



TEC investigation report – MSL Training Limited

Executive Summary

1. In preparation for an audit, in January 2020, the Tertiary Education Commission Te Amorangi Mātauranga Matua (TEC) completed a review of MSL Training Limited's (MSL) Single Data Return (SDR) submissions between 2015 and 2018. The review identified anomalies where learners were enrolled in either the New Zealand Certificate in English Language Level 1 or Level 2 who had previously completed the same English Language programme, or had an English Language qualification at a higher level.
2. As a result we initiated an investigation that ran concurrently with the audit to verify enrolments at MSL between 2015 and 2018. The investigation confirmed instances where learners were enrolled in an English Language Level 1 or Level 2 programme they had previously completed and recognition of prior learning (RPL) should have been applied. As the TEC does not fund RPL, the investigation determined that MSL was overfunded by 25.5518 Equivalent Full Time Student (EFTS) for the 2015 to 2018 period. This resulted in a recovery of approximately \$140, 803.00 GST exclusive.
3. As a result of the investigation, MSL needs to improve its process on how RPL is identified and applied. A number of recommendations have been provided to MSL which will need to be implemented to ensure future compliance.

Background

4. MSL is a TEC-funded registered private training establishment (PTE) which was established in June 1999 and is located in Auckland. The following table shows the amount of TEC funding MSL received between 2015 and 2019.

Fund	2015 Actual \$ GST excl	2016 Actual \$ GST excl	2017 Actual \$ GST excl	2018 Actual \$ GST excl	2019 Actual \$ GST excl
Investment Plan					
Student Achievement Component Level 1-2 (Competitive)	\$624,750	\$624,750	1,940,750	\$1,940,750	N/A
Student Achievement Component Level 1-2 (Non-Competitive)			\$770,000	\$770,000	\$2,293,849
Student Achievement Component Level 3 and above (SAC3+)	\$347,919	\$347,919	\$417,981	\$534,030	\$885,474
Youth Guarantee	\$515,314	\$515,314	\$502,460	\$502,116	\$542,619
Fees-free				\$140,810	\$191,000
Total	\$1,488,013	\$1,488,013	\$3,631,191	\$3,887,706	\$3,912,942

5. During preparation for an audit of MSL, analysis of its SDR returns over the 2015-2018 years was conducted. The analysis showed that students were reported as being enrolled in, and having completed the same programme twice. This indicated that MSL should have applied RPL, which the TEC does not fund and is a potential breach of the TEC funding conditions.¹
6. While the audit continued, an investigation was initiated to look at compliance with the RPL funding conditions.

Investigation Scope

7. The scope of the investigation was to assess MSL's compliance with TEC's RPL funding conditions during the 2015 to 2018 period, specifically:
 - Student enrolments, including eligibility.
 - How information is recorded.
 - Reporting of information through the SDR.
 - How courses were delivered by the organisation.
8. The TEC looked at a number of enrolment records held by MSL and conducted interviews with senior management.

Investigation findings

9. We received a total of 67 enrolment samples for the period under investigation, 60 of which were relevant to our analysis. Of the 60 enrolments, 84% had declared prior learning on their enrolment form, while 94% made the declaration during the learner interview and/or their assessment at enrolment (6% or 4 enrolments did not disclose prior learning during the enrolment process).

MSL only applied RPL to enrolments where qualifications were achieved

10. The investigation found that MSL would only consider whether RPL was applicable when unit standards leading to the award of a qualification were evident. This was underpinned by some cases where the interview and learner assessment process revealed that prior learning had occurred but had not been determined by MSL prior to enrolment. In these cases, the learner did not disclose any prior learning but a check of NZQA's Record of Achievement (RoA) would have highlighted there was relevant prior study.
11. The investigation also found inconsistencies in MSL's process to check RPL across enrolments, regardless of whether RPL was declared or not. Less than half of the enrolments we reviewed had queries performed by MSL regarding learners' RoA. This was particularly evident in two enrolments where the learner had completed qualifications at Master's level in New Zealand universities.
12. Consequently our analysis determined that 45 of the 60 enrolment samples were reported twice in the SDR between 2015 and 2018 as successful completions by re-enrolling students for a qualification they already had, and not accounting for RPL or adjustment to the EFTS value delivered. This is in breach of TEC funding conditions.

¹ TEC funding conditions for RPL state that TEOs cannot seek SAC Level 1 and 2 funding for RPL credited to a student. Funding conditions 4.9 and 4.10 specify what TEOs must do to ensure compliance with this funding condition. Current funding conditions can be found [here](#).

13. Of the 15 remaining enrolments, we have considered two disputed enrolments and will not seek a funding recovery for them because we consider that MSL performed adequate checks that were able to be evidenced prior to accepting the enrolment.

MSL's view

14. Of the 45 enrolments that we considered to be reported twice, MSL acknowledged that there were 28 instances where they did not perform the adequate checks. However, MSL maintained that in 17 cases the enrolment was valid.

15. MSL outlined the following points in relation to those 17 enrolments :

- The learner did not declare prior learning, or there was not enough information provided to enable MSL to apply RPL.
- The prior qualification achieved was not visible on the NZ RoA when the enrolment was completed.

16. The investigation subsequently reviewed all 60 enrolments and assessed the response provided by MSL on each enrolment, and compared this with the records held for each enrolment application. This analysis is set out in Appendix A.

17. Based on the analysis, we do not agree with MSL's view in accepting enrolments. The review showed that even in those 17 cases:

- the Learner disclosed prior learning either through:
 - The enrolment forms. Entries indicated an affirmative "yes" to prior learning, with many disclosing the year and place of prior study; or
 - The interview process of prior learning undertaken. The enrolment forms had a learner interview section and we noted that prior learning disclosures (including the level, year and place of prior learning) were marked on the form.
- The administration and/or process for further checking was lacking. The enrolment forms did not evidence that checks had been being performed on the Learner. We also understand that printing the RoA was not mandatory practice by MSL at the time. The visibility of prior qualifications or partial qualifications on printed documents included in learner's records showed that even if the RoA did not have the qualification listed, there was other information available to suggest that prior learning had been undertaken.

18. Considering the above we are satisfied that 45 of the 60 enrolments were in breach of the RPL funding condition.

Process Improvements

19. MSL has the responsibility to ensure each enrolment is valid. MSL should review its enrolment process and we suggest the following changes to ensure enrolments are correctly recorded with RPL appropriately taken into account.

- a. Language is revised on MSL's enrolment form questions, so it is clearer for learners, especially for those for whom English language is not their first language.²
- b. Interview questions covering prior study are mandatory.

² In particular, question 20 on the form.

- c. Ensure all available learner records are checked to determine whether RPL exists. If it is not declared on the enrolment form, but later disclosed by a student during the interview and language assessment, MSL must consider it to better understand whether any RPL needs to be recognised.
- d. MSL should check learners' previous records and the NZ RoA for all enrolments, within its ability to gain accurate and timely RoA information at the time of enrolment. A copy should be kept on file as evidence that the checks have been completed and by whom.

Recovery

20. We have reviewed the enrolments and based on this, calculated the amount for recovery for 45 ineligible enrolments. The full list of the funding can be found as Appendix B.
21. The recovery amount as a result of the investigation is \$140,803.00 (GST exclusive). This is based on 25.5518 EFTS.

Conclusion

22. TEC and MSL have worked constructively together throughout the investigation process. MSL staff were open and assisted the TEC throughout by providing access to information, completing documentation where required and answering questions.
23. We recognise that the COVID-19 pandemic has created additional challenges for TEOs. In this context we are pleased to note MSL's own initiatives to proactively address and resolve the issues raised in an uncertain operating environment.
24. The TEC is committed to supporting and partnering with TEOs to assist them to meet their obligations and continue to be viable and well-functioning providers. We will continue to work with MSL to provide ongoing support on the best way to improve its enrolment processes.
25. During the investigation MSL commented on 17 January 2020 that NZQA had notified them on 25 June 2019 that it usually takes "12-18 months from the completion date for the qualification to be loaded onto the Record of Achievement." This was a contributing factor to some of the prior achievement not being identified. In response, TEC is developing an app that it is planning to release in the first quarter of 2021 that will enable Tertiary Education Organisations to check if a learner has completed a specific qualification on the New Zealand Qualifications Framework, according to SDR data held by TEC. This will improve the timeliness and accuracy of qualification achievement data available to Tertiary Education Organisation's at the time of enrolment.

