



Employer choice for industry training: Operational policy

This operational policy is for an employer who wishes to apply to the Tertiary Education Commission for approval to have its training managed by another industry training organisation.

If you need further information about this policy or how to apply, please contact the Tertiary Education Commission on 0800 601 301 or sectorhelpdesk@tec.govt.nz.

Background

The Industry Training and Apprenticeships Act 1992 (the Act) allows the Tertiary Education Commission (we/us) to approve funding for an industry training organisation (ITO) that does not have coverage for a particular industry.

Section 10A of the Act enables employers to apply to us in writing to have their training managed by a different ITO where:

- › the existing ITO does not have the capacity to provide a satisfactory service to the employer, or
- › the employer faces significant costs because its training needs are covered by more than one ITO.

We must also be satisfied that the preferred ITO can effectively manage the training.

This policy sets out our principles and procedures for approving applications from employers to have their training managed by an ITO that does not have coverage for the industry. The relevant section in the Act is provided in the Appendix.

Principles of implementation

There are four principles for the implementation of this policy:

- › **Principle one:** "Satisfactory service to the employer" is the level of service we expect a competent ITO to provide to any employer within the relevant industry.
- › **Principle two:** "Capacity to provide" is an ITO's ability to provide the service.
- › **Principle three:** "Willingness to provide" is where the preferred ITO is willing to arrange training for the employer and is capable of doing so.
- › **Principle four:** "Transparency of process" ensures all affected parties are given an opportunity to be heard before we make a decision on the application.

Grounds under which an application can be made

There are two grounds that can be used to consider changing ITOs. If both grounds apply, please complete parts 3A and 3B of the application form.

Section 10A(b)(i): Application on the grounds the ITO does not have the capacity to provide a satisfactory service to the employer

There may be a number of situations where an ITO does not have the ability to provide the level or type of service that employers in that industry can generally expect to receive. An ITO's ability to provide a service may be inhibited by, for example, its lack of resources, its lack of geographical presence, its competence, a breakdown in the relationship with the employer, or its consistent failure to provide a satisfactory level of service to the employer.

Applications from employers should define the service level expected and state why the employer considers it has not had or cannot obtain this level of service. We expect to see evidence that directly supports the application's grounds. Evidence would include letters, emails and/or meeting notes that show the employer and ITO have attempted to resolve any issues or concerns, as well as the outcomes of those efforts.

Section 10A(b)(ii): Application on the grounds the employer faces significant administrative and compliance costs because its training needs are covered by more than one ITO

There are some (generally large) employers whose training needs are covered by several ITOs. This may create significant administrative, transactional and compliance costs. This could include having to comply with multiple assessment and moderation systems and different administration and reporting requirements.

In these cases, the employer may choose to nominate an ITO with whom it prefers to work to cover all or most of its training needs. Applications made in these cases will need to set out the rationale behind its choice of preferred ITO. We expect to see evidence that supports the additional administrative, transactional and compliance costs as a result of working with multiple ITOs. Evidence can include cost comparisons between ITOs, as well as if the employer has consulted with the relevant ITOs about whether the issues could be resolved.

However, the employer will continue to be subject to any statutory-based levy provisions in place with the ITO that has industry coverage. These levies should not be included in any cost analysis.

Assessing applications from employers and required supporting evidence

We will need to be satisfied that the preferred ITO supports the employer's application. We will also need to be satisfied that the preferred ITO is capable of managing the delivery of industry training that will enable the employees of the applicant to attain the relevant skill standards

The preferred ITO will need to provide supporting information that demonstrates how the employer will be serviced and how the training, assessment, and moderation will occur. The preferred ITO will need NZQA programme approval and consent to assess unit standards for the specific programmes it will be offering to the employer. However, these are not needed for the application to proceed. If the preferred ITO is approved by us, that ITO can then seek programme approval and consent to assess from NZQA.

NZQA approval is not dependent on support from the standard setting ITO.

We may contact the employer and the relevant ITOs for further information if necessary. We will also use information we hold, such as enrolments, performance and funding, to further inform our decision.

Process for approving new arrangements

Prior to approving any application, all affected parties must be consulted and provided with an opportunity to comment in a timely manner. If the employer has not consulted its current ITO, we will contact the ITO on the employer's behalf and provide the ITO with the relevant supporting evidence so the ITO may have an opportunity to respond.

In some cases, the application may reflect evidence of an agreement between ITOs that the particular employer is best served by the preferred ITO. These applications could be approved without the employer needing to produce detailed evidence to support the application.

In other cases, the application may be opposed by the current ITO which has industry coverage for that employer's industry. We will need to be satisfied that all avenues have been fully explored. This could include facilitating discussions between the current ITO and the employer with a view to the ITO agreeing to provide a level of service satisfactory to the employer.

Regardless of the issues involved, we will need evidence that efforts have been made to resolve the issues and the outcomes of those efforts.

Where the application has been made because the employer faces significant administrative, transactional and compliance costs due to being covered by more than one ITO, we will need evidence that these costs arise from multiple ITO coverage. We will need assurance the proposed arrangements effectively tackle the multiple ITO issue and evidence that effort has been made to obtain the agreement of all affected ITOs.

Other important information

An application will not be approved if there is evidence that the application has arisen out of competitive behaviour or inducements offered to the employer by another ITO.

Where an application is approved, the employer will be subject to the cost structures, administration and assessment requirements of the new ITO. The employer will also continue to be bound by any statutory-based levy provisions that the ITO which has the coverage for that industry has in place.

How to apply

An application form is available for this policy. Applicants must use the application form and send the completed application and supporting evidence to sectorhelpdesk@tec.govt.nz.

If you need any further information

If you have any questions about this policy or want to talk to someone about how to apply, please contact our sector helpdesk on 0800 601 301 or email sectorhelpdesk@tec.govt.nz.



We ensure New Zealand's future success.

Appendix: Section 10A of the Industry Training and Apprenticeships Act 1992

10A Power to fund if employer switches industry training organisation

The Commission may give funding approval to a proposed plan of an industry training organisation under which it seeks to manage the delivery of industry training to the employees of a particular employer who is not part of the industry specified in the *Gazette* notice published under [section 5](#) relating to the industry training organisation, if—

- (a) that employer has applied to the Commission in writing for industry training to be managed by the industry training organisation; and
- (b) the Commission is satisfied that the employer's application should be granted because either—
 - (i) the industry training organisation that manages training for the employer's industry does not have the capacity to provide a satisfactory service to the employer; or
 - (ii) the employer faces significant administrative and compliance costs (but not taking into account the cost of any training levies) because its training needs are covered by more than 1 industry training organisation; and
- (c) the Commission is satisfied that the industry training organisation is capable of managing delivery of industry training that will enable the employees of the employer to attain the skill standards applicable in the industry to which the training relates.