

# Disallowed persons

This fact sheet explains the disallowed person requirements under the Skills First program.


## Background


The VET Funding Contract (the contract) includes a defined category of people or organisations who you can't engage, employ, contract, or otherwise deal with in connection with your contract. This is called a disallowed person.

This is to minimise risks to the integrity of the Skills First program and to ensure that the Victorian Government is only subsidising high-quality training that meets ethical standards.

## Who can be a 'disallowed' person?

A disallowed person can be either:

 an 'organisation' (including a body corporate, partnership, association, government or local government authority or agency)

 a 'natural person' (an individual).

## Organisations

To be 'disallowed', an organisation must have been a registered training organisation (RTO) that was:

- subject to one of the events described in the definition of disallowed person OR
- responsible for them by either their acts or omissions.

This applies whether or not the RTO had a contract with the department.

## Individuals

To be 'disallowed', an individual must have been a relevant person at an RTO that was:

- subject to one of the events described in the definition of disallowed person OR
- responsible for them by either their acts or omissions).

A relevant person means someone at a sufficiently high level within an organisation to have exercised a material degree of control or influence over the management or direction of the organisation in relation to training delivery.<sup>1</sup>

This means they would have a high level of control over any conduct that could give rise to a contract termination.

## Disallowed person events

Both RTOs and relevant persons at RTOs can become a disallowed person if, since 1 January 2011, the RTO has been subject to either:

- a VET Funding Contract termination
- a termination of any equivalent funding arrangement in another state or territory, or removal of commonwealth approval to offer VET Student Loans).

The termination must be for a performance reason. For example, if a contract ends voluntarily, or a termination is applied to a group of RTOs for a government policy reason, these are not performance reasons.

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<sup>1</sup> Relevant person includes any Executive Officer or High Managerial Agent, consistent with how these are defined under the Corporations Act 2001 (Cth) and the National Vocational Education and Training Regulator Act 2011 (Cth) as persons with a high level of Control.

## We consider disallowed persons when making decisions

We may ask if you employ or have engaged disallowed persons when we:

- award contracts during a provider selection process
- don't approve a change in control notification
- assess your application to subcontract training and assessment.

These scenarios don't limit your ongoing obligation to not engage, employ, contract, or otherwise deal with disallowed persons in connection with the contract.

## Do your due diligence

We don't hold a list of disallowed persons. It's your responsibility to do due diligence when employing staff or entering contracts with individuals or organisations.

This includes making sure that anything they do on your behalf will still meet your obligations under the contract.

As part of your due diligence, consider:

- ✓ were they a relevant person at the previous organisation?
- ✓ was the contract terminated for performance reasons?
- ✓ what was the person's position relative to the termination?

## Due diligence with individuals

Regardless of the role an individual might take in your organisation, you must consider their previous roles.

## Due diligence about contract terminations

You should use all the information that is publicly available to you:

- We publish a [list of contract terminations](#) since mid-2015
- The Commonwealth Department of Education, Skills, and Employment publishes a [list of training providers no longer approved to offer VET Student Loans](#). This may include training providers that have ceased to deliver approved programs.
- You should also research the websites of other government departments or agencies that fund VET.

While this published information is a useful starting point, it won't necessarily provide the full picture. For example, you may find it difficult to ascertain:

- funding arrangement terminations in all jurisdictions since 1 January 2011
- the reasons for a termination
- the identities of all relevant persons of a training provider that was the subject of a termination.



## Further information

Submit an enquiry via [SVTS](#).