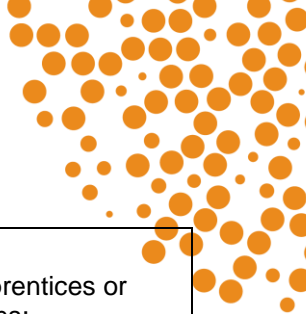
- Provide advice to support regulatory and legislative compliance within DESBT, including advice related to the FET Act.
- Manage and represent DESBT in dispute resolution and litigation matters.

**Quality and Compliance, DESBT**

- Manage SAS related issues referred by Contract Management in accordance with the agreed complaint management processes.

**Definitions**

<b>Apprentice Connect Australia Provider</b>	Apprentice Connect Australia Providers, also known as Providers, are contracted by the Australian Government to provide targeted services which deliver tailored advice and support to employers, apprentices and trainees. Providers also have an agreement with DESBT to provide training contract related services. The Provider is the first point of contact for the administration of all training contracts.
<b>CEDRIC</b>	A Client Relationship Management system used by DESBT to capture information on client and stakeholder engagement and correspondence (for internal access only).
<b>DELTA</b>	Direct Entry Level Training Administration – DESBT’s database of registered apprentices and trainees.
<b>DESBT</b>	Department of Employment, Small Business and Training
<b>Format of Advice</b>	A document developed and used by Racing Queensland for the purpose of providing information to DESBT regarding actions and decisions relating to training contracts
<b>Inspector</b>	An Inspector is a public service officer of DESBT appointed by the chief executive as an inspector under Section 115 of the FET Act to investigate, monitor and enforce compliance with the FET Act.
<b>Official</b>	In relation to false or misleading information under the FET Act, an official is as defined in section 188 of the FET Act and means the chief executive or chief executive’s delegate, an inspector, the training ombudsman or a staff member of the office of the training ombudsman.
<b>Racing Queensland Board</b>	The Racing Queensland Board (RQB) is the statutory control body for the thoroughbred, harness, and greyhound codes of racing in Queensland with responsibility for the management of these codes. The RQB has an agreement with DESBT to provide training contract related services for training contracts in these codes of racing for the following industry specific occupations – <ul style="list-style-type: none"> <li>• Stablehand traineeship</li> <li>• Trackrider traineeship</li> <li>• Advanced stablehand traineeship</li> <li>• Jockey apprenticeship.</li> </ul>
<b>Skills Assure supplier (SAS)</b>	The Skills Assure Supplier (SAS) system provides a central register of pre-approved registered training organisations for the delivery of training and assessment services subsidised by the Department of Employment, Small Business and Training.



<b>Supervising Registered Training Organisation (SRTO)</b>	Is a registered training organisation that: <ol style="list-style-type: none"> <li>1. accepts a nomination to deliver training and assessment to apprentices or trainees as negotiated and agreed under individual training plans;</li> <li>2. assesses an employer's capacity to provide the supervision, facilities and training required under the training plan for an apprentice or trainee;</li> <li>3. assesses whether the apprentice or trainee has completed the training and assessment required to be completed under a training plan; and</li> <li>4. when satisfied the apprentice or trainee has completed the training and assessment required, issues the qualification or statement of attainment stated in the training plan, and is a signatory on a completion agreement verifying that all training and assessment required under the training plan has been completed by the apprentice or trainee.</li> </ol>
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## Legislation

- [Further Education and Training Act 2014](#) – Sections 17, 18, 20, 36, 37, 38, 42 to 44, 45, 47, 50, 50A, 52, 53, 59 to 63, 76, 82E to 82G, 164, 168, 188, 189

## Delegations/Authorisations

- [Director-General's delegations under the Further Education and Training Act 2014](#)
- [Executive Director's sub-delegations under the Further Education and Training Act 2014](#)

## Related policies

- [User Choice Policy](#)

## Related procedures

- [Amending registered training contracts](#)
- [Cancel registered training contracts by chief executive](#)
- [Changing mode of delivery of a training plan](#)
- [Completing an apprenticeship or traineeship or cancelling a completion certificate](#)
- [Discipline – fines and reprimand](#)
- [Prohibited employers](#)
- [Registering a training contract](#)

## Supporting information/websites

### Agreements (internal resources)

- Protocols between DESBT and Providers
- Protocols between DESBT and Racing Queensland Board
- Services Agreement between DESBT and Providers
- Agreement between DESBT and Racing Queensland Board

### Forms

- **SharePoint** – HR compatibility review form – general decision (*Human Rights Act 2019 – compatibility review form. Decision (when no Show Cause process undertaken)*) (DESBT)
- **SharePoint** – HR compatibility review form – Show Cause notice (*Human Rights Act 2019 – compatibility review form. Show Cause Notice process*) (DESBT)
- **SharePoint** – RQB HR compatibility review form – general decision (RQB)
- **SharePoint** – Regional Complaint Referral Form (DESBT)
- **SharePoint** – Regional Complaint Finalisation Email template (DESBT – CM)
- **SharePoint** – Update email – Regional Complaint template (DESBT – CM)

### Work instructions

- Nil

### Online materials

- [FET Act Enquiries Flowchart and Regional Ad Hoc Management Strategy](#) (DESBT employees only)
- [SharePoint: Guide to show cause process and evidence based decision making](#) (DESBT employees only)



- [Escalation Guide](#)

#### Letters

- Nil

#### Website

- Human Rights: [www.qld.gov.au/law/your-rights/human-rights](http://www.qld.gov.au/law/your-rights/human-rights)

#### Contact

For further information, please contact the department at:

- Website: [www.desbt.qld.gov.au](http://www.desbt.qld.gov.au)
- Telephone: 1800 210 210
- Email: [apprenticeshipsinfo@qld.gov.au](mailto:apprenticeshipsinfo@qld.gov.au)





## Attachment 1

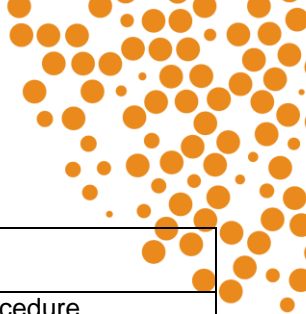
### Factors to be considered to determine whether false or misleading information has been provided and what action to take.

A range of factors may impact on the decision of the delegated officer and these will vary from case to case. Whilst this is not an exhaustive list of factors and considerations, the information below may assist with taking the most appropriate action.

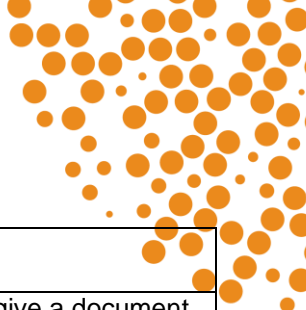
Factor	Consideration
<p>What should an officer do if it is suspected that false and/or misleading information has been provided?</p>	<p>Use the information supplied and if necessary, also conduct an investigation to gather further evidence to establish if false or misleading information was intentionally provided by a person or persons.</p> <p>Review information and documentation in CEDRIC (and DELTA Contacts for historical information) related to this issue (DESBT officers only) – RQB refer to historical records. Also look for any evidence of whether DESBT/RQB has previously dealt with any similar issues with any of the parties involved and what action if any has previously been taken by the department.</p> <p>Establish if the information has significantly impacted on the terms and conditions of the training contract, or the apprenticeship/traineeship, and whether the party/parties, or a stakeholder, intentionally gave false and/or misleading information.</p> <p>Based on your findings, consider what action is appropriate and proportionate. This could range from educating the parties through to taking a number of actions available under the FET Act, including disciplinary action. Under more serious circumstances, declaring the employer to be a prohibited employer may be considered. Refer to the relevant procedures for further information on processes. <b>Note</b> – the RQB must observe the limitations of delegated authority – consult with the Metro regional office of DESBT on issues that fall outside that delegated authority.</p> <p>Appropriate notes and evidence to support any actions taken or decisions made must be saved – by DESBT in CEDRIC; or by RQB in file notes and in a Format of Advice form uploaded to DESBT (with any supporting documentation).</p> <p>DESBT:</p> <p>Issues involving SRTOs with an SAS status, including if false and/or misleading information was provided by an SAS or the SAS appears to be complicit, should be reported to Contract Management so they can determine if any breach has occurred under the <i>VET Skills Assure Supplier Agreement</i> or <a href="#">User Choice Policy</a>, and take any action they consider necessary.</p> <p>Additionally, if it appears that the employer is complicit and/or appears to have claimed employer incentives based on false and/or misleading information, the region should provide this information to QATO. QATO will work with the region to gather the information required and report any possible false subsidy claims to the Australian Government for investigation.</p>
<p>Does the false and/or misleading information relate to the training contract?</p>	<p>Section 18 of the FET Act makes it an offence to state anything false or misleading in the training contract or to induce or coerce anyone else to state anything false or misleading in the training contract.</p> <p>If the training contract has not yet been registered, consider refusing to register the training contract. Refer to the procedure <a href="#">Registering a training contract</a> for further information on the process.</p> <p>If the training contract has already been registered and will be continuing, ensure that any incorrect information in relation to the training contract is corrected and that appropriate notes and evidence to support the change is saved – by DESBT in CEDRIC; or by the RQB in file notes and in a Format of Advice form uploaded</p>







Factor	Consideration
	<p>to DESBT (with any supporting documentation). Refer to the procedure <a href="#">Amending registered training contracts</a> for further information on the process.</p> <p>It is the intention of DESBT where possible to support apprentices and trainees to complete their apprenticeship/traineeship. However, if the false and/or misleading information necessitates cancelling the registered training contract, section 36(1)(e) provides grounds for cancellation. Refer to the procedure <a href="#">Cancel registered training contracts by chief executive</a> for further information on the process.</p> <p>If the false and/or misleading information was provided by an SRTO with an SAS status, or if an SAS appears to be complicit, use the process established within the region to escalate the issue to DESBT's Contract Management area.</p>
<p>Does the false and/or misleading information relate to the training plan for an apprentice or trainee?</p> <p>Note: the RQB does not have delegation in this regard – consult with the Metroregional office of DESBT if such issues are identified.</p>	<p>Section 76 of the FET Act makes it an offence to state anything in the training plan for an apprentice or trainee that is known to be false or misleading or to coerce anyone else into stating anything in the training plan that is false or misleading.</p> <p>Consider whether changing the mode of delivery of the training plan for the apprentice or trainee is appropriate. Refer to the procedure <a href="#">Changing the mode of delivery of a training plan (with or without an application)</a> for further information on the process.</p> <p>Issues involving SRTOs with an SAS status should be reported to Contract Management so they can determine if any breach has occurred under the <i>VET Skills Assure Supplier Agreement</i> or <a href="#">User Choice Policy</a>, and take any action they consider necessary.</p>
<p>Does the false and/or misleading information relate to the completion agreement?</p> <p>Note: the RQB does not have delegation in this regard – consult with the Metro regional office of DESBT if such issues are identified.</p>	<p>Section 45(5) of the FET Act makes it an offence to state anything in the completion agreement that is false or misleading.</p> <p>It is the intention of DESBT where possible to support apprentices and trainees to complete their apprenticeship/traineeship. Therefore, consider whether amending the completion agreement or supporting documentation, or returning the completion agreement to the parties and providing education, before deciding to issue the completion certificate is appropriate.</p> <p>Alternatively, it may be appropriate to decide not to issue the completion certificate. Section 47(5) allows for a delegated officer to make this decision.</p> <p>However, if a completion certificate has already been issued, the completion certificate may be cancelled by DESBT if it was issued based on materially false and/or misleading representation or declaration.</p> <p>Refer to the procedure <a href="#">Completing an apprenticeship or traineeship or cancelling a completion certificate</a> for further information on the above processes.</p> <p>Issues involving SRTOs with a SAS status should be reported to Contract Management so they can determine if any breach has occurred under the <i>VET Skills Assure Supplier Agreement</i> or <a href="#">User Choice Policy</a>, and take any action they consider necessary.</p> <p>Additionally, if it appears that the employer is complicit and/or appears to have claimed employer incentives based on false and/or misleading information, the region should provide this information to QATO. QATO will work with the region to gather the information required and report any possible false subsidy claims to the Australian Government for investigation.</p>
<p>Have you been provided with false and/or misleading information as an inspector or official?</p>	<p>Section 164 of the FET Act makes it an offence to give an inspector information or a document that a person knows contains false or misleading information of significance in informing a decision under the FET Act.</p>



Factor	Consideration
	<p>Section 189 of the FET Act makes it an offence for a person to give a document containing false or misleading information of significance in informing a decision under the FET Act to an official.</p> <p>These provisions do not apply if:</p> <ul style="list-style-type: none"> <li>• the false or misleading information is inconsequential (doesn't impact the decision or administration of the FET Act);</li> <li>• the person informs the official to the best of their ability how the information is false or misleading; or</li> <li>• the person gives the correct information to the official if they can reasonably obtain it.</li> </ul> <p>When using information supplied and conducting an investigation, ensure that the person or persons has been provided with reasonable opportunities to provide the correct information.</p>
<p>Does the false and/or misleading information have broader impacts outside of breaching the FET Act?</p>	<p>Issues that breach the FET Act may have broader implications outside of the legislation that also need to be considered. Additionally, not all false and/or misleading information will constitute a breach of the FET Act, but it may still have implications for DESBT.</p> <p>Where a region is aware of information that may have implications for other areas of DESBT, this should be escalated to the appropriate area/s of DESBT or if necessary to an external body. The <a href="#">Escalation Guide</a> provides advice on escalation points internally and to other agencies and how to enact these. Examples where a referral to another area should be considered include:</p> <ul style="list-style-type: none"> <li>• <b>QATO</b> – systemic issues that cross regions (and can't be resolved by cross-regional collaboration); issues impacting on employer incentives; or issues impacting on the DESBT's Services Agreement with Providers or the contractual agreement between the Australian Government and Providers</li> <li>• <b>Contract Management</b> – formal complaints about SRTOs with an SAS status including, action and behaviours; non-compliant activities i.e. fees/charges, failure to deliver, withholding results etc; or other trending issues regarding SAS</li> <li>• <b>Fair Work</b> – for all employment related issues</li> <li>• <b>Mental Health Support Services</b> – for all stakeholders who require personal assistance</li> <li>• <b>Police</b> – fraud, high risk situations and welfare checks</li> <li>• <b>Workplace Health and Safety</b> - report unsafe practices in the workplace</li> <li>• <b>Licensing bodies</b> – report potential risks to licensed trades e.g. Electrical Safety Office etc</li> <li>• <b>Department of Education</b> – reporting school-based apprentices and trainees at risk in workplaces</li> <li>• <b>ASQA</b> – student issues and RTO complaints (for SRTOs that do not have a SAS status).</li> </ul>

