



REPORT

Audit report: Spice Telecom Australia Pty Ltd

RTO number:	21994
CRICOS number:	02924F
Date/s of audit:	14 March, 30 May and 3 June 2019
Date report created:	24 July 2019
Date report updated:	7 February 2020

Organisation details

Organisation's legal name:	Spice Telecom Australia Pty Ltd
Trading name/s:	Technical Institute of Victoria
RTO number:	21994
CRICOS number:	02924F

Audit team

Lead auditor:	Ian Penna
Auditor/s:	Paul Bunce Fred Bonaventura Katherine Owen

Audit details

Application number/s:	N/A
Audit number/s:	AUDREC0009611
Audit reason/s:	Compliance Monitoring
Address of site/s visited:	Unit 1, 252 Lygon Street CARLTON VIC 3053 Australia
Date/s of audit:	14 March, 30 May and 3 June 2019
Organisation's contact for audit:	Robert Smith Chief Executive Officer ceo@techinstitute.vic.edu.au 0396393525

Original finding at time of audit

Audit finding: Critical non-compliance

Report completed by: Ian Penna

Practice	Standards for RTOs	National Code	Finding
Support and Progression	1.7*	6.6*, 8.1*, 8.3*, 8.4*, 8.9*, 8.10*, 8.11*, 8.12*, 8.13*, 8.14*, 8.15*	Not compliant
Training and Assessment	1.1*, 1.2*, 1.3*, 1.8*	11.2*	Not compliant
Completion	3.1*		Not compliant
Regulatory Compliance / Governance	8.5*, 8.1*		Not compliant

*Indicates a non-compliant clause

Audit finding following analysis of additional evidence

Audit finding following analysis of additional evidence provided on 13/12/2019: Critically Non-Compliant

Report completed by: Ian Penna

Practice	Standards for RTOs	National Code	Finding
Support and Progression	1.7*	6.6, 8.1*, 8.3, 8.4*, 8.9, 8.10, 8.11, 8.12, 8.13, 8.14, 8.15*	Not compliant
Training and Assessment	1.3		Compliant
	1.1*, 1.2*, 1.8*	11.2*	Not compliant
Completion	3.1*		Not compliant
Regulatory Compliance / Governance	8.5*, 8.1*		Not compliant

*Indicates a non-compliant clause

*Indicates a non-compliant clause

Background

Spice Telecom Australia Pty Ltd trading as Technical Institute of Victoria (the organisation), was first registered as a training organisation on 16 July 2007. The organisation's RTO registration is due to expire on 31 December 2021. The organisation was registered on CRICOS on 1 May 2008 and its CRICOS registration is due to expire on 31 December 2021.

Management Structure

Mr Gurvinder Singh is the current owner of the organisation which is an Australian Proprietary Company, limited by shares. Mr Singh replaced the former owner/CEO Mr Rajesh Kumar who sold his shareholding in June 2019, effective three months after the initial unannounced site audit conducted as part of this current compliance monitoring activity. Mr Kumar has now been replaced by Mr Robert Smith CEO.

- CEO – Mr Robert Smith
- Compliance Manager – Gurvinder Singh
- RTO Manager – vacant
- Course Coordinators - for each industry sector.

Scope of organisation's registration (VET and CRICOS):

- AHC30616 Certificate III in Production Horticulture
- AHC31116 Certificate III in Production Nursery
- AHC40316 Certificate IV in Production Horticulture
- AHC50316 Diploma of Production Horticulture
- SIT30816 Certificate III in Commercial Cookery
- SIT40516 Certificate IV in Commercial Cookery
- SIT50416 Diploma of Hospitality Management.

Suburb and state of all delivery sites:

- 252 Lygon Street, Carlton VIC 3053
- 3 Miller Street Prahran VIC 3142

- 300 Perry Road Keysborough VIC 3173
- 60 Curry Road Kilmore VIC 3764.

Third party usage:

- the RTO has notified ASQA of 18 third party arrangements for the provision of recruitment services.

Core clients/target groups:

- overseas students.

Training revenue (funded or fee for service):

- full-fee paying students

Total number of current enrolments in the organisation as at 29 August 2019 was 266 (studying COEs):

- registered Courses (7)
- suspended Courses (0)
- studying CoEs (266)
- saved/pending/approved/Visa Granted CoEs (456).

In preparing the audit report, consideration has been given and reference made, where relevant, to:

- information provided by students as part of a student survey or interview.
- information provided directly by Spice Telecom Australia Pty Ltd to ASQA.
- existing information and records held by ASQA concerning Spice Telecom Australia Pty Ltd.
- information provided to ASQA's auditors and documentation reviewed during the site audit of Spice Telecom Australia Pty Ltd conducted on 14 March, 30 May and 3 June 2019.
- other publicly available information - including but not limited to, information published on the organisation's and third-party websites.

Audit Sample

Training Products	Mode/s of delivery/assessment*	Current enrolments
AHC30616 Certificate III in Production Horticulture	Face to Face / Workplace	0
AHC31116 Certificate III in Production Nursery	Face to Face / Workplace	0
AHC40316 Certificate IV in Production Horticulture	Face to Face / Workplace	18
AHC50316 Diploma of Production Horticulture	Face to Face / Workplace	13
SIT30816 Certificate III in Commercial Cookery	Face to Face / Workplace	180
SIT40516 Certificate IV in Commercial Cookery	Face to Face / Workplace	44
SIT50416 Diploma of Hospitality Management	Face to Face / Workplace	25

*Apprenticeship, Traineeship, Face to face, Distance, Online, Workplace, Mixed, Other (specify)

Interviewees

Name	Position	Training products
Rajesh Kumar	CEO/Owner (previous)	All
Gurvinder Singh	Owner (current)	All
Dipinti Darlami	Receptionist	N/A
Anil Chaudhary	Trainer	Hospitality
Devinder Maley	Trainer	Horticulture
Tarun Saini	IT Assist	N/A

About this Report

This report details findings against the *Standards for Registered Training Organisations (RTOs) 2015* (Standards for RTOs) and/or the *National Code of Practice for Providers of Education and Training to Overseas Students 2018* (National Code). If non-compliance has been identified, this report describes evidence of the non-compliance.

Where non-compliance has been identified, the organisation is accountable for identifying and correcting non-compliant practices and behaviours, particularly those that have had a negative impact on learners.

Correcting non-compliance may require:

- correcting a process or system that has led to the non-compliance, and implementing a revised process or system
- identifying the impact on learners and carrying out remedial action for current and past learners

Original action required by Organisation

Spice Telecom Australia Pty. Ltd. did not meet the following requirements:

Standards for RTOs: 1.1, 1.2, 1.3, 1.7, 1.8, 3.1, 8.1, 8.5

National Code: 6.6, 8.1, 8.3, 8.4, 8.9 – 8.15, 11.2

Remedial action is required for the following training products:

AHC30616 Certificate III in Production Horticulture

AHC31116 Certificate III in Production Nursery

AHC40316 Certificate IV in Production Horticulture

- *BSBHRM405 Support the recruitment, selection and induction of staff*

AHC50316 Diploma of Production Horticulture

- *AHCBUS501 Manage staff*

SIT30816 Certificate III in Commercial Cookery

SIT40516 Certificate IV in Commercial Cookery

- *BSBSUS401 Implement and monitor environmentally sustainable work practices*

SIT50416 Diploma of Hospitality Management

The organisation is required to provide evidence with regards to the issues of non-compliance against the following Clauses and or Standards that demonstrates:

Support and Progression

Standards for RTOs Clause 1.7, and National Code Standards 6.6, 8.1, 8.3, 8.4, 8.9 – 8.15

- the organisation effectively monitors, records and assesses the course progress of all overseas students based upon assessment tasks, participation in scheduled tuition activities, or other indicators of academic progress, and provides the necessary support to ensure they can complete the course within the expected duration specified on their Confirmation of Enrolment (Standards 6.6, 8.1, 8.3, 8.4, and 8.9 – 8.15)
- the organisation now has and follows appropriate systems to ensure learners are provided with the support required to complete their course of studies in line with their course visa (Clause 1.7)
- the organisation implementing their intervention strategy for students at risk of not meeting satisfactory course progress requirements (Standard 8.9)

- the organisation has carried out remedial action to identify and address the impact the non-compliance may have caused to students across all scope items where support needs were not determined, and/or where identified, educational/support services were not provided
- remedial action needs to cover current students and students who enrolled or completed with the organisation in the past six months.

Training and Assessment

Standards for RTOs Clauses 1.1, 1.2, 1.3, 1.8, and National Code Standard 11.2

- the organisation has reviewed its training and assessment strategies and practices to ensure ongoing compliance with the Clauses 1.1, 1.2 and 1.8
- the organisation has corrected its training and assessment practices for future students to ensure they meet the requirements of the training product, including the amount of training provided (Clause 1.8). The evidence to be provided must:
 - demonstrate the organisation will implement an assessment system that ensures assessment:
 - complies with the assessment requirements of the relevant training product(s)
 - will be conducted in accordance with the Principles of Assessment and Rules of Evidence
- the organisation delivers the required practical training and assessment for all students enrolled in their hospitality courses where a commercial training kitchen is required in accordance with their timetable schedule for delivery (Clause 1.3, and Standard 11.2)
- the organisation has carried out remedial action to identify and address the impact the non-compliance may have caused to students across all scope items that were impacted by training and assessment practices that did not meet the requirements of the training product (including amount of training)
- remedial action needs to cover current students and students who enrolled or completed with the organisation in the past six months.

Completion

Standards for RTOs Clause 3.1

- the organisation has rectified the non-compliance identified in respect of Clause 1.8 of the Standards for RTOs for the sampled training products to ensure that, in accordance with the requirements of Clause 3.1, AQF certification documentation is only issued to a learner who is assessed as fully meeting the requirements of the training product as specified in the relevant training package
- the organisation has carried out remedial action to identify and address the non-compliance with Clause 1.8 they may have caused to former learners who were issued AQF certification, but who were not assessed as fully meeting the requirements of the training product as specified in the relevant training package
- remedial action needs to cover all learners who have been issued AQF certification documentation (including both qualifications and statements of attainment) for the sampled training products within the six months immediately prior to audit date.

Regulatory Compliance/Governance

Standards for RTOs Clauses 8.1 and 8.5

- in future, the RTO will cooperate with the VET Regulator by providing accurate and truthful responses to information provided to the VET Regulator relevant to the RTO's registration

- the organisation has undertaken a review of its operations to identify the causes of its failure to comply with Commonwealth legislation and regulatory requirements:
 - *ESOS Act 2000*
 - *National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2018*
 - the condition of registration imposed by the AAT (dated 20/8/18), agreed by consent.
- the organisation has taken other action as appropriate to ensure that it complies at all times with any and all other Commonwealth, State and Territory legislation and regulatory requirements relevant to its operations
- the organisation has reviewed the breaches of the ESOS Act outlined in the report and must outline to ASQA how its systems allowed these breaches to occur, and identify all system improvements it has adopted to ensure breaches of this nature do not re-occur.

Remediation

- the organisation needs to carry out remedial action to identify and address the impact of non-compliant practices that failed to meet the requirements of the Standards for RTOs and the National Code. Remedial action needs to cover current students who have been trained and assessed during the past six months. As part of this action, the organisation is required to demonstrate:
 - how it has determined the impact the non-compliance has caused to current and past students
 - how its systems allowed these breaches to occur
 - a plan to carry out remedial action to address the impact – which should include at a minimum:
 - the number of students for whom the remedial action for will be carried out
 - action that will be taken and timeframes associated with the completion of the plan
 - responsible persons for each component of the plan
 - how the CEO will oversee and ensure completion of the plan
 - evidence of commencement of implementation of the plan.

Audit finding following analysis of additional evidence

Following analysis of additional evidence provided by Spice Telecom Australia Pty. Ltd. on 13/12/2019, the organisation:

- provided sufficient evidence to demonstrate compliance with:
Standards for RTOs: 1.3
- remains not compliant with:
Standards for RTOs: 1.1, 1.2, 1.7, 1.8, 3.1, 8.1, 8.5
National Code: 6.6, 8.1, 8.3, 8.4, 8.9 - 8.15, 11.2

Refer to analysis of additional evidence detailed under each clause in this report for further information.

Areas of non-compliance

Support and Progression

Support

Standards for RTOs Clause 1.7

Original Finding: Not compliant

The RTO determines the support needs of individual learners and provides access to the educational and support services necessary for the individual learner to meet the requirements of the training product as specified in training packages or VET accredited courses.

For details, refer to findings reported under Standard 8.15 below. In summary, the evidence reviewed did not demonstrate that the organisation effectively monitors student participation in scheduled training programs, nor how the organisation has supported each affected student with alternative opportunities to obtain, reflect upon and absorb knowledge, and develop the skills to meet performance requirements.

National Code Standard 6.6

Original Finding: Not compliant

The registered provider must have sufficient student support personnel to meet the needs of the overseas students enrolled with the registered provider.

For details, refer to findings reported under Standard 8.15 below. In summary, the evidence reviewed did not demonstrate that the organisation effectively monitors student participation in scheduled training programs, nor how the organisation has supported each affected student with alternative opportunities to obtain, reflect upon and absorb knowledge, and develop the skills to meet performance requirements.

Progression

National Code Standard 8.1

Original Finding: Not compliant

The registered provider must monitor overseas students' course progress and, where applicable, attendance for each course in which the overseas student is enrolled.

National Code Standard 8.3

Original Finding: Not compliant

The registered provider must monitor the progress of each overseas student to ensure the overseas student is in a position to complete the course within the expected duration specified on the overseas student's CoE.

National Code Standard 8.4

Original Finding: Not compliant

The registered provider must have and implement documented policies and processes to identify, notify and assist an overseas student at risk of not meeting course progress or attendance requirements where there is evidence from the overseas student's assessment tasks, participation in tuition activities or other indicators of academic progress that the overseas student is at risk of not meeting those requirements.

National Code Standard 8.9

Original Finding: Not compliant

The registered provider of a VET course as defined in the NVETR Act must have and implement a documented policy and process for assessing course progress that includes:

8.9.1 requirements for achieving satisfactory course progress, including policies that promote and uphold the academic integrity of the registered course and meet the training package or accredited course requirements where applicable, and processes to address misconduct and allegations of misconduct

- 8.9.2 processes for recording and assessing course progress requirements
- 8.9.3 processes to identify overseas students at risk of unsatisfactory course progress
- 8.9.4 details of the registered provider's intervention strategy to assist overseas students at risk of not meeting course progress requirements in sufficient time for those overseas students to achieve satisfactory course progress
- 8.9.5 processes for determining the point at which the overseas student has failed to meet satisfactory course progress.

Examples of non-compliant practices with regard to monitoring course progress practices for Standards 8.1, 8.3, 8.4 and 8.9 are included in the findings following Standard 8.15 below.

National Code Standard 8.10

Original Finding: Not compliant

The registered provider must have and implement a documented policy and process for monitoring the attendance of overseas students if the requirement to implement and maintain minimum attendance requirements for overseas students is set as a condition of the provider's registration by an ESOS agency.

National Code Standard 8.11

Original Finding: Not compliant

If an ESOS agency requires a VET provider to monitor overseas student attendance as a condition of registration, the minimum requirement for attendance is 80 per cent of the scheduled contact hours for the course

National Code Standard 8.12

Original Finding: Not compliant

If an ESOS agency requires a VET provider to monitor overseas student attendance, the registered provider must have and implement a documented policy and process for monitoring and recording attendance of the overseas student, specifying:

- 8.12.1 the method for working out minimum attendance under this standard
- 8.12.2 processes for recording course attendance
- 8.12.3 details of the registered provider's intervention strategy to identify, notify and assist overseas students who have been absent for more than five consecutive days without approval, or who are at risk of not meeting attendance requirements before the overseas student's attendance drops below 80 per cent
- 8.12.4 processes for determining the point at which the overseas student has failed to meet satisfactory course attendance.

Examples of non-compliant practices with regards to monitoring overseas student attendance for Standards 8.10 – 8.12 are included in the findings following Standard 8.15 below.

National Code Standard 8.13

Original Finding: Not compliant

Where the registered provider has assessed the overseas student as not meeting course progress or attendance requirements, the registered provider must give the overseas student a written notice as soon as practicable which:

- 8.13.1 notifies the overseas student that the registered provider intends to report the overseas student for unsatisfactory course progress or unsatisfactory course attendance
- 8.13.2 informs the overseas student of the reasons for the intention to report
- 8.13.3 advises the overseas student of their right to access the registered provider's complaints and appeals process, in accordance with Standard 10 (Complaints and appeals), within 20 working days.

National Code Standard 8.14

Original Finding: Not compliant

The registered provider must only report unsatisfactory course progress or unsatisfactory course attendance in PRISMS in accordance with section 19(2) of the ESOS Act if:

- 8.14.1 the internal and external complaints processes have been completed and the decision or recommendation supports the registered provider, or
- 8.14.2 the overseas student has chosen not to access the internal complaints and appeals process within the 20 working day period, or
- 8.14.3 the overseas student has chosen not to access the external complaints and appeals process, or
- 8.14.4 the overseas student withdraws from the internal or external appeals processes by notifying the registered provider in writing.

National Code Standard 8.15

Original Finding: Not compliant

The registered provider may decide not to report the overseas student for breaching the attendance requirements if the overseas student is still attending at least 70 per cent of the scheduled course contact hours and:

- 8.15.1 for school, ELICOS and Foundation Program courses, the overseas student provides genuine evidence demonstrating that compassionate or compelling circumstances apply; or
- 8.15.2 for VET courses, the student is maintaining satisfactory course progress.

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AHC31116 Certificate III in Production Nursery
AHC40316 Certificate IV in Production Horticulture
AHC50316 Diploma of Production Horticulture
SIT30816 Certificate III in Commercial Cookery
SIT40516 Certificate IV in Commercial Cookery
SIT50416 Diploma of Hospitality Management

The following documents were reviewed in relation to support and progression:

- o AAT Terms of Agreement (20 August 2018)
- o class timetables and class lists for the RTO's delivery locations at Lygon Street, Carlton VIC and 3 Miller Street Prahran
- o direct observations at site visits conducted at Lygon Street, Carlton VIC on 14 March and 30 May 2019, and 3 Miller Street, Prahran VIC on 3 June 2019
- o International Student Handbook, version Dec 2018
- o Attendance Policy_V2.0_August2018
- o attendance sheets (Carlton campus) – BSBMGT517, AHCBUS501, SITHCCC012, SITHCCC013* (14 March 2019)
 - Note, the SITHCCC013 class was conducted from the RTO's training kitchen in Prahran and confirmation of student attendance at this class could not be determined as the auditors did not visit this site on 14 March 2019
- o attendance sheets (Carlton campus) – SITHCCC014, SITXINV002*, AHCBUS507 (30 May 2019). Note, the SITXINV002 class was conducted from the RTO's training kitchen in Prahran and confirmation of student attendance at this class could not be determined as the auditors did not visit this site on 30 May 2019
- o RTO's electronic attendance record for each course in Term 4 (2018) and Term 1 (2019)
- o email from Rajesh Kumar (PEO) 15 March 2019 with 14 attached XL files (records of attendance)
- o Course Progress and attendance Policy and Procedure (Int. Students) v2.0 August 2018
- o student files:
 - student: HS (ID *****78) - AHCBUS501
 - student: GS (ID *****43) - BSBHRM405
 - student: AS (ID *****64) - BSBHRM405
 - student: MS (ID *****44) - BSBHRM405
 - student: HS (ID *****99) - BSBSUS401.
- o Training and Assessment Strategy [SIT30816 – Certificate III in Commercial Cookery (International)]
NB: reviewed as an example of the organisation's standard 20 hour per week delivery strategy submitted by the organisation to ASQA on 12 February 2018.

The RTO is not compliant with the requirements of Clauses 1.7 of the Standards for RTOs 2015, and Standards 6.6, 8.1, 8.3, 8.4, 8.19-8.15 of the National Code 2018, as the evidence did not demonstrate the registered provider:

- progressively determines the support needs of individual learners and provides access to the educational and support services necessary for the individual learner to meet the requirements of the training product as specified in the relevant training package
- monitors the progress of each overseas student to ensure they can complete the course within the expected duration specified on their Confirmation of Enrolment (CoE)
- has implemented its documented policies and processes to identify, notify and assist overseas students at risk of not meeting course progress requirements where there is evidence from the overseas student's assessment tasks, participation in tuition activities, or other indicators of academic progress, that the overseas student is at risk of not meeting those requirements.

Evidence of non-compliance includes:

- the organisation advised at audit that it monitors each student's academic performance on the basis of assessment tasks submitted. The evidence did not demonstrate the RTO effectively monitors student engagement, such as attendance in classes, training, or other forms of tuition, prior to the assessment phase of the student's course, to determine that they are appropriately engaged in their studies to undertake the required assessment tasks.
- as part of the organisation's monitoring process, it monitors student progress with an expectation that each student attends classes on a regular basis, in order to be able to successfully achieve course outcomes. In the organisation's 'Course Progress and Attendance Policy' the following is stipulated:
'TIV choose to implement the Department of Education & Training and Department of Home Affairs approved course progress policy however, TIV believes that regular and sufficient attendance to classes is necessary for successful achievement of expected outcomes in VET. Satisfactory course progress means: attending scheduled classes and successfully completing all assessments and obtaining a Competency (C) in all the units in the prescribed study period.'
- the organisation's policies and procedures, and strategies for the delivery of training and assessment, were developed with the intent of complying with the attendance monitoring requirements of Standards 8.10, 8.11, 8.12 and 8.15 of the National Code 2018, to provide 20 hours per week of scheduled course contact, and to ensure that students on a Student Visa have the genuine purpose of study. In the organisation's 'Course Progress and Attendance Policy' the following is stipulated:
'The Trainer/Assessor marks the student attendance on an hourly basis, signs and dates the "Daily Attendance sheet" and makes any comments if required.'

The auditor reviewed the organisation's attendance monitoring practices, referring to the relevant policy and procedure, the attendance monitoring tool (sign off sheet), and information garnered from discussions with the organisation's trainers present during the site visits. The attendance recording tool is designed to record each student's attendance, at both commencement and end of each scheduled class, by getting each student in attendance to sign the attendance sheet. In practice, the organisation was found not to be implementing its own attendance monitoring policies and procedures. The students attending were not signing the attendance sheet at the end of each class, and there was no evidence of the trainer/assessor marking attendance on an hourly basis.

- it was not accurately monitoring attendance in practice, in accordance with their advice to the auditor. The evidence provided by the organisation, together with the auditors' observations, confirmed that in practice, the organisation had an unacceptably low attendance rate at scheduled course activities. The expectation that students are required to attend scheduled classes could not be demonstrated to be genuine based on the low attendance rate, and discrepancy between the organisation's internal policies and procedures, and evidence of actual practice.
- on the two days the auditors visited the organisation's delivery sites at Carlton and Prahran (14 March 2019 and 30 May 2019), the attendance rates of overseas students, who were expected to be present, on these days was low, and zero for certain units. For example:

- on 14 March 2019, the organisation had scheduled three morning classes at their Carlton campus for the following three units:
 - *BSBMGT517 - Manage operational plan*
 - *SITHCCC012 - Prepare poultry dishes*
 - *AHCBUS501 - Manage staff.*

In total, 63 overseas students were scheduled to attend classroom training on the morning of the audit, however, only two students (3.2%) were in attendance, and both students were in class for the *BSBMGT517 Manage operational plan* lesson.

- on 30 May 2019, the organisation had scheduled two morning classes at their Carlton campus for the following two units:
 - *SITHCCC014 - Prepare meat dishes*
 - *AHCBUS507 - Monitor and review business performance.*

In total, 32 overseas students were scheduled to attend classroom training on the morning of the audit, however, only four students (12.5%) were in attendance, and all four were attending the *AHCBUS507* lesson.

- the organisation provided 14 files (excel worksheets) to demonstrate how it had been recording attendance for courses delivered in Term four (2018) and Term one (2019). The organisation's records reinforced the finding that a significant proportion of students were not attending scheduled classes. For example, the *SIT50416 Diploma of Hospitality Management* course attendance worksheet had 30 students listed to attend. In the week prior to the first site visit, week six of the Term, only one student was recorded as having attended on day one, and three students as having attended on day three. At the first site visit, week seven of the Term, there were just two students in attendance for this scheduled class, out of a total of 28 enrolled students (amended class size as advised by the trainer).
- the organisation's electronic attendance records are not reliable. For example the *SIT30816 Certificate III in Commercial Cookery* course (stage 2B) lists 37 students who are enrolled to attend classes in Term 1. In the week prior to the site visit, week six of the Term, the organisation's electronic records show nine students attending on day three, and 13 students attending on day four. On the day of the audit visit, the auditors observed that there were no students attending the scheduled classes. The organisation did not provide a reason for the failure of students to attend. It is then reasonable to conclude that the organisation's electronic records of attendance are not reliable, as they do not match the patterns of attendance observed by the auditors.
- as a consequence of not effectively monitoring student attendance, it could not be confirmed that support needs for all learners are determined where a student has disengaged from study, or that the organisation ensures these learners are provided with access to appropriate support services to enable them to meet the requirements of the training product in which they are enrolled within the expected duration specified on their Confirmation of Enrolment (CoE).
- on 30 May 2019, the RTO was requested to provide copies of completed student assessments for a random sample of 16 students for units where delivery commenced in Term one, February 2019. The RTO provided ASQA with only eight completed student assessments from the 16 requested, with a further two files provided by the RTO that were not specifically requested. The RTO advised that eight of the students chosen for review by the auditors were reported as 'NYC (Not Submitted)' for the selected units undertaken in Term one. This finding is indicative of students not progressing with their course in a timely manner, and a probable consequence from not attending sufficient classes prior to the due date for final assessment.
- evidence was not provided to demonstrate that the organisation has effectively implemented intervention or support measures to ensure the students will complete the course within the expected duration specified on their Confirmation of Enrolment (CoE). Given the failure to effectively monitor attendance, and the apparent lack of engagement by overseas students, the evidence did not demonstrate that the organisation had implemented its documented policies and procedures to identify, notify and assist overseas students at risk of not meeting course progress requirements.
- the organisation did not demonstrate that it is genuine when seeking to meet their obligations to monitor student progress, in particular course attendance requirements, as evidenced by the low level of formal reporting on PRISMS. During the previous 12 months, September 2018 to September 2019,

the organisation has reported only one student on PRISMS to the Department of Home Affairs for lack of course progress. The organisation has reported no students for an unacceptable level of attendance during this same period.

the following statement, which appears in organisation's 'Course Progress and attendance Policy & Procedure', supports a view that the organisation is acutely aware of the impact of poor practices, such as students not attending scheduled classes, leading to the failure of students to complete units in the academic Term in which they are delivered. The audit findings reflect the outcomes of these poor practices:

'if students do not maintain satisfactory attendance, it is unlikely that they will be able to maintain course progress' and 'regular and sufficient attendance to classes is necessary for successful achievement of expected outcomes in VET.'

In practice, the review of documentation found that the organisation's system of monitoring course progress did not demonstrate that students are genuinely completing units to progress in a timely manner to complete their course of studies in line with their course visa.

Analysis of additional evidence

AHC30616 Certificate III in Production Horticulture
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The following additional evidence was reviewed:

- Attachment 1 (xl report – cancelled students)
- Attachment 1.1 – Poor Academic progress letters (student THM180204)
- Attachment 1.2 – Low attendance letters (Student THM190044)
- Attachment 1.3 - Low attendance letters (Student THM190014)
- Attachment 2 – Policy and Procedure – Course Progress and Intervention Strategy
- Attachment 3 – Chart to monitor student attendance and assessment
- Attachment 4a – Photo of 4 telephones
- Attachment 4b - Time In and Time Out register for students
- Attachment 5 – Message from the CEO (Robert Smith) to the students of TIV
- Attachment 6 – Image of the student Notice board for Course progress and intervention strategy policy
- Attachment 7.1 – Certificate of Attendance for Mehak for the Webinar session conducted by PRISMS for ESOS regulations changes
- Attachment 7.2 Certificate of Attendance for Mehak for the Webinar session conducted by PRISMS for explanation and clarification of recent PRISMS system changes in support of ESOS regulations 2019
- Attachment 7.3 - Certificate of Attendance for Mehak at the Professional development session for TIV student administration and services staff
- Attachment 8 – November intake for Certificate III In Commercial Cookery
- Attachment 9 – Attendance monitoring chart recording contact with individual students
- Attachment 10.1 – Poor Academic progress letters (Student THM180154)
- Attachment 10.2 - Poor Academic progress letters (Student THM190024)
- Attachment 10.3 - Poor Academic progress letters (Student THM190020)
- Attachment 10.4 - Low attendance letters (Student THM190028)
- Attachment 10.5 - Low attendance letters (Student THM190021)
- Attachment 10.6 - Low attendance letters (Student THM190004)
- Attachment 11.1 – Notification of extra catch up classes scheduled (Student THM190149)
- Attachment 11.2 - Notification of extra catch up classes scheduled (Student THM190160)
- Attachment 12 – Report on 8 students whose files were not provided at the time of the audit (Students - THM180125, THM180012, THM180061, THM180092, THM180229, THM180186, THM180183 and THM180145)

- Attachment 13.1 - Low attendance letters (Student THM190163)
- Attachment 13.2 - Low attendance letters (Student THM190182)
- Attachment 13.3 - Low attendance letters (Student THM190135)
- Attachment 13 - Document containing details of 5 students who's CoEs were cancelled (Students - THM190182, THM190135, THM190137, THM190163, THM180175 and THM190129).
- In its response, the organisation repeatedly expresses its understanding that attendance on a full-time basis is critical to students making satisfactory course progress. For example, in the 'Course Progress and Intervention Strategy Policy and Procedure' the organisation states:
 - satisfactory course progress is defined as *'Attending scheduled classes and successfully completing all assessments and obtaining a Competency (C) in all the units in the prescribed study period.'* (page 3 Glossary)
 - *'E. Attendance Requirement – 'as a condition of registration in the process of course progress monitoring and reporting.'* and *'Therefore, it is mandatory that students attend all scheduled classes.'* (page 9)
 - *'Monitor course progress in the Class – Use class activities, formative tasks and class participation to informally monitor students in class.'* (page 12).
- The organisation has addressed the non-compliance for future students. For example, but not limited to:
 - the organisation plans to introduce a new bio metric-based attendance record monitoring system for full implementation in January 2020. Successful implementation of this new system could not be confirmed at the time the organisation submitted its response. Further, the organisation claims that it will conduct an internal audit, quarterly, to ensure compliance is maintained.

The organisation's strategy for delivery to future students demonstrates compliance with this Clause on the proviso that revised systems are effectively and consistently implemented, and can be verified at a future compliance audit.

- The organisation has not planned, and/or carried out, sufficient remedial action to identify and address the impact the non-compliance may have caused students. For example, but not limited to:
 - the organisation provided two examples of letters sent to students dated 9 December 2019, to inform them of 20 additional, catch-up, classes scheduled between 16 December 2019 and 26 January 2020, to ensure that each student receives sufficient training to meet their course progress requirements. The letter informed the student that the catch-up classes will provide additional training and assistance with assessment/re-assessment requirements. There is no evidence of the organisation identifying the required gap training to be provided based on individual student needs, nor advising each student which class(es) they would need to attend to undertake additional assessment in order to maintain course progress. It is unclear from the organisation's response, exactly how many catch-up classes each student was required to attend.

The organisation have advised that they will submit evidence to demonstrate the execution of its rectification plan, and provide ASQA with an update of their reassessment progress on the 15th day of each month. The organisation's response has not demonstrated compliance with the relevant National Code Standards, and Standards for RTO Clause with regards to student support and progression (above).

Training and Assessment

Training Delivery and Assessment

Standards for RTOs Clause 1.1

Original Finding: *Not compliant*

The RTO's training and assessment strategies and practices, including the amount of training they provide, are consistent with the requirements of training packages and VET accredited courses

and enable each learner to meet the requirements for each unit of competency or module in which they are enrolled.

Standards for RTOs Clause 1.2

Original Finding: Not compliant

For the purposes of Clause 1.1, the RTO determines the amount of training they provide to each learner with regard to:

- a) the existing skills, knowledge and the experience of the learner;
- b) the mode of delivery; and
- c) where a full qualification is not being delivered, the number of units and/or modules being delivered as a proportion of the full qualification.

AHC30616 Certificate III in Production Horticulture

AHC31116 Certificate III in Production Nursery

AHC40316 Certificate IV in Production Horticulture

AHC50316 Diploma of Production Horticulture

SIT30816 Certificate III in Commercial Cookery

SIT40516 Certificate IV in Commercial Cookery

SIT50416 Diploma of Hospitality Management

The following documents were reviewed in relation to training delivery and assessment:

- o direct observations at site visits conducted at Lygon Street, Carlton VIC on 14 March and 30 May 2019, and 3 Miller Street, Prahran VIC on 3 June 2019
- o Training and Assessment Strategy [SIT30816 – *Certificate III in Commercial Cookery (International)*] NB: reviewed as an example of the organisation's standard 20 hour per week delivery strategy submitted by the organisation to ASQA on 12 February 2018.

The organisation's training and assessment practices are not in accordance with the requirements of the training products, as the amount of training students are receiving, in practice, does not allow sufficient time for the learners to obtain, reflect upon and absorb knowledge and develop the skills to meet performance requirements.

The organisation's delivery of training and assessment services is not in accordance with its documented training and assessment strategies, for example:

- o the organisation's documented training and assessment strategies for delivery to overseas students specify a minimum of 20 hours of scheduled course contact hours per week, and students are expected to attend all scheduled training sessions, but in practice significant numbers of students do not attend a high proportion of scheduled classes for example:
 - at the two site visits of the organisation's Carlton campuses (14 March 2019 and 30 May 2019), the attendance rates of overseas students who are expected to be present on these days was low, and zero for certain units. The following evidence of attendance was observed:
 - on 14 March 2019, the organisation had scheduled three morning classes at their Carlton campus for the following three units:
 - *BSBMGT517 - Manage operational plan*
 - *SITHCCC012 - Prepare poultry dishes*
 - *AHCBUS501 - Manage staff.*In total, 63 overseas students were scheduled to attend classroom training on the morning of the audit, however, only two students (3.2%) were in attendance, and both students were in class for the *BSBMGT517 Manage operational plan* lesson.
 - on 30 May 2019, the organisation had scheduled two morning classes at their Carlton campus for the following two units:
 - *SITHCCC014 - Prepare meat dishes*
 - *AHCBUS507 - Monitor and review business performance.*In total, 32 overseas students were scheduled to attend classroom training on the morning of the audit however, only four students (12.5%) were in attendance, and all four were attending the *AHCBUS507 Monitor and review business performance* lesson.

Analysis of additional evidence

AHC30616 Certificate III in Production Horticulture

AHC31116 Certificate III in Production Nursery

AHC40316 Certificate IV in Production Horticulture

AHC50316 Diploma of Production Horticulture

SIT30816 Certificate III in Commercial Cookery

SIT40516 Certificate IV in Commercial Cookery

SIT50416 Diploma of Hospitality Management

The following additional evidence was reviewed:

- Attachment 8 – November intake for Certificate III In Commercial Cookery
 - Attachment 9 – Attendance monitoring chart recording contact with individual students
 - Attachment 10.1 – Poor Academic progress letters (Student THM180154)
 - Attachment 10.2 - Poor Academic progress letters (Student THM190024)
 - Attachment 10.3 - Poor Academic progress letters (Student THM190020)
 - Attachment 10.4 - Low attendance letters (Student THM190028)
 - Attachment 10.5 - Low attendance letters (Student THM190021)
 - Attachment 10.6 - Low attendance letters (Student THM190004)
 - Attachment 11.1 – Notification of extra catch up classes scheduled (Student THM190149)
 - Attachment 11.2 - Notification of extra catch up classes scheduled (Student THM190160)
 - Attachment 12 – Report on 8 students whose files were not provided at the time of the audit (Students - THM180125, THM180012, THM180061, THM180092, THM180229, THM180186, THM180183 and THM180145)
 - Attachment 14 - Timetable and class list -Term 4, 2019 - Certificate III in Commercial Cookery.
- The organisation has not addressed the non-compliance for future students. For example, but not limited to:
 - the organisation has reviewed their attendance records and timetabling, and in response, scheduled catch-up classes for December/January. In their response, the organisation states that information relating to the amount of training and course participation requirements is included in the training and assessment strategy. The organisation did not submit a copy of the relevant strategy, to allow ASQA to confirm what their advice.
 - the organisation suggested that poor attendance records may have been as a result of, in part, poor manual entry. The organisation has offered no advice as to how in future they will ensure the accuracy of attendance records.
 - the organisation advised that a standard weekly study load is spread across three days consisting of two full eight hour days, and a third four hour day. The third and final day is devoted to assessment discussions, implying to students that attendance at these classes is not mandated, hence why the auditor found poor attendance when conducting visits. This explanation is not reliable, for example, on 30 May 2019, the organisation's timetable identified a four hour morning class, for the unit SITHCCC014, in room 2 at Lygon Street, the first of five scheduled classes for this unit. It is unreasonable to expect assessment tasks to be conducted at the commencement of training and assessment for a new unit. Further, on this same date, the organisation had scheduled a full day of training for the AHCBUS507 unit, which according to the organisations explanation, students were required to be in attendance for the full day.
 - the organisation has reiterated their organisation's requirement for all students to attend a minimum 20 hours per week of scheduled classes. The organisation has provided no information nor evidence to demonstrate how they have communicated this requirement to current students.
 - the organisation's response advises that 12 out of the 18 students who were scheduled to attend the practical session on 3 June 2019, conducted in the organisation's training kitchen, were in attendance. The auditor noted that this class was scheduled for four hours duration commencing 1.30pm. On arrival at 3.35pm, the auditors found the class had already finished and students were leaving, after just two hours.
 - the organisation advised that in cases where students are only attending scheduled classes to complete assessment tasks, the organisation will convene a meeting to encourage individual students to apply for an RPL mode of progression, and adjust the course duration as required. No evidence to support this course of action was provided, nor evidence of which students were

deemed to be eligible to apply. No evidence to support implementation of this strategy for future students was submitted.

- The organisation has not planned and/or carried out sufficient remedial action to identify and address the impact the non-compliance may have caused students. For example, but not limited to:
 - the organisation provided an outline of remediation plans, including additional classes scheduled between 16 December 2019 and 26 January 2020. Evidence of implementation still needs to be provided to demonstrate effective implementation, similar to the evidence of gap assessments (refer to Clause 1.8 for details).
 - the organisation's support plan to conduct additional classes during the December/January Term break did not include details of how they have determined the support needs for each student, nor which of the 20 available classes each student should attend to undertake additional assessment in order to maintain course progress.

National Code Standard 11.2

Original Finding: Not compliant

In seeking approval under 11.1, the provider must demonstrate any matters requested by the ESOS agency, including through the designated State authority if the provider is a school, which may include but are not limited to the following:

- 11.2.1 the expected duration of the course does not exceed the time required to complete the course on the basis of full-time study – for VET courses, this is a minimum of 20 scheduled course contact hours per week unless specified by an accrediting authority**
- 11.2.2 the expected duration of the course includes any holiday periods or any work-based training**
- 11.2.3 any work-based training to be undertaken as part of the course is necessary for the student to gain the qualification and there are appropriate arrangements for the supervision and assessment of students**
- 11.2.4 the course is not to be delivered entirely by online or distance learning**
- 11.2.5 the provider and any partner they engage to deliver a course or courses to overseas students has adequate staff and education resources, including facilities, equipment, learning and library resources and premises as are needed to deliver the course to the overseas students enrolled with the provider**
- 11.2.6 the maximum number of overseas students proposed by the provider for the location reflects the appropriateness of the staff, resources and facilities for the delivery of the course.**

For details, refer to findings reported under Clause 1.3 below. In summary, the evidence reviewed did not demonstrate that the organisation has sufficient kitchen facilities to accommodate scheduled practical training and assessment classes.

With regard to sufficient academic support staff, it was not possible to accurately determine the current student support needs based on evidence of wide scale student non-attendance at scheduled training classes. For details, refer to findings reported under Standard 8.15 above. In summary, the evidence reviewed did not demonstrate that the organisation effectively monitors student participation in scheduled training programs, nor how the organisation has supported each student, with records of poor attendance, with alternative opportunities to obtain, reflect upon and absorb knowledge and develop the skills to meet performance requirements.

Standards for RTOs Clause 1.3

Original Finding: Not compliant

The RTO has, for all of its scope of registration, and consistent with its training and assessment strategies, sufficient:

- a) trainers and assessors to deliver the training and assessment;**
- b) educational and support services to meet the needs of the learner cohort/s undertaking the training and assessment;**
- c) learning resources to enable learners to meet the requirements for each unit of competency, and which are accessible to the learner regardless of location or mode of delivery; and**

d) facilities, whether physical or virtual, and equipment to accommodate and support the number of learners undertaking the training and assessment.

AHC30616 Certificate III in Production Horticulture
AHC31116 Certificate III in Production Nursery
AHC40316 Certificate IV in Production Horticulture
AHC50316 Diploma of Production Horticulture
SIT30816 Certificate III in Commercial Cookery
SIT40516 Certificate IV in Commercial Cookery
SIT50416 Diploma of Hospitality Management

The following documents were reviewed in relation to training delivery and assessment:

- class timetables and class lists for the RTO's delivery locations at Lygon Street, Carlton VIC and 3 Miller Street Prahran
- direct observations at site visits conducted at Lygon Street, Carlton VIC on 14 March and 30 May 2019, and 3 Miller Street, Prahran VIC on 3 June 2019
- attendance sheets (Carlton campus) – BSBMGT517, AHCBUS501, SITHCCC012, SITHCCC013* (14 March 2019)
- Note: the SITHCCC013 class was conducted from the RTO's training kitchen in Prahran and confirmation of student attendance at this class could not be determined as the auditors did not visit this site on 14 March 2019
- attendance sheets (Carlton campus) – SITHCCC014, SITXINV002*, AHCBUS507 (30 May 2019). Note, the SITXINV002 class was conducted from the RTO's training kitchen in Prahran and confirmation of student attendance at this class could not be determined as the auditors did not visit this site on 30 May 2019
- email from Rajesh Kumar (PEO) 15 March 2019 with 14 attached XL files (records of attendance) for each course in Term four (2018) and Term one (2019).

Analysis of the evidence reviewed identifies that the RTO does not have:

- adequate facilities and equipment to support the number of students it enrolls.

Evidence of insufficient and inadequate resources includes, but is not limited to:

- *SIT30816 Certificate III in Commercial Cookery* - the RTO's Term one timetable has scheduled classes to be held at their training kitchen in Prahran. This training kitchen has a limited capacity of approximately 18 students per scheduled class. The organisation's timetable lists scheduled classes for *SIT30816 Certificate III in Commercial Cookery* (stages one and two) for Friday 26 April and Sunday 28 April 2019. The organisation's electronic attendance record worksheets list the following total enrolments for both course groups, stage one - 39 students, and stage 2A and 2B - 86 students. The organisation has not demonstrated how it can deliver the required practical training and assessment for all students enrolled in this course at their limited training facilities, according to their timetable schedule for delivery.

Analysis of additional evidence

AHC30616 Certificate III in Production Horticulture
AHC31116 Certificate III in Production Nursery
AHC40316 Certificate IV in Production Horticulture
AHC50316 Diploma of Production Horticulture
SIT30816 Certificate III in Commercial Cookery
SIT40516 Certificate IV in Commercial Cookery
SIT50416 Diploma of Hospitality Management

The following additional evidence was reviewed:

- Attachment 8 – Attendance record Certificate III In Commercial Cookery (25/11/19)
- Attachment 9 – Attendance monitoring chart recording contact with individual students
- Attachment 10.1 – Student intervention file (Student THM180154)
- Attachment 10.2 - Student intervention file (Student THM190024)
- Attachment 10.3 - Student intervention file (Student THM190020)

- Attachment 10.4 - Student intervention file (Student THM190028)
 - Attachment 10.5 - Student intervention file (Student THM190021)
 - Attachment 10.6 - Student intervention file (Student THM190004)
 - Attachment 11.1 – Notification of extra catch up classes scheduled (Student THM190149)
 - Attachment 11.2 - Notification of extra catch up classes scheduled (Student THM190160)
 - Attachment 12 – Report on 8 students whose files were not provided at the time of the audit (Students - THM180125, THM180012, THM180061, THM180092, THM180229, THM180186, THM180183 and THM180145)
 - Attachment 14 - Timetable and class list -Term 4, 2019 - Certificate III in Commercial Cookery
- The organisation has addressed the non-compliance for future students. For example, but not limited to:
 - the organisation confirmed in their response that class sizes for the delivery of units requiring access to their training kitchen (Pahran) will be limited to 18 students, which is the maximum class size that can be accommodated, at any one time. The organisation submitted a copy of their scheduled timetable for Term 4 2019 to deliver the Certificate III in Commercial Cookery course. At audit in May 2019, the organisation’s evidence included timetables catering for four groups of students enrolled in their Certificate III in Commercial Cookery course. Evidence of having access to sufficient resources, specifically training kitchen facilities, was provided for Term 1, 2020, which intended to demonstrate compliance for future students. These arrangements are subject to the organisation actually limiting timetabled classes in their training kitchen facility to a maximum of 18 students at any one time.

Standards for RTOs Clause 1.8

Original Finding: Not compliant

The RTO implements an assessment system that ensures that assessment (including recognition of prior learning):

- a) complies with the assessment requirements of the relevant training package or VET accredited course; and**
- b) is conducted in accordance with the Principles of Assessment contained in Table 1.8-1 and the Rules of Evidence contained in Table 1.8-2.**

Table 1.8.1 Principles of Assessment

Fairness	<p>The individual learner’s needs are considered in the assessment process.</p> <p>Where appropriate, reasonable adjustments are applied by the RTO to take into account the individual learner’s needs.</p> <p>The RTO informs the learner about the assessment process, and provides the learner with the opportunity to challenge the result of the assessment and be reassessed if necessary.</p>
Flexibility	<p>Assessment is flexible to the individual learner by:</p> <ul style="list-style-type: none"> ● reflecting the learner’s needs; ● assessing competencies held by the learner no matter how or where they have been acquired; and ● drawing from a range of assessment methods and using those that are appropriate to the context, the unit of competency and associated assessment requirements, and the individual.
Validity	<p>Any assessment decision of the RTO is justified, based on the evidence of performance of the individual learner.</p> <p>Validity requires:</p> <ul style="list-style-type: none"> ● assessment against the unit/s of competency and the associated assessment requirements covers the broad range of skills and knowledge that are essential to competent performance; ● assessment of knowledge and skills is integrated with their practical application;

	<ul style="list-style-type: none"> assessment to be based on evidence that demonstrates that a learner could demonstrate these skills and knowledge in other similar situations; and judgement of competence is based on evidence of learner performance that is aligned to the unit/s of competency and associated assessment requirements.
Reliability	Evidence presented for assessment is consistently interpreted and assessment results are comparable irrespective of the assessor conducting the assessment.
Table 1.8.2 Rules of Evidence	
Validity	The assessor is assured that the learner has the skills, knowledge and attributes as described in the module or unit of competency and associated assessment requirements.
Sufficiency	The assessor is assured that the quality, quantity and relevance of the assessment evidence enables a judgement to be made of a learner's competency.
Authenticity	The assessor is assured that the evidence presented for assessment is the learner's own work.
Currency	The assessor is assured that the assessment evidence demonstrates current competency. This requires the assessment evidence to be from the present or the very recent past.

AHC40316 Certificate IV in Production Horticulture

- *BSBHRM405 Support the recruitment, selection and induction of staff*

SIT40516 - Certificate IV in Commercial Cookery

- *BSBSUS401 Implement and monitor environmentally sustainable work practices*

AHC50316 Diploma of Horticulture

- *AHCBUS501 Manage staff*

The following analysis provides guidance on the areas of non-compliance. Examples of non-compliances are provided however, this is not an exhaustive list. It is the organisation's responsibility to review implementation of their assessment system for each unit of competency for all non-compliances identified below and provide evidence:

- of a revised assessment system for each unit of competency listed above that addresses all requirements of clause 1.8.
- that confirms students were assessed as meeting all the requirements of the training product(s) in which they were enrolled.

AHC40316 Certificate IV in Production Horticulture

- *BSBHRM405 Support the recruitment, selection and induction of staff*

The following documents were reviewed in relation to training delivery and assessment:

- student files (completed assessments) for a random sample of students from units delivered in Term one (February 2019):
 - student: GS (ID *****43) - BSBHRM405
 - student: AS (ID *****64) - BSBHRM405
 - student: MS (ID *****44) - BSBHRM405.
- assessment tasks:
 - 1: written knowledge questions
 - 2: case study and role play – Recruitment planning
 - 3: role play – Selection plan
 - 4: role play – Interview
 - 5: role play induction.
- Trainer and Assessor guide v2.0 (January 2019)
- timetables (Terms one and two, 2019).

- Validity and Sufficiency - the assessment tools do not address all unit of competency requirements. For example, but not limited to:
 - Assessment conditions:
 - *BSBHRM405 - Support the recruitment, selection and induction of staff*. The assessments do not meet the unit Assessment Conditions. The RTO's assessment requires students to demonstrate required skills and knowledge on one simulated recruitment activity, broken into four role play stages. The training product unit Assessment Conditions stipulate that "...evidence gathered demonstrates consistent performance of typical activities experienced in the workforce development". 'Consistent performance' requires evidence of satisfactory performance on more than one occasion.
 - The evidence reviewed did not demonstrate that the RTO's assessment system provides students with sufficient opportunity to satisfy the 'Competency requirements' specified in their assessment tools. For example, "When deeming the competency of a student, the assessor must judge that the evidence collected meets the requirements of the dimension of competency and be certain that the student can consistently apply and transfer the skills and knowledge acquired into work situations."

The assessment practices for the following students do not confirm the organisation conducted adequate assessment of the students that ensured they were competent against all requirements of the training product, and that assessment was conducted in accordance with the Principles of Assessment and the Rules of Evidence. The issues found were systemic. For example, but not limited to:

- Student: GS (ID *****43):
 - Validity - Assessment task 1 (written questions), question 4: the student's response made no reference to any "Acts", and their response was totally inconsistent with the model/suggested response provided in the assessor guide.
 - Validity – Assessment task 2 (case study and role play): the task required the student to document the process for filling a vacancy – 'Pest and Disease Manager'. The student's response in filling in the template forms does not meet the assessment requirements for example, the job title is not accurately nor consistently referenced in appendices 2, 3 and 4.
 - Sufficiency - Assessment task 1 (written questions), question 7: the assessment requires students to identify and describe four testing tools; however, the student has only provided three. The assessment has not been ticked 'Satisfactory or Unsatisfactory'. The completed student assessment includes a note, presumably by the assessor stating, 'verbally assessed'. There was no evidence provided to support this "verbal assessment", specifically the question(s) asked by the assessor and the response(s) provided by the student.
 - Sufficiency - Assessment task 1 (written questions), question 8: this question requires the student to "Briefly describe the purpose of each interview type/technique below. For each one, give at least two pros and two cons." The assessment task did not include a list of "interview types/techniques", as specified in the question. The student's response listed three types of interview and two "advantages". The student has not described the purpose of each interview type, and has not provided the required "pros and cons" for each interview type.
 - Sufficiency – Assessment task 3 (role play): no evidence was found on the file of the student's response to all required tasks for example, draft advertisement, list of interview questions, draft interview email etc.
 - Authenticity: the completed assessment includes assessment receipt form which has been completed by the student but not signed and dated by the organisation as received. The student declaration page (i.e. own work, no plagiarism etc.) has not been signed and dated by the student.
Assessment task 4 (role play) has been signed off by the assessor as satisfactory/competent on 18 February 2019. The same assessor has signed and dated the 'Competency Record Summary Sheet' as satisfactory/competent for all five assessment tasks on 10 February 2019, eight days prior to the assessor declared satisfactory completion of task four.

The timetable for delivery has classes scheduled for nine sessions over three weeks from 1 February 2019 to 17 February 2019. The organisation's documentation is questionable where students are able to be fully assessed by 10 February 2019 following delivery of just six of the nine scheduled classes.

- Student: GS (ID *****44):
 - Sufficiency - Assessment task 1 (written questions), question 8: This question requires the student to "Briefly describe the purpose of each interview type/technique below. For each one, give at least two pros and two cons." The student's response listed three types of interview, two "advantages" and two "disadvantages". The student has not described the purpose of each interview type, and has not provided the required "pros and cons" for each interview type.
 - Sufficiency – Assessment task 3 (role play): No evidence was found on the file of the student's response to all required tasks for example, draft advertisement, list of interview questions, draft interview email etc.
 - Validity - Assessment task 1 (written questions), question 4: The student's response made reference to some "Acts", and their response was marked as wrong. The file indicates that the student was verbally assessed to ensure satisfactory knowledge. By contrast, student AS (ID *****64) was marked as satisfactory for providing a response that was clearly incorrect (refer below).
 - Authenticity: The completed assessment includes assessment receipt form which has been filled in by the student but not signed and dated by the organisation as received. No evidence was found on file of the required completed documents to assess for example, draft advertisement, list of interview questions, draft interview email.
- Student: AS (ID *****64):
 - Validity - Assessment task 1 (written questions), question 4: the student's response made no reference to any "Acts", and their response was totally inconsistent with the model/suggested response provided in the assessor guide. The student's response included comments more suited to recruitment selection determinants.

It is unclear from the evidence provided as to the status of this student as the 'Competency Record Summary Sheet' has not been completed by the assessor. Assessment tasks 3, 4 and 5 were attempted by the student in February 2019 but no record of the assessor's judgement appears on the student's response documentation. This evidence was provided at audit 30 May 2019, over three months since the student submitted their response to each task.

SIT40516 - Certificate IV in Commercial Cookery

- *BSBSUS401 Implement and monitor environmentally sustainable work practices*

The following documents were reviewed in relation to training delivery and assessment:

- student file (completed assessments) for a random sample of students from units delivered in Term one (February 2019):
 - student: HS (ID *****99) - BSBSUS401.
- assessment tasks:
 - 1: knowledge test (34 questions)
 - 2: project.
- Trainer and Assessor guide v1.1 (January 2019)
- timetables (Terms one and two, 2019).
- Validity - the assessment tools do not contain sufficient performance benchmarks for each skill and/or behaviour to be demonstrated. Therefore, it cannot be confirmed that all training package requirements will be met, and that consistent judgements will be made across a range of students and assessors. For example, but not limited to:
 - students are instructed to provide their responses with reference to the TIV commercial kitchen. The assessor guide provides no guidance or suggestions as to suitable/acceptable responses.

- The assessment practices for the following students do not confirm the organisation conducted adequate assessment of the students that ensured they were competent against all requirements of the training product and that the assessment was conducted in accordance with the Principles of Assessment and the Rules of Evidence. For example, but not limited to:
- Student: HS (ID *****99):
 - Reliability - Assessment task 1 (written questions), question 8: This question requires the student to “Briefly describe the purpose of each interview type/technique below. For each one, give at least two pros and two cons.” The assessment task did not include a list of “interview types/techniques”, as specified in the question. The student’s response listed three types of interview and two “advantages”. The student has not described the purpose of each interview type, and has not provided the required “pros and cons” for each interview type.
 - Sufficiency - Assessment task 1 (written questions), question 27: This question requires the student to discuss the relevance of WHS legislation to environmental sustainability. The student’s response contained no information with regards to environmental sustainability.
 - Sufficiency - Assessment task 1 (written questions), question 30: Student assessed as satisfactory despite their responses not being consistent with the model response provided in the organisation’s assessor guide. The student’s response made no reference to Step 3 Seek alternative solutions, Step 5 Management of contract, and Step 6 Disposal of goods, as detailed in the assessor guide.
 - Sufficiency - Assessment task 1 (written questions), question 33: This question requires the student to “evaluate solutions to workplace environmental issues – list four questions you could ask. The student’s response contained no suggested questions the individual could ask to complete their evaluation.

AHC50316 Diploma of Horticulture

- *AHCBUS501 Manage staff*

The following documents were reviewed in relation to training delivery and assessment:

- student file (completed assessments) for a random sample of students from units delivered in Term one (February 2019).
 - student: HS (ID *****78) - AHCBUS501.
- assessment tasks:
 - Task 1: project
 - Task 2: project and role play
 - Task 3: role play
 - Task 4: project
 - Task 5: role play
 - Task 6: project
 - Task 7: project
 - Task 8: knowledge written questions.
- Trainer and Assessor guide v2.0 (January 2019)
- timetables (Terms one and two, 2019).
- The assessment practices for the following student does not confirm the organisation conducted adequate assessment of the student that ensured they were competent against all requirements of the training product and that the assessment was conducted in accordance with the Principles of Assessment and the Rules of Evidence. For example, but not limited to:
 - student: HS (ID *****78):
 - Sufficiency - Assessment task 2 (project and role play): the task instructions specify that students will need to submit evidence for example:
 - signed employment contract
 - 2 completed interview questionnaire

- completed management policies and procedures
- completed contractors agreement.

No evidence was sighted on the student's completed assessment file to be able to confirm competency and quality assessment practices.

The same lack of evidence was systemic for assessment tasks 3 and 5 whereby all that was found on the student file was an observation checklist ticked off by the assessor. Evidence of satisfactory competency could not be reviewed.

- Authenticity - Assessment task 5 (role play): the responses provided by the student are identical to the responses provided in the Trainer and Assessor guide. There are reasonable grounds to question the authenticity of the student's work. This same issue was identified when reviewing the student responses provided for assessment task 8 (knowledge - written questions).

Analysis of additional evidence

AHC30616 Certificate III in Production Horticulture
 AHC31116 Certificate III in Production Nursery
 AHC40316 Certificate IV in Production Horticulture
 AHC50316 Diploma of Production Horticulture
 SIT30816 Certificate III in Commercial Cookery
 SIT40516 Certificate IV in Commercial Cookery
 SIT50416 Diploma of Hospitality Management

The following additional evidence was reviewed:

- Attachment 14 - Timetable and class list -Term 4, 2019 - Certificate III in Commercial Cookery
- Attachment A15 - Review of assessments delivered in the last six months by unit code
- Attachment A15a - Letter – Gap Reassessment Student - THM190086 (SIT40516)
- Attachment A15b - Letter - Gap Reassessment Student - THM180026 (SIT40516)
- Attachment A15c - Letter - Gap Reassessment Student - THM180087 (AHC40316)
- Attachment A15d - Letter - Gap Reassessment Student - THM180107 (AHC40316)
- Attachment A15e - Letter - Gap Reassessment Student - THM180145 (AHC40316)
- Attachment A15f - Letter - Gap Reassessment Student - THM180106 (AHC40316)
- Attachment A15h - Letter - Gap Reassessment Student - THM180127 (AHC40316)
- Attachment A15i - Letter - Gap Reassessment Student - THM180016 (SIT40516)
- Attachment A15j - Letter - Gap Reassessment Student - THM180038 (SIT40516)
- Attachment A15k - Letter - Gap Reassessment Student - THM180025 (SIT40516)
- Attachment A15l - Letter - Gap Reassessment Student - THM190089 (SIT40516)
- Attachment 16a – Letter- Gap Reassessment Student - THM170078 (AHCBUS501)
- Attachment 16b – Letter - Gap Reassessment Student - THM180043 (BSBHRM405)
- Attachment 16c – Letter - Gap Reassessment Student - THM180064 (BSBHRM405)
- Attachment 16d – Letter - Gap Reassessment Student - THM180144 (BSBHRM405)
- Attachment 17 – Letter - Gap Reassessment Student - THM180199 (BSBSUS401)
- Attachment 20 – TIV Assessment Monitoring Strategy.

- In response to the audit findings, the organisation has advised that it has:

'subsequently identified all students who were assessed for these qualifications in past 6 months, implemented a plan to review all assessments completed by these students and identify assessments that didn't meet the Rules of Evidence. A remedial strategy has been implemented to rectify these invalid assessments, which include withdrawal of official results/outcome, reassessment of the units or assessment tasks and re-marking of the invalid assessments.'

- The RTO provided evidence of reviewing students completing the following:
 - AHC40316 Certificate IV in Production Horticulture
 - AHCNSY401
 - AHCNSY402
 - AHC50316 Diploma of Production Horticulture
 - AHPCPM501

- AHCSOL501
 - *SIT40516 Certificate IV in Commercial Cookery*
 - BSBSUS401 Implement and monitor environmentally sustainable work practices*
 - SITXFIN003
 - SITXCOM005
 - SITXMGT001
- The organisation has not addressed the non-compliance for future students. For example, but not limited to:
 - the organisation claims it will conduct a quarterly internal audit to ensure compliance is maintained. There remains a question as to whether a quarterly review would provide sufficient quality assurance for students that may be deemed competent and be issued with their qualification prior to the next scheduled review.
- The organisation has not planned and/or carried out sufficient remedial action to identify and address the impact the non-compliance may have caused students. For example, but not limited to:
 - AHC50316 Diploma of Horticulture*
 - *AHCBUS501 Manage staff*

The following documents were reviewed in relation to training delivery and assessment:

- student file (completed re-assessments) completed in December 2019.
 - student: HS (ID *****78) - AHCBUS501. Assessment Task 1: student's submission included 4 species of turf to cover 200 hectares. The case study referred to 250 hectares.

AHC40316 Certificate IV in Production Horticulture

- *BSBHRM405 Support the recruitment, selection and induction of staff*

The following documents were reviewed in relation to training delivery and assessment:

- student files (completed re-assessments) (December 2019).
 - student: GS (ID *****43) - BSBHRM405
Authenticity: the completed gap assessment tool included the coversheet for assessment task one. This document has not been completed and signed by the relevant assessor.
 - student: AS (ID *****64) - BSBHRM405
Sufficient and Reliable: at the initial audit, the student's submission for assessment task one, question seven, was crossed out by the assessor. In the organisation's response, the gap assessment tool made specific provision for the student to re-submit their response to question seven. The student did not provide a response to question seven in their gap assessment.
 - student: MS (ID *****44) - BSBHRM405.
Sufficient and Reliable: at the initial audit, the student's submission for assessment task one, question seven was assessed to be satisfactory. The student's response was not sufficient, nor reliable, as it did not include the required description of the four testing tools. In their latest response, the evidence appears to indicate that the student's response has been erased, and no mark provided by the assessor.

- In their response, the organisation outlined their strategy to carry out remedial action, inclusive of actions that it has been undertaking. In the strategy, the organisation advised that where assessments were missing student signatures, the trainer will meet with the student to confirm the authenticity of the student's work. The same attention to detail has not been applied to the assessor declaration and record of assessment outcome – refer to finding for the gap assessment of student: GS (ID *****43) above.
- The organisation stated that where a question was not attempted by the student:
 - 'An independent trainer/assessor has been assigned to reassess incorrectly marked Questions/Assessment Tasks...'

The evidence provided by the organisation includes the details of the assessor who assessed the student's completed gap assessment (Devinder Singh), who is not independent, as declared by the organisation. For example student reassessment files per *AHC40316 Certificate IV in Production Horticulture - BSBHRM405 Support the recruitment, selection and induction of staff* (refer to student files reviewed above).

- The organisation stated in response to the non-compliance with Clause 1.8: *'TIV will continue to provide an update on the completion of the reassessments (progress) on the 15th day of each month.'*
The organisation gave this assurance with the understanding that it did not have sufficient time to complete their remediation plan by the due date for response (12 December 2019). As at 22 January 2020, no further update(s) have been received from the organisation following their response of 12 December 2019.

Completion

Standards for RTOs Clause 3.1

Original Finding: *Not compliant*

The RTO issues AQF certification documentation only to a learner whom it has assessed as meeting the requirements of the training product as specified in the relevant training package or VET accredited course.

*AHC30616 Certificate III in Production Horticulture
AHC31116 Certificate III in Production Nursery
AHC40316 Certificate IV in Production Horticulture
AHC50316 Diploma of Production Horticulture
SIT30816 Certificate III in Commercial Cookery
SIT40516 Certificate IV in Commercial Cookery
SIT50416 Diploma of Hospitality Management*

The following documents were reviewed in relation to completion:

- refer to evidence listed in Clause 1.8.

The RTO's 'completion' practices are not compliant with the requirements of Clause 3.1, of the Standards for RTOs 2015, as the RTO has not issued AQF certification documentation only to learners who it has assessed as meeting the requirements of the training product, as specified in the relevant training packages (SIT and BSB).

Evidence of non-compliance includes:

- a review of completed student assessments, and/or assessment tools, for the above training products sampled at audit, did not confirm that the RTO's assessment practices meet all of the requirements of the training product as specified in the relevant training package (Refer to Clause 1.8).

Analysis of additional evidence

*AHC30616 Certificate III in Production Horticulture
AHC31116 Certificate III in Production Nursery
AHC40316 Certificate IV in Production Horticulture
AHC50316 Diploma of Production Horticulture
SIT30816 Certificate III in Commercial Cookery
SIT40516 Certificate IV in Commercial Cookery
SIT50416 Diploma of Hospitality Management*

The following additional evidence was reviewed:

- Attachment 16a – Letter- Gap Reassessment Student - THM170078 (AHCBUS501)
- Attachment 16b – Letter - Gap Reassessment Student - THM180043 (BSBHRM405)
- Attachment 16c – Letter - Gap Reassessment Student - THM180064 (BSBHRM405)
- Attachment 16d – Letter - Gap Reassessment Student - THM180144 (BSBHRM405)
- Attachment 17 – Letter - Gap Reassessment Student - THM180199 (BSBSUS401)
- Attachment 21 - Student file Audit Report – Compliance with the standards 3.1 to 3.4
- Attachment 22 - Policy and Procedure – Issuing Certificates and Statements of Attainment
- Attachment 23 – Review of learners who were issued AQF certification (including both qualifications and statement of attainments for the sampled training products within 6 months immediately prior to audit date
- Attachment 23a – Letter (gap reassessment requirement) student - THM160135 (SIT40516)
- Attachment 23b – Letter (gap reassessment requirement) student - THM160157 (SIT40516).
- The organisation has not planned, and/or carried out, sufficient remedial action to identify and address the impact the non-compliance may have caused students. For example, but not limited to:
 - following a review of its qualification issuance process, the organisation concluded that unintentional human error was the major factor which resulted in a lack of accountability for the effectiveness of the process. The organisation has outlined a strategy to improve the practice of issuing qualifications in order to improve accountability, thus addressing any adverse impact to students in future. The effectiveness of this response can only be assessed at a future compliance audit activity.
 - the organisation’s response details how it intends to address the impact past non-compliant practice has caused students. Specific details are provided in the organisation’s response to non-compliance under Clause 1.8 (above). At the time of the organisation’s latest response, their process of review and reassessment had commenced, but was not completed.

Regulatory Compliance / Governance

Compliance with legislation

Standards for RTOs Clause 8.5

Original Finding: *Not compliant*

The RTO complies with Commonwealth, State and Territory legislation and regulatory requirements relevant to its operations.

The following documents were reviewed in relation to regulatory compliance/governance:

- AAT Terms of Agreement (20 August 2018)
- class timetables and class lists for the RTO’s delivery locations at Lygon Street, Carlton VIC and 3 Miller Street Prahran
- direct observations at site visits conducted at Lygon Street, Carlton VIC on 14 March and 30 May 2019, and 3 Miller Street, Prahran VIC on 3 June 2019
- International Student Handbook, version Dec 2018
- class rolls (Carlton campus) – BSBMGT517, AHCBUS501, SITHCCC012, SITHCCC013* (14 March 2019)
Note: the SITHCCC013 class was conducted from the RTO’s training kitchen in Prahran and confirmation of student attendance at this class could not be determined as the auditors did not visit this site on 14 March 2019
- class rolls (Carlton campus) – SITHCCC014, SITXINV002*, AHCBUS507 (30 May 2019)
Note, the SITXINV002 class was conducted from the RTO’s training kitchen in Prahran and confirmation of student attendance at this class could not be determined as the auditors did not visit this site on 30 May 2019
- email from Rajesh Kumar (PEO) 15 March 2019 with 14 attached XL files (records of attendance)
- Course Progress and attendance Policy and Procedure (Int. Students) v2.0 August 2018
- PRISMS - Copy of Export for CoE and Student Details as at 2019-9-2 13-45-58.xlsx
- PRISMS - Copy of Export for Student Course Variations as at 2019-9-30 15-30-34.xlsx

- The evidence obtained during the investigation showed that Spice Telecom Australia Pty Ltd is not compliant with Clause 8.5 of the RTO Standards.
- Clause 8.5 of the RTO Standards provides that the RTO complies with Commonwealth, State and Territory legislation and regulatory requirements relevant to its operations. Refer to Clause 8.1 below for examples of potential breaches of the ESOS Act with regards to managing access to the electronic notification system for the purposes of entering information on CRICOS/PRISMS.

Evidence of non-compliance includes:

- the audit reviewed the organisation's attendance monitoring practices, referring to both the relevant RTO policies and procedures, the RTO's attendance monitoring tools, and discussions with the organisation's trainers present during the site visits. The RTO's attendance recording tool is designed to record the attendance of students at both the commencement, and the end of each scheduled class by asking each student in attendance to sign the attendance sheet. In practice, students were not signing the attendance sheet at the end of each class. Furthermore, no evidence was provided by the RTO to demonstrate compliance with both the AAT terms of agreement, for students to sign the class roll at the commencement and conclusion of each class, and the RTO's 'Course Progress and attendance Policy & Procedure (International Students)', which requires the trainer/assessor to mark attendance on an hourly basis. Refer to Standard 8.15 above for detailed audit findings related to student attendance.
- the evidence reviewed does not demonstrate that the organisation is genuine in their efforts to meet their obligations to monitor student progress, including course attendance requirements, as evidenced by the low level of formal reporting on PRISMS. During the previous 12 months (September 2018 to September 2019), the organisation has reported just one student on PRISMS to the Department of Home Affairs for lack of course progress. The organisation has reported no students for lack of attendance during this same period. No evidence was provided to demonstrate the organisation has been issuing a breach of attendance letter to students as, and where, required.
- on 15 August 2019, the current CEO, Mr Robert Smith, advised Mr Arvid Yaganegi (Manager Regulatory Operations, Melbourne) that he had no knowledge of the previous CEO, Mr Rajesh Kumar, implying that Mr Kumar had no ongoing involvement with the organisation following the change in ownership and CEO. Mr Smith advised Mr Yaganegi that he only liaised with the current owner of the organisation, Mr Singh. However, records on PRISMS indicate that during August 2019, 54 Confirmation of Enrolment (CoE) updates were entered on PRISMS under the authorisation of Mr Rajesh Kumar. This would not be possible unless Mr Kumar was still authorised to access and amend the organisation's CRICOS CoE records on PRISMS, or that somebody else has been using Kumar's CRICOS authorisation to enter data into PRISMS which is a breach of s109(5) of the ESOS Act.

PRISMS analysis:

- on 6 and 7 August 2019, ASQA reviewed data contained in PRISMS, relevant to the compliance of the organisation with its obligations under the ESOS legislative framework. This following contains the findings from this analysis.

PART 1 Reporting under paragraph 19(1) of the ESOS Act

Giving information about accepted students who do not commence their course:

1.1 Paragraph 19(1) of the ESOS Act stipulates that:

- (1) *A registered provider must give the following information within the applicable number of days after the event specified below occurs:*
 - a) *The name and any prescribed details of each person who becomes an accepted student of that provider;*
 - b) *For each person who becomes an accepted student – the name, starting day and expected duration of the courses for which the student is accepted;*

- c) *The prescribed information about an accepted student who does not begin his or her course when expected;*
- d) *Any termination of an accepted student's studies (whether as a result of action by the student or the provider or otherwise);*
- e) *Any change in the identity or duration of an accepted student's course;*
- f) *Any other prescribed matter relating to accepted students.*

1.2 Paragraph 19(1A) stipulates that:

(1A) *The **applicable number of days** is:*

- a) *If the accepted student is less than 18 years old and the information is of a kind referred to in paragraph (1)(c) or (d) – 14 days; or*
- b) *Otherwise – 31 days.*

1.3 Under section 5 of the ESOS Act, the following definition states:

Accepted student of a registered provider means a student (whether within or outside Australia):

- a) *Who is accepted for enrolment, or enrolled, in a course provided by the provider; and*
- b) *Who is, or will be, required to hold a student visa to undertake or continue the course*

1.4 Sub regulation 3.02 of the ESOS Regulations prescribes the information required to be kept for the purposes of Section 19(1)(c).

1.5 On 6 August 2019, ASQA reviewed student course variation data contained in PRISMS between the dates of 6 August 2017 and 6 August 2019.

1.6 The data indicates that an Authorised User of PRISMS for and on behalf of the organisation provided prescribed information about accepted students who did not begin their course on the agreed starting date. The data further indicates that between 6 August 2017 and 6 August 2019, the organisation has failed to give the prescribed information about an accepted student who did not begin their course on the agreed starting data within the applicable number of days on **12 occasions**.

1.7 The longest delay between the date the organisation was obliged to give the prescribed information (in this instance, 31 days after the event of non-commencement), and the date the organisation gave the prescribed information was **277.68 days**.

1.8 A list of the instances is at Annexure A. The list, extracted from PRISMS data, displays:

- a) the name and birth date of each accepted student
- b) the student's CoE code
- c) the agreed starting date of the course (the 'event' date)
- d) the 'created date' (the date Spice Telecom provided the prescribed information)
- e) the 'days late' (the number of days after the 31 days in which Spice Telecom was obliged to give the prescribed information).

1.9 On the basis of the information at paragraphs 1.1 to 1.8 (inclusive) and the information at Annexure A, ASQA believes on reasonable grounds that the organisation has breached section 19(1)(c) on at least **12 occasions** between 6 August 2017 and 6 August 2019.

Giving information about accepted students who terminate their studies

1.10 Paragraph 19(1)(d) of the ESOS Act states:

(1) *A registered provider must give the following information within the applicable number of days after the event specified below occurs:*

- d) *any termination of an accepted student's studies (whether as a result of action by the student or the provider or otherwise) before the student's course is completed...*

- 1.11 On 6 August 2019, ASQA reviewed student course variation data contained in PRISMS in respect of the organisation between the dates of 6 August 2017 and 6 August 2019. The data indicates that an Authorised User of PRISMS for and on behalf of the organisation gave information about accepted students whose studies were terminated (whether as a result of action by the organisation or by the student). This data indicates that the organisation has failed to give the prescribed information about an accepted student who terminated studies within the acceptable timeframe on **58 occasions**.
- 1.12 The longest delay between the date the organisation was obliged to give the prescribed information (in this instance, 31 days after the event of termination), and the date the organisation gave the information was 154.69 days.
- 1.13 A list of the instances is at Annexure B. The list, extracted from PRISMS data, displays:
- a) the name and birth date of each accepted student
 - b) the student's CoE code
 - c) the 'SCV reason' (the reason given by the organisation for the termination of studies)
 - d) the student's 'last day of study' (the event date – defined in the PRISMS User Guide*)
 - e) the 'days late' (the number of days after the 31 days in which the organisation was obliged to give the prescribed information).
- 1.14 * *Last Actual Day of Study is defined in the PRISMS User Guide, developed by the Department of Education, as representing the date on which the Provider considers that their education teaching responsibilities to the student, on that Confirmation of Enrolment, undertaking that particular course of education, ceased.*
- 1.15 On the basis of the information at paragraphs 1.10 to 1.14 (inclusive) and the information at Annexure B, ASQA believes on reasonable grounds that the organisation has breached section 19(1)(d) on at least **58 occasions**.

Giving information about accepted students whose course changes identity or duration

- 1.16 Paragraph 19(1)(e) of the ESOS Act states:
- (1) *A registered provider must give the following information within the applicable number of days after the event specified below occurs:*
- ...
- e) *any change in the identity or duration of an accepted student's studies*
- 1.17 On 6 August 2019, ASQA reviewed student course variation data contained in PRISMS in respect of the organisation between the dates of 6 August 2017 and 6 August 2019. The data indicates that an Authorised User of PRISMS for and on behalf of the organisation gave information about accepted students whose course changed identity or duration. This data indicates that the organisation has failed to give the prescribed information about an accepted student whose course changed identity or duration within the acceptable timeframe on **30 occasions**.
- 1.18 The longest delay between the date the organisation was obliged to give the prescribed information (in this instance, 31 days after the event of the change of course, or change of duration of course), and the date the organisation gave the information was 548.5 days.
- 1.19 A list of the instances is at Annexure C. The list, extracted from PRISMS data, displays:
- a) the name and birth date of each accepted student
 - b) the student's CoE code
 - c) the 'SCV' reason (the reason given by the organisation for the change to enrolment)
 - d) the student's 'last day of study' (the 'event' date of the change)
 - e) the 'days late' (the number of days after the 31 days in which the organisation was obliged to give the prescribed information).
- 1.20 On the basis of the information at paragraph 1.16 to 1.19 (inclusive), and the information at Annexure C, ASQA believes on reasonable grounds that the organisation has breached section 19(1)(e) on **at least 30 occasions**.

PART 2 Reporting obligations, student default

- 2.1 Section 47A of the ESOS Act “When a student defaults” sets out the circumstances that describe whether a student defaults in relation to a course at a location, which includes:
- a) *the course starts at the location on the agreed starting day, but the student does not start the course on that day (and has not previously withdrawn); or*
 - b) *the student withdraws from the course at the location (either before or after the agreed starting day)...*
- 2.2 A registered provider is obliged to discharge certain consumer protection obligations to a student in certain instances of student default – including refunding pre-paid fees of a student where the default occurred due to the student’s failing to start a course due or withdrawal from the course because of visa refusal.
- 2.3 Section 9 of the Education Services for Overseas Students (Calculation of Refund Specification 2014) states that:
- (1) *This section applies if:*
 - a) *a registered provider is required to provide a refund under section 47E of the Act because:*
 - (i) *the student was refused a student visa; and*
 - (ii) *the refusal was a reason for the student’s failure to start the course on, or withdrawal from the course on or before, the agreed starting day...*
 - (2) *For subsection 47E(2) of the Act, the amount of a refund is the amount of the course fees, minus the lesser of the following amounts:*
 - a) *5% of the amount of course fees received by the provider in respect of the student before the default day;*
 - b) *\$500*
 - (3) *For subsection (2), the course fees for a course is the sum of:*
 - a) *the tuition fees received by the provider in respect of the student; and*
 - b) *the non-tuition fees (if any) received by the provider in respect of the student.*
- 2.4 If a provider is required to pay a student a refund under the above circumstances, the provider is obliged to give this information to the ESOS Agency via PRISMS. The relevant section of the ESOS Act, 47H states that:
- (1) *A registered provider must give a notice in accordance with this section if:*
 - a) *an overseas student or intending overseas student defaults in relation to a course provided by the provider at a location; and*
 - b) *the provider is required to provide a refund under section 47(E)*
 - (2) *The provider must give a notice to the ESOS agency for the provider and the TPS Director within 7 days after the end of the provider obligation period.*
 - (3) *The notice must include the following:*
 - a) *whether the provider provided a refund under section 47E:*
 - b) *details of the student the provider provided the refund to:*
 - c) *details of the amount of the refund provided.*
- 2.5 On 7 August 2019, ASQA reviewed CoE data in PRISMS of enrolments created between 7 August 2017 and 7 August 2019 which indicates that, between these dates, an Authorised User of PRISMS for and on behalf of the organisation created a CoE for an accepted student who:
- a. *was located offshore, and would need to be granted a visa in order to enter Australia; and*
 - b. *had his or her enrolment cancelled after his or her Visa was refused; and*
 - c. *had prepaid tuition fees to the organisation;*
- on a total of 149 occasions.
- 2.6 For each of these 149 enrolments, the organisation was obliged to refund course money to the overseas student pursuant to Section 9 of the *Education Services for Overseas Students (Calculation of Refund Specification 2014)*.

2.7 For these 149 enrolments, the organisation was also obliged to notify via PRISMS the discharge of its obligations in respect of each student pursuant to section 47H. Data from PRISMS indicates that the organisation has not notified the discharge of its obligations in respect to these 149 enrolments.

2.8 Annexure D lists the 149 enrolments. Annexure D is extracted from PRISMS data. It details:

- the name and birth date of each accepted student;
- the student's CoE code;
- the SCV reason entered into PRISMS by the Institute;
- the 'Proposed Start Date' of each student's course;
- the date the visa was refused; and
- the amount prepaid by the student for the course.

2.9 On the basis of the information at paragraphs 2.1 to 2.8 (inclusive) and the information in Annexure D, ASQA believes on reasonable grounds that the organisation has breached section 47H of the ESOS Act on at least **149 occasions** between 7 August 2017 and 7 August 2019.

PART 3 National Code 2018

3.1 Standard 8.2 of the National Code states:

The expected duration of study specified in the overseas student's CoE must not exceed the CRICOS registered duration.

3.2 On 6 August 2019, ASQA reviewed PRISMS data of enrolments created for an overseas student by an Authorised User of PRISMS for and on behalf of the organisation between the dates of 7 August 2017 and 7 August 2019. The data indicates that the organisation has created a CoE with a duration that exceeds the CRICOS registered duration on at least **five occasions** in the two-year period.

3.3 Table 1 below shows the five relevant enrolments:

TABLE 1

Student name	CoE code	Course name	CRICOS duration (in weeks)	CoE duration (in weeks)	Difference (in days)	Created date
Ramandeep KAUR	A701F597	Certificate IV in Commercial Cookery	78 weeks	130 weeks	366	11/03/2019
Avtar SINGH	A5A77694	Diploma of Production Horticulture	60 weeks	65 weeks	32	10/02/2019
Prabhpreet SINGH	A5A77448	Diploma of Production Horticulture	60 weeks	65 weeks	32	10/02/2019
Yumi SASAKI	9184EC89	Diploma of Hospitality Management	78 weeks	83 weeks	30	1/09/2017
Jinrong LI	9184B857	Diploma of Hospitality Management	78 weeks	83 weeks	30	1/09/2017

3.4 On the basis of the information in paragraphs 3.1 to 3.3 (inclusive) and the data in table 1, ASQA believes on reasonable grounds that the organisation has breached Standard 8.2 of the National Code on at least **five occasions**.

Attachments:

Annexure A – breaches of section 19(1)(c)
Annexure B – breaches of section 19(1)(d)
Annexure C – breaches of section 19(1)(e)
Annexure D – breaches of section 47H

Analysis of additional evidence

The following additional evidence was reviewed:

- Attachment 24.7 - This attachment contains the following 19 files:
- A24a – TIV Comments on breaches of section 19(1) (d)
- A24b – Response to PRISMS error and breaches
- A24c – TIV PRISMS default recording process
- A24d – Information on 12 students for breaches of section 19 (1)
- A24g – Visa action monitoring spreadsheet (6 students)
- A24g1 – Visa entitlement verification online (VEVO) - Student Document number - GL1806461
- A24g2 - Visa entitlement verification online (VEVO) – Student Document number - L1830645
- A24g3 - Visa entitlement verification online (VEVO) – Student Document number – EC1178545
- A24h – Visa action monitoring process
- A24i – Template for email for students with a visa notification on PRISM
- A24j – Template for email for student with a visa notification on PRISMS (Onshore students)
- A24k – History of student CoE
- A24l – History of student CoE
- A24m – History of student CoE
- A24n – History of student CoE
- A24o – Visa Actions
- A24p – Duration of Scope checklist 2019- 2020
- A24Q – PRISMS reconciliation calendar 2019-2020
- A24r – PRISMS variation calendar 2019 – 2020
- Attachment 25 – Contains 6 files for 6 x Certificate of attendance for Webinar session conducted by PRISMS for explanation and clarification of recent PRISMS system changes in support of ESOS Regulations 2019 for Manpreet Kaur and Mehak Samra
- Export for CoE and Student Details as at 2020-2-5

The organisation has not addressed the non-compliance for future students. For example, but not limited to:

PRISMS analysis:

On 3 February 2020, ASQA reviewed data, contained in PRISMS, relevant to the compliance of the organisation with its obligations under the ESOS legislative framework. This following contains the findings from this analysis.

PART 1 Reporting under paragraph 19(1) of the ESOS Act

In respect of failure to give prescribed information relating to accepted students who did not begin his or her course when expected:

On 3 February 2020, ASQA further reviewed student course variation data entered in PRISMS by an Authorised User for and on behalf of the organisation between the dates of 15 November 2019 (the day after Spice Telecom Australia Pty Ltd received ASQA’s report) and 3 February 2020. During this period, Spice Telecom Australia Pty Ltd has entered prescribed information, about an accepted student who did not begin his or her course on the agreed starting date, after the applicable number of days to provide this information, in these instances 31 days after the event, on a **further two occasions**.

A list of the two further occasions is at table A1 below:

Family Name	Date Of Birth	CoE Code	SCV Reason	Proposed Start Date	Created Date	days late
LEONG	21/07/1991	A5204873	Non-commencement of studies	20/07/2019	25/11/2019	97
WAI	02/07/1993	A61F6C76	Non-commencement of studies	07/10/2019	20/11/2019	12

Notwithstanding the organisation's response of December 2019, that instances of late reporting have occurred previously but systems are now corrected, PRISMS data indicates that the organisation continues to fail to enter prescribed information about accepted students who do not commence their course within the acceptable number of days. Accordingly, ASQA remains of the view that Spice Telecom Australia has breached section 19(1)(c) of the ESOS Act.

In respect of failure to provide prescribed information in respect accepted students who terminated study in the course:

ASQA notes that the organisation has provided the further explanation in respect of late reporting of termination of studies that it had persistently entered 'incorrect' information in error with respect to the "student last day". The organisation claims that the errors reflect the practice of entering the last day the student was present in a class, rather than the event date which is specified in the PRISMS user guide as being the date upon which the provider considers that its educational responsibilities have ceased towards the student (i.e. the last actual day the provider regarded the student as being enrolled in the course).

ASQA further notes that the organisation has not provided any further evidence such as communications from a student or 'withdrawal forms' indicating each students actual last day). It is also concerning that, taking into account the organisation's explanation, there appear to be instances where a student has not been physically present in any class for up to four months without any action appearing to have been taken in relation to that student's failure to progress or attend.

On 3 February 2020, ASQA further reviewed student course variation data in PRISMS entered by an Authorised User for and on behalf of the organisation between the dates of 15 November 2019 (the day after the organisation received ASQA's report) and 3 February 2020. During this period, the organisation has entered prescribed information about an accepted student who terminated studies in his or her course after the applicable number of days to provide this information (in these instances, 31 days after the event) on a **further five occasions**.

A list of the 5 further occasions is at table B1 below:

Family Name	Date Of Birth	CoE Code	SCV Reason	Student Last Day Of Study	Created Date	days late
MAHARJAN	11/02/1998	AC21B167	Non payment of fees	07/10/2019	27/01/2020	80
PANDEY	24/05/1999	AC301432	Non payment of fees	07/10/2019	27/01/2020	80
SINGH	22/02/1999	AC483B43	Non payment of fees	11/11/2019	27/01/2020	45
DIKSHA	19/05/2001	B0FFEE79	Student left provider - transferred to course at another provider	29/11/2019	23/01/2020	23
SINGH	15/05/2000	B0F01F70	Student left provider - transferred to	29/11/2019	23/01/2020	23

			course at another provider			
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Having noted a past practice of entering the student last day of study incorrectly, ASQA reasonably assumes that the information entered, after the provider has reviewed its systems and practices, represents the correct information given in respect of the student last day of study. However, in January 2020 the provider continues to enter prescribed information relating to a student's termination of studies after the applicable number of days.

ASQA remains of the view that the organisation continues to demonstrate administrative failures in respect of complying with the ESOS Act, and remains of the view that the organisation has breached section 19(1)(d) of the ESOS Act.

In respect of failure to give prescribed information in respect accepted students who changed their course, or changed the duration of their course:

On 3 February 2020, ASQA further reviewed student course variation data in PRISMS entered by an Authorised User for and on behalf of the organisation between the dates of 15 November 2019 (the day after the organisation received ASQA's report) and 3 February 2020. During this period, the organisation has entered prescribed information about an accepted student who changed the identity or duration of his or her course after the applicable number of days to provide this information (in these instances, 31 days after the event) on a **further one occasion**.

The further occasion, reported on 2 February 2020, is detailed in Table C1 below:

Family Name	Date Of Birth	CoE Code	SCV Reason	Student Last Day Of Study	Created Date	Days late
GURWINDE R SINGH	11/05/90	AFAB0134	Change to a course in the same sector, gap created either at start or end of course OR the study period of the new CoE is shorter than the original	15/12/19	01/02/20	16

Whilst the organisation advises that it has addressed its reporting obligation failures, a review of PRISMS data indicates that breaches of this nature continue to occur. ASQA remains of the view that the organisation has breached paragraph 19(1)(e) of the ESOS Act.

PART 2 Reporting obligations, student default

With regard to reporting discharge of obligations to students where the student has defaulted due to visa refusal:

Analysis of PRISMS data indicates that the organisation has taken steps to acquit its notification obligations. However, ASQA remains of the view that the organisation has breached section 47H of the ESOS Act in not reporting its default obligations within the specified timeframe after each default date.

PART 3 National Code 2018

With regard to amending CoEs with a future start date to create an enrolment that does not exceed the CRICOS registered start date:

Whilst information from PRISMS indicates that the organisation has taken steps to satisfy their requirements, ASQA notes that two CoEs remain where the duration of the CoE exceeds the CRICOS registered date. The relevant CoEs are:

- Prabhpreet SINGH (CoE code: A5A77448)
- Avtar SINGH (CoE code: A5A77694)

ASQA remains of the view that the organisation has breached Standard 8.2 of the National Code by creating CoEs for students that exceed the CRICOS registered duration of the course.

In response to the finding that staff did not fully understand their obligations, the organisation advised that professional development sessions have been conducted to better equip relevant staff to carry out their tasks regarding the use of PRISMS. The organisation provided, as evidence, certificates to demonstrate attendance by Manpreet Kaur and Mehak Samra at PRISMS Webinar sessions.

The organisation advised that it has commenced implementation of its rectification strategy to address the practice of students exhibiting poor attendance. The organisation indicated their intention to provide evidence to ASQA to demonstrate the full execution of their rectification plan.

Staffing/Management Requirements

Standards for RTOs Clause 8.1

Original Finding: Not compliant

The RTO cooperates with the VET Regulator:

- by providing accurate and truthful responses to information requests from the VET Regulator relevant to the RTO's registration;**
- in the conduct of audits and the monitoring of its operations;**
- by providing quality/performance indicator data;**
- by providing information about substantial changes to its operations or any event that would significantly affect the RTO's ability to comply with these standards within 90 calendar days of the change occurring;**
- by providing information about significant changes to its ownership within 90 calendar days of the change occurring; and**
- in the retention, archiving, retrieval and transfer of records**

The following documents were reviewed in relation to staff/management requirements:

- AAT Terms of Agreement (20 August 2018)
- class timetables and class lists for the RTO's delivery locations at Lygon Street, Carlton VIC and 3 Miller Street Prahran
- direct observations at site visits conducted at Lygon Street, Carlton VIC on 14 March and 30 May 2019, and 3 Miller Street, Prahran VIC on 3 June 2019
- International Student Handbook, version Dec 2018
- class rolls (Carlton campus) – BSBMGT517, AHCBUS501, SITHCCC012, SITHCCC013* (14 March 2019)
Note: the SITHCCC013 class was conducted from the RTO's training kitchen in Prahran and confirmation of student attendance at this class could not be determined as the auditors did not visit this site on 14 March 2019
- class rolls (Carlton campus) – SITHCCC014, SITXINV002*, AHCBUS507 (30 May 2019)
Note, the SITXINV002 class was conducted from the RTO's training kitchen in Prahran and confirmation of student attendance at this class could not be determined as the auditors did not visit this site on 30 May 2019
- email from Rajesh Kumar (PEO) 15 March 2019 with 14 attached XL files (records of attendance)
- Course Progress and attendance Policy and Procedure (Int. Students) v2.0 August 2018
- PRISMS - Copy of Export for CoE and Student Details as at 2019-9-2 13-45-58.xlsx
- PRISMS - Copy of Export for Student Course Variations as at 2019-9-30 15-30-34.xlsx

The evidence obtained during the investigation showed that Spice Telecom Australia Pty. Ltd. is not compliant with clauses 8.1 and 8.5 of the RTO Standards.

Clause 8.1 of the RTO Standards provides that the RTO cooperate with the VET Regulator by providing accurate and truthful responses to information requests from the VET Regulator relevant to the RTO's registration. Evidence provided to ASQA with regards to records of student attendance, did not demonstrate that the organisation has provided accurate information to comply with clause 8.1, and under the AAT Terms of Agreement (Annexure A, part 4).

Evidence of non-compliance includes:

- the attendance reports submitted to ASQA did not demonstrate that records of class attendance, required to be provided to ASQA under the AAT terms of the agreement, were an accurate and a truthful account of what really had occurred. The class rolls submitted were signed by students at the commencement of scheduled classes, but not at the conclusion.
- the accuracy of information provided by the organisation could not be confirmed as the pattern of attendance reported to ASQA did not align with the pattern of low numbers of students in attendance at scheduled training classes observed during the two site visits at Carlton. It is reasonable to conclude that students are not expected, or required, to attend scheduled classes based on the low attendance rate, and the absence on PRISMS of students being reported for lack of attendance. Refer to Standard 8.15 above for detailed audit findings relating to student attendance.
- on 30 May 2019, the RTO was requested to provide copies of completed student assessments for a random sample of 16 students from units delivered in Term one, February 2019. The RTO provided ASQA with only eight completed student assessments from the 16 requested, with a further two files provided by the RTO that were not specifically requested. The RTO advised that eight of the students chosen for review by the auditors were reported as 'NYC (Not Submitted)' for selected units undertaken in Term one. This finding is indicative of students not progressing with their course in a timely manner, a likely consequence of not attending sufficient classes prior to the due date for final assessment.

Analysis of additional evidence

AHC30616 Certificate III in Production Horticulture
AHC31116 Certificate III in Production Nursery
AHC40316 Certificate IV in Production Horticulture
AHC50316 Diploma of Production Horticulture
SIT30816 Certificate III in Commercial Cookery
SIT40516 Certificate IV in Commercial Cookery
SIT50416 Diploma of Hospitality Management

The following additional evidence was reviewed:

- Attachment 2 – Course Progress and Intervention Strategy Policy and Procedure
- Attachment 3 – Chart to monitor student attendance and assessment
- Attachment 8 – November intake for Certificate III In Commercial Cookery
- Attachment 4a – Photo of 4 telephones
- Attachment 4b - Time In and Time Out register for students
- Attachment 5 – Message from the CEO (Robert Smith) to the students of TIV
- Attachment 7.1 – Certificate of Attendance for Mehak for the Webinar session conducted by PRISMS for ESOS regulations changes
- Attachment 7.2 Certificate of Attendance for Mehak for the Webinar session conducted by PRISMS for explanation and clarification of recent PRISMS system changes in support of ESOS regulations 2019
- Attachment 7.3 - Certificate of Attendance for Mehak at the Professional development session for TIV student administration and services staff
- Attachment 10.1 – Student intervention file (Student THM180154)
- Attachment 10.2 - Student intervention file (Student THM190024)
- Attachment 10.3 - Student intervention file (Student THM190020)
- Attachment 10.4 - Student intervention file (Student THM190028)
- Attachment 10.5 - Student intervention file (Student THM190021)

- Attachment 10.6 - Student intervention file (Student THM190004)
- Attachment 12 – Report on 8 students whose files were not provided at the time of the audit (students - THM180125, THM180012, THM180061, THM180092, THM180229, THM180186, THM180183, THM180145).

The organisation has addressed the non-compliance for future students. For example, but not limited to:

- the organisation plans to introduce a new bio metric-based attendance record monitoring system for full implementation in January 2020. Successful implementation of this new system could not be confirmed at the time of the organisation submitting its response. Further, the organisation claims that it will conduct a quarterly internal audit to ensure compliance is maintained. Compliance with clause 8.1 is subject to the effective implementation of the organisation's revised strategy and systems which may be verified at a future compliance audit.
- the organisation has not planned, and/or carried out, sufficient remedial action to identify and address the impact the non-compliance may have caused students. For example, but not limited to:
 - the organisation's training and assessment strategy determines the amount of training that is deemed to be necessary to acquire the knowledge, and practice the necessary skills leading to the summative assessment tasks being conducted to determine student competence for each of the required knowledge and skills. The organisation's assessment strategy requires sufficient attendance in scheduled classes to facilitate informal monitoring of students for the purpose of monitoring course progress in class. Evidence of identifying and addressing the consequences of students failing to receive sufficient training, as detailed in their strategies for delivery, has not been demonstrated for past students.
 - the organisation advised that it has commenced implementation of its rectification strategy to address the practice of students exhibiting poor attendance. The organisation indicated their intention to provide evidence to ASQA to demonstrate the full execution of their rectification plan.
 - the organisation submitted no evidence of completed assessments for the following three students, who have now completed assessments that were not available at the time of audit:
 - THM180012 (units SITXFSA002 and SITHCCC020)
 - THM180061 (units SITXFSA002 and SITHCCC020)
 - THM180145 (unit BSBHRM405).

In their response, the organisation provided an update of the status of the eight students whose assessment files were not able to be provided upon request at audit. Of the eight students, the organisation advised that these three students have subsequently completed their final assessment task, and deemed competent.