



Arts, Communications, Finance Industries and Property Services Ltd

ACFIPS is an Industry Training Advisory Body • ABN 55 074 207 784

5th January 2016

Mr Rob Stowe
NSW Commissioner for Fair Trading
Property Training Review, Real Estate and Property
NSW Fair Trading, PO Box 972, Parramatta, NSW 2150
Email: propertytrainingreview@finance.nsw.gov.au

A review of training in the property services sector

Dear Commissioner,
On behalf of ACFIPS - Arts Communications Finance Industries and Property Services - an Industry Training Advisory Body I wish to congratulate NSW Fair Trading for undertaking a review of training in the property services industry in New South Wales.

Vocational Education and Training is an important foundation for providing a skilled property services workforce.

Overall the existing structure has set a balance that in many ways is superior to other states. In NSW those that wish to enter the industry can complete a Certificate of Registration which allows them to work under the guidance of experienced property services operatives. More formalised Traineeship pathways are also available which leads to the completion of Certificate III or Certificate IV (Licence) qualification. The Certificate IV qualification provides a comprehensive (24 units) range of units that when completed provides a firm basis for people to work in the industry in more senior roles.

A mandatory professional development program provides flexibility for NSW Fair Trading to ensure that those in the property services industry are encouraged to keep up to date with best practice - including any legislative changes that are introduced from time to time.

The introduction of a Diploma as a licence requirement preclude the resolution of the risks that have been identified as an issue. Quantity, in this case a Diploma, will not solve the issue of quality, which can be identified as the core of some of the issues around training and assessment.

As has already been demonstrated via the VET Fee Help program, the quality of Diplomas is not necessarily an indication of higher standards.

Higher level training at Diploma and degree level definitely have their place in the Property Services Industry. Encouragement of higher level qualifications and recognition of their value by employers is essential in the development of a vibrant professional property services industry.

However, is it the role of licensing to mandate higher qualifications as entry to the industry?

ACFIPS as an organisation (formerly known as Property Services Industry Training Advisory Body NSW Ltd) celebrates 20 years of continual operation within NSW in 2016. During this time we have been heavily involved in promoting higher standards of training within the Property Services sector.

This has included working closely with the then Department of Education and Training in development of training guides for introduction of new training packages and with the support of NSW Fair Trading running a Property Services phone hotline.

Our view is that as always systems can be improved. We have put forward some suggestions and comments which we believe, in the spirit of making transparent and effective changes, will assist in improving training outcomes.

We have also provided some advisory comments, based on our extensive experience gained in working within the Property Services industry.

Making changes which may appear to on the surface to 'make property services' a higher level profession (i.e. Diploma only entry) is not the answer.

Licensing should not be seen as a way of raising the bar to entry. Regulations should be about maintaining consumer confidence, and safeguarding the public.

In any system there must be a balance between ensuring that unnecessary barriers to entry do not restrict entry of individuals wanting to enter the industry and to build skills on the job versus calls by industry groups to introduce higher professional qualifications.

Within our response to the review panel we have provided commentary in response to suggestions put forward. We believe that in essence the regulatory framework in NSW which is underpinned by national training package units and qualifications has worked effectively.

Regards

Sasha Boe
Chair, Property Services Sector Advisory Committee
Deputy Chair, ACFIPS Ltd

Submission index

Section 1 -Pages 4-6

- 1.1 Are there additional risks that should be included in an assessment of training standards
- 1.2 Are there other issues that should be considered in assessing training standards?
If so what are they?
- 1.3 What do you think should be the minimum educational standard for each category and why?

Section 2 -Pages 6-7

- 2.1 Although it is clearly possible to enter the property services industry without any experience, how often does this occur?
- 2.2 What are the practical consequences of the absence of a time based requirement to enter the property services industry?
- 2.3 What does time based experience achieve?

Section 3. Pages 7-8

- 3.1 What needs do the current CPD requirements meet?
- 3.2 What benefits of CPD and what are the costs to business?
- 3.3 What are the problems or issues with the existing CPD regime in NSW?
- 3.4 Are the current requirements relevant

Section 4. Pages 8-9

- 4.1 What are the current problems with the delivery and assessment of training for the property services industry?
- 4.2 What problems have arisen and what are the impacts on the industry
- 4.3 What changes should be made to the delivery and assessment of training for the property services industry?

Section 5. Pages 9-10

- 5.1 What are the key issues in relation to cross border operations of property and achieve?
- 5.2 What are the current barriers to achieving mutual recognition?
- 5.3 How might we improve mutual recognition for auctioning of property and livestock

Section 6. Page 11

Concluding comments

Section 1

1.1 Are there additional risks that should be included in an assessment of training standards

Additional key risks to the integrity of a licence is when fraudulent behaviour occurs in workplace or by an employee.

Also the risks related to and surrounding the role of Licensee in charge.

1.2 Are there other issues that should be considered in assessing training standards?

If so what are they?

The changes to the Training Package for the property sector due to commence in 2016 should have some positive impacts. The assessment of training should become more proscriptive which should see improvement to the quality of assessment by some providers.

As mentioned in my covering letter great care should be taken if increasing the quantity of training (that is increasing a requirement from a Cert IV to Diploma for example), as this does not necessarily increase the quality of the training.

Relevant stakeholders should continue to work with ASQA to monitor the quality of training provided by providers and the risks related to these providers.

ASQA currently have a list of best practice providers represented in their 'Delegated Providers' – details of these providers can be found at: <http://www.asqa.gov.au/vet-registration/delegations/delegations.html>. These organisations delivering property qualifications should be viewed as best practice models

It is envisaged that the changes to the training package will assist in increasing the quality of training and assessment in the property sector.

1.3 What do you think should be the minimum educational standard for each category and why? Certificate of Registration (all sectors)

The Certificate of Registration (all sectors) provides a flexible pathway for individuals to enter the property services sector. In essence a successful regulatory framework should be geared to ensuring that there is a flow of 'job ready' people available to enter the property services industry and that employers can offer positions that provide opportunities for new entrants to gain experience and have access to further training. If conducted correctly, by quality providers the current requirement for the Certificate of Registration, (3 to 4 units of competency), is adequate.

Feedback has been provided that a 'time constraint' or 'probations period' be re-introduced whereby Certificate of Registration holders are provided with a provisional Certificate on completion of their course and then provided with a full Certificate of Registration after a designated timeframe working with an employer, who can sign off on 'full' registration papers. This type of structure would achieve the objective of having new entrants meet job entry requirements with the onus on them to develop their skills on the job.

It is in the interests of employers to have adequately trained staff so the onus of employers to sign off on full Certificate of Registration is not arduous. Equally with improvements in technology, there is no reason that the costs of keeping central records should be cost prohibitive. Record keeping can be fully automated with web based technologies. This type of system would provide real benefits - maintaining labour market flexibility with improved oversight/record keeping.

Property Licence (all sectors)

ACFIPS is supportive of higher level training at both Diploma and degree level for those that wish to become specialists and managers within the property services sector.

Our policy position is that when conducted in line with the training package requirements the Certificate IV courses for the licencing of agents in NSW are more than adequate. The real estate Certificate IV course is particularly large containing 24 units of competency (generally Cert IV courses are 11-14 units of competency). With such a large cohort of units there is plenty of provision to cover property management, sales, leadership and small business areas.

The argument that the licence should be equivalent to a Diploma has pros and cons. For a Licensee in charge who may require further human resource based units reflecting their management of people and a small business, this may be beneficial.

For the remaining licensed agents who do not run a business, nor plan to run a business, a Diploma may be seen as overkill. The licenced agent completing a Diploma will find no further development of the risk area skills identified by the consultation paper. These areas are adequately covered in the Certificate IV courses for the range of property sectors.

There is no risk benefit by completing a Diploma. If quality, which appears to be the crux of the issue, is the benefit to be achieved, increasing the amount of training to the Diploma is not necessarily the answer.

As previously mentioned it would also be perilous to expose the Diploma of Property qualification to potential rorting of the VET-Fee Help scheme, which has been seen recently. RTOs of a dubious nature, which currently have issues with quality may see this is an opportunity to access this funding, as it is primarily available to RTOs who conduct Diploma level training.

A Certificate IV qualification is appropriate for most people working in the Property Services sector. Diploma and Degree qualifications are well suited for managers and specialists.

The reality of the Property Services sector is that it requires a broad range of skilled operatives. The current structure is fairly aligned with the range of job tasks.

Mandating a Diploma for a property licence will not achieve any real benefits and in reality could cause labour shortages, inflexibility, cost increases without any real benefit to quality of training within the property services industry.

There has been much discussion particularly within employer and employee organisation about the benefits of increasing the qualification requirements, to Diploma level for entry to the property services sector. Undoubtedly this may be of benefit to some organisations. However, as already

stated a change to this approach would not be of general benefit to either the community at large or the NSW economy in general. It would increase barriers to entry in a sector which sees a high turnover of staff and a need for readily available appropriately qualified employees. It would cause great increases in costs of training to individuals. Perversely, given the competitive training market, it may open the door to more poorly structured training as some training providers cut corners to offer lower priced training for Diplomas. As mentioned previously increasing the quantity of training does not equate to an increase in the quality of training.

CPD

From the experience of our ITAB operating our Property Services Hotline, on behalf of NSWFT, it would appear that most agents are generally happy to now undertake Continuing Professional Development (CPD) when it is of a relevant nature.

As a principle, mandatory CPD is a means of ensuring that Property Services Industry operatives keep up to date with latest industry developments. It is also useful as part of a consumer protection strategy, which is supported through legislation.

It is our belief that agents should take some responsibility when accessing this training. Quality may not be found in the cheapest, quickest courses.

Research undertaken in other industries has shown the benefit of CPD, with those employers who utilise CPD as a means of keeping up with developments and targeting training to needs of staff in their firm benefit substantially.

Conduct of CPD by RTOs and associations is viewed as the most beneficial and easiest to manage. Our recommendation is that CPD is maintained as a positive element of maintaining standards and ensuring that those in the industry maintain current knowledge especially in regard to legislative, financial and general business changes that may impact on the operation of their businesses.

Section 2

2.1 Although it is clearly possible to enter the property services industry without any experience, how often does this occur?

As per legislative requirements to work as a sale or property manager one must hold a Certificate of Registration. In our experience most people entering the sector are changing career so that have had no experience in the sector. They generally complete their Certificate of Registration and then commence work.

2.2 What are the practical consequences of the absence of a time based requirement to enter the property services industry?

Although the notion of having a set time frame for gaining competency has been removed from traineeships and apprenticeships there is still a view that time served on the job is of real value. For a property agent, time involved on the job will provide a range of experiences.

The risks surrounding a non-experienced agent would be reduced if a time-based component were to be re-introduced.

2.3 What does time based experience achieve?

There are many aspects of time based experience that are important. Many entry level staff perform roles where there is some repetition. This is important in that over time the employee becomes more proficient as they become more skilled. Mentoring on the job is a great way for recent entrants to learn the more practical skills of working in the property sector. The current entry level course is well suited to covering the legal and regulatory requirements of working in the sector, but the more people based components could be honed as a probationary agent on the job. Having said this many licensees in charge have neither the time, nor inclination to mentor a new staff member, as they are focused on selling and revenue.

There are programs that have been running in NSW for over 15 years in the way of the traineeship scheme, which sees agents put new staff on Certificate III/IV traineeships. The new entrant is provided with both the theoretical training via an RTO and gains the practical competency whilst working on the job. It can be viewed as a win win as the employer may be eligible to access government funding and the new entrant is provided with the appropriate qualification and skills, earning and learning.

Section 3

3.1 What needs do the current CPD requirements meet?

The current CPD requirements continue to provide updates to changes in the property industry, which may include;

- Supervising guidelines, underquoting, changes to ACC requirements, changes to Privacy Act, Swimming Pool Act etc.
- Provide information guidelines to ensure that agents are informed and importantly are able to access training to assist them to cope with changes.
- CPD assists NSW Fair Trading to easily disseminate information on legislation and regulatory changes to the sector

3.2 What benefits of CPD and what are the costs to business?

It is important to note that not every agent is a member of an association. Therefore mandated CPD ensures that all agents are able to access and receive relevant training. Just as with employee organisations there is a strong belief by many individuals against mandatory or forced membership of any organisation. This is especially the case where organisations can be seen to act as lobbyists and reflect views which may not necessarily be shared by all members, potential members or other stakeholders. People will not necessarily turn to an association for training but they can receive relevant training through CPD. Currently they can source training through a variety of independent RTOs (as well as from associations).

As for any business there is a cost for training which should be seen as an investment in the performance of the enterprise. Ensuring that licensed agents are well informed of the industry, Consumer Law, etc is vital for a well functioning property services sector.

Most Property Services firms would allocate a very small percentage of the operational budgets to training.

As with business in general, it is buyer beware, regarding obtaining training. Agents will continue to get what they pay for. If they access the cheapest course then they may find the quality lacking. They need to realise that fast and cheap is not necessarily the best thing. Agents need to be accountable for the training they undertake.

The costs to business of ensuring the competence of their staff through CPD is worthwhile for their businesses, consumers and the property services industry in general. Key benefits can be summarised as:

- Up-skilling staff to meet needs of the business
- Improving the knowledge of all operatives
- Utilising the requirement of CPD to build effectiveness of the business. When conducted 'in house' – CPD is a great way to build teams and discuss what may or may not be occurring in the workplace – particularly around compliance based issues. It also provides opportunities to be more objective about the goings on in the office in general.

3.3 What are the problems or issues with the existing CPD regime in NSW?

CPD is a proven mechanism in industries and professions for ensuring that those within the sector are kept up to date with changes and there is a structure available that provides a base for skills development. In the context of Fair Trading it is a means of enforcing standards and consumer protection. As with any system improvements could be initiated to strengthen compliance and consumer protection. These include;

- Improve compliance framework by NSW Fair Trading
- Monitor training providers especially those that conduct training in less than proscribed time frames than is required to achieve relevant outcomes
- Review current material / subject matter to ensure is of value or benefit to businesses/consumers
- Ensure accountability of system for training providers and Property Services operatives

3.4 Are the current requirements relevant?

Yes, CPD was introduced as a means to promote consumer protection as proscribed by NSW Fair Trading. CPD is still very relevant today.

We also believe that CPD could be used as a means of strengthening our current system of mutual recognition, i.e. cross border issues. Although the National Training Package is the same for all States, there are some differences in particular relating to underpinning knowledge which relates to State legislation or procedures. CPD could be used to up-skill someone dealing across borders. This can be viewed also in the context of consumer protection.

Section 4

4.1 What are the current problems with the delivery and assessment of training for the property services industry?

The main problem is Training Providers that do not provide reasonable standard of training to suit the qualification requirements. Areas of potential concern are training providers that drastically reduce the time to complete the qualification and those that provide poor/sub-standard content and training to students.

Within my covering letter I briefly mentioned the problems that have occurred as a direct result of poor oversight of the VET Fee Help program by the Commonwealth. The NSW Skills Minister, John Barilaro MP, has been highly critical of the impact that dodgy training providers has had on the perception of VET training in NSW. Although the property services industry has not factored in training Diploma ports, this can be largely attributed to the current NSW training structure whereby the vast majority of training in this sector is undertaken at the Certificate III and Certificate IV. Careful consideration should be taken regarding this, where the Diploma is to be the licence requirement.

4.2 What problems have arisen and what are the impacts on the industry

The main problems that impact on the industry is that lower standards of training can lead to less qualified staff entering the industry. This can impact of levels of service provided to consumers. There are numerous examples where staff have provided poor service or wrong advice that has led to consumers being faced with financial loss, or incurred delays involving property transactions. Trust account fraud leading to gaol time reflects poorly on the industry when broadcast broadly in the media and further lowers the perceived standards of the industry, by the public.

4.3 What changes should be made to the delivery and assessment of training for the property services industry?

There are no reasons to make any changes to the delivery of assessment and training for the property services industry.

What is required is a sound understanding of the national training structure by all those that have responsibility for implementation of NSW regulatory policies and their interface with the relevant Training Package. If the department does not have this capacity then this role should be outsourced to a body that has a proven track record and qualified staff to provide this advice.

The new Property Services Training Package provides much needed clarification to the assessment requirements of the property qualification and allows for better and more robust / rigorous benchmark for training and assessment.

(Unfortunately at the time of writing this submission a number of stakeholders have raised a number of minor issues that will have the effect of delaying the introduction of the new Property Services Training Package).

Over the next 2 years ASQA will have completed its first audit round of all of its RTOs. That is some RTOs will not have been audited by ASQA yet under the current standard regime (5 year audit cycle). ASQA also work on risk ratings, and where issues continue to arise around particular RTOs investigations are made and followed up. This is of importance to the current NSW training review.

Basically there is no reason for Fair Trading to bring in extra regulatory requirements for RTOs as ASQA as the national regulator will be in the process of completing audits for all RTOs.

Section 5

5.1 What are the key issues in relation to cross border operations of property and achieve?

Differences in state legislation/regulation requirements make mutual recognition challenging. Though units of competence may be the same the underpinning knowledge and thus procedures are completely different in each state.

As already mentioned in the above CPD suggestions, consideration should be given to bridging courses from state to state, when units of competence recognised as the same but the underpinning legislation is mandated differently. CPD could be used to upskill someone dealing across state borders.

5.2 What are the current barriers to achieving mutual recognition?

As a general principle there should be no barriers to mutual recognition. It is essentially about the free flow of labour between states and recognition of skills. Nevertheless, as was highlighted when national harmonisation was considered, there are still significant differences between states.

What is required is a system that does not place additional barriers to mutual recognition. Nevertheless under the general principles of CPD, at some time, those that have had their qualifications recognised under mutual recognition should undertake CPD units which focus on knowledge that pertains to NSW property services practices and procedures.

5.3 How might we improve mutual recognition for auctioning of property and livestock?

The basic premise of auctioneering is universal. As with answers provided above CPD is well suited to providing an opportunity for those who are granted mutual recognition of their qualifications to gain knowledge of any NSW practices and procedures. We would suggest that those who gain recognition also complete a short CPD course with focus on auctioning legislation in NSW/QLD.

Section 6

Concluding comments

As stated within this submission, Vocational Education and Training is an important foundation for providing a skilled property services workforce.

In any system there must be a balance between ensuring that unnecessary barriers to entry do not restrict entry of individuals wanting to enter the industry and to build skills on the job versus calls by industry groups to introduce higher professional qualifications.

Overall the existing structure has set a balance that in many ways is superior to other states. In NSW those that wish to enter the industry can compete a Certificate of Registration which allows them to work under the guidance of experience property services operatives. More formalised Traineeship pathways are also available which lead to the completion of Certificate III and Certificate IV qualifications. The Certificate IV qualification provides a comprehensive range of units that when completed provides a firm basis for people to work in the industry in more senior roles.

A mandatory professional development program provides flexibility for NSW Fair Trading to ensure that those in the property services industry are encouraged to keep up to date with best practice - including any legislative changes that are introduced from time to time.

CPD can always be improved to meet changing government requirements or consumer needs. It can be used as a vehicle promoting higher standards, keeping people informed of new initiatives, regulations and tackling any potential problems associated with mutual recognition and other cross border issues, and consumer protection initiatives.

Overall, flexibility and innovation are seen as being drivers for the future development of NSW.

Fair Trading has a regulatory framework that with some minor changes can deliver a far better system for all than some of the ideas we have viewed from other states and organisations.

A one size fits all with Diploma as the licencing requirement, is an outdated means of regulation. A Diploma as a basis for entry to a professional association may be appropriate, but as a requirement for entry level licensing would have many adverse consequences for the labour market.

Thank you again for providing the opportunity to comment on the consultation paper.

Sasha Boe