

A photograph of a woman with blonde hair and two children, a boy and a girl, looking at a laptop screen. The woman is on the left, smiling. The boy is in the center, looking intently at the screen with his hand on his chin. The girl is on the right, smiling. They are in a classroom or library setting with bookshelves and a colorful poster in the background.

Review of the Victorian Institute of Teaching

Final Report

1 December 2017

Foreword

Education is the key to creating opportunities for young Australians to help them secure a positive economic and social future. Apart from socio-economic status, we know that the quality of the teaching workforce has the strongest influence over student outcomes¹. The community, and particularly parents, place great trust in teachers and expect that they are experts in teaching and invested in ensuring that students are healthy and safe and thriving in a dynamic learning environment. Ensuring a highly capable teaching workforce is vital to meeting these expectations and achieving these outcomes.

The Victorian Institute of Teaching (VIT) is a critical component of the education landscape in Victoria. Since its establishment in 2002, the VIT has helped forge and influence the professional identity of teachers at a state and federal level.

By establishing a common standards-based registration system, a code of ethics, conduct and practice requirements, and a public register of teachers, the VIT has led a new chapter in the history of the education profession in Victoria. It has many achievements for which it should rightly be proud. Some of the most significant in recent times include the implementation of early childhood teacher registration, strengthening the accreditation process for tertiary education providers, and the establishment of a robust provisional registration process to support newly graduating teachers.

The VIT has, however, also faced many challenges. Some of these have led its critics to question how effectively it is balancing its various obligations in the exercise of its statutory powers, most particularly as this applies to the protection of the safety and wellbeing of students.

The VIT has been called upon to respond to a changing and evolving regulatory environment and to more strongly secure its identity, articulate its purpose, build a contemporary risk-based regulatory framework, and develop the mature relationships required to help guide it through the increasingly complex co-regulatory landscape.

As with all contemporary regulators, the VIT is required to remain agile and dynamic so that it can anticipate and respond to evolving demands, technological advances and contemporary expectations of timely, proportionate and transparent interventions. To achieve this, the VIT needs to expand its focus beyond compliance. In doing so, it must ensure it establishes a more equal balance between continuous improvement, prevention, intervention, and enforcement across its key functions.

While progress has been made in developing each of its functions, more work is needed. In all of its work, the VIT needs to be guided by more tailored regulatory principles, contemporary risk-based approaches, and a greater focus on the outcomes of child safety and wellbeing and quality teaching.

For the VIT to be successful in the discharge of its functions, it requires the support of the profession, confidence of its stakeholders, and trust of the broader community. Its stakeholders have different and evolving expectations and needs. The VIT must be much more proactive in understanding these needs and expectations and building strong relationships.

Key stakeholders, and particularly students, parents and the Government, need to be assured that the VIT will exercise its powers in a responsible and rigorous manner with regards to principles of natural justice and a focus on the safety and wellbeing of students. The VIT must add value to the profession it regulates and to the education system as a whole.

My vision for the VIT is for it to protect student safety through supporting excellence in teaching. This vision is underpinned by a philosophy of transparent intelligence-led prevention, and continuous learning and improvement. The VIT is in a unique and privileged position in Victoria. It has both a direct line of access to over 129,116² registered teachers across all sectors, and relationships with academic leaders and state and federal agencies responsible for setting the policy parameters for its

¹2012, Productivity Commission Research Report, 'School Workforce', accessed at <https://www.pc.gov.au/inquiries/completed/education-workforce-schools/report/schools-workforce.pdf>.

² 2017, VIT, "Annual Report 2016-17" accessed at <http://www.vit.vic.edu.au/who-we-are/annual-report>

regulatory work. The experience of the Review team in engaging with the staff and Council of the VIT, over 50 consultations with key stakeholders — including the Department of Education, peak bodies, principals, teachers, parent representative groups, employers, unions, academics, local, interstate and overseas regulators, as well as over 1,900 newly graduating teachers of the future who responded to our online survey — were particularly illustrative. Collectively, they gave us an opportunity to observe the great pride there is in the teaching profession and the shared commitment this diverse range of stakeholders have in ensuring systems are in place to facilitate excellence in teaching.

All of those we approached eagerly took up the opportunity to have a say and share their expertise, knowledge, information and data with the Review team. This input enriched the quality of our analysis. Maintaining this level of engagement on an ongoing basis will provide the VIT with access to a wealth of knowledge and perspectives and will ensure they are best placed to understand what will be required from the teachers of tomorrow. In a 21st Century digital world, the opportunity for the VIT to tap into this interest has never been easier. We challenge the VIT to seize this moment.

Responding to the challenges and opportunities we have identified in the Review will require the VIT Council and its staff to demonstrate a commitment to sustained improvement, strong leadership and a willingness to accept the limitations of some of their current regulatory approaches.

Undertaking a review of this nature at a time of scrutiny and change in a very compressed time frame is never easy. I would like to particularly acknowledge the Chair and Council of the VIT for the manner in which they engaged with the Review, the many staff of the VIT who endeavoured to respond to our needs for policy advice, program information and data and the professional support of those who facilitated our visits, consultations and workshops.

I received enormous assistance and professional input from the Review secretariat provided by KPMG. James Lavery, Todd Simpson, Zoe Drysdale and Madelaine Blomfield worked tirelessly to ensure we had the level of engagement that ensured the Review could draw informed, defensible and well founded observations and conclusions and provide a helpful blueprint for the future operations of the VIT's important regulatory functions. I could not have produced this report without their assistance.

I commend this report to the Deputy Premier of Victoria and Minister for Education, the Hon. James Merlino, MP.



Penny Armytage

Independent Reviewer, the VIT Review

Table of Contents

Foreword	ii
Acronyms and abbreviations	v
Executive summary	vii
About the Review	xxx
1 Changing Contexts and Emerging Trends	1
1.1 The evolution of professional teaching regulation	1
1.2 The VIT's journey since establishment	3
1.3 An increasingly complex environment	5
1.4 Balancing the expectations of stakeholders	12
1.5 Factors for success in teacher regulation	14
2 The VIT's future capability requirements	16
2.1 A fit for purpose legislative framework	16
2.2 Strong governance arrangements	29
2.3 Contemporary risk-based regulatory functions	39
2.4 Expert capability and agile operational requirements	67
3 Implementation considerations	88
3.1 Funding the reforms	88
4 References	89
Appendix A – Survey Results	93
Appendix B – Consultation Schedule	99

Acronyms and abbreviations

ACARA	Australian Curriculum, Assessment and Reporting Authority's
AHPRA	Australian Health Practitioner Regulation Agency
AICD	Australian Institute of Company Directors
AITSL	Australian Institute for Teaching and School Leadership
ANAO	Australian National Audit Office
APST	Australian Professional Standards for Teachers
CCU	Conduct and Compliance Unit
CCYP	Commissioner for Children and Young People
CEO	Chief Executive Officer
CIRES	Centre for Research on Education Systems
CPSU	Community and Public Sector Union
CRM	Customer Relationships Management System
DET	Department of Education and Training
DOJR	Department of Justice and Regulation
EBA	Enterprise Bargaining Agreement
EC	Early Childhood
ECT	Early Childhood Teachers
ETRA (or 'The Act')	Education and Training Reform Act 20016
HPRA	Health Professions Registration Act 2005
IAM	Identity and Access Management
IBAC	Independent Broad-based Anti-corruption Commission
ITE	Initial Teacher Education
KPI	Key Performance Indicator
MACVIT	Ministerial Advisory Committee for the Victorian Institute of Teaching
MOU	Memorandum of Understanding

NCHRC	National Criminal History Record Checks
NRAS	National Registration and Accreditation Scheme
OECD	Organisation for Economic Co-operation and Development
PAA	Public Administration Act 2004
PC&TCC	Professional Capacity and Teacher Conduct Committee
PCC	Professional Conduct Committee
PIC	Public Interest Committee
PoC	Proof of Concept
PTT	Permission to Teach
QARD	Quality Assessment and Regulation Division
QCAT	Queensland Civil and Administrative Tribunal
QCT	Queensland College of Teachers
RCS	Reportable Conduct Scheme
RIS	Regulatory Impact Statement
SOEs	Ministerial Statements of Expectations
TEMAG	Teacher Education Ministerial Advisory Group
VAGO	Victorian Auditor-General's Office
VCAT	Victorian Civil & Administrative Tribunal
VECCI	Victorian Employee Chamber of Commerce and Industry
VIT	Victorian Institute of Teaching
VPSC	Victorian Public Service Commission
VRQA	Victorian Registration and Qualifications Authority
WWCC	Working with Children Check

Executive summary

Every day across Victoria, tens of thousands of teachers are in schools, early childhood (EC) services and other settings working to educate our future generation. As parents and a community, we place our trust in teachers to perform one of the most important jobs in our society.

Throughout history, many of the core elements of the role of a teacher have remained constant. Teachers remain role models, story-tellers, trainers, experts and confidants, guiding students through crucial early stages in their lives. In other ways, the role of a teacher is evolving in line with the education needs of students in our rapidly changing world. Changes in our society and our expectations have fundamentally impacted all aspects of the profession. These changes mean the definition and role of a teacher, how they teach, and what quality teaching looks like have come increasingly into focus.

How do the standards of teaching need to change to reflect the changing nature and expectations of our society? What does best practice teaching look like in the contemporary environment? How do we ensure quality? What continuing development and support do teachers require? How do we balance and ensure the needs and rights of teachers as well as child safety and wellbeing? And, in and amongst all of these questions, where does a teacher regulator fit?

Since commencing operations in 2002, the Victorian Institute of Teaching ('the VIT'; 'the Institute') has been regulating the teaching profession in the public interest. Since that time, it has had to respond and manage a range of reforms to the profession, the education sector, and the broader policy environment. In navigating this complex landscape and looking into the future, a series of questions need to be considered. What is the appropriate role and functions required of Victoria's teacher regulator? What governance and operational frameworks does it require? And what capabilities does it need to effectively discharge its functions in accordance with evolving community expectations?

Our Review

The Deputy Premier and Minister for Education tasked the Review with considering these and other questions. In announcing the Review in August, 2017, the Minister stated:

"Over recent months I have become concerned that some decisions made by the VIT do not reflect community expectations...I have requested an independent review to ensure VIT has appropriate governance and operational frameworks to meet legislative requirements, and ensure the regulator is functioning as it should."

Deputy Premier and Minister for Education, the Hon James Merlino MP³

VIT Chair Lesley Lamb welcomed the Review noting that any healthy organisation should be "open to valid criticism and always aiming to improve"⁴.

The Review was established in late August 2017 and was undertaken over three months. It followed a heightened period of media and public scrutiny, particularly in relation to a number of high profile and controversial professional conduct decisions made by the VIT, which allowed teachers accused of serious matters of misconduct to maintain their teaching registration. Within this short timeframe, the Review spent a significant amount of time consulting with the VIT, seeking to understand their current governance and operations. The Review met with the Chair, the Council, executives and a broad cross-section of staff, seeking to understand the VIT's strengths, challenges, ways of working, and ideas for the future.

³ 8 August 2017, The Age, accessed at: <http://www.theage.com.au/victoria/watchdog-under-review-following-controversial-rulings-about-teachers-20170807-gxqz2v.html>

⁴ 8 August 2017, The Age, accessed at: <http://www.theage.com.au/victoria/watchdog-under-review-following-controversial-rulings-about-teachers-20170807-gxqz2v.html>

The Review consulted with a large range of stakeholders, including the State and Commonwealth Governments, employers, unions, teachers, principals, parents and co-regulators. The Review also looked more broadly, examining and speaking with comparator teaching and other professional regulators in other states and overseas. In doing so, the Review gained insight into the issues, emerging trends, and key future directions of professional and teaching regulation. All of this has helped the Review team to appreciate the common challenges facing regulators, as well as understand the uniqueness of the VIT and the expectations of the Victorian community.

The Review operated independently of the Department of Education and Training (DET) and the VIT. It was conducted in accordance with the prescribed scope and terms of reference, and met the requirements set for being an independent inquiry. The Independent Reviewer was supported by a secretariat drawn from KPMG, which included team members with significant regulatory, governance and education policy experience.

The Review's terms of reference were broad and future-focused. The Review was tasked with advising the Minister for Education on four specific matters related to the VIT's role and functions, governance, operations, decision-making frameworks and capabilities.

Figure 1 sets out the terms of reference as outlined by the Deputy Premier and Minister for Education.

Figure 1: Terms of Reference

Terms of Reference	
1.	The capability of the VIT to effectively and efficiently discharge its responsibilities and perform its current functions in accordance with community expectations.
2.	The scope and adequacy of the VIT's governance arrangements and operational frameworks, including decision-making practices, policies and procedures, to enable it to effectively and efficiently discharge its responsibilities and perform its functions.
3.	The appropriate role and functions for the VIT in light of government policies to ensure the safety and protection of children, as well as to respond to other developments in the education sector.
4.	Any other matters that would be appropriate to reflect developments in contemporary law and policy, and that are reasonably incidental to the above matters.

In addition, the Review's terms of reference asked for an examination of the VIT's role in the protection of children and its ability to acquit its responsibilities in accordance with government policy and community expectations.

While the composition of the Council was out of scope for this Review, the Council's ability to exercise its decision-making functions was reviewed.

Select disciplinary case matters were considered, however, a case-by-case review and assessment of the VIT's decisions was not the focus or purpose of the Review.

Further scope limitations are noted throughout this report where relevant.

Review structure

The report's findings and recommendations are structured into three chapters as outlined below:

- **Chapter 1: Changing Contexts and Emerging Trends:** Examines the unique establishment, evolution and evolving identity of the VIT in order to explore pre-conditions for future success
- **Chapter 2: The VIT's future capability requirements:** This chapter is broken into three sub-sections that examine the future role, governance, functions, and capability of the VIT.
 - **Chapter 2.1: A fit for purpose legislative framework:** explores the need for a reformed legislative framework to enable the VIT to fulfil government objectives, meet community expectations and effectively discharge its obligations.
 - **Chapter 2.2: Strong governance arrangements:** explores the scope and adequacy of the VIT's governance arrangements to ensure it can perform its role and functions effectively and in accordance with good governance principles.

- **Chapter 2.3: Contemporary risk-based regulatory functions:** explores how the VIT can strengthen its approach to undertaking its core regulatory functions.
- **Chapter 2.4: Expert capability and agile operational requirements:** examines the VIT from an organisational perspective, exploring what future capability, structures, operational frameworks, key practices, culture and ways of working the Institute requires in order to be a high performing organisation.
- **Chapter 3: Implementation considerations:** This chapter provides guidance for taking forward the reform recommendations.

An overview of the findings and recommendations from each chapter are provided below.

Chapter 1: Changing Contexts and Emerging Trends

Before examining whether the current role and functions of the VIT remain appropriate and fit for purpose, it was necessary to establish the VIT within the broader history and context within which it operates.

The first professional teaching regulator was established in Scotland in 1965, and with that teaching joined other professions such as medical practitioners, lawyers, accountants and other professions which are subject to registration and regulation. In these early days of professional regulation, the purpose of professional regulation was largely to protect consumers from poor service.

In Victoria, the establishment of a teacher regulatory body did not occur until 2001, with early childhood teacher registration added to the VIT's mandate in 2014. This was several decades after Queensland became the first Australian state to make registration compulsory for employment in a school. The VIT was created as a result of advice from the Ministerial Advisory Committee (MACVIT), formed in May, 2000, as a 'single common contemporary registration authority for all school teachers and principals'⁵, and it commenced full operations on 31 December 2002. With its establishment Victorian teachers, irrespective of sector (government, Catholic or independent), had an independent voice and professional recognition enshrined in law⁶.

The VIT is an independent statutory authority that regulates the teaching profession in Victoria. It was established by the *Victorian Institute of Teaching Act 2001* (now repealed) on 18 December 2001 and now operates under Part 2.6 of the *Education and Training Reform Act 2006* (ETRA or 'the Act').

The VIT identifies its primary purpose as to "regulate the Victorian teaching profession in the public interest"⁷. The VIT describes its functions as "to serve the general public by ensuring that teachers have high ethical and professional standards, to safeguard the integrity of the profession and ensure that teachers meet professional standards"⁸.

Whilst many strongly supported the establishment of the Institute, it was not strongly supported by its key system users - teachers. At this time, teachers were facing 'high levels of uncertainty about the future' and, as a response to this strong resistance to professional registration, the Government decided to include an advocacy role for the Institute in the legislation⁹.

This professional advocacy function was formally designed to provide an authorised voice to 'speak and act on behalf of teachers' but was also informally designed in response to teachers' concerns regarding 'value for money' in their registration fee and strengthened stakeholder support.

The VIT's initial mandate was to raise the profile and status of the teaching profession, advocate for high standards and best practice, and celebrate the contribution of its members. Its powers and functions were initially designed to provide the level of professional autonomy and self-regulation needed to maintain and improve the quality of teaching and learning in all Victorian schools and 'to enhance the status and morale of the teaching profession'¹⁰.

⁵ 2003, VIT, 'Annual Report 2002-2003', accessed at <http://www.vit.vic.edu.au/who-we-are/annual-report>, p. viii

⁶ 2003, VIT, 'Annual Report 2002-2003', accessed at <http://www.vit.vic.edu.au/who-we-are/annual-report>

⁷ 2017, VIT, 'Annual Report 2016-17', accessed at <http://www.vit.vic.edu.au/who-we-are/annual-report>

⁸ Date unknown, 'VIT Educational Video for provisional teachers', provided via email

⁹ 2008, FJ & JM King and Associates, 'Review of the Victorian Institute of Teaching', p.6

¹⁰ 2008, FJ & JM King and Associates, 'Review of the Victorian Institute of Teaching', p.6

Since that time, the VIT has been subject to a number of legislative reforms that have influenced its role and functions. The review undertaken by FJ and JM King & Associates in 2008 led to a number of key changes, including the removal of “promotion of the profession” from the VIT’s functions. This Review also found that the VIT’s history was “characterised by a lack of clarity between the roles and responsibilities of the regulator and its stakeholders”¹¹.

Nearly 10 years later, external and internal stakeholders consulted as part of this Review have noted that, over time, the VIT’s identity has become increasingly unclear, particularly in the period since “promoting the profession” was removed from the role of the Institute. The identity of the VIT and its relationships with stakeholders is explored further in Chapter 1 of this report.

Trends and challenges in the VIT’s external environment

In parallel to the evolving role, functions and powers of the VIT, the environment in which the VIT operates has become increasingly complex and challenging to navigate. There is greater demand for transparency and accountability on public sector entities when it comes to issues of child safety and professional misconduct in schools, as well as around education and regulation more generally, leading to challenges for teacher regulators around the country.

The numerous large-scale reforms and cultural shifts have heavily influenced the evolution of the VIT, and the organisation has responded to these with varying degrees of success. Key changes that have influenced the VIT include:

- *An evolving policy landscape:* including a need to increasingly focus on co-regulation and child safety.
- *Education sector reforms:* creating uncertainty and perceived change fatigue across the education sector.
- *Changing workforce needs:* including a shift towards more flexible and specialised professionals.

In exploring the changing external environment, one clear message was highlighted for the Review: the nature of teaching is changing and so must the VIT. Numerous large-scale reforms and cultural shifts have heavily influenced the role of the teacher, how they work, what they teach and the methods they use. These changes have led to changing expectations of the community about the role of the VIT, how it performs its functions, and how it engages and builds relationships with stakeholders.

Balancing the expectations of stakeholders

Achieving good regulatory outcomes is “almost always a co-operative effort: by the government, amongst regulators, the regulated, and the broader community”¹².

Better practice contemporary regulators understand that trust between operator and regulator hinges on the development of a mutual understanding of each other’s objectives and constraints. It is critical that there are clear roles and responsibilities, and a genuine understanding between the regulated and the regulator regarding purpose, mission and vision. While frameworks, policies and processes are critical, people and personal relationships are also a key ingredient in successfully building trust. How a regulator interacts and communicates with its key stakeholders is “instrumental in the levels of trust it has from them, and in turn then will impact how it will behave in regulating its responsibility”¹³.

The VIT is required to navigate a challenging sector with conflicting stakeholder relationships. As the King Review identified in 2008, “the most critical factor in determining the appropriate role for the

¹¹ 2008, FJ & JM King and Associates, Review of the Victorian Institute of Teaching, p. II

¹² 2006, Parliament of Victoria, ‘Education and Training Reform Bill: Second reading’, accessed at: [http://hansard.parliament.vic.gov.au/?IW_DATABASE=*%26IW_FIELD_TEXT=HOUSENAME%20CONTAINS%20\(ASSEMBLY\)%20AND%20SPEECHID%20CONTAINS%20\(46446\)%20AND%20SITTINGDATE%20CONTAINS%20\(9%20February%202006\)&Title=EDUCATION%20AND%20TRAINING%20REFORM%20BILL&IW_SORT=n:OrderId&LDMS=Y](http://hansard.parliament.vic.gov.au/?IW_DATABASE=*%26IW_FIELD_TEXT=HOUSENAME%20CONTAINS%20(ASSEMBLY)%20AND%20SPEECHID%20CONTAINS%20(46446)%20AND%20SITTINGDATE%20CONTAINS%20(9%20February%202006)&Title=EDUCATION%20AND%20TRAINING%20REFORM%20BILL&IW_SORT=n:OrderId&LDMS=Y)

¹³ 2014 OECD, ‘OECD Best Practice Principles for Regulatory Policy’, accessed at: <http://www.oecd-ilibrary.org/docserver/download/4214061e.pdf?expires=1505113507&id=id&accname=quest&checksum=53B4FB7369EA10567FA8F3B99CDECCA>

VIT, and other regulators, is the relationship between the role of the regulation body, employer and policy maker and other stakeholders”¹⁴. This statement remains as true today as it was 10 years ago.

For the VIT to be effective and deliver on its purpose, it is critical that it is able to consider, address and balance the various expectations held amongst key stakeholders. In the education sector, these expectations are diverse, sometimes conflicted, and always dynamic.

Preconditions for success

Given all of the complexities and challenges identified above, a teacher regulator has to be particularly effective at navigating the various expectations and requirements to fulfil its role and functions. Having reviewed the current environment and the evolving trends and patterns in the VIT’s regulatory environment, the Review team has identified a number of components that are necessary for an organisation to possess in order to be successful. These are designed to reflect the respective expectations of ministers, departments, other agencies, and the community. These include:

1. *Efficient and effective*
2. *Focused on ‘public interest’ and ‘child protection’*
3. *Visible and respected by the profession*
4. *Expert and focused on continuous learning*
5. *Risk-based*
6. *Intelligence led*
7. *Outcomes focused*
8. *Proportionate*
9. *Transparent*
10. *Consistent*

These pre-conditions frame the more detailed analysis of the VIT itself, as a regulator and public sector organisation, which are covered in later chapters.

Chapter 2: The VIT’s future capability requirements

“Expert teaching should be by design, not chance” – John Hattie, Australian Institute of Teaching and School Leadership (AITSL) ¹⁵

For governance as well as teaching, effective practice starts with fit-for-purpose design. This chapter is broken into four sub-chapters which examine the future needs of the VIT. These chapters were designed in response to the preconditions for success above.

2.1 A fit for purpose legislative framework and objects

In order for the VIT to fulfil government objectives, meet community expectations and discharge its legislative obligations, the VIT requires fit-for-purpose legislation. The legislation must provide the VIT with operational rules for all aspects of the organisation so it can be an effective regulator.

The Review team undertook a review of the VIT’s legislative framework. It found that the *Education and Training Reform Act 2006* (ETRA) was designed to establish a robust framework that reflected the aspirations and expectations of the community for the education system at the time¹⁶. Since the Act came into force in 2007, there have been a series of amendments to the legislation. As with any principal piece of legislation such as ETRA, these amendments have reflected the evolving nature of

¹⁴ 2005, Queensland Parliament, ‘New Registration Standards for Teachers under the Education (Queensland College of Teachers) Bill’ 2005 (Qld), accessed at:

<http://www.parliament.qld.gov.au/documents/explore/researchpublications/researchbriefs/2005/200517.pdf>

¹⁵ 2017, AITSL website, accessed at: <https://www.aitsl.edu.au/>

¹⁶ 2015, Victorian Parliament Hansard, *Education and Training Reform Amendment (VIT) Bill*, Second Reading

community expectations and the need to amend legislation to ensure it meets current operational needs.

Consultations and comparative analysis revealed that these changes have arguably resulted in a legislative regime for the VIT that is more complicated, confusing and difficult to administer than other, more modern professional registration and regulation regimes¹⁷.

This complexity has contributed to a range of issues, with a particular issue highlighted being the impact the current legislative framework has on the way the VIT undertakes its professional compliance and conduct function. The current framework uses a complex mixture of definitions to define the threshold at which the VIT should institute disciplinary action. Various provisions define that the VIT should use the following thresholds: continued fitness, suitability, misconduct, serious misconduct, competence, seriously detrimentally affected because of impairment and ability to practise. There is also a further threshold in relation to conviction of a criminal offence other than a sexual offence.

Of further concern is the lack of prominence of two key objects or functions: the role of the VIT in child safety and wellbeing, and the role of the VIT in supporting the quality of teaching. There is no object or function which mentions child safety and wellbeing, or that requires the VIT to take into account community expectations in the discharge of its functions¹⁸. There is a function which requires the VIT to develop, establish and maintain teaching standards - chapter 2.6.3(d) of ETRA - but there is no object or function in connection with the VIT ensuring that the quality of teaching and teacher is maintained.

Some stakeholders consulted by the Review indicated that the VIT is challenged in its ability to balance the interests of students and parents (or the community at large) with the interests of teachers. This Review observed that there is a tension within the VIT between ensuring child safety and wellbeing, and representing the interests of teachers.

Accordingly, this Review recommends a comprehensive overhaul of Part 2.6 of ETRA in order to streamline its operation and to ensure that it represents modern regulatory practice in connection with professional disciplinary schemes. The overhaul should also change the name of the VIT to more accurately reflect its function as a regulator, as well as give the VIT specific legislative objects in relation to ensuring child safety and wellbeing, taking into account community expectations, and ensuring quality of teaching and teachers.

Disciplinary procedures

Regulators administering professional disciplinary regimes are entrusted with great power by governments acting on behalf of the community at large. They are given statutory powers which can result in the temporary or permanent removal of a person's licence to operate or to practise in a particular profession - in the case of teacher registration, the right to work in the teaching profession. In these circumstances, trust by all interested parties, and the community, in the appropriateness and rigour applied by the VIT to the regulatory principles of proportionality, and the protection of the public interest and the safety of the community, are paramount considerations.

Part 2.6 of ETRA establishes a complicated set of disciplinary procedures pursuant to which the VIT must investigate and convene various hearing panels to hear disciplinary matters. In Victoria (and nationally), it is now rare for regulators - particularly of professions - to administer their own panel system such as that administered by the VIT. Such bespoke panel systems are no longer considered regulatory best practice in connection with professional disciplinary legislation. Allegations of professional misconduct are now usually heard by the relevant civil and administrative tribunal – in Victoria, this is the Victorian Civil & Administrative Tribunal (VCAT). This assists in avoiding the concern that the relevant regulator has a conflict in acting as “prosecutor, judge and jury” by investigating the matter, establishing a panel, and then having the panel determine the matter. Over time, successive governments have increased the jurisdiction of VCAT, so that it has now become

¹⁷ An example of a more modern regime is the professional regulatory scheme for lawyers in Victoria and NSW contained in the *Legal Profession Uniform Law Application Act 2014* (Vic).

¹⁸ Noting that the power of interim suspension in Division 8A – inserted in Part 2.6 of ETRA in 2016 - mentions protection of children and harm to children.

the repository of expertise in Victoria for the application of rule of law and natural justice considerations in a disciplinary context.

In the case of the VIT, the panels were established in order to ensure that the teaching profession was well represented on panels when disciplinary matters were heard and that it had input into relevant decisions. There is, however, no reason why the relevant list at VCAT cannot appoint members of the teaching profession to hear matters.

In the case of the VIT, a particular concern of the Review is that, once a formal panel is established from the pool of possible hearing panel members, it decides the matter finally (subject only to review in VCAT) without any reference to, or input from, the VIT Council. In current circumstances, the only potential for VIT Council input would be if the single pool member who is also a current VIT Council member is appointed to the relevant panel. This situation has resulted in circumstances where the VIT Council has not agreed with a panel decision, but has been unable to review or challenge that decision, and has been required to accept responsibility publicly for that decision. This arrangement has given rise to significant public controversy, as demonstrated by a succession of prominent media articles and editorial comments. There is no doubt that the controversy has had an impact on the reputation of the VIT, and its public standing.

Some members of the VIT Council are of the view that the panel system should be retained. The Review has concluded, however, that the apparent public concerns, and concerns of the Review expressed in this report about the operation of the system mean that the panel system must be abolished. Given the circumstances, a mere change in the composition of the pool of panel members, so that more current Council members are part of that pool, is not a sufficient response. The hearing panel system administered by the VIT is an anomaly. It is not best practice, and the system has been the subject of significant criticism. The conclusion of the Review is that VCAT is better placed to hear and determine matters of teacher misconduct. VCAT also ensures that decisions regarding potential conduct matters are rigorously tested. The conclusions of the Review in no way reflect on the competence of panel members – the issues with the panel system identified are structure and process issues.

Interim suspension power

During the Review, some stakeholders, including the Department, raised concerns about the operation of Division 8A of Part 2.6 of ETRA, which provides for the VIT to impose an immediate interim suspension on teachers who pose an unacceptable risk of harm to children. The new Division was inserted in 2016 in response to concerns that some teachers who potentially posed that risk could remain in the system and continuing to teach during VIT investigations (which by necessity, can take some months).

Under section 2.6.28A of ETRA, the basis of the decision to impose an interim suspension must be reviewed at least every 30 days. The suspended teacher has the right to make submissions to the VIT regarding the suspension, but the VIT is under no obligation to accord the teacher natural justice before making a decision to suspend. The teacher does not have a right to seek review by VCAT of the decision to suspend, meaning the only avenue of review is judicial review in the Supreme Court of Victoria.

The Review has two significant concerns with the operation of Division 8A of Part 2.6 of ETRA. The first is that there is no opportunity for the teacher to be accorded natural justice before the suspension decision is made, or by VCAT review after the decision is made (acknowledging that there is an explicit mechanism for teachers to be accorded natural justice by VIT after the suspension decision - see section 2.6.28E of ETRA – and that suspensions must be reviewed every 30 days). The second is that this power is exercised by the Chief Executive Officer (CEO) under delegation. The Review understands that the making of these decisions is an urgent matter and must occur within 1-2 days. Natural justice is, however, a fundamental right, and the decision to suspend a person's right to a livelihood is a fundamental function of the VIT, which should arguably be exercised by Council members. The Review also notes that the issue of natural justice was given significant consideration during 2015 when the Bill introducing the Division 8A powers was being developed and debated, including detailed consideration in the Statement of Compatibility issued in accordance with

the *Charter of Human Rights and Responsibilities Act 2006*¹⁹. After significant debate, Parliament determined that natural justice is to be afforded after suspension decisions are made, even though this is a very unusual approach in the circumstances.

In the circumstances, the Review acknowledges that decisions about Division 8A of ETRA must be made quickly, and that specific mechanisms to address natural justice issues have been included – 30 day review and natural justice post-suspension. The Review considers, however, that the level of natural justice accorded to teachers should be increased. This is best done by amending Division 8A of ETRA to provide for VCAT review of interim suspension decisions. Giving VCAT this jurisdiction is also consistent with having allegations of teacher misconduct and incompetence determined by VCAT. The Review also considered recommending that the National Registration and Accreditation Scheme model administered, with the support of the Australian Health Practitioner Regulation Agency (AHPRA), be adopted to allow teachers an opportunity to be heard by the relevant Council committee before a suspension decision is made. However, given that Parliament has recently decided against this approach, the Review makes no recommendations in this respect. Finally, the Review recommends that current delegations be amended so that a Council committee, not the CEO, makes immediate suspension decisions under Division 8A of ETRA.

Working with Children

Section 30 of the *Working with Children Act 2005* provides that registered teachers and early childhood teachers (ECT) under ETRA are exempt from a Working with Children Check (WWCC).

The Department and the VIT indicated that the standard applied in registering teachers is higher than that applied to obtain a WWCC, as additional offence types are considered when considering teacher registration. Some stakeholders indicated that, in practice, use of the word “exempt” has resulted in some confusion. This is because it appears not to be understood by stakeholders outside of the industry, that teacher registration is equivalent to a WWCC.

The Review considered whether the exemption of registered teachers and early childhood teachers from a WWCC should be removed by repeal of section 30, with consideration given to grandfathering by issuing current registered teachers with a WWCC. On balance, given the potential complications and costs of this approach, the Review instead recommends amending the legislative requirements of the VIT scheme to ensure equivalency with the Working with Children Check scheme, to the extent the policy objectives of the two schemes are aligned. Following legislative amendment (if that is required), the Review recommends including a statement on VIT registration cards to communicate that a person who holds a valid VIT card is not required to hold a WWCC Check when engaging in child-related work given that the VIT registration and Working with Children Check schemes generally have similar and equivalent requirements.

Another issue considered by the Review is that the area responsible for administering the WWCC within the Department of Justice and Regulation (DOJR) has developed the best practice model in Victoria for a scheme operating to protect the safety and welfare of children. This should also be one of the primary objects of the VIT, and greater collaboration between the co-regulators is needed. The Review recommends the VIT and DOJR collaborate to ensure that the best practice elements of DOJR’s administration of the WWCC Scheme are adopted by the VIT through staff secondments and out-posting and potentially through a service provision memorandum of understanding (MOU) between DOJR and the VIT.

Reportable Conduct Scheme

Since the commencement of the Reportable Conduct Scheme (RCS) in July 2017, it has become mandatory for all principals or heads of entities (employers) to report allegations of child abuse and other child-related misconduct to the Commission for Children and Young People (CCYP). Under the RCS as it relates to schools, CCYP receives reports from a school and, in the case of a teacher for example, refers the report to the VIT. The school is then required to undertake its own investigation of the reportable conduct (under the auspices of the CCYP and RCS legislation), reporting to CCYP as required by the RCS legislation.

¹⁹ 25 November 2015, Hansard, Victorian Legislative Assembly, p. 4960

In parallel, the VIT has obligations under Part 2.6 of ETRA to take steps once it receives a notification from CCYP, sometimes meaning it must commence an investigation in addition to the investigation being conducted by the school (and in the case of Government schools, sometimes the Department may also conduct an investigation).

Stakeholders, including CCYP and the VIT, reported to the Review that this duplication is causing confusion. The volume of RCS reports from CCYP is also causing issues for the VIT.

To begin to address these issues, the VIT should immediately agree or review any existing MOUs with CCYP, Victoria Police and the other noted co-regulators so that the respective RCS role and responsibilities are clarified. A formal forum should also be established for DOJR, VIT, Quality Assessment and Regulation Division (QARD), Victorian Registration and qualifications Authority (VRQA), CCYP and Victoria Police to come together as co-regulators in the child safety and welfare sphere.

2.2 Strong governance arrangements

Good governance is an essential element of good public administration. In the case of regulators, it forms the basis of community trust through ensuring transparency of outcomes, good processes and, where necessary, strong enforcement action.

The VIT's legislated governance arrangements and key governing documents

The Review team undertook a rigorous review of the VIT's legislated governance arrangements and applicable principles, key governing documents, as well as the delegations instrument.

The general operation of public entities is usually governed by Part 5 of the *Public Administration Act 2004* (PAA), which provides a comprehensive set of governance principles for public entities (more comprehensive than Part 2.6 and Schedule 2 of ETRA). Due to the VIT being established before the PAA was enacted, Part 5 of the Act does not apply to the VIT. To ensure consistency of the VIT governance obligations with other Victorian public sector entities, and to ensure that the VIT has the proper governance settings mandated, the Review recommends that Part 5 be declared to apply to the VIT as soon as possible.

In light of the declaration under Part 5 of the PAA, and the recommendations of this Review, it is recommended that the Council Charter be refreshed to ensure it is contemporary, comprehensive, and reflective of an agile and effective board charter. There is a significant amount of guidance issued by the Victorian Public Service Commission (VPSC) - including the *VPSC Code of Conduct for Directors of Victorian Public Entities 2016*²⁰ - on board operations, meeting procedure, suggested meeting topics over the course of board meetings during the year, requirements for regular self-review and independent review of board functioning and creation of appropriate committee structures and terms of reference for committees. The Review recommends that the process be undertaken immediately, and that the Council ensures the VPSC guidance on board operations is adopted immediately.

The VPSC Code of Conduct for Directors clearly indicates that the Council is accountable for the actions of its delegates. The Review has examined the current delegations instrument made by the Council. Good governance practice is that boards establish delegations frameworks, and should use the delegations to clarify its expectations of management, and to monitor whether those expectations have been met. It is arguable that more of the powers in the VIT's current delegation instrument should be retained by the Council (the most obvious being the Division 8A interim suspension power). Given this context, the argument for the Council retaining more powers under the delegation instrument is stronger in circumstances where most Council members are more recent appointees. The Review recommends the VIT immediately establish a delegations framework and a review be undertaken of all delegations made by the Council with a view to reserving important matters for Council decision, rather than for decision by the VIT Executive.

²⁰ 2016, Victorian Public Sector Commission, 'Code of Conduct for Directors of Victorian Public Entities', accessed at: https://vpsc.vic.gov.au/wp-content/uploads/2016/03/VPSC_Code_Directors_2016_Booklet.pdf

The capability, committees and support for Council

The Review also examined key support and enabling elements of the VIT's governance, including Council training practices, Council capabilities, Secretariat support, and current policies and procedures.

Most Council members are recent appointees, who acknowledged they are still developing their understanding of the range of responsibilities and functions of the VIT. The Review understands that new Council members received induction training from the VIT executive, and from the VPSC. This training, however, only spanned 1-2 days and does not appear to be ongoing. The Review found that there is a need for rigorous, ongoing training for Council members in relation to their role and duties as Council members, responsibilities with respect to confidentiality and conflict of interest (particularly for nominee members), the specific role and functions of the VIT, and the VIT's regulatory scheme and processes. It is considered that the training should also be focused on lifting the scope of the Council's oversight to matters of strategy and outward stakeholder engagement to ensure that prominence and visibility of the VIT is lifted.

An important aspect of organisational governance is a strong professional relationship of trust and confidence between the board, CEO, and other senior executives of an organisation. A strong board secretary, and board secretariat assists to facilitate and develop this relationship of trust and confidence and keep the Council abreast of emerging issues and trends. It was reported to the Review that the Council has not necessarily been made aware by the VIT executive of some critical issues affecting the VIT, including organisational performance, issues such as staff morale and turnover, exercise of Council delegations, and some issues regarding conduct investigations. Stronger ties must be developed between the VIT executive and staff and the Council. The starting point for this is a stronger, dedicated secretariat. The Review therefore recommends Council commission a review of Council Secretariat support within the VIT to ensure that the Council's operations are properly supported.

The Review also observed that the VIT does not have a comprehensive, and up to date, set of policies regarding the operation of the Council. There also appear to be gaps in basic organisational policies and internal and external policies regarding the VIT's regulatory approach - for example, a modern regulator of a profession should have a transparent and simple to read enforcement policy. The Review recommends that the VIT establish an internal taskforce to thoroughly refresh the VIT's internal and external policies and procedures to ensure they align with best practice and broader government policy for regulators and statutory authorities.

The Review also considered the current structure of committees of Council, including the avenues the Council has to engage with the community. Whilst the VIT's Accreditation Committee includes members with external expertise, it is questionable whether the current VIT committee structure is fit for purpose, especially given the current circumstances and the effort which will be required to implement the recommendations of this Review. The Review recommends a new committee structure for Council be established, which includes a Community Expectations Advisory Committee to strengthen direct engagement with the community and its views.

2.3 Contemporary risk-based regulatory functions

"Regulators, under unprecedented pressure, face a range of demands, often contradictory in nature: be less intrusive – but be more effective; be kinder and gentler – but don't let the bastards get away with anything; focus your efforts – but be consistent; process things quicker – and be more careful next time; deal with important issues – but do not stray outside your statutory authority; be more responsive to the regulated community – but do not get captured by industry." – Malcolm Sparrow

Regulatory strategies and approaches have undergone a significant evolution since the VIT was established 15 years ago. There has been an increasing focus and pressure on regulators to be efficient and effective in an increasingly complex environment, as well as to focus their activities and resources on areas of greatest harm and risk.

It is critical that the VIT strengthen its risk-based regulatory approach to undertaking its core functions. A common feature of risk-based regulation is a reliance on regulatory principles over rules. The distinction with this approach is that a principles-based approach focuses more on overall objectives

to be achieved, and less on strict adherence to a set of detailed rules. In this way, a principles-based approach uses principles as a framework to guide and assist regulators and regulated entities to understand and appreciate the core goals of the regulatory scheme and the outcomes it seeks to achieve²¹. The advantages include greater flexibility for both the regulator and regulated entities to focus less on rule-based, often overly legalistic, compliance, and focus more on a 'do the right thing' approach.

The Review found that the VIT does not have a clear, tailored set of overarching regulatory principles which guide all functions and activities of the organisation. While the VIT has a Compliance and Enforcement Framework which identifies some regulatory principles, it is missing key best practice principles, such as transparency, and it is not yet fully embedded across the organisation. Internal and external stakeholders noted that the VIT is also challenged in its ability to deliver its regulatory functions and decision-making in a consistent, evidence-based manner.

The Review recommends the development of an overarching set of regulatory principles which are targeted, tailored and reflective of best practice regulatory practice. This must enable a more principle and outcome-based approach to regulation. The organisation also needs to better leverage its data to better inform and draw out intelligence about where areas of regulatory risk exist in teacher regulation, including through establishing partnerships with research and / or tertiary institutes.

Looking at the individual functions of the VIT, consultation and analysis conducted during the Review identified four key areas where the VIT could focus effort in regards to applying a strengthened approach to risk-based activity. These include:

- Registration
- Accreditation
- Professional conduct
- Strengthening quality teaching.

Registration

Registration is a most critical function for the organisation. Not only is this function the mechanism by which the community can feel confident in the performance of teachers and the safety of students, but it is also the organisation's primary contact with the profession, making it critical for building trust and respect from the profession.

Throughout the VIT's recent history, there have been concerns regarding the VIT's ability to perform this function efficiently and effectively, to the detriment of the VIT's reputation. As a result, registration system and process improvement has been an area of focus for the VIT, driven by prominent inclusion in the Statement of Expectations (SoE). A number of reviews have identified progress, as well as the need for further system, policy and process improvement. The 2016 implementation of the triage process had increased efficiency as the average number of business days taken to process non-complex registration applications (from mail-in date to approval) had reduced by three days between 2014 and 2016.

The Review found that, despite improvement, a number of efficiency and user-interface issues remain. Consultations revealed that, despite significant progress and investment of resources in migrating registration processes online, key registration processes remain either partially or fully paper-based. While the annual teacher renewal process is currently fully online and paperless, provisional teacher registration and moving to become a registered teacher (full) are both only partially online at the time of the Review. The Permission to Teach (PTT) registration remains paper-based, which was the subject of a significant amount of comment by external stakeholders consulted. A number expressed frustration with the timeliness and volume of paper-based documentation required to obtain PTT.

²¹ 2006 Arjoon, S, 'Striking a Balance Between Rules and Principles-Based Approaches for Effective Governance: A Risks-Based Approach'

The VIT has invested significant effort and resources in developing and progressing projects to move registration processes online. The Review recommends that the VIT ensure reforms to registration processes and customer-interfaces, including that migration to online registration and renewal processes across all registration are completed by end 2018.

Accreditation

The VIT accredits and approves pre-service teacher training courses and works with Initial Teacher Education (ITE) providers to ensure that graduating teachers are well equipped for entry into the profession. The ITE sector has been the subject of much discussion and reform in recent years at both a state and federal level. A report was released by the Teacher Education Ministerial Advisory Group (TEMAG) in 2014 identifying that there have been a range of key issues in the delivery of ITE across Australia²². Some of these issues include a lack of public confidence in the skills and knowledge of graduate teachers, poor delivery and practice of many ITE programs, and insufficient professional support for graduate teachers. The VIT has worked closely with the Australian Institute for Teaching and School Leadership (AITSL) and other teacher regulators across the country to assist in the development of AITSL's ITE accreditation reforms. The VIT has responded to these reforms by increasing the number of accreditation staff, increasing the number of trained panel members and chairs, and undertaking greater engagement with ITE providers.

There have also been a number of state-based reforms, such as the introduction of mandatory literacy and numeracy testing, the State government's Special Needs Plan and additional tertiary selection requirements.

The Review found that whilst the VIT has made good progress meeting and responding to the requirements of State and Federal Governments, there is a need for the VIT to take a more proactive and interventionist approach to monitoring emerging trends in the teacher education sector. Stakeholders consulted as part of the Review indicated that whilst the VIT is in a unique position to draw connections with schools and universities about the future expectations and requirements for the modern teaching professional, the VIT has taken a more compliance-focused approach. There is a need for the VIT to strengthen the feedback loop between tertiary institutions and schools through better analysis of data and proactive information sharing.

The Review recommends that the VIT expand its future-focused research activity, including through facilitating and fostering stronger feedback loops between ITE providers and employers. It is crucial that the VIT utilise its rich and valuable data to support the teaching workforce to better respond to future challenges.

Professional conduct

The VIT is responsible for ensuring that teachers are compliant with the Australian Professional Standards for Teachers and the Victorian Teaching Profession Code of Conduct. It does this through a suite of escalating regulatory tools: supporting teachers to comply, monitoring compliance, responding to complaints and investigating cases of non-compliance, and enforcement.

Leading practice regulatory approaches make use of the full suite of available regulatory sanctions and tools. To do this effectively, these approaches focus on using systematic intelligence-gathering and compliance monitoring to identify areas of high risk now, and into the future, to target resources as appropriate. This enables resources to be focused on the prevention of harm, with the goal of needing to use higher-level interventions less frequently.

The Review found that due to several factors, including the introduction of the RCS in July 2017, the VIT is now experiencing a higher level of notifications than previously. The VIT reported that this growth is expected to increase going forward, with 84 RCS matters referred to the VIT since its introduction approximately three months ago. The complex co-regulatory environment that now exists with the CCYP has created role clarity, process, and communication challenges for the employer, those involved in the event, the VIT, and any other co-regulators involved.

The growth and changing nature of notifications demands not just increased resources (the VIT has recently increased investigator FTE), but also a more strategic and robust approach to notification

²² Council Meeting 7, 'ITE Update', provided by the Victorian Institute of Teaching

assessment, as well as greater role and process clarity between the VIT and co-regulators. It will need to manage a growth in volume, and simultaneously ensure its compliance resources focus on prevention of harm. This will require a greater understanding of the nature of risk in the sector, stronger partnerships with its co-regulators, and the use by the Conduct and Compliance Unit (CCU) of more risk-based triage processes.

The Review strongly recommends that the VIT and CCU make a significant shift toward more risk-based, intelligence-led and outcomes-focused regulation in the immediate term. “Risk-based” does not mean raising the threshold at which the VIT initiates regulatory action. It means developing a more robust and evidence-based understanding of where the risk of harm exists, and ensuring its resources are efficiently targeted at these areas.

Many stakeholders consulted by the Review observed that there is a need for greater timeliness and consistency in the VIT investigation and hearing panel outcomes. While a case file review to analyse this issue in detail was beyond the scope of this Review, it is evident to the Review that the VIT’s investigative and hearing panel processes require a significant, and growing, amount of resources and that there is a need for greater efficiency and timeliness. Several stakeholders described a high turnover rate amongst the VIT Conduct and Compliance team resulting in loss of corporate and sector knowledge (this is explored further at an organisational level in Chapter 2.4.4). Some stakeholders consulted also expressed concern about growing inconsistency in the investigation process, with timelines and rigour varying greatly depending on the VIT investigators involved.

The Review recommends that the VIT apply compliance and enforcement processes more consistently and efficiently, adopting risk-based triage and other processes which ensure reduced duplication of effort, greater streamlining, and mechanisms to ensure greater consistency in process and notifier experience. This change is in addition to the reforms to the panel hearing processes identified earlier in this summary.

Strengthening quality teaching

The VIT was the first teacher regulator in the country to establish a set of professional practice standards to ‘promote and implement professional standards of practice and conduct for the benefit of the profession and the community’²³. There are now national standards to which teachers are expected to adhere, which have been developed and are oversighted by AITSL – the Australian Professional Standards for Teachers (formerly the National Professional Standards for Teachers). The VIT is responsible for ensuring that teachers comply with these standards and for developing and regulating compliance with a Code of Conduct and Ethics.

The VIT provide a range of supporting resources and information that is communicated to provisionally registered teachers in a variety of ways, including short videos and teachers’ guides. These resources and the level of communication were indicated by stakeholders to be successful and supported newly graduating teachers to engage with the Institute in a meaningful way. However, the Review found that there is room for greater work to be done in lifting the standards of teacher quality, and it does not fully utilise its opportunity and role in proactively supporting quality teaching through educating the profession about the standards. Consultations and the Review’s Survey of Provisionally Registered Teachers revealed that the VIT could be more active and involved in supporting teachers to ensure compliance with the standards.

It is recommended that the VIT expand its activities beyond a narrow focus on compliance, towards actively working with the profession to educate teachers and the community about teacher quality. This includes showcasing leading practice in teacher quality, but should not extend to advocacy and representation of the profession.

²³2002, VIT Strategic Plan 2002-2006

2.4 Expert capability and agile operational requirements

This chapter approaches the VIT's capability to effectively and efficiently discharge its responsibilities from an organisational perspective, examining the VIT's capability, structures, operational frameworks, key practices, culture and ways of working.

The Review found that there are a number of changes needed in order to support the VIT develop the key features of a high-performing organisation, including:

- Fit for purpose organisational design
- Strong and effective leadership who role model the vision and values of the organisation
- A high-performing and agile workforce with the capability to perform its functions
- A functional and collaborative culture which engages and motivates its people
- Effective organisational development and human resource management.

The key findings and recommendations in relation to each of these areas are identified below.

Organisational design

The Review identified clear roles, responsibilities and accountabilities as a key precondition for success. Essential to achieving this future state is having a fit-for-purpose organisational structure, aligned to and guided by a clear organisational strategy. The Review examined the current structure, functional organisation and high level resource allocation of the VIT and made a number of observations.

The Review found the current divisional structure at the VIT does not reflect the core regulatory functions of the organisation. The core regulatory functions of the organisation are distributed across three divisions, and organisational resources and Executive positions are concentrated in corporate / support functions as opposed to core regulatory functions. Spans of control for VIT Executives are unbalanced and role levels are potentially not reflective of the relative responsibilities of staff. It appears to the Review that the current organisational structure has evolved in an ad hoc and confused manner since a 2015 organisational review, now reflecting a hybrid model where the majority of regulatory services resources (in terms of headcount) are actually located within the Business Services Directorate.

The Review recommends that following the appointment of a new CEO, the VIT consider opportunities to streamline and enhance Corporate Services through the introduction of a shared services model with the Department or other public sector entities. Thereafter, the VIT should revise the organisational structure, giving consideration to realigning divisions / branches to integrate like functions. It must also ensure that a more appropriate balance is struck between corporate and regulatory resource allocation, including with regards to the composition of the Executive and allocation of the most senior roles in the organisation. Executive roles must also be 'right-sized', with appropriately balanced spans of control, functions, roles and responsibilities.

Leadership and accountability

Any successful organisation begins with effective leadership. It comes before strategy, function, structure and business planning. In addition to consulting broadly with external stakeholders and VIT staff, the Review team has met several times with the leadership of the VIT to consult and seek input in relation to the terms of reference. From this engagement, the Review makes the following range of observations.

- Staff consulted consistently reported a lack of engagement and responsiveness to feedback by senior leaders.
- Decision-making transparency and communication needs to be improved.
- There is inconsistency in the empowerment of management-level staff to perform their role with an appropriate degree of autonomy.

- There is an absence of consistent engagement between the Council and the organisation's staff, outside of the CEO.

As a result of these findings, the Review recommends the VIT strengthen executive leadership of the organisation. This includes changes to empower and hold accountable leadership at all levels, build stronger linkages between Council and the organisation, and unify the organisation around a shared sense of identity and purpose. This starts with the Council developing clear objectives, accountabilities and expectations with the new CEO who, in turn, develops the same with his / her Executive. A new vision for the organisation reflective of the new objects, complimented by a strong outcomes-focused strategy, must also be developed. Cross-cutting all recommendations set out in this report is the need for VIT leadership to invest greater time and resources in genuinely engaging with staff to explain issues impacting the organisation, how these issues connect with the broader operational environment, and why the organisation may be pursuing particular strategies.

Capability

The VIT requires a range of specialised technical and sector capabilities and experience in order to deliver its functions. The organisation requires both deep expertise and knowledge of the education sector, as well as contemporary expertise across regulatory functions, including regulatory policy and strategy, education, registration, data analytics and intelligence, investigation, registration, accreditation and professional development. It must be able to leverage and apply both of these capabilities, as well as key supporting functions, in order to achieve its regulatory outcomes.

The Review found that the VIT has developed or improved a number of capabilities and areas of expertise, including in regards to professional registration, accreditation, and client services. It was also found, however, that the VIT needs to deepen its education sector and teaching expertise. External stakeholders consistently expressed concern about a lack of contemporary teaching expertise within the VIT. Several stakeholders noted that this capability had declined over time.

The Review recommends that the VIT establish a Principal Practitioner role within VIT. This role would be a senior executive-level position, part of the executive leadership team of the VIT, and work at a strategic-level to ensure that the VIT develops and maintains the necessary education and teaching expertise and capability to support the organisation deliver its functions. A Principal Practitioner role should be filled by a highly experienced and respected teaching practitioner, who will build credibility and public trust in the organisation's teaching expertise. This will support the organisation to be perceived as one that adds genuine value to the education sector.

Having engaged with external stakeholders across the education and co-regulatory sector, it is clear to the Review that the VIT is perceived as a largely passive organisation from an engagement perspective, and is relatively invisible to the profession and other stakeholders. Strengthening and broadening strategic stakeholder engagement capability is required. This extends beyond mere information provision, and extends to proactive relationship building, listening to stakeholders, and building trust through open, regular and transparent engagement.

Culture

*"Culture matters because it impacts on most other organisational dynamics; it influences how organisations manage complexity, ambiguity and change. When organisational cultures are dysfunctional, staff become disengaged, and serious underperformance becomes a risk."*²⁴

Regulators do not create public value, their staff do. An engaged, motivated and collaborative workforce and organisational culture is fundamental to the success of any organisation. In a dynamic regulatory environment, a functional workplace culture where staff feel motivated, valued, respected and supported becomes an even more important enabler for the VIT to perform its functions.

The Review team met with a range of committed staff who expressed a passion for their work. Many staff and Council members at the VIT have dedicated their career to the teaching sector, and several have been associated with the Institute for many years, even pre-establishment. The Review

²⁴ 2013, VPSC Leading Public Organisations, 'Organisational Culture'

acknowledges that the project was undertaken at a difficult time for the organisation, however, having engaged with roughly one-third (30+) of the staff of the VIT and several former staff members, the workplace culture of the VIT was found to be of significant concern.

The Review found that the VIT displays characteristics of an adversarial and disrespectful culture. In its engagement externally, a significant number of key stakeholders described an Institute fiercely protective of its independence, lacking transparency in its processes, sometimes adversarial in its approach, and reluctant to proactively collaborate except where a strong (often legalistic) justification existed. In its engagement internally with staff, a culture lacking in transparency, openness, collaborative behaviours and strong and positive engagement between leadership and staff was also described by a significant number of staff at forums, during interviews and in written submissions. These characteristics of an adversarial and disrespectful culture appear to have manifested in a range of areas, most notably a staff turnover rate consistently above 30 %, roughly 15 % above average benchmark.

Throughout the Review, a large number of VIT staff expressed serious concern about the current workplace culture and human resource practices of the organisation. A number of consultations and submissions noted concerns about serious and persistent issues related to declining staff morale, employee satisfaction, and high levels of workplace stress. A significant amount of the individual submissions received from current and former VIT staff raised allegations of a serious nature regarding workplace behaviour and conduct. The 2014 Peoples Matters survey also provided evidence of significant cultural issues. Collectively, if this situation is accepted on its face as being factual (and without the scope of the Review allowing for investigation of any allegations), these inputs evidence potential unacceptable workplace culture and behaviours which may be in breach of the Victorian Public Sector Commission Code of Conduct²⁵.

The Review finds and recommends that significant cultural change is required. People management skills across the VIT must be improved as well as collaboration across divisions and units. The VIT Executive must lead this cultural change. The Review recommends that the VIT develop a people and organisational change strategy and plan, clearly aligned with the Victorian Public Sector Code of Conduct and the new Council Charter. This strategy should include agreed organisational values and be owned by the CEO, with progress against objectives regularly reported to Council and staff at the VIT. The VIT also must put in place mechanisms and processes which prioritise the safety and wellbeing of VIT employees who have experienced or been exposed to potential harm in the workplace. Finally, the VIT must prioritise the importance, visibility and staff accountability for common organisational objectives, which require the contribution of multiple divisions, as well as staff engagement and culture key performance indicators (KPIs), which should be included in the position descriptions of all staff with people management responsibilities.

Human resource management and organisational development

Human resource management and organisational development is a key function for any organisation, overseeing the recruitment, performance management, organisational development, compensation and workplace culture. Managed effectively, the function is a critical enabler of a high-performing organisation. Performed ineffectively, an entity can struggle to attract and retain the right capability and capacity and build a collaborative workforce culture.

The human resource management function, currently located within the People and Culture Directorate, is significantly under-developed at the VIT. Key relative observations made by the Review include an absence of up-to-date business plans, policies and position descriptions for the organisation. The Review found gaps in good practice staff engagement activities, including regular and consistent staff surveys. VIT staff expressed concern that recruitment practices are not conducted in line with good practice, and they lacked confidence that issues raised would be proactively managed and addressed.

²⁵ Submissions received which alleged bullying behaviour or other improper conduct that had:

- either been notified to VIT human resources and not, in the submitter's opinion, been adequately managed; or
 - had not been notified to VIT human resources for fear of detrimental action;
- have been advised by the Review of the appropriate course of action should they want to take their issues further.

The Review recommends that the VIT develop and implement a more mature and contemporary approach to organisational development and human resource management, with specific attention given to implementing more robust and consistent staff survey and engagement mechanisms. This includes regular People Matters surveys, robust exit interview processes, and a commitment to continuous improvement and reporting on issue areas and actions taken.

Chapter 3: Implementation considerations

The Review understands that legislative reform can be a lengthy process, however, a significant majority of the Review's recommendations in regards to the VIT's governance, regulatory approach, leadership, capability, and culture can and should be undertaken in the short to medium term. The recommendations that require legislative change and / or major structural reform to the organisation will require additional time to properly scope, plan and implement. Recommendations requiring legislative change have been identified as such in the report. In addition, recommendations impacting the structure of the organisation have also been clearly identified and, in most cases, these are recommended for implementation after the appointment of a new CEO.

The Review has identified a significant number of reforms that the VIT will need to take forward. These reforms will require robust governance, planning, consultation, project management, implementation and monitoring. At the same time, effective business-as-usual operations will need to be maintained. Sourcing funding for these reforms will need to be undertaken as a priority, and the Review recommends the VIT utilise its accumulated surplus of approximately \$6,570,000 in the 2016-17 Annual Report²⁶. Should additional funding be required beyond this amount, the VIT should seek a one-off injection of funding to implement reforms. While the Victorian registration fees for initial registration are lower than some other Australian jurisdictions, the Review does not recommend that the VIT consider increasing registration fees in the short-term due to the need for the VIT to strengthen stakeholder relationships and transform key aspects of its operations²⁷. Once the recommendations of the Review are implemented and have been operational for a period (12-24 months), the VIT should then consider the appropriateness of current registration fees to fund ongoing operations.

²⁶ 2017, VIT, 'Annual Report 2016-17', accessed at <http://www.vit.vic.edu.au/who-we-are/annual-report>

²⁷ For example, Western Australia (\$166), Tasmania (\$146), Queensland (\$141.60) – higher than Victoria's \$126. Figures taken from state registration body website in September 2017.

Review Recommendations

Chapter 2.1: Legislative Framework

Recommendation 1

The Review recommends a comprehensive overhaul of Part 2.6 of the Act in order to streamline its operation and to ensure that it represents modern regulatory practice in connection with professional disciplinary schemes. In overhauling Part 2.6, consideration needs to be given to:

- a) Creating a standalone principal act establishing the VIT and giving the VIT its disciplinary powers.
- b) Changing the name of the VIT to “Teacher Regulation Victoria” to more accurately reflect its function as a regulator and to provide for a fresh start on commencement of the new regulatory regime.
- c) Giving the VIT specific legislative objects in relation to:
 - Ensuring child safety and wellbeing
 - Taking into account community expectations
 - Ensuring quality of teaching and teachers.

Recommendation 2

As part of the overhaul of Part 2.6 of the Act:

- d) The VIT hearing panel system be abolished.
- e) Allegations of teacher misconduct or incompetence (including medical matters, but not including minor matters) be heard and determined by VCAT.
- f) VCAT determines the composition of members who will hear matters brought by the VIT, but the relevant VCAT list should include members with contemporary teaching experience (particularly to hear teacher competence matters).

Recommendation 3

As part of the overhaul of Part 2.6 of the Act:

- a) The VIT Council, or an appropriate committee of the Council (currently the Professional Conduct Committee), determines following a VIT investigation, whether a particular matter is referred to VCAT. The VIT to retain current decision-making powers on initial and other registration issues – at a Council or committee level – with existing review of those decisions in VCAT maintained.
- b) A simple, clear definitional threshold for teacher misconduct warranting referral to VCAT is determined so that only minor matters (for example, swearing in front of a student or registration fees not paid) are reserved for disciplinary decision by the Council or relevant committee of the Council under delegation from the Council. This definitional threshold should be determined by reference to current, best practice professional regulation legislation, such as the Health Practitioner Regulation National Law and legal profession

schemes²⁸. With appropriate modification, the actual definitions from either of those schemes could be mirrored in the teacher misconduct scheme.

Recommendation 4

To ensure that Division 8A of the Act operates fairly, the Review recommends that:

- a) Decisions under Division 8A are made subject to review by VCAT as part of the Part 2.6 overhaul.
- b) Decisions under Division 8A are made by Council, or a committee of Council - potentially the PCC or a new committee convened specifically for making Division 8A decisions. This will require amendment of section 2.6.67 of the ETRA as currently only the Council itself or the CEO under delegation can make Division 8A decisions.

Recommendation 5

Implementation of the recommendations in this report be reviewed in 12 months' time and:

- a) If the VIT has not made significant progress towards implementation, the option of abolishing the VIT and amalgamation of its functions with the VRQA be reconsidered.
- c) In the interim, opportunities to strengthen the relationship between the VIT and the VRQA through physical co-location and shared services be considered.

Recommendation 6

Consider amending the legislative requirements of the VIT scheme to ensure equivalency with the Working with Children Check scheme, to the extent the policy objectives of the two schemes are aligned; and following legislative amendment (if that is required) include a statement on VIT registration cards to communicate that a person who holds a valid VIT card is not required to hold a WWC Check when engaging in child-related work given that the VIT registration and Working with Children Check schemes generally have similar and equivalent requirements.

Recommendation 7

The VIT and DOJR collaborate to ensure that the best practice elements of DOJR's administration of the Working with Children Check scheme are adopted by the VIT through staff secondments and out-posting and potentially through a service provision MOU between DOJR and the VIT.

Recommendation 8

The VIT to immediately agree and review any existing MOUs with CCYP, Victoria Police and the other noted co-regulators so that respective RCS role and responsibilities are clarified.

Establish a formal forum for DOJR, VIT, QARD, VRQA, CCYP and Victoria Police to come together as co-regulators in the child safety and welfare sphere.

²⁸ For example, for disciplinary matters, the *Legal Profession Uniform Law Application Act 2014* (Vic) uses the threshold of unsatisfactory professional conduct for more minor matters, and professional misconduct for more serious matters – see sections 297 and 298 of the *Legal Profession Uniform Law*. Section 298 of this law gives a clear definition of conduct capable of giving rise to both types of unacceptable conduct. Section 5 of the *Health Practitioner Regulation National Law* – contained in the *Health Practitioner Regulation National Law (Regulation) Act 2009* (Vic) – uses the threshold of unprofessional conduct for more minor matters, and professional misconduct for more serious matters. This section also imports use of a “fit and proper” person test, which is also used elsewhere in the *Legal Profession Uniform Law*.

Part 2.2: Governance arrangements

Recommendation 9

To ensure consistency of the VIT governance obligations with other Victorian public sector entities, and to ensure that the VIT has the proper governance settings mandated, declare Part 5 of the *Public Administration Act 2004* to apply to the VIT.

Recommendation 10

Immediately refresh the VIT Council's Charter to align with contemporary governance practices, including regular Council performance reviews and periodic independent performance reviews of Council. Council should also establish a Council Code of Conduct based on the VPSC guidance, but tailored to the VIT, at the same time the new Charter is adopted.

Recommendation 11

Immediately establish a delegations framework and review of all delegations made by the Council with a view to reserving important matters for Council decision, rather than for decision by the VIT Executive.

Recommendation 12

Strengthen advice given to the VIT Council and VIT governance by:

- a) Appointment of independent members to relevant Council committees as detailed in this report.
- b) Establishing a program of rigorous, ongoing training for Council members in relation to their role and duties as Council members, as detailed in this report.
- c) Reviewing and amending section 2.6.6A of the Act (as part of the overhaul of Part 2.6), to complement the knowledge, experience and skill sets currently required by the legislation. Particular consideration should be given to inclusion of a member with regulatory expertise on the Council.

Recommendation 13

Establish a new committee structure for Council in accordance with the recommended committee structure in this report, including:

- a) An articulate and clear framework for Council membership on committees.
- b) Relevantly qualified independent members - including senior teachers, where appropriate, and potentially others with regulatory expertise - on all committees, where possible, as noted in Recommendation 12.
- c) Establishing a community expectations advisory committee modelled on the Ontario model set out in this report.

Recommendation 14

Council commissions a review of Council Secretariat support within the VIT to ensure that the Council's operations are properly supported.

Recommendation 15

Establish an internal VIT taskforce to thoroughly refresh the VIT's internal and external policies and procedures to ensure they align with best practice and broader government policy for regulators and statutory authorities.

Recommendation 16

Implement recommendations 9-16 in this report, where possible, using the governance models and templates established by the VRQA, including establishing regular meetings, forums and information sharing protocols with the Minister and Department in accordance with this report and the VRQA model.

Part 2.3: Contemporary risk based regulatory functions**Recommendation 17**

Develop and publish a set of contemporary regulatory principles which apply to all functions and activities of the organisation. Following this, revise the Compliance and Enforcement Framework to be more targeted, tailored and reflective of best practice regulatory principles.

Recommendation 18

Ensure all regulatory policies and procedures are fully developed, up to date, clearly align with the new regulatory principles and are reflective of a contemporary, risk-based regulatory approach.

Recommendation 19

The VIT leverage its data to better inform and draw out intelligence about where areas of regulatory risk exist in teacher regulation, including through establishing partnerships with research and / or tertiary institutes.

Recommendation 20

Embed a more clearly defined outcomes-based approach to corporate planning and performance measurement that aligns with that of standard Victorian public sector practice.

Recommendation 21

Ensure reforms to registration processes and customer-interfaces, including migration to online registration and renewal processes across all registration processes are completed by the end of 2018.

Recommendation 22

Expand future-focused research activity, including through facilitating and fostering stronger feedback loops between ITE providers and employers.

Recommendation 23

Undertake a significant shift toward more risk-based, intelligence-led and outcomes-focused regulation in the immediate term to assist in best targeting resources. This should include utilising the full suite of compliance activities and significantly increasing assistance given to teachers to comply with the standards and prevent misconduct.

Recommendation 24

Improve the efficiency, consistency and timeliness of enforcement processes by adopting risk-based triage and other processes which ensure reduced duplication of effort, greater streamlining, and improved notifier-experience.

Recommendation 25

Expand its activities beyond a narrow focus on compliance, towards proactive education of teachers and the community about teacher quality. This includes showcasing leading practice in teacher quality. It should not extend to advocacy and representation of the profession.

Part 2.4: Expert capability and agile operational requirements**Recommendation 26**

Following the appointment of a new CEO:

- The VIT consider enhancing and streamlining its Corporate Services through the introduction of a shared services model.
- Revise the organisational structure, giving consideration to:
 - a) Realigning divisions / branches to integrate like functions (e.g. corporate, accreditation, registration, conduct and compliance).
 - b) Ensure a more appropriate balance is struck between corporate and regulatory resource allocation, including with regards to the composition of the Executive and allocation of the most senior roles in the organisation.
 - c) Executive roles being 'right-sized', with appropriately balanced spans of control, functions, roles and responsibilities.

Recommendation 27

Strengthen the executive leadership of the organisation, including through:

- a) Developing a vision for the organisation reflective of the new objects, complimented by a strong outcomes-focused strategy.
- b) Ensuring alignment with GSERP and VPSC executive performance management guidance.

Recommendation 28

Strengthen staff engagement, decision-making transparency and communication to improve staff morale and associated performance of the VIT.

Recommendation 29

Establish an executive-level Principal Practitioner position as a direct report to the CEO. This position should support the building of public trust and confidence in the VIT's teaching expertise.

Recommendation 30

The Review recommends the VIT Executive and Council strengthen strategic stakeholder engagement capabilities and activities, including by:

- a) Prioritising this in the strategic plan.
- b) Aligning organisational and leadership KPIs to reflect this priority.

Recommendation 31

Develop a people and organisational change strategy and plan that is clearly aligned with the Victorian Public Sector Code of Conduct and the new Council Charter. This strategy should be developed through positive, proactive engagement with staff and include agreed organisational

values. It should be owned by the CEO and the VIT Council Chair, with progress against objectives regularly reported to Council and staff at the VIT.

The VIT to consider use of an independent organisational consultant to co-facilitate engagement with staff before, during and after development of the strategy.

Recommendation 32

Prioritise safety and wellbeing of VIT employees who have experienced or been exposed to potential harm in the workplace, including through:

- a) Developing a clear policy and organisational process for promoting the Code of Conduct, and managing allegations of bullying or other violations of the Code.
- b) Transparently promoting this across the organisation, championed by the VIT Executive.
- c) Ensuring staff found to be engaging in inappropriate behaviours are the subject of timely and appropriate disciplinary processes.

Recommendation 33

Prioritise the importance, visibility and staff accountability for:

- a) Common organisational objectives, which require the contribution of multiple divisions.
- b) Staff engagement and culture KPIs – which should also be included in the position descriptions of all staff with people management responsibilities and results in a key input to performance reviews.

Recommendation 34

Implement more robust and consistent staff survey and engagement mechanisms, including regular People Matters surveys and robust exit interview and continuous improvement processes. Develop an annual action plan to ensure continuous improvement in regards to organisational development and human resource management.

About the Review

Review context

The Victorian Government has commissioned an independent review of the Victorian Institute of Teaching (the VIT) and its Council to ensure that the VIT has the required capability to acquit its responsibilities in regards to child safety and teacher quality now and into the future.

The VIT was established under the *Victorian Institute of Teaching Act 2001*, and began operating in 2002. Since that time, it has been subject to a number of legislative reforms that have influenced its role and functions. In addition to these changes, the VIT has had to negotiate an increasingly complex regulatory landscape in which it is required to manage competing interests and shift its focus toward a more overt emphasis on child safety.

In recent months, increasing concerns have been raised about the VIT's ability to meet legislative requirements and align with community expectations.

The Deputy Premier and Minister for Education, the Hon. James Merlino MP, requested an independent review of the VIT and its Council to ensure that the regulator has appropriate governance and operational frameworks in place to continue to meet its obligations and function effectively into the future.

Review scope

The terms of reference of the Review are broad and future-focused. The Review has been tasked with advising the Minister on four specific matters that include the adequacy of the VIT's governance arrangements, operational frameworks, and roles and functions, to ensure it is able to meet the challenges it faces.

In addition, the Review's terms of reference ask for an examination of the VIT's role in the protection of children and its ability to acquit its responsibilities in accordance with government policy and community expectations.

While the composition of the Council was out of scope for this Review, the Council's ability to exercise its decision-making functions was reviewed.

Further scope limitations are noted throughout this report.

Figure 2 sets out the terms of reference as outlined by the Minister for Education.

Figure 2: Terms of Reference

Terms of Reference

1. The capability of the VIT to effectively and efficiently discharge its responsibilities and perform its current functions in accordance with community expectations.
2. The scope and adequacy of the VIT's governance arrangements and operational frameworks, including decision-making practices, policies and procedures, to enable it to effectively and efficiently discharge its responsibilities and perform its functions.
3. The appropriate role and functions for the VIT in light of government policies to ensure the safety and protection of children, as well as to respond to other developments in the education sector.
4. Any other matters that would be appropriate to reflect developments in contemporary law and policy, and that are reasonably incidental to the above matters.

Review approach

The Review was established in late August 2017, when the Minister appointed Penny Armytage as the Independent Reviewer of the VIT's governance and operations.

Commencing on 21 August, 2017, the Review was conducted over 14 weeks and concluded on 24 November, 2017 when a report was submitted to the Minister. The Independent Reviewer was supported by a secretariat drawn from KPMG, which included team members with significant regulatory, governance and education policy experience.

The Review operated independently of the Department of Education and Training (DET) and the VIT. It was conducted in accordance with the prescribed scope and terms of reference, and meets requirements set for being an independent inquiry.

The approach to the Review included the following key activities:

- An extensive desktop analysis of the current state of the VIT. This included requesting and reviewing information, organisational documents and operational data provided by the VIT to review organisational structures, governance arrangements and decision-making frameworks, as well as processes and practices within the VIT in regards to teacher conduct and compliance in schools and early childhood settings.
- An examination of past reviews, including FJ and JM King and Associates' Review of the Victorian Institute of Teaching, March 2008, the VAGO Review of the Victorian Institute of Teaching 2011, and other confidential reports, was undertaken.
- Comparator professional regulatory bodies were examined in order to build a strong understanding of emerging trends and challenges across similar agencies.
- The Review examined national and international comparator teaching regulators to gain insights into emerging trends in the sector, including as it relates to child safety. The Review team identified the Queensland model as one of particular interest, and visited Brisbane to meet with a range of key stakeholders.
- Co-regulators, academics, peak bodies and school and early childhood teacher employers were consulted to gain an understanding of the broader contextual operating environment for the VIT, particularly in light of broader child safety policies and developments in the education sector.
- Parent and principal forums were held to better understand perceptions of the role and capability of the VIT with regards to the discharge of its responsibilities and functions in accordance with community expectations. These included early childhood parents and service providers.
- A survey was distributed to all provisionally-registered teachers in Victoria to seek specific insight into the expectations of new teachers entering the State's education system.
- Targeted future state forums and workshops were conducted to test emerging themes and opportunities for reform to improve the VIT's current operational and governance arrangements in light of the current broader contextual environment.
- Priority areas for action were identified to help improve decision-making within the VIT, and the Review team designed practical and actionable recommendations, differentiated between longer-term reform priorities and short-term imperatives.
- The practicality of implementation was considered when designing recommendations, however, the costs and benefits, or detailed implementation requirements, were not in scope given the timeframes of the Review.

Consultation program

The Review was informed by a comprehensive and rigorous consultation program. Initial consultations were held with key executive stakeholders from the VIT, and sector employers. This assisted to build an understanding of the environmental context of professional regulation in the education landscape, and moved on to more targeted consultations as the Review progressed.

Expert advice

The Review undertook more than 50 consultations with key stakeholders. Below is a list of the organisations that helped to inform the Review.

- Members of the VIT executive and management team
- Employers from the Department of Education and Training, Catholic Education Commission of Victoria (including several of the Catholic Dioceses), and Independent Schools Victoria
- Sector unions, including the Independent Education Union, Australian Education Union, Community and Public Sector Union
- Sector peak bodies, including the Australian Institute of Teaching and School Leadership, parent representatives from government, Catholic and independent peak parent groups in Victoria including Parents Victoria, and principals associations including the Australian Principals Federation, the Victorian Principals Association and the Victorian Association of State Secondary Principals
- Co-regulators the Commission for Children and Young People, Working with Children Unit of the Department of Justice and Regulation, the Victorian Registration and Qualifications Authority, the Quality Assessment and Regulation Division of the Department of Education and Training and the Victorian Civil and Administrative Tribunal
- Comparator professional regulators, including the Australian Health Practitioner Regulation Agency, Victorian Legal Services Commissioner
- National and international comparator teacher regulators, including the Queensland College of Teachers, NSW Board of studies and New Zealand Education Council and the Ontario College of Teachers. This included a visit to Brisbane to meet with representatives from the Queensland College of Teachers, the Queensland Department of Education, Queensland's Blue Card Services and Queensland's Civil and Administrative Tribunal
- Other sector leads such as academics and employer groups.

Targeted stakeholder consultations

In addition to individual consultations, the Review sought feedback directly from Victorian principals, parents and early childhood providers through selected metropolitan and regional forums.

Staff forums and future state workshops

In addition to individual consultations, the Review undertook a series of group forums and workshops to refine observations and test opportunities for reform. These included:

- Open staff forums (three open door sessions)
- VIT executive forum
- Future state forum.

Social research – teacher survey

The Review designed and distributed a survey to all provisionally registered teachers in the State. The Review received 1,954 responses to the survey. A summary of the results of that survey can be found at Appendix A of this report.

Written correspondence

The Review did not make a formal call for written submissions; however, when asked by stakeholders who interacted with the Review team, the team indicated they were happy to receive written correspondence outlining any issues which people preferred to highlight in writing. The Review team received 16 submissions from those who were consulted or made aware of the consultations.

A more detailed consultation schedule can be found at Appendix B of this report.

About the Report

This report has been designed to provide guidance to the Victorian Government with respect to the future capability requirements for the State's teacher regulator, and to help it function efficiently and effectively.

The report is structured into three chapters as outlined below:

- **Chapter 1: Changing Contexts and Emerging Trends:** Examines the unique establishment, evolution and evolving identity of the VIT in order to explore pre-conditions for future success.
- **Chapter 2: The VIT's future capability requirements:** This chapter is broken into three sub-sections that examine the future role, governance, functions, and capability of the VIT.
 - **Chapter 2.1: A fit for purpose legislative framework** - explores the need for a reformed legislative framework enable the VIT to fulfil government objectives, meet community expectations and effectively discharge its obligations.
 - **Chapter 2.2: Strong governance arrangements** – explores the scope and adequacy of the VIT's governance arrangements to ensure it can perform its role and functions effectively and in accordance with good governance principles
 - **Chapter 2.3: Contemporary risk-based regulatory functions** - explores how the VIT can strengthen its approach to undertaking its core regulatory functions
 - **Chapter 2.4: Expert capability and agile operational requirements** - examines the VIT from an organisational perspective, exploring what future capability, structures, operational frameworks, key practices, culture and ways of working the Institute requires in order to be a high performing organisation.
- **Chapter 3: Implementation considerations:** This chapter provides guidance for taking forward the reform recommendations.

1 Changing Contexts and Emerging Trends

Before examining whether the current role and functions of the VIT remain appropriate and fit for purpose, it is necessary to observe the VIT within the broader history and context within which it operates.

This chapter of the report begins by briefly overviewing the purpose of professional regulation and the history of teacher registration and regulation in Victoria. Following this, the Review examines the establishment of the VIT, its current role and functions, as well as its evolution since establishment. Particular focus has been placed on understanding broader changes in the education and child safety environment and how these impact and influence the VIT. Finally, this chapter overviews the stakeholder landscape within which the VIT operates, in the process identifying its key stakeholders and their broad expectations.

In considering all of the above, the Review identifies key pre-conditions for success for the VIT going forward. These pre-conditions frame the more detailed analysis of the VIT itself, as a regulator and public sector organisation, which are covered in later chapters.

1.1 The evolution of professional teaching regulation

Professional regulation was designed to protect consumers from poor service

Professional regulation originated in the late 19th and early 20th centuries. The development of this regulatory function was a response to the urbanisation and increase in the number of professionals as a result of social, economic and political reform that led to the modernisation of professions and the idea of professional regulation and licencing²⁹. These changes led to consumers having less knowledge about local professionals, which resulted in them receiving poor service or being misled by those who claimed to be 'doctors', 'nurses' or other professionals. As a result, governments became increasingly active in public protection and began enacting laws that required qualifications and licences for people in order to enter particular professions³⁰.

Professional regulation was first introduced to teaching in Scotland in 1965

A number of other professions such as the health, accounting, engineering and law professions were regulated prior to the introduction of teaching regulation. The first teacher regulator was established in Scotland by the *Teaching Council (Scotland) Act 1965*, which became law following concerns that entry

²⁹ 2004, Kim, S and Law, M, Specialization and Regulation: The Rise of Professionals and the Emergence of Occupational Licensing Regulation', accessed at: <http://www.nber.org/papers/w10467.pdf>

³⁰ 2004, Kim, S and Law, M, Specialization and Regulation: The Rise of Professionals and the Emergence of Occupational Licensing Regulation', accessed at: <http://www.nber.org/papers/w10467.pdf>

requirements to the teaching profession had lowered after World War II and a number of unqualified teachers were working in Scottish schools³¹.

In Australia, teacher registration was first made compulsory for employment at any school in Queensland in 1975. South Australia followed, with teachers registered in South Australia by 1976. Queensland and South Australia were the only two States to continuously have a teacher registration authority from the 1970s. Tasmania established a regulatory authority in 2000, followed by Victoria in 2001. With the emergence of significant child protection issues in the mid-to-late 1990s, and pressure for a nationally-endorsed set of standards and guidelines for the teaching profession, regulatory authorities were established in all States by the mid-2000s³².

Victoria established a teacher regulator in 2001

In Victoria, the establishment of a teacher regulatory body did not occur until 2001 with early childhood teacher registration added to the VIT's mandate from 2014. The VIT was created as a result of advice from the Ministerial Advisory Committee (MACVIT), formed in May, 2000, as a 'single common contemporary registration authority for all school teachers and principals'³³, and commenced full operations on 31 December, 2002. With its establishment Victorian teachers, irrespective of sector (government, Catholic or independent), had an independent voice and professional recognition enshrined in law³⁴.

In its initial stages, the development of the VIT was heavily influenced by the Ontario College of Teachers and the General Teaching Council in Scotland in its establishment³⁵. The VIT's initial mandate was to raise the profile and status of the teaching profession, advocate for high standards and best practice, and celebrate the contribution of its members. Its powers and functions were initially designed to provide the level of professional autonomy and self-regulation needed to maintain and improve the quality of teaching and learning in all Victorian schools and 'to enhance the status and morale of the teaching profession'³⁶.

The establishment of the VIT coincided with a broad domestic and international view that the best way to ensure the quality of teaching was to maintain and improve standards of professional practice by its members through the introduction of professional standards and credentialing - effectively raising the bar to entry into the profession. Whilst many strongly supported the establishment of the Institute, it was not strongly supported by its key system users - teachers. At this time, teachers were facing 'high levels of uncertainty about the future' and, as a response to this strong resistance to professional registration, the Government decided to include an advocacy role for the Institute in the legislation³⁷.

This professional advocacy function was formally designed to provide an authorised voice to 'speak and act on behalf of teachers' but was also informally designed in response to teachers concerns regarding 'value for money' in their registration free and strengthened stakeholder support.

At its core, a teacher regulator is responsible for registering professionals to ensure there is public confidence in the quality of teachers³⁸. What defines public confidence is sometimes contested, but there are common values that can help us to understand how to navigate the political, cultural, and economic factors which influence the community's expectations³⁹.

³¹ 2016, The General Teaching Council for Scotland, 'History of GTCS', accessed at: <http://www.gtcs.org.uk/about-gtcs/history-of-GTCS.aspx>

³² 2014, The Teachers Board of South Australia, 'Submission in response to the South Australian Government boards and committees reform', access at <http://www.dpc.sa.gov.au/documents/rendition/B17977>

³³ 2003, VIT, 'Annual Report 2002-2003', accessed at <http://www.vit.vic.edu.au/who-we-are/annual-report>, p. viii

³⁴ 2003, VIT, 'Annual Report 2002-2003', accessed at <http://www.vit.vic.edu.au/who-we-are/annual-report>

³⁵ 2008, FJ & JM King and Associates, 'Review of the Victorian Institute of Teaching', p.7

³⁶ 2008, FJ & JM King and Associates, 'Review of the Victorian Institute of Teaching', p.6

³⁷ 2008, FJ & JM King and Associates, 'Review of the Victorian Institute of Teaching', p.6

³⁸ 2008, FJ & JM King and Associates, 'Review of the Victorian Institute of Teaching', p. 6

³⁹ 2007, Ontario College of Teachers, 'Summary Report on Defining the Public Interest', accessed at https://www.oct.ca/-/media/PDF/Summary%20Report%20Defining%20the%20Public%20Interest/EN/public_interest_summary_e.pdf

The public want to place their trust 'where it is deserved – in others who are trustworthy'. To build trust, it is critical that stakeholders perceive the regulator to be **competent, honest and reliable**⁴⁰.

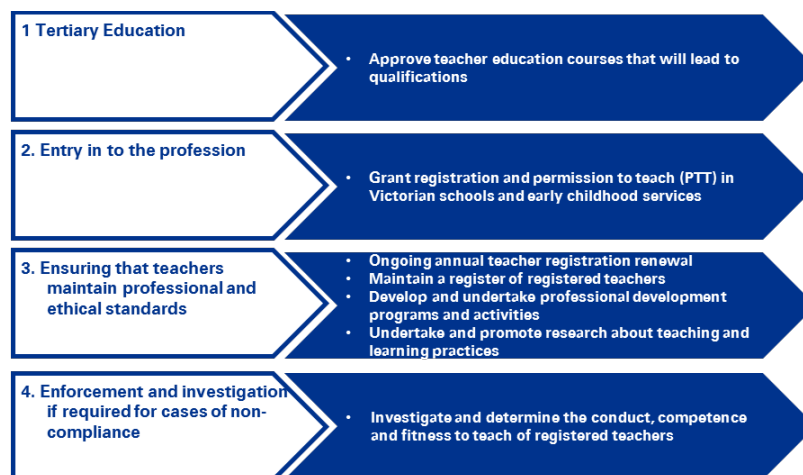
1.2 The VIT's journey since establishment

The VIT's mandate is to regulate in the 'public interest'

The VIT is an independent statutory authority that regulates the teaching profession in Victoria. It was established by the *Victorian Institute of Teaching Act 2001* (now repealed) on 18 December 2001 and now operates under Part 2.6 of ETRA. The VIT reports to the Minister for Education and, like all public entities, must submit an Annual Report which is tabled in Parliament. It is a legal requirement for all teachers to be registered with the VIT in order to be employed in a school or early childhood setting. Importantly, the VIT regulates teachers across all systems and sectors including government, independent, and Catholic systems.

The VIT identifies its primary purpose as to "regulate the Victorian teaching profession in the public interest"⁴¹. The VIT describes its functions as "to serve the general public by ensuring that teachers have high ethical and professional standards, to safeguard the integrity of the profession and ensure that teachers meet professional standards"⁴². The VIT currently does this in a number of ways during the career cycle of a teacher, outlined in Figure 3.

Figure 3: The VIT's core activities over the life cycle of a teacher



Source: The VIT Review adapted from ETRA⁴³

The VIT aims to protect children by ensuring that every registered teacher in Victoria is a suitable person to teach, and by ensuring that registered teachers know their responsibilities in relation to their own conduct, and their obligation to ensuring the wellbeing of children they instruct.

⁴⁰ 2015, Onora O'Neill, 'Spotlight – Trust, Trustworthiness and Transparency, European Foundation Centre, accessed at: <http://www.efc.be/human-rights-citizenship-democracy/trust-trustworthiness-transparency>

⁴¹ 2017, VIT, 'Annual Report 2016-17 accessed at <http://www.vit.vic.edu.au/who-we-are/annual-report>

⁴² Date unknown, 'VIT Educational Video for provisional teachers', provided via email

⁴³ Education and Training Reform Act (2006), Victoria

The VIT is empowered to investigate a range of concerns relating to registered teachers and, where necessary, exercise disciplinary functions and impose sanctions. The VIT is able to respond to a range of matters, including:

- Competence
- Fitness to teach
- If a teacher's ability to practice as a teacher or an early childhood teacher is seriously detrimentally affected or likely to be seriously detrimentally affected because of an impairment.

The VIT has been subject to many reviews and that have impacted its evolution

Since 2000, there have been many policy and legislative reforms that have influenced the VIT's role and functions. The VIT was established in 2002, with the purpose of "promoting and improving, for the public benefit, the quality of teaching in all Victorian schools through the regulation of the teaching profession"⁴⁴.

Since its establishment, the VIT's role has evolved considerably. The review undertaken by FJ and JM King & Associates in 2008 recommended a shift in the VIT's primary role and purpose. The King Review (2008) led to the following key changes to ETRA:

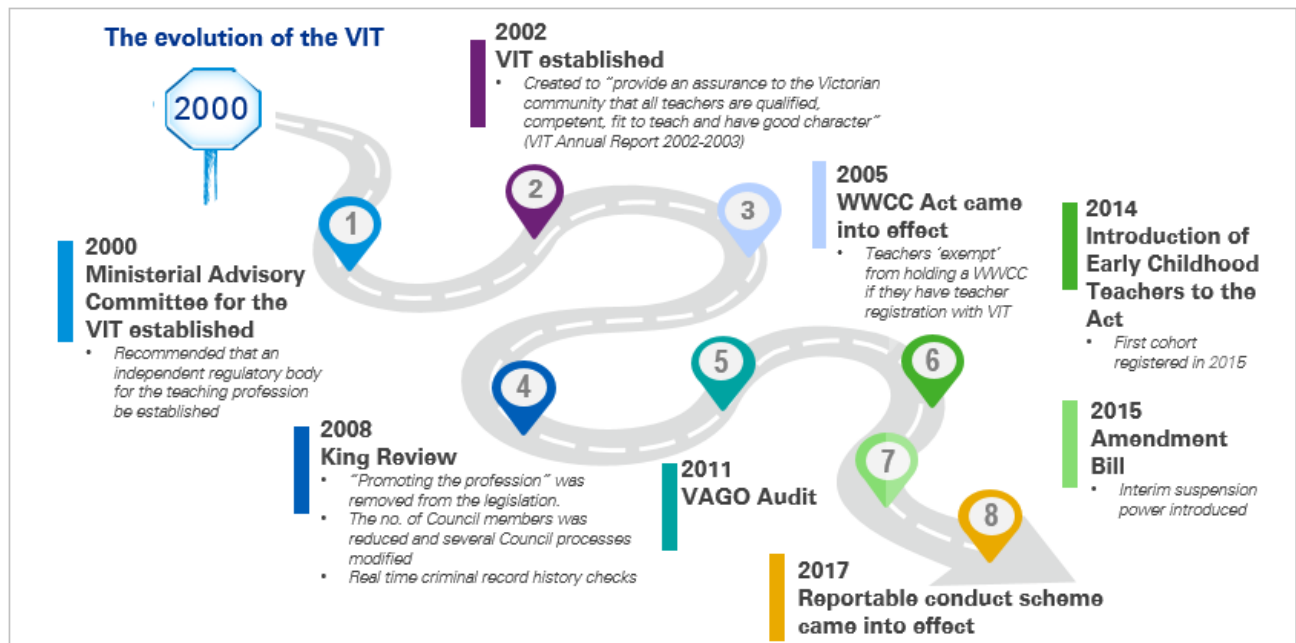
- The VIT Council membership was reduced from 21 to 12 members
- 'Promotion of the profession' was removed as a function of the VIT
- Increased investigative powers for the VIT and the introduction of a hearing panel pool
- Early childhood teacher registration added to the VIT's mandate in 2014.

A Victorian Auditor General's Office (VAGO) Audit was undertaken in 2011, which found that the VIT was largely fit for purpose but identified a number of key areas for improvement. Another significant recent reform has been the requirement for early childhood (kindergarten) teachers to register with the VIT. This began on 30 September 2015. More recently, the interim suspension power was introduced in 2016, giving the VIT the power to suspend a registration where it believes there to be unacceptable risk of harm to children. The regulatory space has also become increasingly complex with the introduction of the Working with Children Checks (WWCC) in 2005 and the Reportable Conduct Scheme (RCS) in 2017.

⁴⁴ 2003, VIT, Annual Report 2002-2003, accessed at: <http://www.vit.vic.edu.au/who-we-are/annual-report>

A high level diagrammatic overview of the evolution of the VIT is contained in Figure 4.

Figure 4: The evolution of the VIT



Source: The VIT Review

This Review is another important juncture in the evolution of the VIT. The King Review (2008) found that the VIT's history was 'characterised by a lack of clarity between the roles and responsibilities of the regulator and its stakeholders'⁴⁵. Nearly 10 years later, external and internal stakeholders consulted as part of this Review have noted that, over time, the VIT's identity has become increasingly unclear, particularly in the period since "promoting the profession" was removed from the Institute's role. The identity of the VIT and its relationships with stakeholders is explored further in subsequent chapters of this report.

1.3 An increasingly complex environment

In parallel to the evolving role, functions and powers of the VIT, the environment in which the VIT operates has become increasingly complex and challenging to navigate. There is greater demand for transparency and accountability on public sector entities when it comes to issues of child safety and professional misconduct in schools, as well as around education and regulation more generally, leading to challenges for teacher regulators around the country.

⁴⁵ 2008, FJ & JM King and Associates, Review of the Victorian Institute of Teaching, p. II

The numerous large-scale reforms and cultural shifts have heavily influenced the evolution of the VIT, and the organisation has responded to these with varying degrees of success. Key changes that have influenced the VIT include:

- **An evolving policy landscape:** *including a need to increasingly focus on co-regulation and child safety.*
- **Education sector reforms:** *creating uncertainty and perceived change fatigue across the education sector.*
- **Changing workforce needs:** *including a shift towards more flexible and specialised professionals.*

Each of the above key environmental changes are explored below.

1. An evolving policy landscape

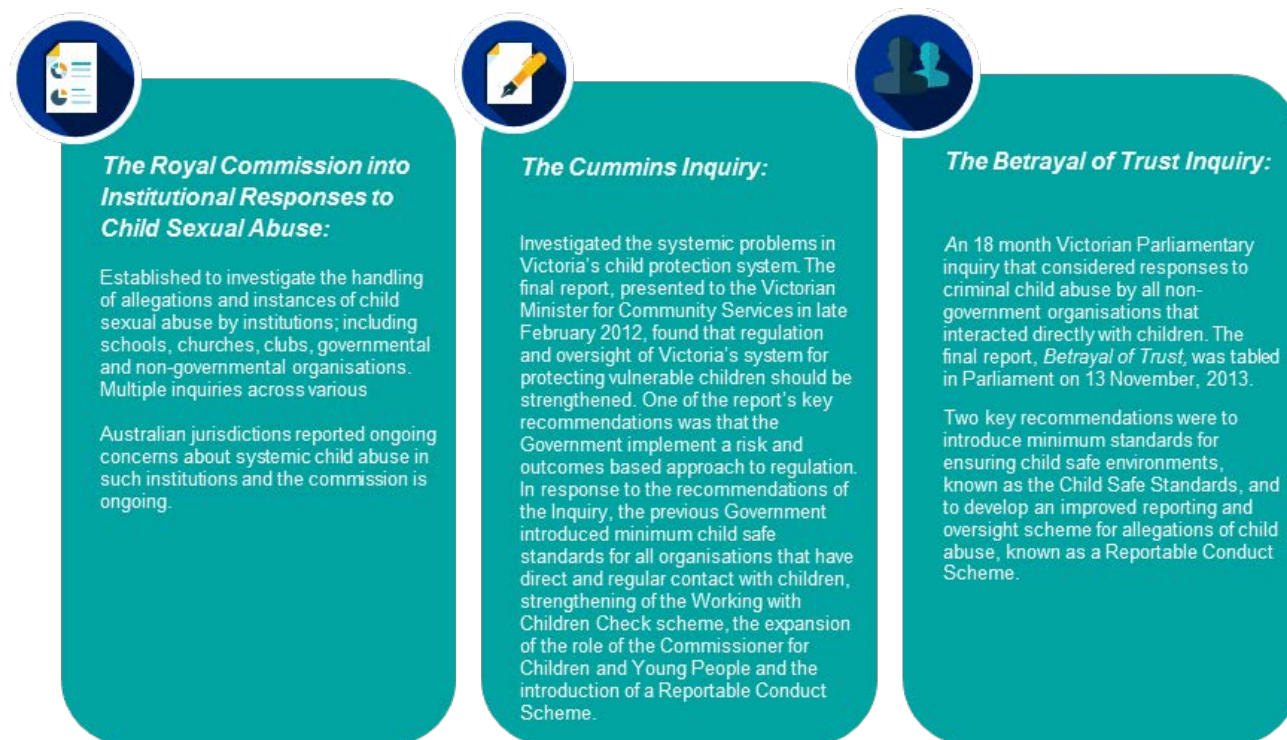
Increased focus on child safety

In recent years, governments across Australia have been examining in depth the effectiveness of systems in place to protect children from abuse. Recent inquiries, and the national Royal Commission into Institutional Responses to Child Sexual Abuse, were established in response to a range of systemic failures to protect children and young people in care.

The submissions to, and findings and recommendations of, these inquiries have highlighted a need across the country to strengthen the protection provided to vulnerable children and young people, particularly when allegations are made within institutions. These inquiries have also asked the community to place greater emphasis on transparency and accountability.

Figure 5 provides an overview of recent inquiries that have provided landmark reports related to child safety, including in the education sector.

Figure 5: Overview of recent inquiries related to child safety⁴⁶



Source: The VIT Review have adapted from multiple sources

⁴⁶ Overview was taken from the following sources:

- 2017, Child Abuse Royal Commission, accessed at: <https://www.childabuseroyalcommission.gov.au/>

These inquiries and resulting schemes demonstrate the heightened awareness amongst the Victorian community around issues of child abuse and professional misconduct. There is now an increased expectation that educational institutions adopt a continuous improvement approach to keeping children safe from child abuse.

A complex co-regulatory environment

The VIT now operates in a complex co-regulatory space. As a regulator of the teaching profession, the VIT has an important role to play in both protecting the rights and interests of children and upholding natural justice, but it no longer has exclusive domain in the regulatory space. It is important that the VIT works collaboratively with other regulators, departments and service providers to align responses to child safety matters, as no single regulator can deliver the child safety outcomes independently.

Within this broader context, two key regulatory schemes have recently been introduced.

- WWCC was established in 2005. This 'scheme is a key aspect of the child protection landscape in Victoria and helps protect children from physical and sexual harm'⁴⁷. The WWCC conducts National Criminal History Record Checks (NCHRC) on each applicant. This scheme was established after the VIT and it was determined that, by registering with the VIT, teachers would be 'excluded' from the WWCC scheme because teachers were required to also undergo a NCHRC as part of their registration.
- RCS was implemented in Victorian schools in July 2017. Under this scheme, all principals are required to bring certain allegations of misconduct by employees to the attention of the CCYP. This has brought an increased awareness amongst the school community around issues of teacher behaviour and child safety. Under the RSC, the CCYP receives reports from a school and refers matters to the VIT.

There is a growing need for the VIT's operation, legislative frameworks and governance arrangements to better reflect the importance of child safety and wellbeing, and align with the other regulatory schemes. The implications of this will be discussed in more detail in subsequent chapters of this report.

Increased focus on ethics and accountability

Victorian public sector entities, including the VIT, are now subject to much greater public scrutiny regarding internal ethics and accountability processes and procedures.

The public sector is under increased pressure to provide greater transparency in policies and processes. Public scrutiny has increased, and the Government has introduced reforms designed to strengthen the individual powers and processes of independent integrity agencies, such as the Independent Broad-based Anti-corruption Commission (IBAC), the Victorian Ombudsman and the Auditor-General.

The community now expect a public system which they can take confidence and pride in and a range of new measures have been implemented designed to 'safeguard Victoria's public sector'⁴⁸.

In particular, the education sector in Victoria has been under heightened public scrutiny following the IBAC exposure of a small number of departmental officials who inappropriately used public funds⁴⁹.

Whilst the VIT was not the subject of these investigations, the VIT must ensure that it is aligned, and able to respond, to these broader reforms designed to:

-
- 2017, Protecting Victoria's Vulnerable Children Inquiry, accessed at: <http://www.childprotectioninquiry.vic.gov.au/report-pvvc-inquiry.html>
 - 2017, Department of Justice and Regulation, Betrayal of Trust Implementation, accessed at: <http://www.justice.vic.gov.au/home/safer+communities/protecting+children+and+families/betrayal+of+trust+implementation>

⁴⁷ 2017, Victorian Government - Department of Justice and Regulation, Working with Children Check, accessed at <http://www.workingwithchildren.vic.gov.au>

⁴⁸ 2016, Independent broad-based anti-corruption commission, 'Message from the Commissioner', accessed at <http://www.ibac.vic.gov.au/publications-and-resources/ibac-insights/edition-8/message-from-the-commissioner-july-2016>

⁴⁹ Victorian Government - Department of Education and Training, 'Building confidence in our systems and culture', accessed at <http://www.ibac.vic.gov.au/docs/default-source/reports/det-report.pdf>

- *Strengthen our integrity and corruption prevention*
- *Cultivate a culture of integrity underpinned by clear accountabilities and behavioural expectations*
- *Assure that employees understand and comply with integrity policies and risk controls⁵⁰.*

2. The evolution of the education sector

In parallel to the changes in the policy landscape across public sector agencies in Australia, the education sector has changed significantly. As one of the key regulators of the sector, the VIT must proactively anticipate and adapt to these trends in order to deliver its functions.

Increased focus on teacher quality

- Federal and State Government reforms across Australia have prioritised measures that are designed to strengthen teacher performance⁵¹. This has created a heightened awareness around the importance of supporting teacher professionalism and teacher quality⁵².
- Today's teachers are, more than ever, subject to a globally competitive environment that includes high stakes testing regimes (such as the Program for International Student Assessment) and international benchmarks for student outcomes.

Rising demand for teachers

There is an increasing demand for primary and secondary education, and the ratio of teachers to students in Australia continues to fall. The population of school students in Australia is expected to increase by 26% by 2022⁵³.

At the present time, the supply of teachers across Australia is not well matched to demand and in some areas of the country, there has been a significant under and over-supply of teachers⁵⁴. Whilst the Review understands DET (Vic) is undertaking work to address teacher workforce supply and demand issues in Victoria, the Review believes that the VIT needs to be conscious of supply and demand issues regarding the workforce they regulate.

Having a strong understanding of the trends will enable the VIT to better plan and ensure they are able to meet demand for registration and other functions they undertake. This is of even greater importance considering their expanded remit to undertake registration of early childhood teachers.

Growth in the non-government sector in Victoria

From January 2003, the VIT took responsibility for the registration of teachers in both government and non-government schools (P-12).

Sector neutrality is a fundamental requirement of all regulators. In the context of teacher professional regulation, it provides for consistent application of minimum standards across the education sectors -

⁵⁰ Victorian Government - Department of Education and Training, 'Building confidence in our systems and culture', accessed at: <http://www.ibac.vic.gov.au/docs/default-source/reports/det-report.pdf>, p.13

⁵¹ 2008, Melbourne Declaration on Educational Goals for Young Australians, 'Declaration on the Educational Goals for Young Australians', accessed at: http://www.curriculum.edu.au/verve/_resources/National_Declaration_on_the_Educational_Goals_for_Young_Australians.pdf

⁵² 2009 Cribb, A, Gewirtz, A, Hextall, I & Mahony, P, 'Changing Teacher Professionalism: International Trends, Challenges and Ways Forward', accessed at:

<https://books.google.com.au/books?hl=en&lr=&id=8HF8AgAAQBAJ&oi=fnd&pg=PP1&dq=better+practice+regulation+trends+changing&ots=YnlpPngLn&sig=eVw0Z3daB-GaKNQuNofGgTegPBA#v=onepage&q&f=true>

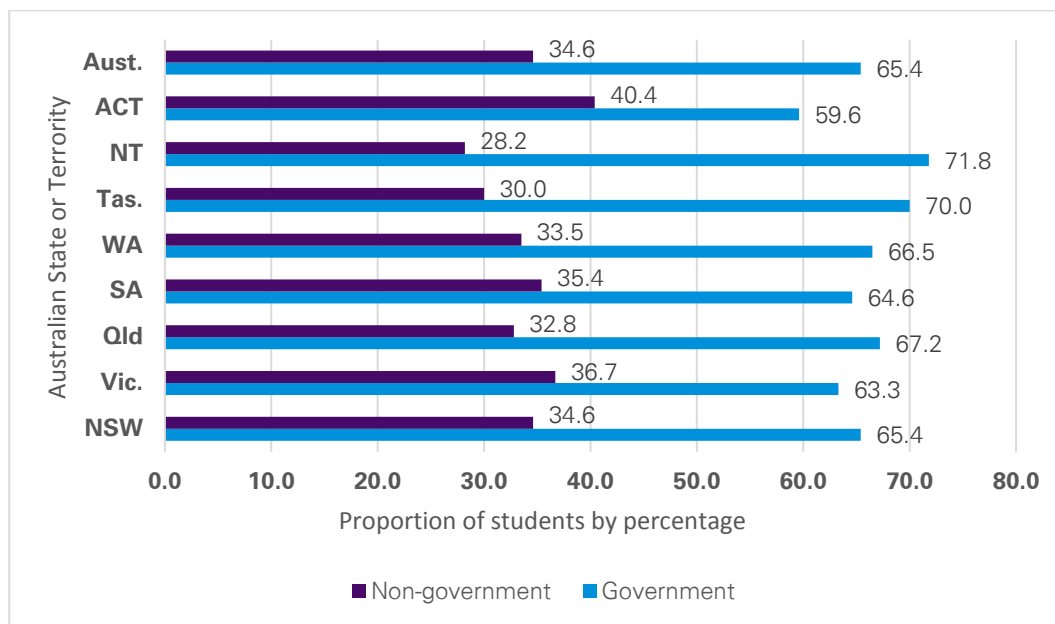
⁵³ 2016, ABC News, 'Australian teacher shortage fears as student numbers soar', accessed at <http://www.abc.net.au/news/2016-01-18/fears-of-looming-teacher-shortage-as-student-population-soars/7096102>

⁵⁴ The Australian Council for Educational Research (ACER) projected in their 2015 report, *The Teacher Workforce in Australia: Supply, demand and data issues*, that the number in Victorian primary schools is likely to increase by about 2.1% per year for the next decade (compared to 0.2% growth in the previous decade).

Catholic, independent and government - and ensures that employers and industry are confident that activities are objective, impartial and consistent.

In Victoria, the share of the independent and Catholic school sectors in comparison to the public sector is much larger than the majority of other States and Territories across Australia⁵⁵. The Victorian Government school sector accounts for less than two-thirds of overall enrolments. Figure 6 demonstrates the proportion of students attending government and independent sector schools in each State and Territory in Australia in 2016.

Figure 6: Proportion of students, by affiliation, State and Territories 2016⁵⁶



Source: ABS Website

This landscape creates additional complexities for the VIT in regards to ensuring sector neutrality and maintaining an appropriate relationship with the Department. This relationship is explored in greater detail in subsequent chapters in the report.

Uncertainty and change fatigue

Over the past 30 years, policy and social contexts of teaching have significantly changed the way that teachers are perceived. Cost-containment, efficiency and productivity measures have seen an increase in the central regulation of the work of teachers.

Teachers in Victoria are required to navigate large-scale, national reforms such as the introduction of the Australian Curriculum, in addition to significant system-wide reforms to teacher practice and pedagogy as part of the Victorian Government's Education State reform agenda.

The teaching profession has been subject to broader social changes, such as greater public scepticism toward professional authority, a culture of consumerism, and demands for public services that are more responsive to diverse cultural identities⁵⁷. There is increasing pressure for principals and school communities to provide the public with clarity and transparency about matters regarding students to build trust and confidence in the way that schools are being managed, evidenced through the introduction of

⁵⁵ 2017, The Australian Bureau of Statistics, 'Summary of Findings – all full-time and part-time students', accessed at: <http://www.abs.gov.au/ausstats/abs@.nsf/mf/4221.0>

⁵⁶ 2017, The Australian Bureau of Statistics, 'Summary of Findings – all full-time and part-time students', accessed at: <http://www.abs.gov.au/ausstats/abs@.nsf/mf/4221.0>

resources such as the Australian Curriculum, Assessment and Reporting Authority's (ACARA) My School website.

The possible establishment of a national initial teacher education regulator through a reconstituted AITSL has been floated at a national level, designed to overhaul and manage the accreditation of teachers.

This environment poses several challenges for the VIT, and highlights the importance of being a proactive, agile, and effective teacher regulator.

3. Changing workforce needs

The workforce that the VIT regulates is also changing. Teachers are facing increasing pressures to re-think their role, how they work and the methods they use to respond to social, political and economic shifts in the policy landscape as outlined above. It is critical that the VIT is proactive in developing its understanding of shifts in the teacher workforce, not just for today, but into the future as well.

As Cribb et al describe, "people no longer believe – or are willing to accede to – the proposition that 'professionals know best'." This has had implications for the way that teachers relate to students and parents, as responding to community groups is becoming increasingly challenging for teacher professionals. This, as well as the added pressures of reduced resources, staffing and teaching hours, has led to a continuous cycle of external monitoring in which teachers 'struggle' against students⁵⁸.

The workforce reform agenda

Given their unique role as a conduit between the government and the tertiary institutions, the VIT is in a unique position to help shape and support the workforce of the future.

The regulator needs to be flexible in its approach to ensure it can adapt and respond to the changes in the workforce such shifts workforce demographics, skills shortages, increases in workforce mobility and developments in technology.

Reform of the school education workforce has historically been embedded in broader educational reforms as Victorian and Commonwealth Governments have sought to improve literacy and numeracy rates (as outlined above).

- The first wave of reform in the 1990s sought to provide greater autonomy to schools in terms of management, finances, and education responsibilities.
- The second wave of reform in the 2000s saw the Victorian education department (now the DET) provide ongoing support to schools to develop the capacity to operate autonomously by developing strong school leaders and teachers⁵⁹.
- The Andrews Government is currently focused on delivering on its Education State reforms. Focused on 'improving quality of teaching in every classroom', these reforms have placed an increased focus on the provision of support for teachers and schools. As such, the Government has committed to a range of initiatives in order to improve quality teaching designed to improve student outcomes. Some of these initiatives are listed below⁶⁰:
 - Building capability of the school workforce in the use of data and evidence through a comprehensive suite of initiatives aimed at improving confidence in the use of data, providing access to easy to use data products and ICT enabled tools
 - The STEM Catalysts initiative is training 60 teachers from 30 disadvantaged secondary schools to lead, encourage and support changes to teaching Year 7 and 8 students

⁵⁸ 2009 Cribb, A, Gewirtz, A, Hextall, I & Mahony, P, 'Changing Teacher Professionalism: International Trends, Challenges and Ways Forward', p.9

⁵⁹ 2003, Boston Consulting Group, 'Schools Workforce Development Strategy report', accessed at: http://www.google.com.au/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0ahUKEwin6_iVhKHXAHEopQKHVldCOYQFggmM_AA&url=http%3A%2F%2Fwww.education.vic.gov.au%2FDocuments%2Fschool%2Fprincipals%2Fprofdev%2Fpcpsdchworkforce.doc&usq=AOvVaw0DXzE7wvtnlFLjJ8zOdpaf

⁶⁰ 2017 DET, '2017-2021 Strategic Plan', accessed at: <http://www.education.vic.gov.au/Documents/about/department/strategicplan.pdf>

- The Primary Maths and Science Specialists initiative, by training 200 teachers in rural, regional and disadvantaged schools
- Continuing the Professional Learning Communities, to build system-wide capacity of teachers and school leadership to drive improved student learning
- The Excellence in Teacher Education reforms, which build on the national agenda for initial teacher education reform and leverage best practices already underway in Victoria
- The *Education State: Literacy and Numeracy Strategy*, which will provide teachers with high quality, evidence-based guides and professional learning to support their practice in literacy and numeracy, across curriculum, pedagogy and assessment (including formative assessment).

One of the prevailing ideas underpinning recent workforce reforms over successive government has been the need to move towards building a more flexible workforce and an attempt to help raise the status of the teaching profession to attract more diverse, high-quality entrants who are well equipped to help students reach their full potential⁶¹. To this end, large scale reforms have considered how schools can leverage their graduate intakes, professional development programs, performance management programs, enterprise agreements, and other resources to deliver teaching that meets student needs and better attract and retain high quality entrants across all teaching streams.

Academics, such as Stephen Dinham at the University of Melbourne, have warned that the profession urgently needs better workforce planning, pointing to variation in the quality of teachers and shortages of teaching cohorts with specific methods, such as in secondary maths and science classrooms, as a key concern⁶².

Dinham argues that, while education systems in Australia are becoming increasingly deregulated - evidenced by examples such as government schools engaging in social selection to ensure they attract and accept students of higher educational potential – variation in the quality of our teachers is a concern⁶³. Dinham said: ‘we need to recognise that we have wonderful teachers and wonderful schools in Australia but the big worry for me is increasing variation...variation is driving the whole educational system down’⁶⁴.

Digitalisation and growing influence of social media

The growth of social media and the impact technology has placed on the workforce presents new challenges and added pressures for the regulator.

The growth in social media platforms in the past decade has been a phenomenon that has helped people to communicate more rapidly to a wider audience but has led to increasingly blurred boundaries between the private and public life of individuals, and information that may be posted with innocent intentions can have significant implications for a person’s career. This is particularly risky for teachers, due to the sensitive nature of the teacher / student relationship.

While social media poses several challenges for teachers and regulators of the teaching profession, it can also be used as a tool for mass communication and information provision. Social and other mdiums need to be understood and considered by the VIT in developing its regulatory strategy.

Summary

This chapter has highlighted one clear message: the nature of teaching is changing and so must the VIT. Numerous large-scale reforms and cultural shifts have heavily influenced the role of the teacher, how they work, what they teach and the methods they use. These changes have led to changing expectations of the

⁶¹ 2017 DET, ‘2017-2021 Strategic Plan’, accessed at: <http://www.education.vic.gov.au/Documents/about/department/strategicplan.pdf>

⁶² 2016, Professor Stephen Dinham, the University of Melbourne, ‘Leading Learning and Teaching’, accessed at: http://education.unimelb.edu.au/news_and_activities/news/opinions/2016/speech-professor-stephen-dinham-book-launch

⁶³ 2016, Professor Stephen Dinham, the University of Melbourne, ‘Leading Learning and Teaching’, accessed at: http://education.unimelb.edu.au/news_and_activities/news/opinions/2016/speech-professor-stephen-dinham-book-launch

⁶⁴ 2016, Professor Stephen Dinham, the University of Melbourne, ‘Leading Learning and Teaching’, accessed at: http://education.unimelb.edu.au/news_and_activities/news/opinions/2016/speech-professor-stephen-dinham-book-launch

community about the role of the VIT, how it performs its functions, and how it engages and builds relationships with stakeholders.

1.4 Balancing the expectations of stakeholders

Achieving good regulatory outcomes is 'almost always a co-operative effort: by the government, amongst regulators, the regulated, and the broader community'⁶⁵.

Better practice contemporary regulators understand that trust between operator and regulator hinges on the development of a mutual understanding of each other's objectives and constraints. It is critical that there are clear roles and responsibilities, and a genuine understanding between the regulated and the regulator regarding purpose, mission and vision. While frameworks, policies and processes are critical, people and personal relationships are also a key ingredient in successfully building trust. How a regulator interacts and communicates with its key stakeholders is 'instrumental in the levels of trust it has from them, and in turn then will impact how it will behave in regulating its responsibility'⁶⁶.

The VIT is required to navigate a challenging sector with conflicting stakeholder relationships. As the King Review identified in 2008, 'the most critical factor in determining the appropriate role for the VIT, and other regulators, is the relationship between the role of the regulation body, employer and policy maker and other stakeholders'⁶⁷. While the VIT has made progress through the regulatory period to establish clear roles and responsibilities, its external environment has become increasingly complex and stakeholder consultations have described misunderstandings from a range of sources (both internal and external) regarding the VIT's role.

There are a number of organisations that have influence over the composition funding and performance of the school education workforce. For the VIT to be effective and deliver on its purpose, it is critical that it is able to address and balance the various expectations held amongst key stakeholders.

Figure 7 overviews the range of stakeholder groups with which the VIT needs to maintain effective and dynamic relationships.

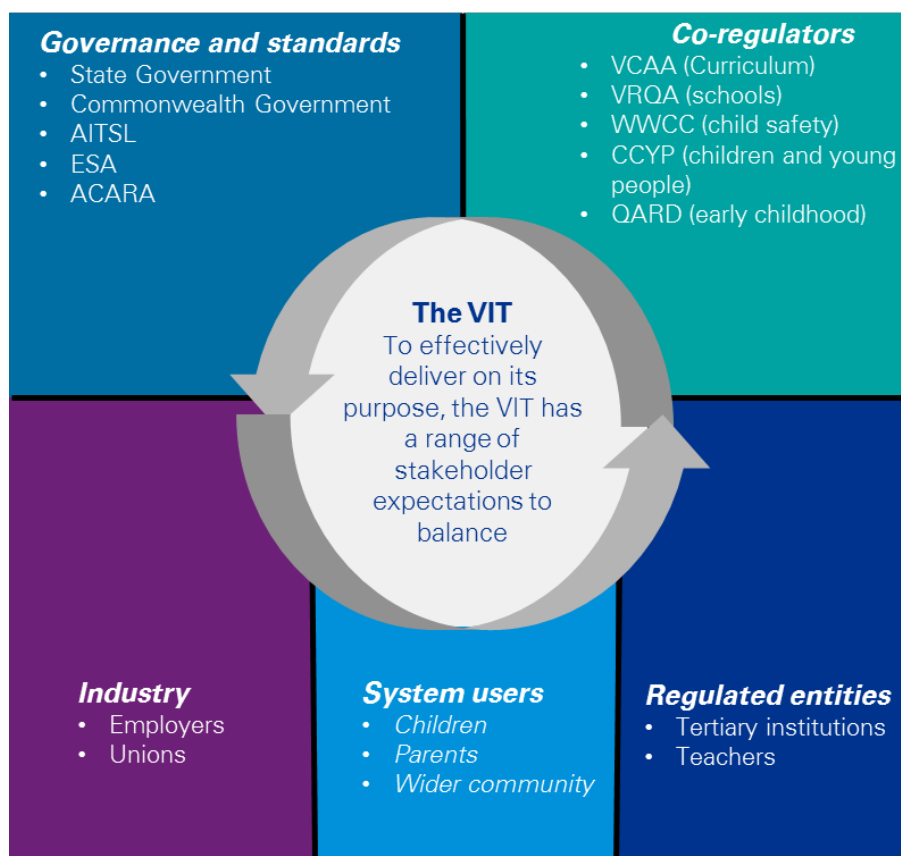
⁶⁵ 2006, Parliament of Victoria, 'Education and Training Reform Bill: Second reading', accessed at:

[http://hansard.parliament.vic.gov.au/?IW_DATABASE=*%26IW_FIELD_TEXT=HOUSENAME%20CONTAINS%20\(ASSEMBLY\)%20AND%20SPEECHID%20CONTAINS%20\(46446\)%20AND%20SITTINGDATE%20CONTAINS%20\(9%20February%202006\)&Title=EDUCATION%20AND%20TRAINING%20REFORM%20BILL&IW_SORT=n:OrderId&LDMS=Y](http://hansard.parliament.vic.gov.au/?IW_DATABASE=*%26IW_FIELD_TEXT=HOUSENAME%20CONTAINS%20(ASSEMBLY)%20AND%20SPEECHID%20CONTAINS%20(46446)%20AND%20SITTINGDATE%20CONTAINS%20(9%20February%202006)&Title=EDUCATION%20AND%20TRAINING%20REFORM%20BILL&IW_SORT=n:OrderId&LDMS=Y)

⁶⁶ 2014 OECD, 'OECD Best Practice Principles for Regulatory Policy', accessed at: <http://www.oecd-ilibrary.org/docserver/download/4214061e.pdf?expires=1505113507&id=id&accname=guest&checksum=53B4FB7369EA10567FA8F3B99CDECCA>

⁶⁷ 2005, Queensland Parliament, 'New Registration Standards for Teachers under the Education (Queensland College of Teachers) Bill' 2005 (Qld), accessed at: <http://www.parliament.qld.gov.au/documents/explore/researchpublications/researchbriefs/2005/200517.pdf>

Figure 7: The complex stakeholder environment



Source: The VIT Review

The above diagram overviews a diverse range of stakeholders. This diversity naturally leads to a variability in expectations that the VIT must understand and to which it must respond. Some of the key expectations of these groups are outlined below.

- **Governments and standard setters:**

- Open, two-way communication
- Collaboration and information sharing
- Transparency and accountability
- The VIT to align with, and deliver on, Departmental strategies and outcomes

- **Co regulators:**

- Open, two-way communication
- Collaboration and information sharing
- Alignment of policy objectives and regulatory standards

- **Industry**

- Clear policies and procedures for compliance
- Clear and easily accessible information about requirements and processes for staff
- Smooth and consistent processes
- Quality teachers (effective professional development and tertiary education programs)

- **System users**

- Child safety and wellbeing
- Quality teachers
- Confidence in the education system

- **Regulated entities**

- Clear, easily accessible information about expectations and requirements
- Transparent, effective and efficient processes
- Timely and responsive regulator
- Perception of 'value for money'

To effectively consider, address and, in some instances, balance the expectations of stakeholders, the VIT as an organisation requires a range of supporting infrastructure, capabilities and capacity. This Review has considered what preconditions for success a Victorian teacher regulator requires in order to effectively build public trust in this complex environment.

1.5 Factors for success in teacher regulation

In order to meet community expectations and fulfil legislative requirements, the Review team found that there are a number of preconditions for success.

Given all of the complexities and challenges identified above, a teacher regulator has to be particularly effective at navigating the various expectations and requirements to fulfil its role and functions. Having reviewed the current environment and the evolving trends and patterns in the VIT's regulatory environment, the Review team has identified a number of components that are necessary for an organisation to possess in order to be successful. This chapter outlines a series of preconditions to be met by a teacher regulator for success in meeting community expectations and fulfilling legislative requirements.

These preconditions have been drawn from extensive consultations with comparator regulators at a domestic and international level. These are designed to reflect the respective expectations of ministers, departments, other agencies, and the community.

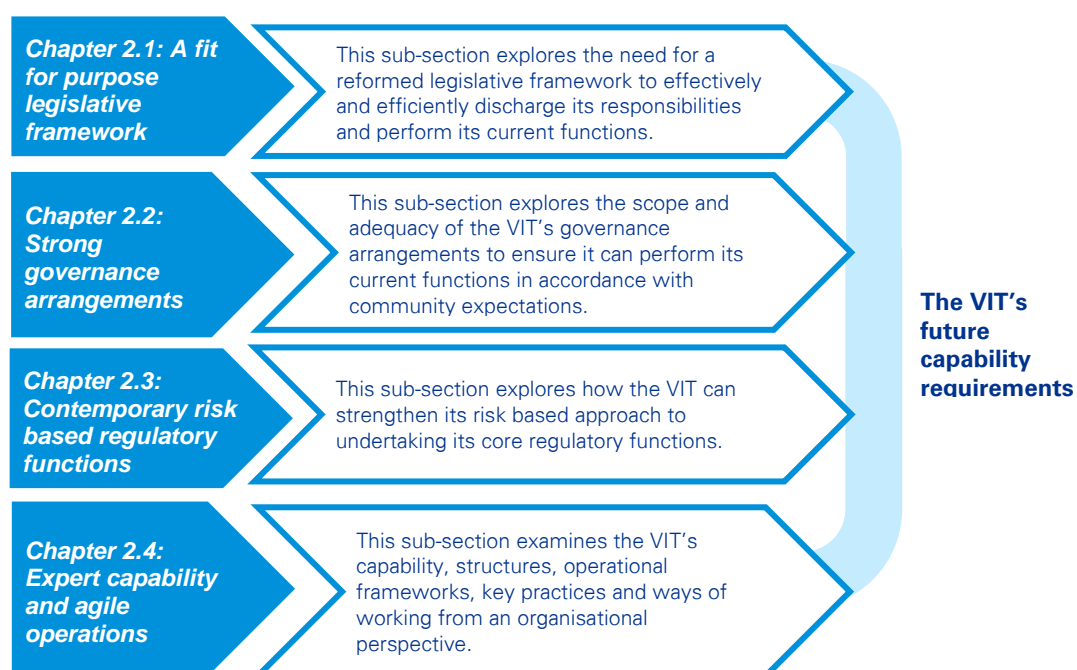
- 1 Efficient and effective:** Processes and procedures are undertaken in a timely and integrated manner to ensure the least interruption / disruption to the profession. Processes are focused on prevention, and a strong approach to project management and organisational planning allows for effective resolution and prevention of any non-compliance that directly or indirectly causes (or may cause) harm to the community.
- 2 Focused on 'public interest' and 'child protection':** Have a sophisticated understanding of 'public interest' and have advisory mechanisms in place to inform / respond accordingly. The legislative framework, vision and mission, activities, decisions and communications align to ensure it is clear that child safety is a prime objective.
- 3 Visible and respected by the profession:** The organisation's functions, objectives and activities are communicated effectively to key stakeholders. Teachers, schools and principals across all sectors understand the function and objectives of the organisation and can see the value of the work undertaken.
- 4 Expert and focused on continuous learning:** Demonstrates strong and credible subject matter expertise across the sector and educates the profession effectively on issues such as professional boundaries. The organisation attracts and retains high performing and capable staff to ensure continuous learning and effective co-regulation.
- 5 Risk-based:** Responsive in identifying, assessing and responding to risk, prioritising and targeting resources toward specific groups or behaviours that pose the greatest risk to the regulator's outcomes.

- 6 Intelligence led:** Actively gather and analyse incoming intelligence and leverage data in order to develop a sophisticated understanding of risk, inform decision-making and effectively reduce risks of harm.
- 7 Outcomes focused:** Strategies, processes and decision-making driven by outcomes. Progress against outcomes are measured to ensure continuous improvement.
- 8 Proportionate:** Decision-making and resource allocation reflects a focus on effectively and efficiently achieving outcomes, proportionate to the potential level of harm.
- 9 Transparent:** Open in decision-making and processes, documenting decisions appropriately, including the justification for decisions. Aim to assist regulated parties to understand the decision-making processes, areas of focus and performance. Standard reporting requirements are followed to enable the department to monitor and oversee performance.
- 10 Consistent:** Provide a consistent experience for key stakeholders and regulated entities. Regulatory responses will be predictable, meaning that, to the best extent possible, regulators provide similar responses in similar circumstances, following clear processes.

2 The VIT's future capability requirements

This chapter is broken into four sub-sections which examine the future needs of the VIT to ensure that the VIT is able to fulfil its capability requirements. These sub-sections have been designed in response to the preconditions for success and are outlined in Figure 8 below:

Figure 8: Chapter 2 overview



Source: The VIT Review

2.1 A fit for purpose legislative framework

In order for the VIT to fulfil government objectives, meet community expectations and discharge its legislative obligations, the VIT requires fit-for-purpose legislation. The legislation must provide the VIT with operational rules for all aspects of the organisation so it can be an effective regulator.

2.1.1 A fit for purpose legislative framework

As outlined in Chapter 1, ETRA is the Act that replaced the *Victorian Institute of Teaching Act 2001*. ETRA was designed to establish a robust framework that reflected the aspirations and expectations of the community for the education system at the time⁶⁸. Since the Act came into force in 2007, there have been a

⁶⁸ 2015, Victorian Parliament Hansard, *Education and Training Reform Amendment (VIT) Bill*, Second Reading

series of amendments to the legislation. As with any principal piece of legislation such as ETRA, these amendments have reflected the evolving nature of community expectations and the need to amend legislation to ensure it meets current operational needs.

When ETRA was developed, it followed the template of the recently introduced *Health Professions Registration Act 2005 (HPRA)*. The HPRA represented contemporary practice for the regulation of professions at the time. The HPRA has now been replaced by a national health profession regulation scheme administered by AHPRA.

Part 2.6 of ETRA (Part 2.6) contains the provisions providing for the constitution of the VIT, its functions and powers, including its registration and disciplinary powers.

As noted above, Part 2.6 has been the subject of many amendments in the past decade, particularly in connection with the VIT's disciplinary and registration powers. It is arguable that these more ad hoc changes have resulted in a legislative regime that is more complicated, confusing and difficult to administer than other, more modern professional registration and regulation regimes⁶⁹. This complexity contributed to some of the issues highlighted throughout this report. Further, the entire Part 2.6 has not been the subject of comprehensive review for almost a decade.

This view was confirmed by the VIT, stakeholders, regulatory experts and lawyers consulted during the Review. One particular issue highlighted is the complex mixture of definitions used to define the threshold at which the VIT should institute disciplinary action - various provisions define that threshold should use the following thresholds: continued fitness, suitability, misconduct, serious misconduct, competence, seriously detrimentally affected because of impairment and ability to practise. There is also a further threshold in relation to conviction of a criminal offence other than a sexual offence.

Accordingly, this Review recommends a comprehensive overhaul of Part 2.6 in order to streamline its operation and to ensure that it represents modern regulatory practice in connection with professional disciplinary schemes. The overhaul should also ensure that the new regime is streamlined and simple.

Describing a regulator as an institute is a unique description on the Victorian statute book. An institute, by definition, describes a body or organisation which exists for the purpose of technical or academic pursuits. Further, a significant number of stakeholders consulted by the Review indicated that VIT's name does not adequately describe the functions of the VIT as a professional regulator. Finally, a name change was recommended by the King Review and was not actioned. This Review considers a change of name of the VIT to "Teacher Regulation Victoria" would provide a fresh start, especially on commencement of a new regulatory regime.

This Review also makes some specific recommendations in connection with the recommended overhaul of Part 2.6 as set out below.

2.1.2 Objects of the VIT

Notably, Part 2.6 does not provide for the VIT to have any objects. It only provides for functions. A modern regulator requires objectives in addition to functions in order that it has a clear regulatory objective defined by Parliament on behalf of the community. Previously, regulators were given only functions as powers. Over time, however, governments have found that definition of clear regulatory objectives aids regulators to more readily achieve their purpose.

Of further concern is that there is no object or function which mentions child safety and wellbeing, and no object or function which requires the VIT to take into account community expectations in the discharge of its functions (noting that the power of interim suspension in Division 8A – inserted in Part 2.6 in 2016 - does mention protection of children and harm to children).

⁶⁹ An example of a more modern regime is the professional regulatory scheme for lawyers in Victoria and NSW contained in the *Legal Profession Uniform Law Application Act 2014* (Vic)

There is function which requires the VIT to develop, establish and maintain teaching standards – chapter 2.6.3(d) of ETRA - but no object or function in connection with the VIT ensuring that the quality of teaching and teacher is maintained.

Some stakeholders consulted by the Review also indicated that the VIT is challenged in its ability to balance the interests of students and parents (or the community at large) with the interests of teachers. This Review observed that there is a tension within the VIT between ensuring child safety and wellbeing, and representing the interests of teachers. This Review also observed that there is the perception amongst some stakeholders that the VIT experiences some challenges in its ability to make decisions which protect the safety of children.

The Queensland College of Teachers (QCT) operates under the *Education (Queensland College of Teachers) Act 2005*. This Act contains the following public confidence and quality teaching object for the College:

“...to maintain public confidence in the teaching profession; and to protect the public by ensuring education in schools is provided in a professional and competent way by approved teachers.”

The College of Teachers in Ontario, Canada, operates under the *Ontario College of Teachers Act 1996*. This Act contains the following public interest object for the College:

“In carrying out its objects, the College has a duty to serve and protect the public interest.”

During a period of heightened community expectations regarding child safety and wellbeing, it is the view of this Review that the legislation establishing the VIT must contain objectives such as those outlined above to represent current practice.

Recommendation 1

The Review recommends a comprehensive overhaul of Part 2.6 of the Act in order to streamline its operation and to ensure that it represents modern regulatory practice in connection with professional disciplinary schemes. In overhauling Part 2.6, consideration needs to be given to:

- a) Creating a standalone principal act establishing the VIT and giving the VIT its disciplinary powers.
- b) Changing the name of the VIT to “Teacher Regulation Victoria” to more accurately reflect its function as a regulator and to provide for a fresh start on commencement of the new regulatory regime.
- c) Giving the VIT specific legislative objects in relation to:
 - Ensuring child safety and wellbeing
 - Taking into account community expectations
 - Ensuring quality of teaching and teachers.

2.1.3 Disciplinary procedures

Regulators administering professional disciplinary regimes are entrusted with great power by governments acting on behalf of the community at large. They are given statutory powers which can result in the temporary or permanent removal of a person’s licence to operate or practise in a particular profession - in the case of teacher registration, the right to work in the teaching profession. In these circumstances, trust by all interested parties, and the community, in the appropriateness and rigour applied by the VIT to the regulatory principles of proportionality, and the protection of the public interest and the safety of the community, are paramount considerations.

The hearing panel process

Part 2.6 of ETRA establishes a complicated set of disciplinary procedures pursuant to which the VIT must investigate and convene various panels to hear disciplinary matters. The panels are convened from an approved pool of panel members appointed by the Governor in Council under section 2.6.35F of ETRA. The Review was advised by the VIT that, currently, there are 27 people in the hearing panel pool. Only one of

that pool of members is a current member of the VIT Council. A number of members of the pool are former VIT Council members. There is one lawyer and one medical practitioner in the pool.

There are three types of hearing panel which can be convened from the pool: informal, formal and medical. A panel must consist of at least three members, and the Chair must be a current or former member of the Council and at least one member must be a registered teacher. There is no requirement that at least one member of the panel be a lawyer, although the VIT advised that where legal issues are likely to be raised, the lawyer member of the pool is usually appointed to the panel.

In Victoria (and nationally), it is now rare for regulators - particularly of professions - to administer their own panel system such as that administered by the VIT. Such bespoke panel systems are no longer considered regulatory best practice in connection with professional disciplinary legislation. Allegations of professional misconduct are now usually heard by the relevant civil and administrative tribunal – in Victoria, this is the Victorian Civil & Administrative Tribunal (VCAT). This assists to avoid the concern that the relevant regulator has a conflict in acting as “prosecutor, judge and jury” by investigating the matter, establishing a panel, and then having the panel determine the matter.

VCAT plays a critical role in ensuring access to justice in Victoria - it was established in 1998 to:

“provide a new structure for Victoria’s tribunals and to streamline their operation; to improve access to justice; to facilitate the use of technology and alternative dispute resolution; and to develop flexible and cost-effective practices for hearing and determining disputes in its original and review jurisdictions.”⁷⁰

Over time, successive governments have increased the jurisdiction of VCAT, so that it has now become the repository of expertise in Victoria for the application of rule of law and natural justice considerations in a disciplinary context.

The Administrative Division of VCAT was established specifically to deal with professional conduct matters and other applications from people seeking review of Government decisions. It regularly hears and determines a diversity of applications brought by regulators in connection with misconduct matters. VCAT members sitting in the Administrative Division have, over time, developed considerable expertise in relation to the hearing and determination of these matters. VCAT has a strong commitment to transparency and the building of a consistent body of practice and precedent in connection with profession conduct matters borne out of experience in considering like conduct matters across various professional disciplines. VCAT also ensures that decisions regarding potential conduct matters are rigorously tested. VCAT decisions are also subject to Supreme Court appeal, providing a further avenue for rigorous testing of decision-making.

Case Study - The QCT

The equivalent body to the VIT in Queensland, the QCT, is just one example of the many comparator teacher regulators operating under regulatory schemes which separate investigatory and determinative functions.

Context:

The QCT has a Professional Capacity and Teacher Conduct Committee (the PC&TCC). This was established to consider relevant practice and conduct matters as set out in the *Education (Queensland College of Teachers) Act 2005*. This Committee was established when QCT replaced the Board of Teacher Registration.

The 2005 Act established the Teachers Disciplinary Committee which was responsible for determining cases of teacher misconduct. This Committee was abolished by the *Queensland Civil and Administrative Tribunal (Jurisdiction Provisions) Amendment Act 2009*. This Act transferred responsibility for

⁷⁰ Justice Kevin Bell – President, VCAT, ‘The role of VCAT in a changing world: the President’s review of VCAT’, Speech delivered to the Law Institute of Victoria, 4 September 2008

determination of more serious teacher misconduct matters to the Queensland Civil and Administrative Tribunal (QCAT).

Current arrangement:

The PC&TCC determines minor matters relating to teacher misconduct and competence by oral hearing or on the papers. The PC&TCC is comprised of three QCT board members including two registered teachers.

If the PC&TCC considers that the disciplinary matter is of a more serious nature, it refers the matter to QCAT for determination.

Advantages:

The QCT model allows for a clear separation of investigation and decision-making roles with respect to serious misconduct. It also enables current QCT board members to be directly involved in regulatory decision-making at each point of the process.

In the case of the VIT, the panels were established in order to ensure that the teaching profession was well represented on panels when disciplinary matters were heard, and that the profession had input into relevant decisions. There is, however, no reason why the relevant list at VCAT cannot appoint members of the teaching profession to hear matters. The VIT informed the Review that:

- The VIT has one current matter before VCAT relating to a registration decision
- The VIT has had two disciplinary matters reviewed before VCAT in the past two years
- The VIT has had one registration matter reviewed before VCAT in the past two years.

Even with this small number of applications to VCAT for review of the VIT and the VIT's panel decisions, VCAT has appointed a member with contemporary teaching experience to hear reviews of the VIT's decisions. VCAT indicated that its preference is to appoint members who have a contemporaneous view of teaching practice so their knowledge is up to date. This could include recently retired teachers or academics with a teaching specialty.

Other regulators of professions consulted by the Review - for example, the QCT (see QCT case study above), the Victorian Legal Services Commissioner and the AHPRA - indicated that they are satisfied that an administrative tribunal such as VCAT provides a fair and efficient forum for the hearing of allegations of misconduct brought by those regulators against professionals. In the case of QCT and AHPRA, only minor matters are reserved for decision by QCT or AHPRA, with those matters usually determined by the QCT / AHPRA equivalent of the VIT's Professional Conduct Committee.

In the case of the VIT, a particular concern of the Review is that, once a formal panel is established from the pool, it decides the matter finally (subject only to review in VCAT) without any reference to, or input from, the VIT Council. In current circumstances, the only potential for VIT Council input would be if the single pool member who is also a current VIT Council member is appointed to the relevant panel. This situation has resulted in circumstances where the VIT Council has not agreed with a panel decision, but has been unable to review or challenge that decision, and has been required to accept responsibility publicly for that decision.

This situation has given rise to significant public controversy, as demonstrated by a succession of prominent media articles and editorial comments, some of which are set out in Figure 9 below.

Figure 9: Prominent media articles and editorial comment

Teachers watchdog under review after controversial rulings

Victoria's teacher watchdog fails to protect children

Source: *The Age*, 31 July 2017 and 8 August 2017

There is no doubt that the controversy has had an impact on the reputation of the VIT, and has affected the public standing of the VIT. It is very difficult for Council members and the VIT to protect the reputation, integrity and credibility of the scheme where there is no effective accountability given to the Council for operation of the panels. Some members of the Council of the VIT are of the view that the panel system should be retained. The Review has concluded, however, that the apparent public concerns, and concerns of the Review expressed in this report about the operation of the system mean that the panel system must be abolished. Given the circumstances, a mere change in composition of pool of panel members so more current Council members are part of that pool is not a sufficient response. The hearing panel system administered by the VIT is an anomaly. It is not best practice, and the system has been the subject of significant criticism. The conclusion of the Review is that VCAT is better placed to hear and determine matters of teacher misconduct.

In this context, the Review acknowledges the commitment and integrity of present and past panel members. Panel membership is a unique, difficult and demanding task. It requires time, effort and devotion and, in many instances, the decision-making task is difficult and finely balanced (a relatively small proportion of total panel cases are highly contested in a public context). Often, panel members give up their own time, and the task of panel membership is performed over and above other significant commitments. The conclusions of the Review in no way reflect on the competence of panel members – the issues with the panel system identified are structure and process issues.

The Review notes that there are potential cost implications for the VIT and VCAT in adopting the recommended approach which will need to be considered and resolved.

Recommendation 2

As part of the overhaul of Part 2.6 of the Act:

- a) The VIT hearing panel system be abolished.
- b) Allegations of teacher misconduct or incompetence (including medical matters, but not including minor matters) be heard and determined by VCAT.
- c) VCAT determines the composition of members who will hear matters brought by the VIT, but the relevant VCAT list should include members with contemporary teaching experience (particularly to hear teacher competence matters).

Recommendation 3

As part of the overhaul of Part 2.6 of the Act:

- a) The VIT Council, or an appropriate committee of the Council (currently the Professional Conduct Committee), determines following a VIT investigation, whether a particular matter is referred to VCAT. The VIT to retain current decision-making powers on initial and other registration issues – at a Council or committee level – with existing review of those decisions in VCAT maintained.
- b) A simple, clear definitional threshold for teacher misconduct warranting referral to VCAT is determined so that only minor matters (for example, swearing in front of a student or registration fees not paid) are reserved for disciplinary decision by the Council or relevant committee of the Council under delegation from the Council. This definitional threshold should be determined by reference to current, best practice professional regulation legislation, such as the Health Practitioner Regulation National Law and legal profession schemes.⁷¹ With appropriate

⁷¹ For example, for disciplinary matters, the *Legal Profession Uniform Law Application Act 2014* (Vic) uses the threshold of unsatisfactory professional conduct for more minor matters, and professional misconduct for more serious matters – see sections 297 and 298 of the *Legal Profession Uniform Law*. Section 298 of this Law gives a clear definition of conduct capable of giving rise to both types of unacceptable conduct. Section 5 of the *Health Practitioner Regulation National Law* – contained in the *Health Practitioner Regulation National Law (Regulation) Act 2009* (Vic) – uses the threshold of unprofessional conduct for more minor matters, and

modification, the actual definitions from either of those schemes could be mirrored in the teacher misconduct scheme.

Interim suspension power

During the Review, some stakeholders, including the Department, raised concerns about the operation of Division 8A of Part 2.6.

This Division provides for the VIT to impose an immediate interim suspension on teachers who pose an unacceptable risk of harm to children. The new Division was inserted in 2016 in response to concerns that some teachers who potentially posed that risk could remain in the system teaching during VIT investigations (which by necessity, can take some months). As at 25 September 2017, the Division 8A power had been used to suspend 25 teachers since its introduction. The commencement of the reportable conduct scheme has resulted in an increased use of the Division 8A power, with four teachers suspended as a result of CCYP notifications since the scheme commenced. As implementation of that scheme progresses, it is possible use of the interim suspension power may increase further.

Under section 2.6.28A of ETRA, the basis of the decision to impose an interim suspension must be reviewed at least every 30 days. The teacher suspended has the right to make submissions to the VIT regarding the suspension, but the VIT is under no obligation to accord the teacher natural justice before making a decision to suspend. The teacher does not have a right to seek review by VCAT of the decision to suspend, meaning the only avenue of review is judicial review in the Supreme Court of Victoria.

Under section 2.6.30(1B), the VIT must commence an inquiry into a matter as soon as practicable after the VIT decides to suspend under Division 8A. This provision is the source of the Department's concerns. In practice, for teachers in Government schools (and potentially the independent and Catholic sectors), it results in multiple investigations proceeding in parallel: the VIT investigation, an employee misconduct investigation and, in some circumstances, a Victoria Police investigation. Before this provision became operational, the accepted practice (by a Memorandum of Understanding (MOU) with the Department, in the case of Government school teachers) was that the employee misconduct investigation, and any Police investigation, would be completed before the VIT investigated as professional regulator. This accords with the practice of some other professional regulators, particularly in circumstances where a professional's registration is suspended in any event while a Police investigation proceeds.

Restoration of the previous accepted practice (completion of other investigations before the VIT investigation, where possible, practical and appropriate) means that the VIT investigation has the benefit of using material from the other investigation(s). Most importantly, in the case of child witnesses, it means that the need to interview children multiple times is potentially avoided.

In light of these circumstances, the Review recommends that the operation of section 2.6.30(1B) be reconsidered by relaxing the requirement that the VIT commences an inquiry as soon as practicable. This will assist to avoid parallel investigations and potentially minimise the impact of multiple investigations on child witnesses.

The Review has two other concerns with the operation of Division 8A. The first is that there is no opportunity for the teacher to be accorded natural justice before the suspension decision is made, or by VCAT review after the decision is made (acknowledging that there is an explicit mechanism for teachers to be accorded natural justice by VIT after the suspension decision - see section 2.6.28E of ETRA – and that suspensions must be reviewed every 30 days). The second is that this power is exercised by the Chief Executive Officer (CEO) under delegation. The Review understands that the making of these decisions is an urgent matter and must occur within 1-2 days. Natural justice is, however, a fundamental right, and the decision to suspend a person's right to a livelihood is a fundamental function of the VIT, which should arguably be exercised by Council members. The Review also notes that the issue of natural justice was given significant consideration during 2015 when the Bill introducing the Division 8A powers was being

professional misconduct for more serious matters. This section also imports use of a "fit and proper" person test, which is also used elsewhere in the *Legal Profession Uniform Law*.

developed and debated, including detailed consideration in the Statement of Compatibility issued in accordance with the *Charter of Human Rights and Responsibilities Act 2006*⁷². After significant debate, Parliament determined that natural justice is to be afforded after suspension decisions are made, even though this is a very unusual approach in the circumstances.

In terms of timeliness in making urgent decisions by committees, and provision for VCAT review, AHPRA provides a case in point (see AHPRA case study below). It exercises a similar immediate suspension power within a 1-2 day time period. It allows the relevant practitioner a right to be heard in person, or on the papers, before making a decision. The decision is made by the relevant committee within AHPRA, which is convened quickly and over the telephone or by videoconference if necessary. Immediate suspension decisions of AHPRA are subject to review by VCAT.

Case Study - AHPRA

AHPRA has regulatory oversight of 15 different health professions. The Victoria Office's *2015-16 Annual Report Summary* states that "public safety is the core focus of regulation"⁷³. It seeks to protect the public through setting professional standards and holding practitioners to account against these standards.

Current arrangement:

AHPRA exercises an immediate suspension power similar to the interim suspension power given to the VIT under Division 8A of ETRA. During consultation, AHPRA indicated that the majority of its immediate suspension decisions will be made within 1-2 days of receiving a notification, with some decisions being made within hours if necessary. This process allows the relevant practitioner a right to be heard in person, or on the papers, before making a decision. The decision is made by the relevant committee of AHPRA, which is convened quickly and over the telephone or by videoconference if necessary. Immediate suspension decisions of AHPRA are subject to review by VCAT.

Advantages:

- This process provides the practitioner with the opportunity to be accorded natural justice before the suspension decision is made.
- The appropriate committee is convened quickly and efficiently in order to allow a decision within a matter of days or even hours.
- AHPRA indicated that a MOU with VCAT provides AHPRA with a level of quality assurance and accountability.

In the circumstances, the Review acknowledges that decisions about Division 8A must be made quickly, and that specific mechanisms to address natural justice issues have been included – 30 day review and natural justice post-suspension. The Review considers, however, that the level of natural justice accorded to teachers should be increased. This is best done by amending Division 8A to provide for VCAT review of interim suspension decisions. Giving VCAT this jurisdiction is also consistent with having allegations of teacher misconduct and incompetence determined by VCAT. The Review also considered recommending the AHPRA model be adopted to allow teachers an opportunity to be heard by the relevant Council committee before a suspension decision is made. However, given that Parliament has recently decided against this approach, the Review makes no recommendation in this respect. Finally, the Review recommends that section 2.6.67 of ETRA be amended so that Division 8A decisions can be made by a Council committee, rather than the CEO. Pending the amendment, the Review recommends that Council scrutinise and review Division 8A decisions carefully and regularly, and potentially reserve for Council any decisions which are particularly sensitive or difficult.

⁷² Hansard, Victorian Legislative Assembly, 25 November 2015, page 4960

⁷³ 2016, AHPRA, 'Annual Report 2015-16', accessed at: <http://www.ahpra.gov.au/annualreport/2016/>

One issue arising from the analysis above is that clause 8 of Schedule 2 to ETRA does not allow for disciplinary decisions to be made without Council members being physically present. This issue could be considered as part of the recommended Part 2.6 overhaul so disciplinary matters can be considered and decided by telephone, videoconference and circular resolution of the relevant Council committee. A further issue is that under Division 8A, suspension decisions must be reviewed every 30 days, imposing a potential burden on Council members. There is, however, no reason that these 30 day review decisions cannot be delegated to the CEO, provided facts and circumstances forming the basis of the suspension have not changed.

Recommendation 4

To ensure that Division 8A of the Act operates fairly, the Review recommends that:

- a) Decisions under Division 8A are made subject to review by VCAT as part of the Part 2.6 overhaul.
- b) Decisions under Division 8A are made by Council, or a committee of Council - potentially the PCC or a new committee convened specifically for making Division 8A decisions. This will require amendment of section 2.6.67 of ETRA as currently only the Council itself or the CEO under delegation can make Division 8A decisions.

2.1.4 Amalgamation opportunities

The Review considered whether amalgamation of the VIT with another regulator in the education portfolio may be appropriate. In particular, the Victoria Registration and Qualifications Authority (VRQA) regulates education and training providers in Victoria. The Review considers that there may be synergies between the regulation of schools themselves, and the regulation of teachers who practise their profession in those schools. This has been recognised in NSW where the equivalents of the VIT and the VRQA were amalgamated recently by the NSW Government. Further, there are moves towards larger regulators in key State portfolio areas (education, health, transport) as they arguably provide for more efficiency and better practice decision-making due to greater breadth or expertise and economies of scale. The Review acknowledges, however, that there are also arguments for maintaining the VIT as an independent regulator of teachers, including that an independent regulator gives status to teaching as a profession.

The Review considers that some of the noted synergies and efficiencies could still be realised by potential physical co-location of the VIT and the VRQA. Proximity of the two regulators would allow sharing of best practice regulatory techniques in connection with schools and teaching, for example, in relation to investigation and enforcement. There are also potential co-regulatory synergies in the interface between implementation of the child safe standards and the reportable conduct scheme. The VRQA and the VIT also have many stakeholders in common.

There may also be an opportunity to implement shared services arrangements (for example, HR, finance and payroll) between the two organisations – noting that the Department currently provides those shared services to the VRQA, and that the VRQA staff are departmental staff. Co-location may increase the potential for cross-pollination of staff and regulatory knowledge by secondment or otherwise.

Elsewhere in this report, the Review has made significant findings about the current organisational culture and staff morale at the VIT. Given those findings, it is arguable that the potential for a culture and morale re-set created by an amalgamation is required to remedy the issues at the VIT. On balance, however, the Review has concluded that the issues can be addressed by implementing the recommendations in this report. It is recommended, however, that the progress towards that implementation be independently reviewed in 12 months' time. If progress is not sufficient, the option of amalgamation should be re-considered at that time.

Recommendation 5

Implementation of the recommendations in this report be reviewed in 12 months' time and:

- a) If the VIT has not made significant progress towards implementation, the option of abolishing the VIT and amalgamation of its functions with the VRQA be re-considered.
- b) In the interim, opportunities to strengthen the relationship between the VIT and the VRQA through physical co-location and shared services be considered.

2.1.5 Working with Children Checks

Section 30 of the *Working with Children Act 2005* provides that registered teachers and early childhood teachers under ETRA are exempt from a Working with Children Check.

The Department and the VIT indicated that the standard applied in registering teachers is higher than that applied to obtain a WWCC, as additional offence types are considered when considering teacher registration.

Stakeholders indicated that, in practice, use of the word “exempt” has resulted in some confusion. This is because it appears that some organisations outside of the teaching context do not understand that registration is the equivalent of a WWCC and demand that all volunteers and other participants obtain a WWCC. Many teachers, therefore, have a WWCC and VIT registration, although the full extent of this is not known. An indication of the number of teachers holding a WWCC is given by the provisionally registered teacher survey conducted by the Review - 71.20% of respondents stated that they hold a WWCC along with their provisional teacher registration. Fifty per cent of these respondents however, indicated that their WWCC was a requirement for initial teacher education programs or early childhood employment.

A data match of 128,076 VIT registered teachers and the WWCC database at 20 March 2017 indicated a total of 9.5% of registered teachers hold a current WWCC.

As with the WWCC scheme, the VIT also engages in regular data matching with Victoria Police to ensure that recent convictions and charges are brought to the VIT's attention.

Other jurisdictions (for example, Queensland) are considering whether obtaining the equivalent of a WWCC should be a pre-condition to obtaining teacher registration. There is some merit in this position, especially given that the Review's survey of provisionally registered teachers indicated that approximately 70% of those teachers already have a current WWCC (see Appendix A – Survey Results).

The argument against this position identified by some stakeholders is that requiring a WWCC as a baseline may increase the regulatory burden on teachers and result in increased costs to teachers. The Review has also been advised by the Department that this would result in increased costs to DOJR in administering the scheme. This issue could be addressed by grandfathering provisions providing that all current registered teachers are deemed to have a WWCC. This may, however, raise issues of consistency between the two schemes. In considering registration, the VIT would also have to consider other offences not covered by the WWCC – but proper information sharing between the DOJR and the VIT (with a legislative mandate if necessary) may increase efficiency.

The Review considered whether the exemption of registered teachers and early childhood teachers from a WWCC should be removed by repeal of section 30 of the *Working with Children Act 2005*, with consideration given to grandfathering by issuing current registered teachers with a WWCC. On balance, given the potential complications and costs of this approach, the Review instead recommends amending the legislative requirements of the VIT scheme to ensure equivalency with the Working with Children Check scheme, to the extent the policy objectives of the two schemes are aligned. Following legislative amendment (if that is required), the Review recommends including a statement on VIT registration cards to communicate that a person who holds a valid VIT card is not required to hold a WWCC Check when engaging in child-related work given that the VIT registration and Working with Children Check schemes generally have similar and equivalent requirements.

Another issue considered by the Review is that the WWCC unit within DOJR has developed the best practice model in Victoria for a scheme operating to protect the safety and welfare of children. This should

also be one of the primary objects of the VIT. The Review considers that there may be opportunities for DOJR to second or outpost staff to the VIT (or vice-versa), or to provide services to the VIT under an MOU to assist the VIT in adopting some of the best practice elements of the WWCC scheme.

As at 30 June 2017, 1.193 million Victorians held a current WWCC⁷⁴. The scale of the WWCC scheme is therefore much larger than the VIT scheme, and DOJR holds a wealth of best practice knowledge which would be of benefit to the VIT. Also, despite the VIT and DOJR having co-regulatory functions in terms of child safety and welfare, they have not regularly come together to discuss best practice techniques. Further, there is no formal forum for DOJR, the VIT, the Quality Assessment and Regulation Division of the Department (QARD), VRQA, CCYP and Victoria Police to come together as co-regulators in the child safety and welfare sphere. This issue is discussed further in the next sub-section of this report.

Finally, the Review has also been advised that the VIT does not share information about Division 8A suspensions with the DOJR WWCC division, despite the large number of registered teachers who also hold a WWCC. This represents a potential risk. The Review is of the opinion that there is potential for this information to be released to DOJR under existing Victorian privacy legislation (as amended by family violence legislation passed during the course of 2017). Ultimately, however, if such sharing is prohibited, the Review recommends legislative amendment to allow this sharing to occur.

Recommendation 6

Consider amending the legislative requirements of the VIT scheme to ensure equivalency with the Working with Children Check scheme, to the extent the policy objectives of the two schemes are aligned; and following legislative amendment (if that is required) include a statement on VIT registration cards to communicate that a person who holds a valid VIT card is not required to hold a WWCC Check when engaging in child-related work given that the VIT registration and Working with Children Check schemes generally have similar and equivalent requirements.”

Recommendation 7

The VIT and DOJR collaborate to ensure that the best practice elements of DOJR’s administration of the Working with Children Check scheme are adopted by the VIT through staff secondments and out-posting and potentially through a service provision MOU between DOJR and the VIT.

2.1.6 The Reportable Conduct Scheme

Since the commencement of the Reportable Conduct Scheme (RCS) in July 2017, it has become mandatory for all principals or heads of entities (employers) to report allegations of child abuse and other child-related misconduct to the CCYP.

The implementation of the RCS is in its infancy, and respective roles and functions of agencies and entities involved in the RCS are still being established.

Under the RCS as it relates to schools, CCYP receives reports from a school and, in the case of a teacher for example, refers the report to the VIT. The school is then required to undertake its own investigation of the reportable conduct (under the auspices of the CCYP and RCS legislation), reporting to CCYP as required by the RCS legislation.

In parallel, the VIT has obligations under Part 2.6 of ETRA to take steps once it receives a notification from CCYP, sometimes meaning it must commence an investigation in addition to the investigation being

⁷⁴ 2017 Working with Children Check website, ‘Statistics’, accessed at: <http://www.workingwithchildren.vic.gov.au/home/about+the+check/statistics/>

conducted by the school (and in the case of Government schools, sometimes the Department may also conduct an investigation).

Stakeholders, including CCYP and the VIT, reported to the Review that this duplication is causing confusion. The volume of RCS reports from CCYP is also causing issues for the VIT. As noted elsewhere, 84 RCS reports have been referred to the VIT since commencement of the scheme three months ago. To place this in perspective, the VIT usually only receives approximately 120–140 notifications per year. Into the future, the VIT has projected approximately 420 notifications for next year.

Adding to the difficulties is the potential involvement of Victoria Police in some circumstances, and other co-regulators including the VRQA, QARD, and the DOJR WWCC area.

The VIT currently has MOUs in place with DOJR WWCC Unit, QARD, VRQA, DET Conduct Division and the Catholic sector diocese and meet regularly to discuss issues and share information. It is not clear how often these MOUs are revised and considered, or whether regulator reporting and meetings required by the MOUs actually takes place. The Review team, however, considers that there is an urgent need for the VIT to establish a MOU with CCYP, and review MOUs with other co-regulators so that respective RCS role and responsibilities are clarified.

Recommendation 8

The VIT to immediately agree / revise any existing MOUs with CCYP, Victoria Police and the other noted co-regulators so that respective RCS role and responsibilities are clarified.

Establish a formal forum for DOJR, VIT, QARD, VRQA, CCYP and Victoria Police to come together as co-regulators in the child safety and welfare sphere.

Part 2.1 – Summary of recommendations

Chapter 2.1: Legislative Framework

Recommendation 1

The Review recommends a comprehensive overhaul of Part 2.6 in order to streamline its operation and to ensure that it represents modern regulatory practice in connection with professional disciplinary schemes. In overhauling Part 2.6, consideration needs to be given to:

- a) Creating a standalone principal act establishing the VIT and giving the VIT its disciplinary powers.
- b) Changing the name of the VIT to “Teacher Regulation Victoria” to more accurately reflect its function as a regulator and to provide for a fresh start on commencement of the new regulatory regime.
- c) Giving the VIT specific legislative objects in relation to:
 - Ensuring child safety and wellbeing
 - Taking into account community expectations
 - Ensuring quality of teaching and teachers.

Recommendation 2

As part of the overhaul of Part 2.6 of the Act:

- a) The VIT hearing panel system be abolished.
- b) Allegations of teacher misconduct or incompetence (including medical matters, but not including minor matters) be heard and determined by VCAT.
- c) VCAT determines the composition of members who will hear matters brought by the VIT, but the relevant VCAT list should include members with contemporary teaching experience (particularly to hear teacher competence matters).

Recommendation 3

As part of the overhaul of Part 2.6 of the Act:

- a) The VIT Council, or an appropriate committee of the Council (currently the Professional Conduct Committee), determines following a VIT investigation, whether a particular matter is referred to VCAT. The VIT to retain current decision-making powers on initial and other registration issues – at a Council or committee level – with existing review of those decisions in VCAT maintained.
- b) A simple, clear definitional threshold for teacher misconduct warranting referral to VCAT is determined so that only minor matters (for example, swearing in front of a student or registration fees not paid) are reserved for disciplinary decision by the Council or relevant committee of the Council under delegation from the Council. This definitional threshold should be determined by reference to current, best practice professional regulation legislation, such as the Health Practitioner Regulation National Law and legal profession schemes⁷⁵. With appropriate modification, the actual definitions from either of those schemes could be mirrored in the teacher misconduct scheme.

Recommendation 4

To ensure that Division 8A of the Act operates fairly, the Review recommends that:

- a) Decisions under Division 8A are made subject to review by VCAT as part of the Part 2.6 overhaul.
- b) Decisions under Division 8A are made by Council, or a committee of Council - potentially the PCC or a new committee convened specifically for making Division 8A decisions. This will require amendment of section 2.6.67 of the ETRA as currently only the Council itself or the CEO under delegation can make Division 8A decisions.

⁷⁵ For example, for disciplinary matters, the *Legal Profession Uniform Law Application Act 2014* (Vic) uses the threshold of unsatisfactory professional conduct for more minor matters, and professional misconduct for more serious matters – see sections 297 and 298 of the *Legal Profession Uniform Law*. Section 298 of this Law gives a clear definition of conduct capable of giving rise to both types of unacceptable conduct. Section 5 of the *Health Practitioner Regulation National Law* – contained in the *Health Practitioner Regulation National Law (Regulation) Act 2009* (Vic) – uses the threshold of unprofessional conduct for more minor matters, and professional misconduct for more serious matters. This section also imports use of a “fit and proper” person test, which is also used elsewhere in the *Legal Profession Uniform Law*.

Recommendation 5

Implementation of the recommendations in this report be reviewed in 12 months' time and:

- a) If the VIT has not made significant progress towards implementation, the option of abolishing the VIT and amalgamation of its functions with the VRQA be re-considered.
- b) In the interim, opportunities to strengthen the relationship between the VIT and the VRQA through physical co-location and shared services be considered.

Recommendation 6

Consider amending the legislative requirements of the VIT scheme to ensure equivalency with the Working with Children Check scheme, to the extent the policy objectives of the two schemes are aligned; and following legislative amendment (if that is required) include a statement on VIT registration cards to communicate that a person who holds a valid VIT card is not required to hold a WWC Check when engaging in child-related work given that the VIT registration and Working with Children Check schemes generally have similar and equivalent requirements.

Recommendation 7

The VIT and DOJR collaborate to ensure that the best practice elements of DOJR's administration of the Working with Children Check scheme are adopted by the VIT through staff secondments and out-posting and potentially through a service provision MOU between DOJR and the VIT.

Recommendation 8

The VIT to immediately agree / revise any existing interim MOUs with CCYP, Victoria Police and the other noted co-regulators so that respective RCS role and responsibilities are clarified.

Establish a formal forum for DOJR, VIT, QARD, VRQA, CCYP and Victoria Police to come together as co-regulators in the child safety and welfare sphere.

2.2 Strong governance arrangements

Good governance is an essential element of good public administration. In the case of regulators, good governance is even more important. This is because good governance forms the basis of community trust in the regulator through ensuring transparency of outcomes, good processes and, where necessary, strong enforcement actions.

For these reasons, regulator governance arrangements require careful consideration to ensure they promote, rather than hinder, relevant outcomes and policy objectives. Institutional governance arrangements for regulators are critical for assisting or impeding the relevant social and economic outcomes of the regulatory scheme which the regulator administers⁷⁶.

This sub-section explores the scope and adequacy of the VIT's governance arrangements in this context.

⁷⁶ 2014 OECD, 'OECD Best Practice Principles for Regulatory Policy', accessed at: <http://www.oecd-ilibrary.org/docserver/download/4214061e.pdf?expires=1505113507&id=id&accname=quest&checksum=53B4FB7369EA10567FA8F3B99CDECCA>

2.2.1 Good governance and Council capability

Good governance in a statutory authority such as the VIT flows from the governance settings mandated by the authority's enabling legislation. In the case of the VIT, that legislation is ETRA and, in particular, Part 2.6 and Schedule 2 of ETRA.

Schedule 2 of ETRA provides for the general governance settings of a number of authorities in the education portfolio, including the VIT. The Schedule provides for duties of board members (Council members in the case of the VIT), establishment of board committees, conflicts of interest, terms and conditions of appointment of members, vacancies, payment of members, acting appointments, delegations and meeting procedures, just to name a few provisions.

More broadly, the general operation of public entities is usually governed by Part 5 of the *Public Administration Act 2004* (PAA). Part 5 contains a very comprehensive set of governance principles for public entities (more comprehensive than Part 2.6 and Schedule 2 of ETRA). These comprehensive principles include, for example, director duties not included in ETRA, broad entity duties (including duties to work closely with the Minister and Department – see section 81 of the PAA) and detailed financial and documentary obligations.

Part 5 of the PAA does not, however, apply to the VIT or the Council⁷⁷. This is because Part 5 only applies to entities established after the PAA was enacted in 2004. The VIT was established before this date. When ETRA was passed in 2006, it merely continued the VIT's existence, rather than re-established the VIT (see section 2.6.2 of ETRA).

The PAA governance obligations are comprehensive, more so than the equivalent obligations contained in ETRA. Even though Part 5 of the PAA does not apply to the VIT, the Minister has the power under section 75(a) of the PAA to recommend that the Governor in Council make an order that Part 5 of the PAA applies to the VIT. To ensure consistency of the VIT governance obligations with other Victorian public sector entities, and to ensure that the VIT has the proper governance settings mandated, the Review recommends that Part 5 be declared to apply to the VIT as soon as possible.

A declaration under Part 5 will strengthen and enhance the role of the Council and ensure that Council members are fully aware of these important obligations.

That declaration will also provide the required leverage and impetus for the VIT to conduct a thorough review of its governance, closely overseen, and driven, by the Council.

As part of that governance initiative, the Review recommends that the following specific governance issues should be addressed.

New Council charter and VPSC guidance

In light of the declaration under Part 5 of the PAA, and this Review, it is recommended that the Council Charter be refreshed. There is a significant amount of guidance issued by the Victorian Public Service Commission (VPSC) - including the *VPSC Code of Conduct for Directors of Victorian Public Entities 2016*⁷⁸ - on board operations, meeting procedure, suggested meeting topics over the course of board meetings during the year, requirements for regular self-review and independent review of board functioning and creation of appropriate committee structures and terms of reference for committees. This guidance suggests, most importantly, that there is a need for a modern, agile and effective board charter. It also sets out the process required to develop such a document. The Review recommends that the process be undertaken immediately, and that the Council ensures the VPSC guidance on board operations is adopted immediately.

⁷⁷ Although section 2.6.71(3) of ETRA provides that the PAA (other than Part 3) applies to a member of a VIT committee, hearing panel or body in respect of the office of member.

⁷⁸ 2016, Victorian Public Sector Commission, 'Code of Conduct for Directors of Victorian Public Entities', accessed at: https://vpsc.vic.gov.au/wp-content/uploads/2016/03/VPSC_Code_Directors_2016_Booklet.pdf

The VPSC has also issued the Code of Conduct for Directors noted above. This Code outlines requirements for Council members under the PAA. The Review recommends that the Council also establish a Council Code of Conduct based on the VPSC guidance, but tailored to VIT, at the same time the new Charter is adopted.

Review extent of delegations

The Governance Institute of Australia has produced a one page Good Governance Guide titled “Government businesses – delegations of authority”.⁷⁹ The Guide indicates that “it is good governance for the board to consider how it will manage delegations of authority”. The Guide also indicates that there must be systems in place for oversight of the exercise of delegations by the board, and that a framework must be put in place for the regular review of delegations by the board.

The Review has examined the current delegations instrument made by the Council.

It is arguable that more of the powers in that delegation instrument should be retained by the Council. The VPSC Code of Conduct for Directors clearly indicates that the Council is accountable for the actions of its delegates. The Good Governance Guide noted above indicates that boards should use the instrument of delegation to clarify its expectations of management, and to monitor whether those expectations have been met. This can include clarification of whether the board uses the CEO as a single point of delegation and holds the CEO accountable for meeting all the board’s expectations in relation to organisational performance.

Given this context, the argument for the Council retaining more powers under the delegation instrument is stronger in circumstances where most Council members are more recent appointees. The Council should be willing to test the decisions of VIT employees and executives. This will assist to ensure that the Council has a better understanding of the decisions being made on its behalf, and is able to test that decision-making.

Council training

The Review understands that new Council members receive induction training from the VIT executive, and from the VPSC. This training, however, only spanned 1-2 days and does not appear to be ongoing.

Again, with most members being recent appointees, there is a need for rigorous ongoing training for Council members in relation to their role and fiduciary duties as Council members, responsibilities with respect to confidentiality and conflict of interest (particularly for nominee members), the specific role and functions of the VIT, administration of a public entity such as the VIT and the VIT’s regulatory scheme and processes. That training should also be focused on lifting the scope of the Council’s oversight to matters of strategy and outward stakeholder engagement to ensure that prominence and visibility of the VIT is lifted.

Relevant and comprehensive board director duty training is provided by the Australian Institute of Company Directors (AICD). AICD also provides specific training courses for government authority board directors.

Council expertise

The King Review (2008) made recommendations that specific requirements be inserted in the VIT’s enabling legislation to ensure that the Council had members with financial, legal and corporate governance skills. As a result of this recommendation, a new section 2.6.6A of ETRA was inserted. As part of the overhaul of Part 2.6, the Review recommends that section 2.6.6A be reviewed and amended as necessary to include any additional knowledge, experience and skill sets required by the Council to perform its functions. One potential skill set may, for example, be regulatory expertise. The Review notes that Clause 10 of Schedule 2 of ETRA allows for appointment of committee members who are not Council members of the VIT. Any skills, knowledge and experience required for Council deliberations can be addressed in the interim by appointment of independent members to relevant committees using this provision.

⁷⁹ 2017, Governance Institute of Australia, ‘Good Governance Guide’, accessed at: <https://www.governanceinstitute.com.au>

New structure for committees of Council

A critical aspect of good operations of a statutory authority is an appropriate and considered structure for committees of the board (in this case, the Council). Legislation and relevant government guidelines mandate that the VIT establishes certain committees – for example, the Standing Directions made under the *Financial Management Act 1994* mandate that the VIT has an audit and risk committee; relevant VPSC guidelines also require that VIT has an executive remuneration committee. As noted above, there is excellent VPSC guidance on the establishment of committees.

The Review notes that the VIT Council Accreditation Committee has strong representation of the broader sector - 12 members, six of which are non-Council members. These non-Council members bring expertise from their roles as university educators, teachers across diverse school sections and within DET, and many of these members are trained as members of the accreditation panels to undertake accreditation of initial teacher training programs (ITE).

Despite the strength of the current VIT Council Accreditation Committee structure, it is questionable whether the broad VIT committee structure is fit for purpose, especially given the current circumstances and the effort which will be required to implement the recommendations of this Review.

The Review recommends a new committee structure for Council be established. At a minimum, the Council should consider establishing (or re-establishing) the following in addition to the mandatory committees:

- Principals' Advisory Committee
- Registration Committee
- Community Expectations Advisory Committee (this is to support the recommendation made below about better connection with community expectations)
- Armytage Review Implementation Committee (at least in the short-medium term, given the importance of the recommendations made in this report)
- Future Workforce Planning Committee (also to assist in addressing staff morale issues) – there is potential for this Committee to be combined with the Review Implementation Committee, and also for it to be time limited like the Review Implementation Committee.

The Review also recommends that:

- There is an articulate and clear framework for Council membership on committees
- As noted above, relevantly qualified independent members who are not a part of the VIT - including senior teachers, where appropriate, and potentially others with regulatory expertise - be included on all committees where possible. This will assist to inject new thinking into the committee process, and to challenge current thinking where appropriate.

Establish Community Expectations Advisory Committee

At present, it is arguable that the VIT's governance framework does not adequately allow for the VIT to take into account community views through direct engagement with the community.

The following case study provides a leading practice example of a mechanism which allows a teacher regulator to take into account community views.

Case Study - Ontario College of Teachers

Ontario College of Teachers is the Canadian province of Ontario's teacher regulator. The College was established under the *Ontario College of Teachers Act 1996* as a body corporate responsible for the regulation of the teaching profession. The Ontario College's mission statement is to regulate the teaching profession "in the public interest by setting and enforcing high ethical and professional standards for its members."

The College of Teachers is governed by a Council, similar to that of the VIT. The *Education Statute Law Amendment Act (Student Performance) 2006* amended the principal Act to increase the number of teachers on the Council and to establish a Public Interest Committee (PIC). The Government created the PIC to prevent the added teacher representation on the Council from compromising the College's ability to act in the public interest. The amending legislation establishes the PIC as a standing committee of the Council. The PIC advises the Council on "the duty of the college and the members of Council to serve and protect the public interest in carrying out the College's objects"⁸⁰.

PIC members are appointed by the Minister, with no fewer than three, and no more than five, members who are not members of the College (one of these independent members is designated as the Chair of the PIC).

The PIC meets at least four times a year, and is expected to report annually to the council prior to the College's annual meeting of members. The PIC is also required to develop a work plan identifying its priorities, proposed projects and activities through the term of council. Under this framework, the PIC may request information from the council to assist it in developing, modifying or implementing its work plan or providing advice to council.

It is also noteworthy that in order to better understand and define public interest in the teaching sphere, Ontario's College of Teachers undertook a study – *Finding the Meaning in the Public Interest* in 2007⁸¹.

While the Review does not necessarily consider that the VIT requires that a community expectations advisory committee to be established by the VIT's enabling legislation, it considers that a VIT-established community expectations advisory committee similar to the PIC should be established. It is essential that the VIT establish a mechanism for community engagement because, as noted above, a teacher regulator is responsible for registering professionals to ensure there is public confidence in the quality of teachers. A governance mechanism allowing community engagement will also assist the VIT to achieve the new public interest and child safety objects recommended by the Review.

Strengthen Council Secretariat

An important aspect of organisational governance is a strong professional relationship of trust and confidence between the board, CEO, and other senior executives of an organisation:

"Most boards would agree that one of their most important governance roles is hiring and possibly managing out the CEO. After all, the CEO is responsible for the day-to-day operations of the organisation and is instrumental in both the development and execution of corporate strategy".⁸²

A strong board secretary, and board secretariat, assists to facilitate and develop this relationship of trust and confidence. In a public sector context, the role of the secretariat is also to assist the board to acquit its responsibilities in relation to leadership and stewardship of any entity in its relations with Ministers, Government, departments and the public sector generally.

The Council, like all boards, must also be kept abreast of emerging issues and trends, including those of relevance to boards generally. For example, a topical, general trend of particular relevance to the Council currently is the importance of understanding the evolution of digital identity strategies – this is now a board-level topic:

"...there is now widespread acknowledgment that effectively managing user access is a matter of responsible corporate governance that requires a programmatic approach and methodology,

⁸⁰ 2007 Ontario College of Teachers, 'Defining the Public Interest'

⁸¹ 2007 Ontario College of Teachers, 'Finding the Meaning in the Public Interest'

⁸² 2017, KPMG, 'Directors' Toolkit', Chapter 10, Company Leadership, accessed at: <https://assets.kpmg.com/content/dam/kpmg/sg/pdf/2017/03/Australia-Directors-Toolkit.pdf>, p. 87

elevating Identity and Access Management (IAM) as a board-level concern rather than just another IT requirement.”⁸³

It was reported to the Review that the Council has not necessarily been made aware by the VIT executive of some critical issues affecting the VIT, including organisational performance, issues such as staff morale and turnover, exercise of Council delegations, and some issues regarding conduct investigations.

Stronger ties must be developed between the VIT executive and staff and the Council. The starting point for this is a stronger, dedicated secretariat supporting the Council's operations, meetings and papers. Stronger internal protocols and processes are required in connection with VIT executive briefings to Council to ensure those briefings are rigorous.

Relevant subject matter experts from the VIT staff cohort (not just VIT executives) should present to Council, or at least be present for discussions regarding their area of expertise. Council should be updated regularly, for example, on interactions with the Minister, interactions between the Minister's office and senior executives of the Department, and be updated on the written briefings given to those people by VIT. Council should also be provided with a regular report regarding these interactions. There should also be a mechanism established to report urgent issues to Council members outside the Council's normal meeting cycle.

Policies and procedures

The Review also observed that the VIT does not have a comprehensive, and up to date, set of policies regarding the operation of the Council. There also appear to be gaps in basic organisational policies and internal and external policies regarding VIT's regulatory approach - for example, a modern regulator of a profession should have a transparent and simple to read enforcement policy. A notable exception to this comment is the policy put in place regarding interim suspensions under Division 8A of ETRA. The recommended regulatory principles referred to elsewhere in this report should also be regularly reviewed, updated and endorsed by the Council prior to publication on VIT's website.

In parallel with the processes noted above, the Review recommends that an internal taskforce be established to thoroughly refresh the VIT's policies and procedures to ensure they align with best practice and broader government policy for regulators and statutory authorities.

Victorian Registration and Qualifications Authority (VRQA)

The Review has included below a case study regarding the VRQA. The Review consulted with the CEO of the VRQA, and has been provided with relevant governance documentation (including VRQA documents relating to the topics noted above). The case study sets out the VRQA approach to governance. The VRQA has also established significant protocols for dealing with the Department and the Ministers.

The Review considers that the VRQA's governance practices, including its annual review of governance, represent better practice in Victoria in connection with many aspects of statutory authority governance.

Case Study –VRQA

The VRQA is the statutory authority responsible for ensuring that employers of apprentices and trainees and providers of education and training (including course and qualification owners) meet quality standards, and that information is readily available to support informed choice in education and training⁸⁴.

The VRQA outlines in its 2016-17 Annual Report that regulation is a tool of government to create environments that achieve public policy goals. It also states that:

“the VRQA supports the Victorian Government's education and training goals. We contribute to the portfolio-wide efforts of the Department of Education and Training (DET) to help Victorians

⁸³ 2017, KPMG, 'Why digital identity is now a board-level topic', accessed at: <https://home.kpmg.com/xx/en/home/insights/2017/08/why-digital-identity-is-now-a-board-level-topic.html>

⁸⁴ 2017, VRQA website, accessed at: <http://www.vrqa.vic.gov.au/Pages/default.aspx>

gain the skills and knowledge they need to thrive and participate in a complex and challenging economy and society.⁸⁵”

One of the four main directions in the VRQA’s Strategic Plan is to “implement government directions”. Another of VRQA’s four strategic directions is to “strengthen governance.”

The VRQA’s Integrity Framework defines its governance outcome as confidence in the VRQA, and provides context and guidance principles for the VRQA Board, employees and contractors. The Framework supports VRQA’s Risk Management and Compliance Frameworks in order to form a comprehensive set of governance, control and accountability mechanisms which align with the Public Sector Code of Conduct.

The VRQA also has a wide range of information available on delegation of responsibilities for the board, executives and board committees. Each board committee has a document which outlines the committee’s charter and key performance indicators (KPIs). This assists in providing staff with clear direction and purpose – creating role clarity and reducing the likelihood of overlap or gaps in processes and functions. These documents make clear that committees work to advise and support the VRQA board in the various areas of their remit.

The VRQA’s approach has the following advantages:

- Clearly outlined roles and responsibilities within the VRQA’s governance structure ensure clearly defined purposes and accountabilities. This also increases efficiency and prevents duplication or overlap / gaps in processes.
- The VRQA’s governance structure clearly recognises that the VRQA is a part of the Department of Education and Training (DET) portfolio. This ensures that the VRQA, as a portfolio regulator, is working toward the goals of the Department and Government, and by implication, the public interest. This clear recognition also assists to cement the VRQA’s relationship with the Department and provides the foundation for appropriate collaboration and information sharing.

The Review recommends that the governance recommendations in this report be implemented, where possible, using the governance models and templates established by the VRQA.

The Review also recommends that the VIT establishes protocols for dealing with the Department and the Ministers based on the VRQA protocols. These issues are dealt with briefly below.

Clarifying the VIT’s role and relationship with the Department

Section 13A of the PAA provides that the Secretary of the Department is responsible for advising the Minister on matters relating to the VIT, including the discharge by the VIT of its responsibilities. Under this section, the Secretary is also responsible for working with, and providing guidance to, the VIT to assist with the VIT’s public administration and governance. The section obliges the VIT to provide the Secretary with relevant information to allow the Secretary to perform these functions.

This section makes clear that the Secretary and the Department have a role in the governance and administration of the VIT, even though the VIT requires some degree of independence to perform its role as regulator of a profession.

The VIT’s relationship with the Department is also more complicated as it has two aspects. One aspect relates to the role of the Secretary of the Department under Part 2.4 of ETRA as employer of the largest number of teachers in the State - the Secretary’s employees are regulated by the VIT. In this way, the Secretary is no different to any other employer of teachers in Victoria. In this aspect of its role, the VIT must be “sector agnostic” and advance a level playing field for all teachers, whether employed by independent schools, Catholic schools or the Secretary. The second aspect of the role of the Secretary is oversight of the education system as a whole on behalf of the Minister. In this role, the Secretary is responsible for the

⁸⁵ 2017, VRQA, ‘Annual Report 2016-17’, accessed at: <http://www.vrqa.vic.gov.au/about/Pages/publications.aspx>

development of education policy, strategy and legislation (including in relation to VIT), and oversight of education portfolio agencies such as the VIT – this is the section 13A role noted above.

In this respect, section 2.1 of the VPSC Code of Conduct for Directors provides for a reciprocal obligation (also set out in section 81 of the PAA). The Code makes clear that the VIT Council has stewardship of the VIT, including management of VIT's relationship with the Secretary / Department and Minister on matters of public administration and governance. The Code also makes clear that the Council must provide sufficient information for the Secretary / Department to advise the Minister on the VIT's activities (an obligation also imposed by section 13A).

The Review observed that the VIT has strong relationships with some areas of the Department, but potentially lacks vital links into the Department in other areas, particularly with more senior management. Issues with the VIT line of sight into the Department may have increased over time as it sought to establish more independence as a regulator.

In light of the above, the Review recommends that the VIT establishes regular meetings, forums and information sharing protocols with relevant senior managers of the Department in accordance with the VRQA model.

Clarifying the VIT's role and relationship with the Minister

Under section 2.6.5 of ETRA, the VIT must give due regard to any advice given by the Minister in relation to the exercise of VIT's powers and the performance of its functions.

The Minister has issued several Ministerial Statements of Expectations (SOEs) to the VIT over the period of 2015-17. Under section 2.6.5, VIT must have regard to the content of these SOEs. Under section 13A of the PAA, the VIT must provide the Secretary / Department with information about implementation of the content of the SOEs.

The SOEs noted above set the following expectations for the VIT:

- Improve the targeting of regulatory activity on areas of the greatest risk
- Reduce the time it takes teachers to comply with the requirements of registration by completing the migration of regulatory processes online
- Maintain high standards of professional practice for teachers to be registered in Victoria, and support teachers in meeting those standards
- Clearly define and communicate role and responsibilities
- Deepen engagement with employers, teachers and other stakeholders
- Improve accountability and responsiveness to stakeholders
- Promote cooperation, information sharing, regulatory coherence and efficiency with other regulators and key partners
- Work with the Department to apply the professional standards, the Special Needs Plan for Victorian Schools, and to negotiate a new MOU between the VIT and DET to manage teacher misconduct in government schools.

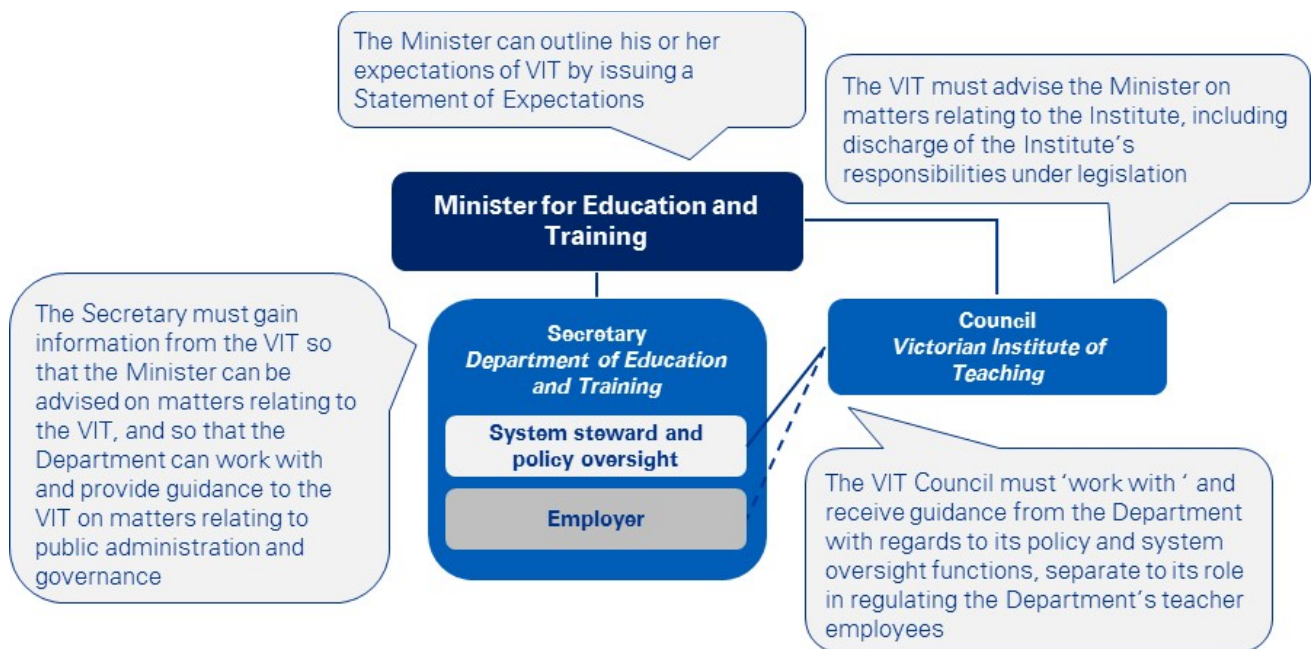
While the Review found that the VIT is working towards implementation of the contents of the SOEs, there is room for provision of more information and formal updates on implementation (both written, verbal and in person). This is also the case in relation to information about organisational policies, processes, governance structure and current and emerging issues.

The Review recommends that the VIT establishes regular meetings, forums and information sharing protocols with the Minister and Minister's office in accordance with the VRQA model noted above. The Review notes that putting in place these protocols does not compromise the VIT's impartiality and independent decision-making role, which is at the heart of its regulatory responsibilities. This impartiality is

mandated by the public sector values set out in section 7 of the PAA and confirmed in the introductory section of the VPSC Code of Conduct for Directors.

The diagram below sets out the required institutional governance relationships between the Minister, the Secretary / Department and VIT discussed in the preceding chapters.

Figure 10: Institutional governance relationships between Minister, Secretary / Department and the VIT under section 2.6.5 ETRA and section 13A PAA



Source: The VIT Review

Part 2.2 Summary of recommendations

Part 2.2: Governance arrangements
<p>Recommendation 9</p> <p>To ensure consistency of the VIT governance obligations with other Victorian public sector entities, and to ensure that the VIT has the proper governance settings mandated, declare Part 5 of the <i>Public Administration Act 2004</i> to apply to the VIT.</p>
<p>Recommendation 10</p> <p>Immediately refresh the VIT Council's Charter to align with contemporary governance practices, including regular Council performance reviews and periodic independent performance reviews of Council. Council should also establish a Council Code of Conduct based on the VPSC guidance, but tailored to the VIT, at the same time the new Charter is adopted.</p>

<p>Recommendation 11</p> <p>Immediately establish a delegations framework and review of all delegations made by the Council with a view to reserving important matters for Council decision, rather than for decision by the VIT Executive.</p>
<p>Recommendation 12</p> <p>Strengthen advice given to the VIT Council and VIT governance by:</p> <ul style="list-style-type: none"> a) Appointment of independent members to relevant Council committees as detailed in this report. b) Establishing a program of rigorous ongoing training for Council members in relation to their role and duties as Council members, as detailed in this report. c) Reviewing and amending section 2.6.6A of the Act (as part of the overhaul of Part 2.6), to complement the knowledge, experience and skill sets currently required by the legislation. Particular consideration should be given to inclusion of a member with regulatory expertise on the Council.
<p>Recommendation 13</p> <p>Establish a new committee structure for Council in accordance with the recommended committee structure in this report, including:</p> <ul style="list-style-type: none"> a) An articulate and clear framework for Council membership on committees. b) Relevantly qualified independent members - including senior teachers, where appropriate, and potentially others with regulatory expertise - on all committees, where possible, as noted in Recommendation 12. c) Establishing a community expectations advisory committee modelled on the Ontario model set out in this report.
<p>Recommendation 14</p> <p>Council commissions a review of Council Secretariat support within the VIT to ensure that the Council's operations are properly supported.</p>
<p>Recommendation 15</p> <p>Establish an internal VIT taskforce to thoroughly refresh the VIT's internal and external policies and procedures to ensure they align with best practice and broader government policy for regulators and statutory authorities.</p>
<p>Recommendation 16</p> <p>Implement recommendations 9-16 in this report, where possible, using the governance models and templates established by the VRQA, including establishing regular meetings, forums and information sharing protocols with the Minister and Department in accordance with this report and the VRQA model.</p>

2.3 Contemporary risk-based regulatory functions

It is critical that the VIT strengthen its risk-based regulatory approach to undertaking its core functions. Better understanding risk will help the VIT ensure it is able to undertake its core regulatory functions in line with its legislative responsibilities and be able to respond to future challenges with agility and maturity.

Consultation and analysis conducted during the Review identified four key areas where the VIT could focus effort in regards to applying a strengthened approach to risk-based activity. These include:

- Professional conduct
- Registration and customer service
- Accreditation and workforce planning
- Strengthening quality teaching.

This sub-section provides an overview of the trends in modern risk-based regulation and offers some strategic insights for the VIT to consider to support it to strengthen its approach to its critical functions.

2.3.1 A risk-based regulatory approach

It is important to better understand the trends and the modern environment in order to understand the VIT's regulatory operating environment. This sub-section provides a summary of the trends in contemporary better practice regulation and how the VIT's approach could be reformed to more closely align with them.

Regulatory better practice – risk-based and principles-based

Regulatory strategies and approaches have undergone a significant evolution since the VIT was established fifteen years ago. There has been an increasing focus and pressure on regulators to be efficient and effective in an increasingly complex environment, as described in further detail below.

There is increasing pressure on professional regulators, as depicted by Malcom Sparrow (2000)⁸⁶:

“Regulators, under unprecedented pressure, face a range of demands, often contradictory in nature: be less intrusive – but be more effective; be kinder and gentler – but don’t let the bastards get away with anything; focus your efforts – but be consistent; process things quicker – and be more careful next time; deal with important issues – but do not stray outside your statutory authority; be more responsive to the regulated community – but do not get captured by industry (p 17).”

At an international and domestic level, there has been a movement towards risk-based, intelligence-led and outcomes-focused regulatory approaches. In 2014, the Australian National Audit Office (ANAO) published a set of guidelines for regulatory better practice, which outlined the importance of adopting a risk-based approach that is proportionate to the risk of non-compliance or potential harm to the consumer⁸⁷.

A common feature of risk-based regulation is a reliance on regulatory principles over rules. The distinction with this approach is that a principles-based approach focuses more on overall objectives to be achieved, and less on strict adherence to a set of detailed rules. In this way, a principles-based approach uses principles as a framework to guide and assist regulators and regulated entities to understand and appreciate the core goals of the regulatory scheme and the outcomes it seeks to achieve⁸⁸. The advantages include greater flexibility for both the regulator and regulated entities to focus less on rule-based, often overly

⁸⁶ 2000 Sparrow, M, 'The Regulatory Craft: Controlling Risks, Solving Problems and Managing Compliance'

⁸⁷ 2014 ANAO, 'Administering Regulation: Achieving the Right Balance', accessed at:

https://www.anao.gov.au/sites/g/files/net616/f/2014_ANAO%20-%20BPG%20Administering%20Regulation.pdf

⁸⁸ 2006 Arjoon, S, 'Striking a Balance Between Rules and Principles-Based Approaches for Effective Governance: A Risks-Based Approach'

legalistic, compliance, and focus more on a 'do the right thing' approach. Principles-based approaches can also be applied more flexibly to complex and evolving environments, thereby allowing for a greater degree of 'future proofing' than rules-based approaches⁸⁹.

The VIT does not have a set of overarching regulatory principles guiding all of its functions and activities. The organisation does, however, have a Compliance and Enforcement Framework. The Framework outlines the following as the VIT's Compliance and Enforcement Principles:

- **Public protection:** the Institute's role is to protect the public
- **Consistency:** we will strive to take actions and make decisions consistently
- **Fairness:** the Institute's processes reflect the principles of fairness
- **Engagement:** we engage openly with teachers
- **Proportionality and flexibility:** the Institute will respond with flexibility and nuance to different compliance concerns
- **Risk-based:** we will focus on compliance risks that pose the greatest risks to our objectives and undertake strategic compliance activities that will deliver greatest impact
- **Evidence-based:** we will develop, implement and evaluate enforcement activities based on evidence.

The VIT's Compliance and Enforcement Framework is missing key principles and is not yet fully embedded across the organisation.

Consultations revealed that the VIT has not yet been able to reflect how the regulatory principles apply to key regulatory processes. Processes remain complex and reflect a rules-based, rather than principles-based, approach focused on outcomes. This is partially driven by the complexity of their legislative framework (see Chapter 2.1). In order to fully embed the principles, they need to be translated and made more specific in how they apply to key regulatory processes in practice. This translation needs to be evidence-based, and the output should be clearly-documented processes, assessment and decision-making tools which reflect the regulatory principles.

The Review recommends that the VIT develop an overarching set of regulatory principles, while also revising the Compliance and Enforcement Framework to ensure inclusion of leading practice principles. Most notably, the VIT should ensure the following practice guidance published by the Organisation for Economic Co-operation and Development (OECD) and ANAO, and informed through consultations with co-regulators, are included:

- **Transparency** - open in decision-making and processes, documenting decisions appropriately, including the justification for decisions, aiming to assist regulated parties to understand the decision-making processes, areas of focus and performance. Follow standard reporting requirements, enabling the department to monitor and oversee the performance of its regulators.
- **Intelligence-led** - Analyse incoming intelligence and data in order to be proactive, responsive and accurate when assessing risk and undertaking compliance activities.

Other professional regulators have had particular success with developing and embedding regulatory principles. The regulatory principles for the National Regulation and Accreditation Scheme for health practitioners, which are well-known and highly utilised in day-to-day regulatory decision-making of AHPRA staff, are included in Figure 11. What is important to notice is the level of specificity and tailoring that has been invested in the development of the principles. This is in contrast to the VIT's principles, which remain very high-level.

⁸⁹ 2007 Black, J, 'Principles Based Regulation: Risks, Challenges and Opportunities'

Figure 11: Regulatory Principles of the National Registration and Accreditation Scheme

1	The Boards and AHPRA administer and comply with the Health Practitioner Regulation National Law , as in force in each state and territory. The scope of our work is defined by the National Law.
2	We protect the health and safety of the public by ensuring that only health practitioners who are suitably trained and qualified to practise in a competent and ethical manner are registered
3	While we balance all the objectives of the National Registration and Accreditation Scheme, our primary consideration is to protect the public.
4	When we are considering an application for registration, or when we become aware of concerns about a health practitioner, we protect the public by taking timely and necessary action under the National Law.
5	In all areas of our work we: <ul style="list-style-type: none"> • identify the risks that we are obliged to respond to • assess the likelihood and possible consequences of the risks, and • respond in ways that are proportionate and manage risks so we can adequately protect the public. This does not only apply to the way in which we manage individual practitioners but in all of our regulatory decision-making, including in the development of standards, policies, codes and guidelines.
6	When we take action about practitioners, we use the minimum regulatory force appropriate to manage the risk posed by their practice, to protect the public. Our actions are designed to protect the public and not to punish practitioners. While our actions are not intended to punish, we acknowledge that practitioners will sometimes feel that our actions are punitive.
7	Community confidence in health practitioner regulation is important. Our response to risk considers the need to uphold professional standards and maintain public confidence in the regulated health professions.
8	We work with our stakeholders , including the public and professional associations, to achieve good and protective outcomes. We do not represent the health professions or health practitioners. However, we will work with practitioners and their representatives to achieve outcomes that protect the public.

Source: AHPRA Website⁹⁰

Internal and external stakeholders noted VIT is challenged in its ability to deliver its regulatory functions and decision-making in a consistent, evidence-based manner.

It was reported in previous reviews, as well as by staff during this Review, that the organisation lacks consistent and up-to-date regulatory policies and processes. Staff reported particular challenges with respect to the organisation adopting an overly customer-service oriented approach to registration activities. Staff noted they have been strongly encouraged to view teachers as customers, and the organisation as a business.

While a user-focused orientation is indeed appropriate for the VIT, this needs to be secondary to effective and consistent risk-based regulation. Staff expressed concern that the VIT currently applies too great a level of discretion and flexibility to regulatory processes, resulting in inconsistent regulatory decision-making reflective of a teacher's individual circumstances rather than the level of risk or potential harm. It should be noted that it was beyond the scope of this Review to undertake a file review or audit to confirm these views, however, given that past reviews identified a lack of clear policies and processes, this Review finds these remain areas of under-development.

Further detail around the VIT's compliance and enforcement activities is provided in Chapter 2.1.

Developing tailored regulatory principles and embedding a contemporary risk-based regulatory approach

The Review recommends that the VIT review and redevelop their regulatory principles so they are clearly translated and tailored to their key regulatory processes in practice. The principles of transparency and intelligence should also be incorporated. Regulatory principles are a cornerstone feature of a modern regulator, and developing them will support the organisation in better defining its strategy, purpose and ways of working. Well-developed principles can be a powerful symbol and message for the VIT internally –

⁹⁰ 2015, AHPRA, 'APRA Regulatory Principles', accessed at: <https://www.ahpra.gov.au/About-AHPRA/Regulatory-principles.aspx>

posted prominently in the physical environment and used to guide day-to-day decision-making. They can also support the articulation of the VIT's approach externally.

In redeveloping the principles, the VIT should use this opportunity to engage staff across the organisation as well as the Council in informing their development, while ensuring the principles remain aligned to their legislation and regulatory best practice.

Once developed, these principles will need to be cascaded and further translated into the organisation's key regulatory policies, procedures and decision-making tools, some of which need to be updated or developed.

Embedding a focus on outcomes and building an evidence-base through data

The VIT's strategic planning and reporting process should be informed by the measurement of performance against outcomes, in order to determine the Institute's effectiveness and to inform continuous improvement.

We strongly recommend that the VIT develop and work towards clearly defined outcomes that align with those of the Department, such as raising standards of learning and development and protecting the wellbeing of children and young people⁹¹. The VIT should fully embed their risk-based framework in a consistent manner to focus resources and the key functions of the Institute that will have the most significant impact on these outcomes (for example, registration and accreditation).

We also recommend that the VIT develop intelligence-led data analytics to support the VIT in ensuring that the Institute can focus on the efficient targeting of resources. The VIT is the custodian of demographic and regulatory data and information for over 100,000 active teachers. This data and information contains key insights and signposts to where areas of high risk to child safety and wellbeing exist now and into the future. It can guide VIT to where it should target prevention strategies and invest its resources.

Through having more developed intelligence systems and processes, the VIT will be able to use incoming and existing data to inform compliance activities. This involves monitoring existing information and responding to incoming information to ensure that the VIT's resources are channelled and targeted in a way that will have the most impact on outcomes.

Recommendation 17

Develop and publish a set of contemporary regulatory principles which apply to all functions and activities of the organisation. Following this, revise the Compliance and Enforcement Framework to be more targeted, tailored and reflective of best practice regulatory principles.

Recommendation 18

Ensure all regulatory policies and procedures are fully developed, up to date, clearly align with the new regulatory principles and are reflective of a contemporary, risk-based regulatory approach.

Recommendation 19

The VIT leverage its data to better inform and draw out intelligence about where areas of regulatory risk exist in teacher regulation, including through establishing partnerships with research and / or tertiary institutes.

Recommendation 20

Embed a more clearly defined outcomes-based approach to corporate planning and performance measurement that aligns with that of standard Victorian public sector practice.

⁹¹ 2017-2021 DET Strategic Plan, accessed at: <http://www.education.vic.gov.au/Documents/about/departments/strategicplan.pdf>

The chapter below provides further detail on the way in which The Review recommends the Institute implements and embeds a more contemporary approach as it relates to each of the key functions undertaken by the institute.

Core functions described below include:

1. Teacher Registration and professional standards
2. Initial Teacher Education and Accreditation
3. Professional conduct and compliance
4. Other functions (Promotion of the profession / research, etc).

2.3.2 Teacher Registration

All teachers practicing in Victoria are required to register with the VIT. Registration is a most critical function for the organisation. Not only is this function the mechanism by which the community can feel confident in the performance of teachers and the safety of students, but it is also the organisation's primary contact with the profession, making it critical for building trust and respect from the profession.

Throughout the VIT's recent history, there have been concerns regarding the VIT's ability to *perform* this function efficiently and effectively, to the detriment of the VIT's reputation. This sub-section provides an overview of the VIT's current approach to registration and customer service and provides insights into what the VIT must consider to ensure it can perform this function in an effective and timely way.

Registration

One of the core functions of the VIT is to grant and monitor registration or PTT in Victorian schools and early childhood services. The VIT is responsible for both issuing the certificates of registration, and under the *Education and Training Reform Act 2006*, maintaining a record of registered teachers to develop and maintain a minimum standard of teacher quality. Registration of the teaching profession is one of the mechanisms by which the community can be confident of the performance of teachers and the safety and wellbeing of their children while in the care of the teacher. All teachers practicing in Victorian schools are required to register with VIT in order to be employed in a school / early childhood setting. There are a number of elements to the registration process managed by VIT:

- **Graduate registration** – teaching students who will graduate in the next six months or who have recently graduated are required to register with VIT before they can teach at any Victorian school or be employed as a registered early childhood teacher in Victoria.
- **Moving from Provisional registration to full registration** – teachers need to have taught for a total of at least 80 days in one or more Australian or New Zealand schools or early childhood services and provide evidence of meeting the Australian Professional Standards for Teachers (APST) at the Proficient Teacher level using the inquiry approach. Early childhood teachers have separate requirements.
- **Renew registration** – annual renewal of registration is a requirement for registered teachers and registered early childhood teachers.
- **Permission to Teach (PTT)** – PTT registration is for individuals to gain short-term employment without being registered as a fully qualified teacher to undertake the duties of a teacher in delivering and / or assessing student participation in the school's curriculum program. In response to the King Review, the Government strengthened the PTT function to enhance short-term teaching capability and capacity. This included allowing non-registered persons to be employed to teach / instruct in schools in specified circumstances under the supervision of a registered teacher, having a separate registration and limiting the duration to no more than three years in any one approval.

In recent times, the VIT has been required to respond to the increasing number of teacher registrations including the introduction of early learning teachers in 2015. In 2015-16, there were 127,101 registered

teachers in Victoria. Of this total, 5,460 hold early childhood teacher registration and 1,131 hold dual registration⁹².

Registration is perceived to be the core function of the VIT

Stakeholders consulted by this Review considered registration to be the core and most visible function of the VIT. If the registration process is not experienced as a seamless process, stakeholder trust and perception of organisational competence at every level of the VIT will be undermined.

Engaging with teachers – customer service

Critical to a high performing organisation is the capability to effectively perform core administrative functions in a timely and efficient way. Customer service and engagement is a key function of the VIT. The VIT's call centre handles the bulk of telephone interactions and email traffic for the VIT. The KPIs are:

- All emails answered within one business day
- For telephone interactions, the measurement is a Grade of Services calculation of 80% of calls answered within 20 seconds.

The VIT call centre handled 110,448 customer interactions in 2015-16, with communication via email and SMS experiencing high growth⁹³. During the last 18 months, the VIT has seen a growth in email communications from 17% of total interactions to 31% during peak times. Analysis of the VIT performance data shows the VIT has improved its operational efficiency regarding the average percentage of telephone calls it responded to under 20 seconds. The average percentage of handled telephone call enquiries has increased from 97.5% in the 2014-15 period, to 98.8% in the 2016-17 period. In addition, as email communications has increased over time, so has the number which are regularly answered on the same day.

The VIT engagement strategy was developed in acknowledgement that the VIT could better connect with its customers, as it recognises that effective engagement is a constantly evolving process and outlines a framework, methodology and key opportunities for building engagement with stakeholders. The VIT has introduced metrics to help plan for, and deliver, improved standards of service. In line with the engagement strategy and the changing nature of customers' interactions, the VIT has instituted a number of new initiatives to better meet the needs and preferences of its stakeholders, including:

- New website
- In-house capability for filming and editing
- Capacity to communicate via SMS.

These initiatives reduce the need for interactions over the telephone and allow the provision of information in a more desirable format, and at a time more convenient for customers.

Registration system and process improvement has been an area of focus

In June 2015, the Minister provided the VIT with a SoE covering the period 2015-16 and 2016-17. The SoE provided specific expectations with regards to registration:

"I expect that the VIT will continue to reduce the time that it takes teachers to comply with the requirements of registration by completing migration of its regulatory processes to an online environment."

⁹² 2016, VIT, Annual Report 2015-2016, accessed at: <http://www.vit.vic.edu.au/who-we-are/annual-report>

⁹³ 2016, VIT, Annual Report 2015-2016, accessed at: <http://www.vit.vic.edu.au/who-we-are/annual-report>

The VIT reported good progress to date on improving the registration process and customer service, including:

- Establishment of a Customer Relationships Management System (CRM)
- Introduction of a triage process to handle the initial processing of incoming registration documents and the establishment of a new Triage team responsible for assessing application forms for completeness prior to the assessment stage performed by the registration team
- Implementing the Teacher Electronic Records Information - Proof of Concept (PoC) pilot aimed at the removal of paper-based forms and the automation of processes.

In the 2016-17 Annual Report, VIT reported that it considers it has exceeded the expectations outlined in the statement, including having “moved seamlessly into an online registration platform for registration that provides a highly efficient and streamlined process for students, teachers and program providers.”

A number of reviews have identified progress, as well as the need for further system, policy and process improvement

Quality and Performance Unit review

Following media attention in 2015 alleging VIT had a backlog of registration applications and would not have graduates ready for school, a review was undertaken by the Quality and Performance Unit. The review was established to examine the issues that occurred in relation to the 2015 graduate registration and registration renewal projects, which caused the media attention, and to recommend opportunities for improvements to mitigate reoccurrence of those issues.

The review highlights that in 2015, the VIT commenced registration of Early Childhood Teachers (ECT) for the first time, and acknowledges that there was substantial focus on the successful delivery of that project. The report concludes that the combination of VIT’s significant focus on the successful delivery of the ECT project, the insufficient level of management and oversight of the other projects and resources, and the disconnected working culture of the Registration Branch, culminated in the issues which occurred in 2015.⁹⁴

RSM internal audit – Review of triage process

In October 2016, the VIT introduced a new triage process to handle the initial processing of incoming registration documents. A new team known as Triage was formed and is responsible for assessing Application Forms for completeness prior to the Assessment Stage being performed by the Registration team. Prior to this, the Registration team was responsible for ensuring that both the documents provided by applicants are complete and assessing their application for eligibility. The rationale behind the change was to improve the efficiency as well as to improve visibility over processing times for applications. RSM was engaged to review the Information and Office Management Unit triage process in February 2017.

The RSM review found that the implementation of the triage process had increased efficiency as the average number of business days taken to process non-complex registration applications (from mail-in date to approval) had reduced by three days between 2014 and 2016.

Figure 12: Average time taken to process non-complex registration applications

Type of Forms	Average business days taken from Mail-in Date to Approved Date		
	2014	2015	2016
Non-complex Forms	15 days	20 days	12 days

⁹⁴ 2015, VIT, ‘Review Report: 2015 Registration Projects’

Complex Form (low in volume)	27 days	19 days	23 days
------------------------------	---------	---------	---------

Source: 2017 RSM VIT Internal Audit Report – Triage Process Review

The RSM review noted, however, that a poor culture and lack of cohesiveness between the Triage and Registration teams was impeding the effective implementation of streamlining teacher's registrations. The review found that the teams have separate objectives rather than focusing on achieving the VIT's goal of completing registration of teachers in the most efficient manner. While the triage process was seen to be achieving its objective in decreasing the time taken to process a teacher's application, the full potential for the triage and registration process have not been realised due to the poor culture that exists between the two teams⁹⁵.

The review found that a number of issues contributed to the effective implementation of streaming teachers' registrations:

- Lack of formal and measurable KPIs for the Triage and Registration teams
- CRM system is unable to capture critical information to assist the VIT in monitoring, measuring and reporting triage and registering a teacher
- Lack of clarity and differentiation around the roles and responsibilities between Triage and Registration
- Lack of defined user access increasing the risk of data integrity in the application process
- Need to document registration procedures to ensure continuity and consistency of the registration process.

RSM Proof of Concept review

The VIT engaged RSM to review the controls of the PoC pilot program and whether the benefits sought from PoC have been achieved. The review noted that a lack of continual and regular collaboration from stakeholders has affected the timely delivery of functionalities. The review recommended that the VIT organise an awareness program to ensure stakeholders are adequately informed and there are opportunities for regular and continual collaboration with the project team. In addition, the review identified that the level of customer satisfaction was somewhat compromised by a number of functionality gaps and system deficiencies. The review recommended the VIT conduct a formal assessment of system deficiencies and assess the criticality of shortfalls to ensure critical issues are addressed. It was also recommended that a survey be conducted to assess the effectiveness of the implemented changes⁹⁶.

Significant attempts are being made within the VIT to modernise policies, processes and systems management; however, a lack of clear structure and purpose coupled with outdated systems cause basic administrative processes such as registration to be inefficient and ineffective. There is a need to automate administrative tasks and make engaging with the processes easier and more customer friendly.

Moving to fully online registration processes

The Review undertook consultations with the VIT and external stakeholders regarding the current process, user-experience and future plans with respect to online teacher registration. Consultations revealed that, despite significant progress and investment of resources in migrating registration processes online, the annual teacher renewal process is currently fully online and paperless. Provision of teacher registration and moving to become a registered teacher (full) are both partially online at the time of this Review. The PTT registration remains paper-based, which was the subject of a significant amount of comment by external stakeholders consulted. A number of stakeholders expressed frustration with the timeliness and volume of paper-based documentation required to obtain PTT.

⁹⁵ 2017, RSM, 'VIT Internal Audit Report – Triage Process Review'

⁹⁶ 2017, RSM, 'VIT Internal Audit Report – Proof of Concept Review'

Figure 13: Key registration processes and online status

Key registrations (inc. early childhood)			
Provisional teacher	Registered teacher (full)	Teacher renewal	Permission to Teach (PTT)
Partially online	Fully online*	Fully online	Paper-based
Proposed to be fully online by second half of 2018, including interfaces with Australian Council for Educational Research and Attorney-General's Document Verification Service. Also planned is a interface enabling Universities to upload degree information to VIT as opposed to paper-based submission.	<p>The application process to move from provisional to full registration is fully online.</p> <p>*Those applicants seeking Mutual Recognition registration who are currently registered interstate (ex. NSW) or in New Zealand must apply using a screen writable form, which must be printed and mailed to the VIT or delivered in person.</p>		Preliminary proposal for this to migrate online following completion of other registration migrations

The Review notes that issues arose with the new online portal for initial teacher registration. This is the portal which will ultimately be utilised for annual renewal of registration. The issues occurred as a result of Microsoft purchasing the provider of the platform for the new online portal. Microsoft subsequently announced it would cease supporting this platform, replacing it with their own platform. The VIT noted that they have been working with Microsoft to plan migration to Microsoft's new platform, and has been able to map at least 80% of its business requirements to the new platform. The VIT expressed confidence that the remaining 20% of their portal requirements could be supported through some customised plug-ins. In the interim, the VIT has engaged dedicated, in-house support to ensure that its current online registration renewal system remains operational. Migration of registration renewal to the new platform is planned for completion in the second half of 2018. It was beyond the scope of this Review to conduct an assessment as to the robustness or viability of the current or future systems.

Case Study – Queensland College of Teachers

Despite recent progress in system management, the VIT's current systems could be further improved to achieve greater efficiency and better support of its customers. The equivalent body in Queensland, the QCT, has instituted a number of contemporary business processes, in particular to automate the processing of application streams either in full or in part, which have improved the efficiency and effectiveness of customer service.

Arrangement:

QCT introduced a CRM with bespoke design features for QCT business processes in August 2009 called the Approved Teacher Information System. Since 2009 when the QCT's first online form was launched for teacher registration, there have been a number of additional innovations:

- The QCT now operate all applications through one application portal and use intuitive design to ensure that an applicant is applying using the correct application. For example, a Queensland graduate who is applying for registration for the first time will use the application form that is customised to their particular circumstances, an applicant who is currently a registered teacher in another state will be identified through their responses to a set of questions and lead to use of the Mutual Recognition pathway.

- Applications can be approved immediately if they meet all criteria, and the applicant's registration status on the public register can be updated within 10 minutes of the automated processing of their application.
- Applications for renewal can be processed within 24 hours of the applicant submitting their online application and paying a fee if all information is provided and there are no additional checks required to be undertaken by the QCT.

Advantages:

The establishment of a fit-for-purpose CRM and updates to a number of business processes has increased the effectiveness and efficiency of the QCT. In addition, QCT is increasing online customer transactions and developing self-service options for applicants and approved teachers via the various application streams, quick links provided in emails for payment of annual fees and facilities provided through individual and school myQCT accounts for applicants and teachers.

Recommendation 21

Ensure reforms to registration processes and customer-interfaces, including migration to online registration and renewal processes across all registration processes are completed by the end of 2018.

2.3.3 Accreditation and initial teacher education

The VIT's role as the accreditor of pre-service teacher training in Victoria puts the regulator in a unique position to help shape and support the workforce of the future by ensuring that 'aspirants to the profession are well prepared'⁹⁷.

All graduate teachers in Australia must complete a mandatory two year Initial Teacher Education (ITE) Program in order to gain their accreditation and registration to practice teaching. This sub-section provides a summary of the VIT's role in the accreditation of pre-teacher education programs and makes observations about how this function could be strengthened into the future.

The VIT accredits all initial ITE

Working with tertiary education providers, the VIT is able to support the sector to ensure that graduating teachers are equipped with the skills and knowledge necessary to work as a contemporary professional. All courses are reviewed by the VIT over a five year period, with a five year accreditation approval granted unless significant change to a course occurs during that period.

The VIT invests significant resources in the work and activities of its Accreditation Committee. In 2015-16, the Accreditation Committee accredited 18 programs⁹⁸ and in 2016-17, the VIT commenced work on the full accreditation of 19 programs from eight providers⁹⁹. In the 2016-17 period, the VIT also commenced work on transition plans for 65 nationally-accredited programs from 11 providers addressing the new elements of the standards and procedures.

Reform to the ITE sector to raise the standard of teachers in Victoria

⁹⁷ 2016 VIT, 'Annual Report', accessed at: http://www.vit.vic.edu.au/_data/assets/pdf_file/0004/32566/VIT-ANNUAL-REPORT-2015-2016.pdf, p.6

⁹⁸ 2016 VIT, 'Annual Report', accessed at: http://www.vit.vic.edu.au/_data/assets/pdf_file/0004/32566/VIT-ANNUAL-REPORT-2015-2016.pdf

⁹⁹ 2016 VIT, 'Annual Report', accessed at: http://www.vit.vic.edu.au/_data/assets/pdf_file/0004/32566/VIT-ANNUAL-REPORT-2015-2016.pdf

The sector has been subject to much focused reform discussion in recent years to try to measure the impact of pre-service education courses and ensure consistency in the quality of Victoria's teacher graduates.

In 2015, AITSL began a process with key stakeholders to design a package of ITE accreditation reforms with the view to implementation in 2016. These reforms were designed in response to the release of the *Action Now: Classroom Ready Teachers* Report (Dec 2014) released by the Teacher Education Ministerial Advisory Group (TEMAG). The report made recommendations on how ITE in Australia could be improved. Key findings included:

- Inconsistency in the application of the accreditation standards for ITE programs by State registration bodies
- A lack of public confidence in graduate teachers' skills and knowledge for teaching
- Poor delivery and practice of many ITE programs to graduate teachers
- Inadequate application by education providers of the accreditation standards
- Insufficient professional support for graduate teachers upon entering the profession.

The report also expressed concern that a lack of data and information regarding ITE programs hinders efforts for continual improvement of initial teacher education, as well impedes workforce planning to address skill shortages in each State.

The VIT has responded to these challenges, working with stakeholders to help design and implement the reforms

The VIT has worked closely with AITSL and other teacher regulators to assist in the development of the reforms. To date, this has included assisting in the review of the national accreditation standards and procedures for initial teacher education programs. The new standards and procedures focus heavily on the impact, delivery and outcomes achieved by ITE programs, and require two distinct types of evidence to be demonstrated as part of the accreditation process:

- Evidence of pre-service teacher performance - collected from within a program in relation to a pre-service teacher's performance
- Evidence of graduate outcomes - collected following completion of a program in relation to the achievements of a program's graduates¹⁰⁰.

To better respond to the recent changes made to the national reforms of accreditation standards and procedures for ITE programs, the VIT has:

- Increased the number of accreditation staff (5.6 FTE from manager to admin support level)
- Increased the number of trained panel members and chairs (including providing training sessions to new panel members and support staff and participating in evaluation meetings)
- Undertaken greater engagement with ITE providers through workshops and broader engagement to communicate new requirements, guidelines, templates of the national accreditation standards and procedures for ITE programs¹⁰¹.

Significant progress has been made to enforce state based reforms

In addition to the federal reforms, the VIT has been subject to a number of state reforms designed to improve accreditation standards and graduate teacher outcomes in Victoria. These reforms include literacy

¹⁰⁰ December 2015, Australian Institute of Teaching and School Leadership, 'Accreditation of initial teacher education programs in Australia', p.2, accessed at: https://www.aitsl.edu.au/docs/default-source/default-document-library/accreditation-of-ite-programs-in-australia/ace118891b1e86477b58ff00006709da.pdf?sfvrsn=86f9ec3c_2

¹⁰¹ Council Meeting 7, 'ITE Update', provided by the Victorian Institute of Teaching.

and numeracy reforms, reforms for students with special needs, and reforms to tertiary education requirements.

Literacy and Numeracy Testing: the requirement for all graduate teachers to undertake a literacy and numeracy test to gain interim registration.

The Victorian Minister for Education determined that the agreement would be implemented in Victoria for graduates registered after 1 January 2017. In July 2017, the VIT reported having registered 4,551 graduates who have obtained registration since the introduction of Literacy and Numeracy requirements in 2016 and over 96% of these graduates have been successful in meeting this requirement.

Special needs plan: the requirement for teachers to develop and build their capabilities to teach learners with a disability as part of the State government's Special Needs Plan.

The VIT has made considerable progress to implement the State Government's Special Needs Plan for Victorian Schools requiring all tertiary qualifications approved as appropriate for entry to teaching include a special needs component, and that currently registered teachers undertake special needs training as a part of their ongoing professional development.

The VIT has implemented the special needs requirements for renewal of registration during 2016 with 89% compliance and this continued in 2017¹⁰². Special needs proficiency is now required for the successful transition of provisionally registered teacher to (full) registration.

Tertiary Selection Requirements – the introduction of additional requirements for the selection into an ITE program.

The VIT has also insured that selection requirements have been met by providers for 2018, which includes a minimum ATAR of 65 and the selection for places based on non-academic attributes¹⁰³.

A professional regulator needs to be proactive, and focused on the future needs of the workforce to be able to plan effectively

Any professional regulator needs to be flexible in its approach to ensure it can adapt and respond to shifts in workforce demographics, skills shortages, new technologies and other developments. Stakeholders consulted as part of the Review indicated that they felt that the VIT could take a much stronger approach with universities to ensure better quality and consistency amongst teacher graduates.

Whilst the VIT has made good progress meeting and responding to the requirements of State and Federal Governments, and should be recognised for its resilience in this regard, the Review found that there is a need for the VIT to take a more proactive and interventionist approach to monitoring emerging trends in the teacher education sector.

Stakeholders consulted as part of the Review indicated that whilst the VIT is in a unique position to draw connections with schools and universities about the future expectations and requirements for the modern teaching professional, the VIT has taken a more compliance-focused approach.

The Review understands the VIT is currently sponsoring the *initial teacher education research project*, conducted by the Centre for Research on Education Systems (CIREs), to improve teaching outcomes and support for graduate teachers in the Victorian education system. A key focus of the project involved the distribution of a survey designed to encourage graduate teachers and principals to share their views about teaching education. The survey will provide data to ITE providers and schools to:

- Create feedback loops between schools, new teachers and ITE providers in relation to improving ITE programs

¹⁰² 2017, VIT, 'Annual Report 2016-17' accessed at <http://www.vit.vic.edu.au/who-we-are/annual-report>

¹⁰³ Letter from CEO, Mad to John Hattie of AITSL reporting on progress to day

- Generate information on ITE programs and the current employment demands and standards expected of graduate teachers¹⁰⁴.

Whilst the results of this survey were not yet known at the time of the Review, the Review commends the VIT to continue and expand on this future-focused research activity. Creating and fostering this feedback loop between ITE providers and employers is critical to improving ITE programs and strengthening the quality and consistency of our teaching workforce. The VIT is uniquely placed to add value in this area, and can support this research through stronger partnerships with the Australian Centre for Educational Research and other research institutions, without needing to independently commission research.

In addition, many stakeholders consulted as part of the Review have suggested that this feedback loop could be further strengthened through better analysis of data and more proactive information sharing.

Currently, the VIT does not optimise its unique position as a valuable data resource, gaining unique insights on trends across all sectors (Catholic, independent and government).

It is critical that the VIT utilise its rich and valuable data to support the teaching workforce to better respond to the challenges of the future.

Case study – The QCT

Strengthening information sharing and data analysis across sectors

QCT produce regular research reports that are shared with stakeholders, such as employers, to help them with functions like recruitment and workforce planning.

The QCT, like the VIT, are the only organisation in the state that hold such a deep collection of data about teachers across all sectors. This gives the QCT a unique ability to inform employers and ITE providers about trends and forecasts.

As such, the QCT have been working to publish reports such as '*Attrition of Recent Queensland Graduate Teachers*', (2013)¹⁰⁵ and *Queensland Teachers Report: Statistical Data, Trends and Forecasts 2016*¹⁰⁶.

Strengthening strategic insights into the future needs of the workforce

The QCT's Strategic Futures Committee¹⁰⁷ provides wide-ranging strategic advice to the board. This advice is based on the strategic objects and functions of the QCT.

This committee meet at least two times a year and provide advice to the Board of the QCT on:

- Environmental scans / reports identified by the staff of the QCT or Committee members relating to education and / or regulation
- Drivers that will significantly influence education and / or regulation in the future
- QCT's Strategic Plan and its development
- QCT's research plan
- QCT's data plan

¹⁰⁴ 2015, VIT Victorian Institute of Teaching, 'Initial teacher education (ITE) research project', accessed at: <http://www.vit.vic.edu.au/news/news/2017/initial-teacher-education-ite-research-project>

¹⁰⁵ 2013, Queensland College of Teachers, 'Appendix 1: Survey Questionnaire', accessed at: http://www.qct.edu.au/pdf/ATTRITION_OF_RECENT_QLD_GRADUATE_TEACHERS_Appendices.pdf

¹⁰⁶ 2013, Queensland College of Teachers, 'Queensland Teachers Report: Statistical Data, Trends and Forecasts 2016', accessed at: <http://www.qct.edu.au/teaching-in-queensland/data-about-teachers>

¹⁰⁷ The contents of this case study are taken from the QCT's Committee Charter, accessed on 1 November 2017 at http://www.qct.edu.au/pdf/QCT_Committee_Charter.pdf

- Sustainability of the QCT (including workforce and succession planning, ICT and facilities).

Advantages

- The Strategic Future's Committee of the QCT commissions and reviews academic papers on future workforce and regulatory needs. Recent reports commissioned includes '*The Future of Teacher Education QCT Literature Review*' 2016, Professor Wendy Patton.
- The QCT consider these trends alongside their workforce data and better inform their future strategic focus.

Next Steps

- After an external review of Board governance, the QCT are considering whether the Futures Committee continues or whether they move this to the Board to ensure that all Board members have an in-depth understanding of what is on the horizon and how it might impact the work of the QCT.

Recommendation 22

Expand future-focused research activity, including through facilitating and fostering stronger feedback loops between ITE providers and employers.

2.3.4 Professional conduct and compliance

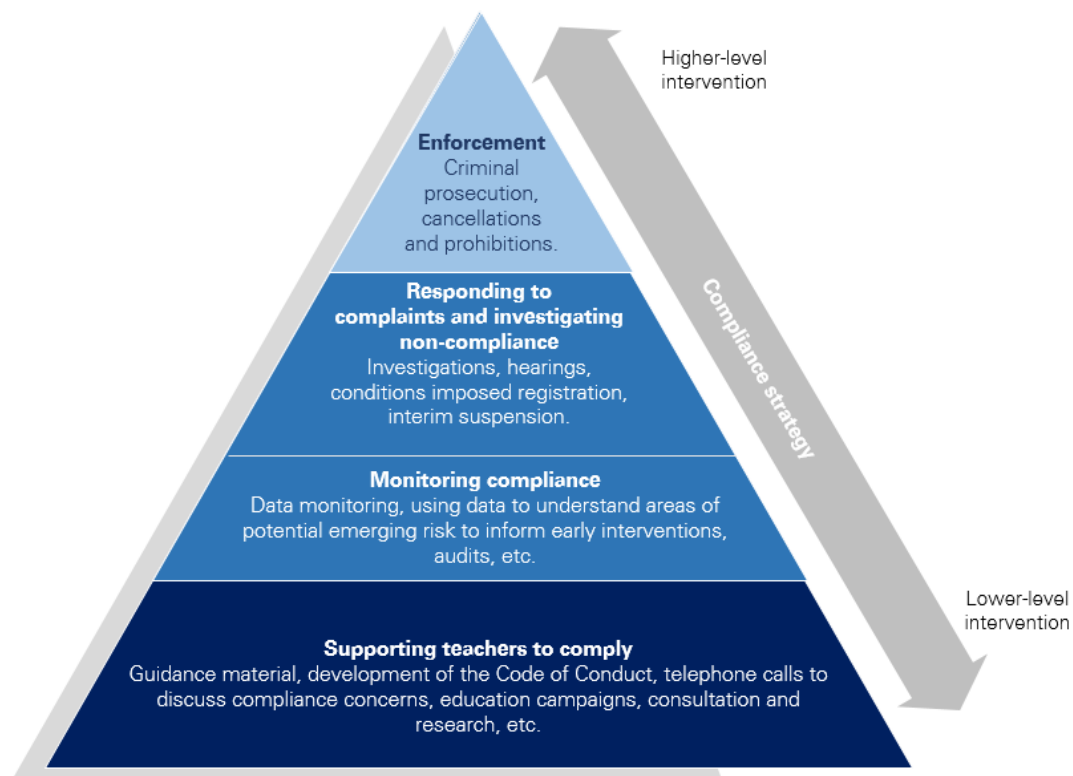
The VIT is responsible for ensuring that teachers are compliant with the Australian Professional Standards for Teachers and the Victorian Teaching Profession Code of Conduct. It does this through the following key functions and activities:

- *Supporting teachers to comply:* the VIT is responsible for assisting teachers to comply with the professional standards and code of conduct. Effective compliance which reduces the risk of harm begins with educating and supporting teachers to comply before non-compliance occurs. This is largely done through the provision of information, and ensuring that teachers are aware of their responsibilities and expectations through clear and active communication with the profession. This function is also performed through the development of the Victorian Teaching Profession Code of Conduct and by working with tertiary education providers to ensure that Initial Teacher Education equip students with the skills and knowledge necessary to work as a teaching professional.
- *Monitoring compliance:* the VIT is responsible for monitoring the compliance of teachers. This is largely done through the register of registered teachers and access to police data bases for data cross-matching.
- *Responding to complaints and investigating cases of non-compliance:* the VIT is responsible for responding to complaints and conducting investigations where there is suspected non-compliance.
- *Enforcement:* where necessary, the VIT has to respond to cases of non-compliance to maintain the quality of the profession and in order to protect children and other key stakeholders (parents, other teachers). This includes conducting panel hearings and suspending, cancelling or placing conditions on a teacher's registration.

It is important to consider these activities as part of suite of tools and sanctions through which the VIT can apply to achieve its outcomes of quality teaching and child safety and wellbeing. Sanctions escalate in their severity depending on the nature of the conduct or non-compliance, resulting in different levels of time and effort to apply them. Supporting teachers to comply assists with prevention, and can be undertaken

efficiently and cost effectively through, for example, large-scale and targeted education campaigns and information provision. In contrast, enforcement action is resource-intensive and retrospective in that non-compliance has already occurred. This is not to say that the VIT should solely direct its attention to supporting teachers to comply. It will often be necessary to rapidly deploy enforcement mechanisms and sanctions in response to serious cases. That said, the VIT’s regulatory strategy, policies, procedures, resource investment and decision-making should reflect an appropriate balance and application of these sanctions and associated tools. A compliance pyramid reflecting the VIT’s context is displayed in Figure 14.

Figure 14: Compliance pyramid



Source: The VIT Review

Leading practice regulatory approaches make use of the full suite of regulatory sanctions and tools available. To do this effectively, these approaches focus on using systematic intelligence-gathering and compliance monitoring to identify areas of high risk now, and into the future, to target resources as appropriate. This enables resources to be focused on the prevention of harm, with the goal of needing to use higher-level interventions less frequently. While provisional teachers indicated through the Review’s survey that approximately 90% have either a “good” or “excellent” understanding of their obligations and responsibilities in regards to professional conduct, strategic identification and analysis of potential areas of emerging risk is required. For example, approximately 85% of respondents noted that a teacher’s actions / behaviours outside of work (e.g. social media activity) were relevant to some degree when considering whether they are suitable to teach / continue to teach in regards to potential issues of minor misconduct (see Appendix A – Survey Results). The VIT acknowledges this is an emerging challenge for professional standard compliance monitoring, enforcement, and guidance for the profession from the VIT¹⁰⁸.

¹⁰⁸ 2016 VIT ‘Professional Conduct Committee Induction / Training’

The VIT's Conduct and Compliance team, their scope and key processes

The Conduct and Compliance Unit (CCU) is the division within the VIT primarily responsible for monitoring and investigating professional conduct (the top two levels of the above pyramid). The CCU investigates (sourced from VIT Presentation to the Professional Conduct and Compliance Committee):

- **Misconduct** - defined in ETRA as:
 - Conduct of the teacher occurring in connection with the practice of teaching that is of a lesser standard than a member of the public or members of the teaching profession are entitled to expect from a reasonably proficient teacher
 - The contravention of, or failure to comply with a condition imposed on the registration of the teacher
 - The breach of an agreement made under this Act between the teacher and the Institute below the level of serious misconduct.

A teacher's conduct is assessed by reference to the Victorian Teaching Profession Code of Conduct and Code of Ethics, which identifies three underpinning values: integrity, respect and responsibility.

- **Serious Misconduct** - which is not defined in the Act, and is therefore interpreted by the VIT using the following:
 - Examining the way this phrase is defined in relation to other professions
 - By giving the words their ordinary dictionary meaning
 - Informed by the practice of the teaching profession
 - Considered in the light of all the circumstances surrounding each of the allegations found proved
 - Fitness and Suitability to Teach - defined in ETRA as:
 - Fitness to Teach - whether the character, reputation and conduct of a person are such that the person should be allowed to teach in a school
 - Suitability to Teach - fitness to teach and whether the person is physically or mentally able to teach.
- **Serious Incompetence** - ETRA requires the employer to notify the VIT of action it has taken with regards to serious incompetence. The teacher's ability to practice must be fundamentally flawed and fail to meet the Australian Professional Standards for Teachers (at the proficient level).

Where a teacher is charged with a sexual offence, their registration is suspended under Division 8 of ETRA, and if convicted, registration is cancelled under Division 9¹⁰⁹.

High level process of receiving and responding to notifications

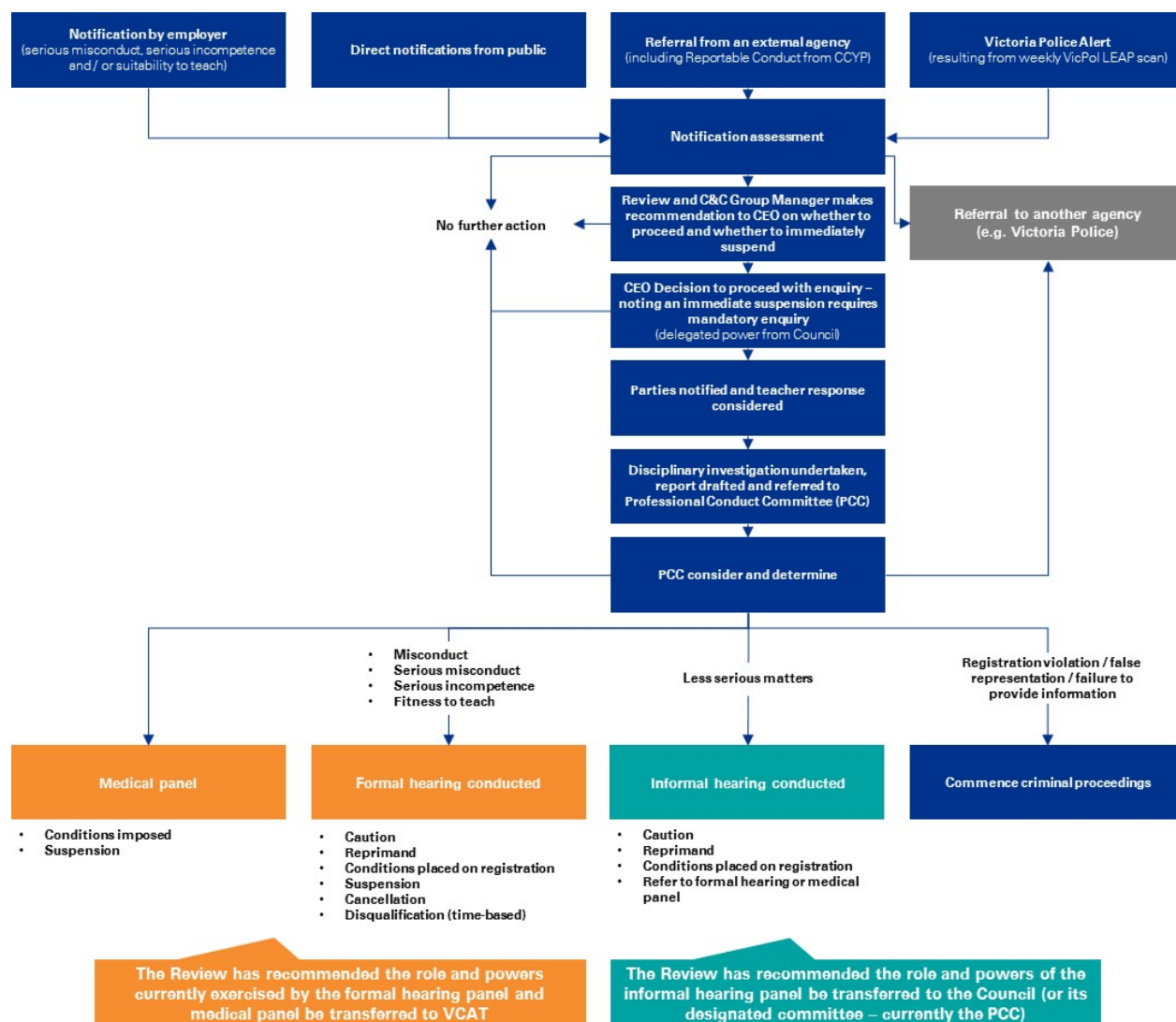
The CCU primarily undertakes its monitoring and investigation function by responding to notifications of alleged misconduct. The types of notifications received by the VIT include competency issues, boundary issues, including sexual relationships with students, convictions for non-sexual matters, and unprofessional conduct.

Under section 2.6.22A of ETRA, the VIT is required to undertake routine national criminal history checks. As a part of the VIT's monitoring of teacher registrations, each week all registrations are scanned through the Victorian Police LEAP system to detect any convictions.

The VIT most commonly receives notifications through Victorian Police Alerts, referral from an external agency, and from the public / employers. Once received, a notification proceeds through the high-level process outlined in Figure 15. Note that this process map is a high-level overview of the end-to-end process, and there are a range of pathways an individual matter may take depending on its circumstances.

¹⁰⁹ 2016 VIT 'Professional Conduct Committee Induction / Training'

Figure 15: High level overview of end-to-end notification and compliance process



Source: Developed by the Review relying on 2016 VIT 'Professional Conduct Committee Induction / Training' and process maps provided by VIT.

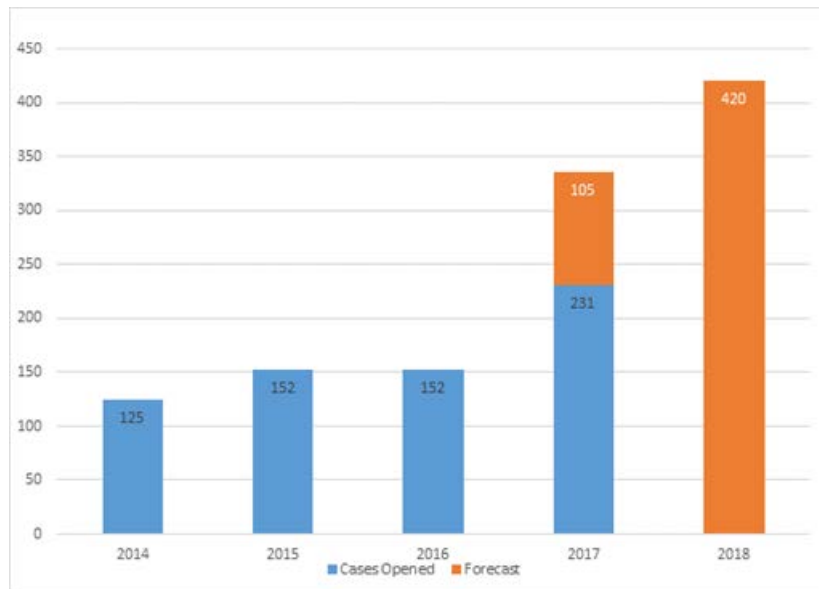
In Chapter 2.1.3, the Review recommended that the role and powers currently exercised by the formal hearing panel and the power to refer to a medical panel be transferred to VCAT. It also recommended the role and powers of the informal hearing panel be transferred to the Council or a Council committee (currently PCC). The remainder of this sub-section provides observations and makes recommendations with respect to the exercise of the remaining conduct and compliance functions of the VIT.

A growing and new type of notification – Reportable Conduct

The Review found that due to several factors, including the introduction of the Reportable Conduct Scheme in July 2017, the VIT is now experiencing a higher level of notifications than ever before. The VIT reported that this growth is expected to increase going forward, with 84 RCS matters referred to the VIT since its recent introduction (over a three month period). To place this in perspective, the VIT usually only receives approximately 120–140 notifications per year. Into the future, the VIT has projected approximately 420 cases

would be opened for next year¹¹⁰. Looking across all cases, the trend in notifications to the VIT has increased significantly since 2016 and is projected to continue to do so, as shown in Figure 16.

Figure 16: VIT notifications 2014 to 2018 (with projection)



Source: Data provided by VIT 26 October 2017. Cases opened = all notifications, including any that did not proceed to investigation due to, for example, falling outside the VIT's jurisdiction.

The introduction of the Reportable Conduct Scheme has seen the nature of the CCU's work shift. Prior to the RCS implementation, the VIT received notifications either directly through a complaints process, or after being notified by an employer. Notifications from an employer would previously usually only occur *after* the employer had taken action against a teacher in relation to serious misconduct, serious incompetence and / or suitability to teach. Under the RCS, employers are now required to notify the CCYP of potential RCS incidents within three days of becoming aware of the allegation. The CCYP is subsequently obligated to provide this information immediately to the VIT. The result of this has been not only an increase in notifications for the VIT, but also that CCU is getting involved much earlier with employers in the initial investigation process.

Stakeholders consulted noted that RCS notifications received after three days are frequently based on very early stage information, often containing gaps and based on incomplete accounts. The employer is often at the very early stages of its inquiry when providing the notification to CCYP and is still going through the process of gathering information. Having received an RCS notification from CCYP, the VIT is now commencing an investigation at the same time as the employer. As noted in the discussion regarding the operation of Division 8A interim suspension power elsewhere in this report, the result is often parallel investigations occurring very early after the event. This creates role clarity, process, and communication challenges for the employer, those involved in the event, the VIT, and any other co-regulators involved.

The need for stronger partnerships and more strategic targeting of resources

The growth and changing nature of notifications demands not just increased resources (the VIT has recently increased investigator FTE), but also a more strategic and robust approach to notification assessment, as well as greater role and process clarity between the VIT and co-regulators.

The Review found that DOJR WWCC is not notified when the VIT suspends a registration, despite the fact that a large number of registered teachers also hold a WWCC (71.20% of respondents to the provisionally registered teacher's survey stated that they also held a WWCC - see Appendix A – Survey Results) for further information). The VIT does not hold records about those teachers who also hold a WWCC. The VIT

¹¹⁰ Data provided by the VIT 26 October 2017.

should source this information from DOJR. Recommendations are made in Chapter 2.1.5 about the need for better information sharing arrangements and collaboration between VIT and DOJR.

The need for a MOU between the VIT and the CCYP and greater stakeholder engagement was covered in Chapter 2.1.5. The VIT itself will, however, need to be more strategic in its targeting of compliance resources. It will need to manage a growth in volume, and simultaneously ensure its compliance resources focus on prevention of harm. This will require a greater understanding of the nature of risk in the sector, stronger partnerships with its co-regulators, and the use by CCU of more risk-based triage processes.

A greater focus on risk and the prevention of harm

In line with the discussion in Chapter 2.3.1 regarding risk and principles-based regulation and a greater focus on outcomes, the VIT should also focus greater effort and resources on the prevention of harm. This should occur primarily through greater utilisation of its other regulatory tools: supporting teachers to comply and monitoring compliance (the bottom two layers of the compliance pyramid). This starts with a better strategic and evidence-based understanding of where the risk lies.

While the regular criminal record checks are crucial, the CCU could be doing more to monitor both the behaviour of Victorian teachers, and the more general trends in the teaching space. Consultations with AHPRA revealed that it has a partnership with the University of Melbourne. Under the partnership arrangements, AHPRA gives the University access to its data for analysis to identify underlying patterns and trends regarding risk of harm. This information is then used as a source of intelligence to ensure that prevention and monitoring resources are directed at areas of greatest risk.

The Ontario College of Teachers undertakes a significant amount of work to assist teachers with understanding their obligations and responsibilities, particularly in connection with professional conduct. The Ontario College publishes formal advisories that are sent to all members of the College (including all teachers, principals and directors of education). These are intended to assist registered teachers with understanding their professional boundaries and responsibilities in various contexts (such as social media and mandatory reporting). The topics for these advisories are derived from community focus groups, where the College seeks to determine what topics require more guidance. The College also consults with Government to ensure that the advisories align with Departmental initiatives. These advisories are then developed by the College with the assistance of an external expert in the relevant field (often an academic). These advisories are then launched in the community at regional forums where all key stakeholders are invited to attend.

Stakeholders consulted by the Review indicated that the Victorian teaching community appreciate the VIT newsletters, and indicated that more VIT material and guidance – such as that provided by the Ontario College and QCT – would be welcome.

The Review strongly recommends that the VIT and CCU make a significant shift toward more risk-based, intelligence-led and outcomes-focused regulation in the immediate term. Risk-based does not mean raising the threshold at which the VIT initiates regulatory action. It means developing a more robust and evidence-based understanding of where the risk of harm exists, and ensuring its resources are efficiently targeted at these areas. Through using data to inform its operations, setting outcomes to shape regulatory activities / priorities and measuring performance against these outcomes, the VIT will be able to target its approach at preventing and addressing risks that pose the greatest harm to the community. This will enable the VIT to better fulfil its purpose in the face of resource constraints and a greater workload.

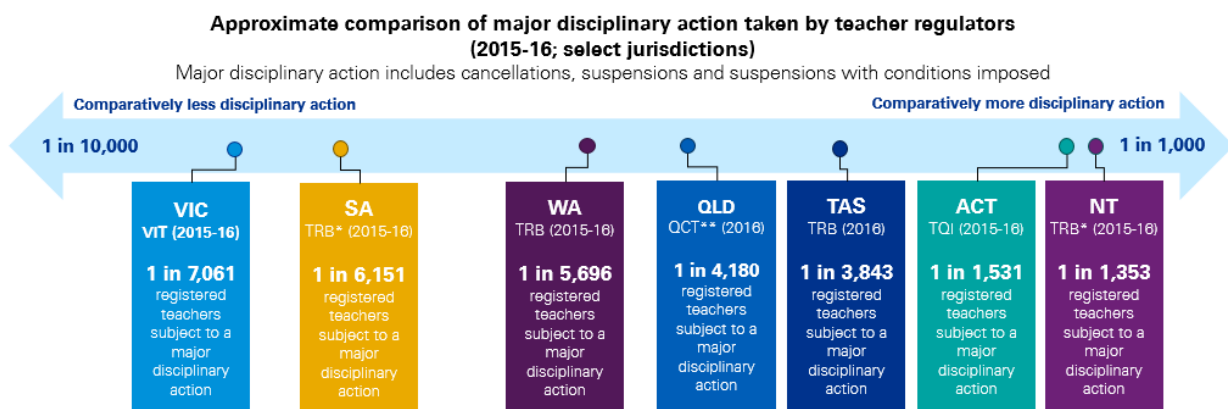
The Review's consultations with comparator regulators revealed that fully embedding a contemporary risk-based regulatory approach which protects child safety and wellbeing is a long-term process. It is also not a process which the VIT can undertake on its own, as the regulatory outcomes sought require contributions from the VIT's co-regulators, including the CCYP, DOJR (WWC), QARD and VRQA. The Review recommends in Chapter 2.1 of the report that the VIT establish formal forums with its co-regulators in order to better protect Victorian students, and to deal with specific CCU issues raised in this sub-section.

Co-location of regulators, regulator shared services and other regulator synergies are discussed in Chapter 2.1 of this report. These potential actions may assist to deal with the CCU issues noted above.

A potentially risk-averse approach

The Review found that the VIT initiated significantly less disciplinary activity than teacher regulators in the rest of Australia. Noting that all jurisdictions operate under different legislative regimes, which provide for different powers and responsibilities, the observation raises the question as to whether the VIT is potentially more risk-averse than its interstate counterparts in initiating disciplinary action. The diagram below compares the number of registrations that were cancelled, suspended and suspended with conditions imposed against the total number of teachers registered in the various States and Territories for 2015-16.

Figure 17: Disciplinary action for selected teacher regulators



Notes: It should be reiterated that all jurisdictions operate under different legislative regimes, which provide for different powers, responsibilities, thresholds for disciplinary action and sanctions. Diagram not to scale. The total number of disciplinary action for VIT includes suspensions that were made on an interim basis (i.e. suspensions made because the teachers were charged with a sexual offence while court proceedings were not yet finalised). Total numbers for Queensland also include discretionary suspensions (the Queensland equivalent of interim suspension). Data taken from annual reports of relevant teacher regulators and excludes lower level disciplinary actions including, for example, conditions imposed (without suspension), reprimands, cautions etc. *SA TRB includes one other registration that was cancelled / suspended / suspended with conditions imposed / or with conditions imposed only, but it did not state which category. For this reason, it has been omitted. **OCT figures include interim suspensions and outcomes of QCAT hearings.

Given the scope of the Review, the Review team were unable to definitively conclude whether the VIT is more risk-averse than its interstate counterparts, or whether other drivers are at play. It should be noted that the VIT advised that during FY 16-17, the first full year that the VIT exercised the interim suspension power, major disciplinary action has increased, resulting in Victoria coming closer into line with other jurisdictions. Nonetheless, the Review recommends that the comparatively lower level of disciplinary action should be explored further by the VIT to better understand the drivers of this trend. The VIT should consult with its counterpart teacher regulators in other jurisdictions when exploring this issue.

Greater timeliness and consistency

Many stakeholders consulted by the Review observed that there is a need for greater timeliness and consistency in the VIT investigation and hearing panel outcomes. While a case file review to analyse this issue in detail was beyond the scope of this Review, it is evident to the Review that the VIT's investigative and hearing panel processes require a significant, and growing, amount of resources and that there is a need for greater efficiency and timeliness. Several stakeholders described a high turnover rate amongst the VIT Conduct and Compliance team resulting in loss of corporate and sector knowledge (this is explored further at an organisational level in Chapter 2.4.4). Some stakeholders consulted also expressed concern about growing inconsistency in the investigation process, with timelines and rigour varying greatly depending on the VIT investigators involved. Several stakeholders indicated that the VIT was "unnecessarily aggressive and confrontational" throughout the investigation process.

Recommendations

At a high level, the Review recommends that the VIT undertake more work to assist teachers to comply with the standards. It is crucial that the VIT is more active in supporting teachers to understand what quality teaching means in a practical sense. This can be achieved through more active information provision to teachers.

Recommendation 23

Undertake a significant shift toward more risk-based, intelligence-led and outcomes-focused regulation in the immediate term to assist in best targeting resources. This should include utilising the full suite of compliance activities and significantly increasing assistance given to teachers to comply with the standards and prevent misconduct.

Recommendation 24

Improve the efficiency, consistency and timeliness of enforcement processes by adopting risk-based triage and other processes which ensure reduced duplication of effort, greater streamlining, and improved notifier-experience.

2.3.5 Promoting Teaching Quality

For a regulator to be successful, it requires the support of the profession. Critical to the success of the VIT will be its ability to find a strong voice and demonstrate its value amongst the already crowded education sector. The VIT needs to develop a contemporary and effective approach to working with the profession that is not at odds with its regulatory function.

This section explores the work that comparators are undertaking to promote quality teaching and provides some insights into how the VIT might strengthen its relationship with the profession.

Teacher professional standards

The VIT was the first teacher regulator in the country to establish a set of professional practice standards to 'promote and implement professional standards of practice and conduct for the benefit of the profession and the community'¹¹¹. This was seen as a high priority for the VIT in its establishment.

There are now national standards to which teachers are expected to adhere. These standards – the Australian Professional Standards for Teachers (formerly the National Professional Standards for Teachers) – have been developed and are oversighted by AITSL. These standards were founded on extensive research, expert knowledge, and a review of pre-existing standards used by teacher registration authorities such as the VIT, and employers across Australia¹¹². As AITSL Chair John Hattie states "expert teaching should be by design, not chance". The standards are organised into four career stages:

- Graduate Teacher
- Proficient Teacher
- Highly Accomplished Teacher
- Lead Teacher.

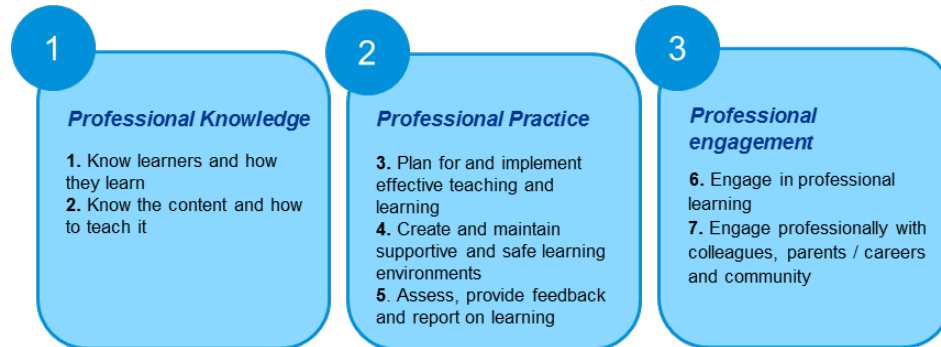
The purpose of the standards are two-fold: improvement and career progression. The standards articulate quality practice across four career stages to promote improvement of practice and provide a map of career

¹¹¹ 2002, VIT Strategic Plan 2002-2006

¹¹² 2017 AITSL, 'Understand the teacher standards', accessed at: <https://www.aitsl.edu.au/teach/understand-the-teacher-standards>

progression from Graduate through to Lead teacher¹¹³. Figure 18 provides an overview of the Australian Professional Standards for Teachers.

Figure 18: Australian Professional Standards for Teachers¹¹⁴



Source: VIT website

To effectively regulate the standards and support the community to have confidence in the teaching profession, the VIT is responsible for ensuring the following:

- Adherence to the Australian Teaching Standards by all members of the profession
- The development of a Code of Conduct and Ethics which, under section 7 of the Australian Teaching Standards, must be met
- An effective process to investigate allegations that teachers have failed to meet those standards
- The imposition of appropriate sanctions and / or professional learning to reinforce the importance of the standards.

The VIT could be more proactive in its approach to the regulation of professional standards

As discussed in Chapter 2.3.1, the VIT's approach to compliance is largely focused on enforcement of non-compliance.

In recent years, as a result of the introduction of early childhood teacher registration, the VIT has focused on building knowledge of teacher standards in the early childhood sector. This work has been undertaken with the Early Childhood Registration Stakeholder Reference Group, and the VIT has developed educational material such as the Early Childhood Illustration of Practice – undertaken in partnership with AITSL.

The Review considers that the VIT should build on this work, finding that the VIT does not fully utilise its opportunity and role in proactively supporting quality teaching through educating the profession about the standards. During consultations, stakeholders indicated that the VIT could take a more proactive approach to supporting teachers and schools to advertise and enforce the standards. Many stakeholders also suggested that the VIT could do more to support teachers understand how to apply the Code of Conduct in their day-to-day practice, including by translating the Code of Conduct and Government priorities to the classroom-setting.

In addition, many provisional teachers participating in the Review's Survey (see Appendix A, a summary of the results of the Survey of Provisionally Registered Teachers) indicated that the VIT could be more active and involved in supporting teachers to ensure that standards continue to be met, including:

- A significant number of teachers expressed that they would like more support from the VIT – particularly in finding a mentor. Several respondents expressed difficulties finding suitable mentors that have the time and capacity to be available to support provisionally registered teachers

¹¹³ 2015 VIT website, 'Standards', accessed at: <http://www.vit.vic.edu.au/registered-teacher/standards>

¹¹⁴ 2015, VIT website, 'Standards', accessed at: <http://www.vit.vic.edu.au/registered-teacher/standards>

- A significant amount of provisionally registered teachers find it hard to see what the VIT does for them
- Several respondents expressed concern over the lack of professionalism of teachers witnessed in schools.

Many principals consulted were unsure about the VIT's role in working with the teachers and schools to educate the profession and the community about teacher quality.

"Teachers in schools are often too busy and unwilling to undertake the extra demands of mentoring. There should be more support given to teachers who are unable to arrange mentorship in schools..."¹¹⁵

"I haven't received any support from VIT except my registration card..."¹¹⁶

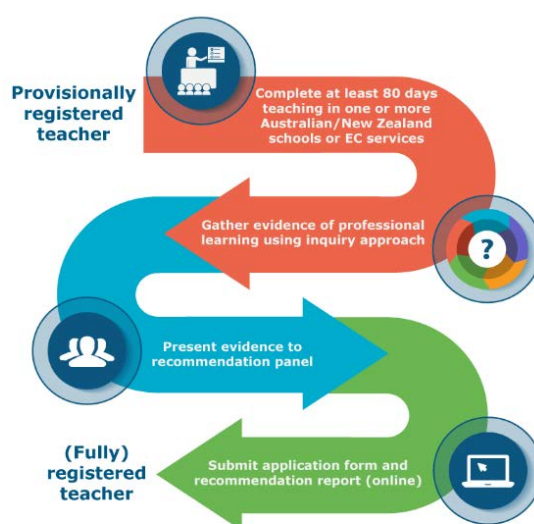
The provisional registration process is robust and has stakeholder support

Stakeholders consulted during the Review were complimentary regarding the process and communications provided by the VIT to provisionally registered teachers who were moving to (full) registration. Provisional teachers participating in the Review's survey (Appendix A) indicated that the standards required for access to the profession (registration) gave them confidence in the quality of teaching within Victoria, with less than 4% of respondents indicating that it was "too easy" for a teacher to gain registration (see Appendix A, a summary of the results of the survey of provisionally registered teachers).

Full registration requires a teacher to have:

- Taught for a total of 80 days in one or more Australian or New Zealand school or EC service
- Provided evidence that they have met the APST at the Proficient Teacher level using the inquiry approach.

Figure 19: VIT's 'Moving to (Full) Registration' process



Source: VIT website¹¹⁷

As part of the provisional registration process, the VIT provides a range of supporting resources and information that is communicated to provisional teachers in a variety of ways, including short videos and

¹¹⁵ 2017, VIT Review Provisional Teachers Survey

¹¹⁶ 2017, VIT Review Provisional Teachers Survey

¹¹⁷ 2017, VIT, 'Moving to (full) registration', accessed at: <https://www.vit.vic.edu.au/registered-teacher/moving-to-full-registration>

teacher guides. These resources and the level of communication were indicated by stakeholders to be successful and supported newly graduating teachers to engage with the VIT in a meaningful way.

The VIT has adopted the 'Graduate' and 'Proficient' teacher career stages of the Australian Teachers Standards but has not adopted the 'Highly Accomplished' or 'Lead' career stages set by AITSL.

During consultations, stakeholders suggested that the VIT could broaden its remit and certify teachers in the 'highly accomplished', 'lead teacher', and 'principal-ship' levels of the teaching continuum. Whilst stakeholders felt that the VIT did not have the current capacity to undertake this function, given the strength and success of the provisional registration program, a similar process may strengthen the visibility and perception of the organisation. It would potentially also build internal capability and better support teachers at all levels to strengthen their practice by having formalised certification of their level of expertise.

The VIT has minimised its role in education and strengthening teacher quality

During consultations, many stakeholders indicated that they felt that the VIT lost its identity when its legislative function for 'promotion of the profession' was removed. These stakeholders noted they felt they did not have a professional body to support them. One stakeholder expressed this sentiment as "the VIT has to be more than just compliance". The Review agrees with this sentiment.

It appears that, in an attempt to clearly define its role as a regulator, separate to an advocate for the profession, the VIT has become too narrowly focused on compliance and has minimised its activities working with the teaching profession to improve teacher quality.

The VIT is not the only professional regulator struggling with the challenge of finding an appropriate balance between independent regulation and working closely with a profession to educate, improve quality, and professional standing. AHPRA's eighth regulatory principle defines this role as:

*"We work with our stakeholders, including the public and professional associations, to achieve good and protective outcomes. We do not **represent** the health professions or health practitioners. However, we will work with practitioners and their representatives to achieve outcomes that protect the public".¹¹⁸*

Contemporary teaching regulators frequently use their role to educate and showcase professional practitioner quality. Other teacher regulators in Ontario and Queensland have closely aligned their educative function to their regulatory frameworks and it has helped them to both strengthen the quality of teaching through preventative measures but also built a strong and visible relationship with the profession.

An expanded role for the VIT

The Review recommends that the VIT step back into the education landscape and take a larger role in educating and showcasing teacher quality. Education should not be confused with advocacy. Professional advocacy and representation in the education sector is the role of a professional body and unions as it aligns with industrial support. However, the Review found that the practice of teaching in Victoria would greatly benefit from more active participation from teachers in the regulatory organisation that governs it.

¹¹⁸ 2015, AHPRA, 'Regulatory Principles', accessed at: <https://www.ahpra.gov.au/About-AHPRA/Regulatory-principles.aspx>

Figure 20: An expanded role for the VIT



Case studies around the country and internationally demonstrate that there are a range of activities and opportunities for the VIT to undertake a stronger role in educating and showcasing teacher quality. Whilst examples, such as New Zealand's newly established Education Council, move significantly beyond the current remit of the VIT, it provides a model of an expanded function that may be worth considering in the future.

Case Study – New Zealand Education Council

New Zealand has recently established the Education Council, the professional organisation that is responsible for both promoting and regulating the teaching profession in New Zealand.

The Council's expanded remit means that it is responsible for **elevating the status of teachers through leadership, robust regulatory frameworks and growing capability building**. The Education Council replaced the New Zealand Teachers Council on 1 July 2016, having twice the number of functions as its predecessor.

The new Council is mandated to provide leadership and direction for the education profession, enhance the status of teachers and education leaders, identify and share best practice in teaching and leadership, and support the profession's continued development in light of research and evidence¹¹⁹. The promotion and regulation functions were combined, despite some resistance, in an effort to integrate and streamline the work to help strengthen the quality of teachers.

The Education Council has recently published '**Our Code, Our Standards**'. This document was developed with over 12 months' close collaboration with working groups from across the education profession and provides teachers with a *Code of Professional Responsibility and Standards for the Teaching Profession*.

The Education Council also take a more active approach to promoting quality teaching. For example, they are strategic partners of the **Prime Minister's Education Excellence Awards** and have developed a 'Teachers and Social Media' website designed to better educate teachers about this evolving challenge for teachers.

Considerations

The Education Council's model is unique, and given it is in its first few years of operation, it is difficult to review its impact. However, it is useful to consider the Government's rationale for the establishment of such an operating model.

The New Zealand Government was concerned about the students whose years of schooling do not give them the skills and attributes they need for a successful life beyond school. The Government identified that a flexible, skilled, culturally intelligent and well-led professional workforce would be crucial for improving outcomes for all students. A review was undertaken in 2012 as part of a wider Government initiative to strengthen leadership in education. This Review recommended the establishment of an independent professional body on the belief that the teaching profession would benefit from teachers'

¹¹⁹ 2017 New Zealand Education Council, '2016-17 Annual Report', accessed at: <https://educationcouncil.org.nz/sites/default/files/Ec%20annual%20report%20Final%20for%20website.pdf>

participation in a distinctive professional organisation that would become the voice and fact of the profession.

The Education Council was established to ensure:

- that the threshold for entry to the profession is high,
- that those who enter the profession share a common body of knowledge and skills and adhere to a common code of ethical values and conduct,
- that teachers were nurtured and able to review their own contribution to the public interest and the interests of the students that they teach¹²⁰.

Case Study – Queensland College of Teachers

Queensland's College of Teachers provides an approach that is more suited to the VIT's context. Under the *Education (Queensland College of Teachers) Act 2005*, the QCT is mandated to promote the teaching profession to the public. In fulfilling this function, the College has a range of core activities that it undertakes in order to lift the status of the profession in the community and build the collective self-esteem of teachers.

Some of the QCT's activities include:

- *Social media*: The QCT have Facebook, Twitter, Instagram and blog accounts. Through these channels, they amplify positive messages about various initiatives and events that relate to teachers. The blog has proved to be a very effective channel for engaging more deeply with teachers and the wider community. Once a month, the Board writes a blog on a different topic or stakeholder. The QCT also develop monthly reports to a committee that is set up specifically for continuous improvement.
- *Website*: The QCT have a digital hub on their website, Teacher Stories, which includes a number of stories about Queensland's most inspiring teachers. These teachers are often the nominees for Excellence in Teaching Awards.
- *Events and campaigns*: The QCT use events throughout the year to highlight their outstanding teachers in all schooling sectors and regions, including on World Teachers' Day when they host the annual QCT Excellence in Teaching Awards. The QCT also asked teachers to submit photographs of themselves and their colleagues in 'inspiring moments' to help build an image library as part of their promotion of the profession.
- *Other*: Every year, a media release on the Excellence in Teaching Awards is made and often finalists are acknowledged in local papers. The QCT also has eNews, which is sent out approximately 8-10 times a year to all teachers.

Advantages

QCT reports that over the past few years the hundreds of positive stories they have published have helped strengthen relationships between the QCT and its stakeholders, who are appreciative of the effort, the positive publicity and support¹²¹.

Not only is this a good approach to promoting the profession in the community, but it also ensures that teachers are kept informed and inspired. The regular and effective provision of information assists teachers in better understanding their obligations and responsibilities, and equips the profession with updated regulations and better practice examples.

The way that the QCT engages with the community and the profession is an approach from which the VIT could learn. While the VIT has a variety of approaches that it is taking – with the development of

¹²⁰ 2012 New Zealand Minister of Education, 'Review of the New Zealand Teachers Council: A Teaching Profession for the 21st Century'

¹²¹ 2017 Queensland College of Teachers, 'Report: Promoting the Profession', sent to the Review Team from the QCT.

initiatives such as the VIT's videos and NewsChannel – the teaching profession could benefit from being provided with more guidance around the standards and more publicity within the community for stories around inspiring teachers.

Recommendation 25

Expand its activities beyond a narrow focus on compliance, towards proactive education of teachers and the community about teacher quality. This includes showcasing leading practice in teacher quality. It should not extend to advocacy and representation of the profession.

The above case studies demonstrate the range of innovative ways the VIT could potentially work with the profession to educate teachers and the community about teacher quality. At a minimum, actively investing in education of the profession and showcasing leading teachers will move the VIT beyond compliance and lead to much more positive engagement with the profession. It would support the VIT to demonstrate real value to the profession, while still maintaining the independence it requires to perform its regulatory functions. The Review recommends the VIT do so.

Part 2.3 – Summary of recommendations

Part 2.3: Contemporary risk based regulatory functions
Recommendation 17 Develop and publish a set of contemporary regulatory principles which apply to all functions and activities of the organisation. Following this, revise the Compliance and Enforcement Framework to be more targeted, tailored and reflective of best practice regulatory principles.
Recommendation 18 Ensure all regulatory policies and procedures are fully developed, up to date, clearly align with the new regulatory principles and are reflective of a contemporary, risk-based regulatory approach.
Recommendation 19 The VIT leverage its data to better inform and draw out intelligence about where areas of regulatory risk exist in teacher regulation, including through establishing partnerships with research and / or tertiary institutes.
Recommendation 20 Embed a more clearly defined outcomes-based approach to corporate planning and performance measurement that aligns with that of standard Victorian public sector practice.
Recommendation 21 Ensure reforms to registration processes and customer-interfaces, including migration to online registration and renewal processes across all registration processes are completed by the end of 2018.
Recommendation 22 Expand future-focused research activity, including through facilitating and fostering stronger feedback loops between ITE providers and employers.
Recommendation 23 Undertake a significant shift toward more risk-based, intelligence-led and outcomes-focused regulation in the immediate term to assist in best targeting resources. This should include utilising the full suite of compliance activities and significantly increasing assistance given to teachers to comply with the standards and prevent misconduct.
Recommendation 24 Improve the efficiency, consistency and timeliness of enforcement processes by adopting risk-based triage and other processes which ensure reduced duplication of effort, greater streamlining, and improved notifier-experience.
Recommendation 25

Expand its activities beyond a narrow focus on compliance, towards proactive education of teachers and the community about teacher quality. This includes showcasing leading practice in teacher quality. It should not extend to advocacy and representation of the profession.

2.4 Expert capability and agile operational requirements

The Review was tasked with examining the capability of the VIT to effectively and efficiently discharge its responsibilities, as well as review the operational frameworks, policies and procedures of the organisation. In Chapters 2.2 and 2.3, the Review approached this task from a governance and functional perspective. This sub-section approaches this from an organisational perspective, examining the VIT's capability, structures, operational frameworks, key practices, culture and ways of working.

As a small regulator in a comparatively large public sector, the VIT needs to focus on attracting and retaining high performing, capable and collaborative people. The VIT has a number of inherent characteristics which should make it an attractive workplace of choice. The VIT is the key sector body focused on the largest profession in Victoria, and an entity which has the improvement of the quality of teaching at its core. It has, and should continue to, attract experienced and passionate people who have dedicated their careers to the teaching profession and regulation.

In order to be a high performing organisation and workplace of choice, trusted by the public and respected by the profession, the VIT needs:

- Fit for purpose organisational design
- Strong and effective leadership who role model the vision and values of the organisation
- A high-performing and agile workforce with the capability to perform its functions
- A functional and collaborative culture which engages and motivates its people
- Effective organisational development and human resource management.

This sub-section explores the current and future directions for the VIT in regards to each of these characteristics.

2.4.1 Organisational design

Chapter 1.5 identified clear roles, responsibilities and accountabilities as a key factor of success.

Essential to achieving this future state is having a fit-for-purpose organisational structure, aligned to and guided by a clear organisational strategy. All organisational structures should align to an entity's priorities, reflect its core functions and support accountability and role clarity. This enables an entity to effectively organise its resources, efficiently deliver its functions, and develop and retain corporate knowledge.

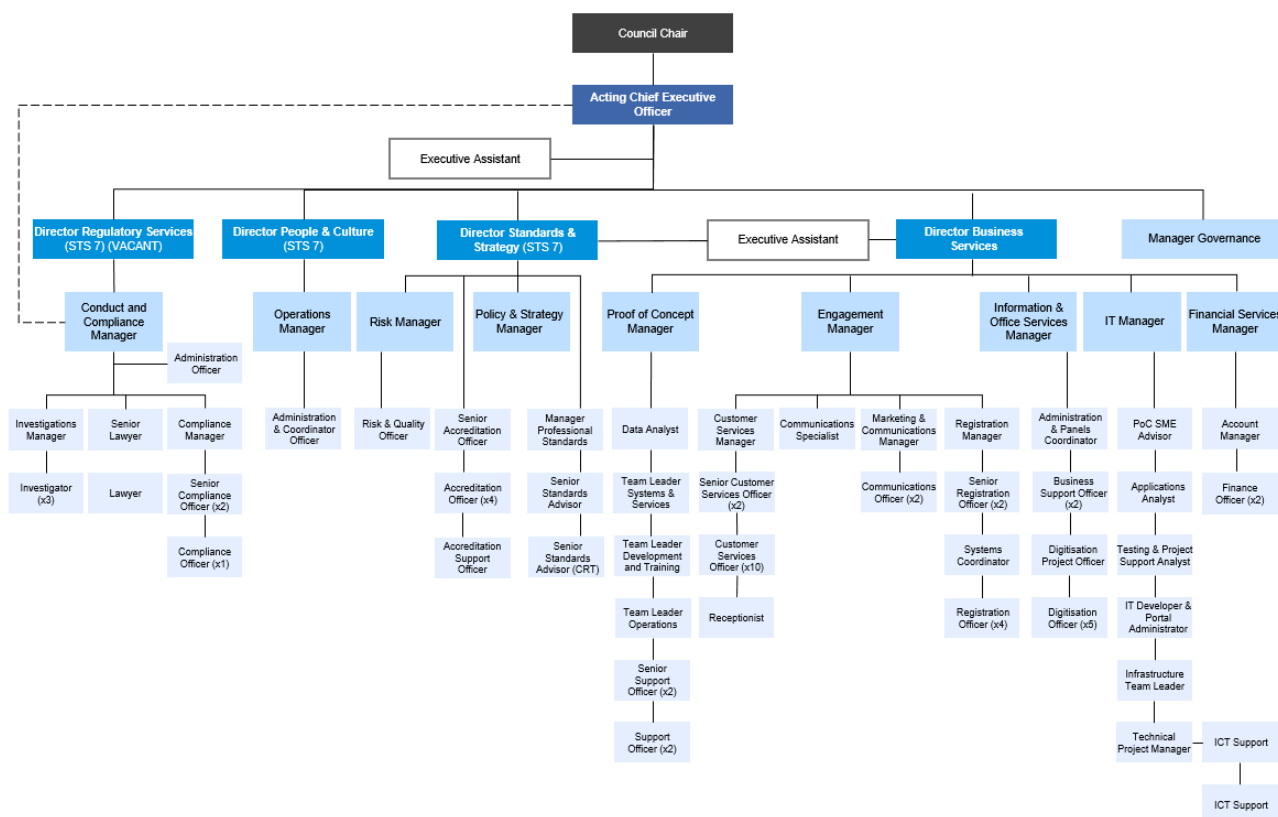
The VIT organisational structure has undergone several significant changes in recent years, the most significant of which occurred as a result of an independent review undertaken by People Business in 2015, which found the VIT to have challenges related to a range of areas, including:

- Silo structure limiting sound regulatory decision-making
- Lack of accountability and responsibility for the delivery of regulatory functions
- Lack of accountability and responsibility for stakeholder engagement

- Duplication of functions across the business
- Lack of clear ownership of the key business system¹²².

The Review recommended a reorganisation (which occurred in 2016) to create a structure centred on two divisions: Regulatory Services and Business Services. Since this restructure, several more changes to the management-level structure of the VIT has occurred, including the creation of a new Director-level People and Culture role. The current organisational chart for the VIT is displayed below.

Figure 21: The VIT's Organisational Structure as of September 2017



The VIT's organisational structure is unusual and reflects several features which do not align to leading practice organisational design. Key observations which the Review has made relating to this include:





- **The current divisional structure at the VIT does not reflect the core regulatory functions of the organisation.** The core regulatory functions of the organisation are distributed across three divisions, including registration sitting within the Business Services division. This is contrary to the recommendation of the People Business review, which recommended an organisational structure centred around just two key divisions: a consolidated regulatory services and consolidated business services division.
- Organisational resources and Executive positions are concentrated in corporate / support functions as opposed to core regulatory functions.
 - Four of the six most senior roles in the organisation (STS 7 and above roles) are performing either entirely, or largely, corporate or support functions. These include the Director, People and Culture; Director, Business Services; IT Manager; and Engagement Manager (noting the engagement manager also has responsibility for registration in addition to marketing, customer service, and communications).

¹²² 2015 People Business Report to the CEO for Change to Organisational Structure.

- Analysis of the September 2017 organisational chart shows that roughly two-thirds of the organisational roles (approximately 60 roles) appear to be located within corporate / support teams, with just one-third (approximately 30 roles) performing core regulatory roles related to regulatory policy and strategy (two roles), professional standards (three roles), accreditation (six roles), registration (eight roles), and conduct and compliance (13 roles).
- The names of the divisions do not reflect their actual functions. For example, the Regulatory Services Division only contains the Conduct and Compliance function, while the other regulatory functions sit within the Standards and Policy Division (accreditation and standards) and Business Services Division (registration).
- Spans of control for VIT Executives are unbalanced, and role levels are potentially not reflective of the relative responsibilities of staff. For example, the Director, People and Culture, maintains only one direct report and three FTE within the Directorate, while the Director, Business Services maintains five direct reports and 55 FTE within the Directorate. Both of these are STS 7 roles.

In addition, in a small organisation, it is highly unusual for a senior (STS7 or EO-equivalent) level People and Culture role to be required alongside a Director, Business Services role of the same level. Most often, a Business Services / Corporate division would have responsibility for a people and culture function, which would be led by a less senior role (e.g. VPS6 or VPS5). This was the case historically at the VIT prior to the creation of the Director, People and Culture role earlier this year. The rationale for the creation of this role was not clearly articulated to the Review, and several internal stakeholders expressed confusion as to why the new role was required. A comparison of the span of control, relative functional and people management responsibilities of the five direct reports to the CEO is outlined below.

Figure 22: Comparison of spans of control and relative functional and people management responsibilities (as of October 2017)

CEO direct reports	Direct reports	Approx. Directorate-size	Key functions	LEGEND	
				REGULATORY FUNCTIONS	CORPORATE / SUPPORT FUNCTIONS
Regulatory Services (STS 7 – Vacant)		12 FTE	Conduct & compliance	Investigations	
Policy & Strategy (STS 7)		13 FTE	Accreditation	Professional standards	Regulatory strategy and policy Corporate risk management
People & Culture (STS 7)		3 FTE	Organisational development	Human resource management	
Business Services (STS 7)		61 FTE	Registration	Customer service	Finance & procurement Marketing & comms ICT and systems transformation Office admin
Governance (VPS 6)	None	1 FTE	Council and hearing panel secretariat	Organisational governance	

Note: The above excludes Executive Assistants.

It appears to the Review that the current organisational structure has evolved in an ad hoc and confused manner since the 2015 organisational review, now reflecting a hybrid model where the majority of regulatory services resources (in terms of headcount) are actually located within the Business Services Directorate.

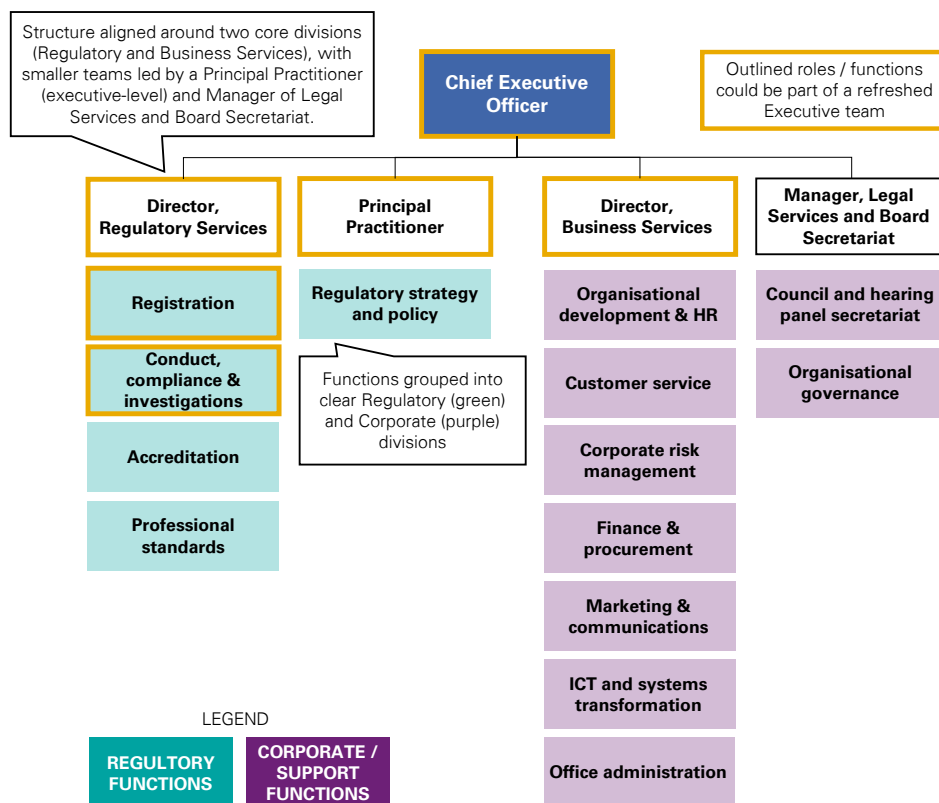
Designing a fit-for-purpose organisational structure

The VIT's organisational structure should clearly align to a revised organisational strategy and be reflective of its core functions and objectives. Following the repositioning of the organisation's strategy and objectives (see Chapter 2.4.2) and recruitment of a new CEO (potentially independent), the organisation should be redesigned to:

- Address CEO direct report span of control imbalances
- Ensure division names reflect their core functions
- Consider integrating the human resource management and people and culture function back within the Business Services Division, in line with common practice in public sector organisations
- Consider integrating the regulatory functions of the organisation into one division, to facilitate greater integration and collaboration between these functions and to ensure single point of accountability within the organisation for regulatory operations
- Consider reshaping the Executive structure of the organisation, potentially aligning around a CEO with three Director-level direct reports (Principal Practitioner (see Chapter 2.4.3), Regulatory Services, Business Services)
- Consider a shared services model for corporate functions. It is common for Victorian public sector entities (including regulators) to utilise shared services models (either with a Department or other public entities) to create economies of scale, leverage resources and capability and drive efficiencies. The VIT should consider longer-term opportunities for some corporate functions, particularly transactional functions (e.g. Human Resources, Procurement, ICT), to be delivered in a shared services model, either with the Department or through opportunities created as a result of co-locating with VRQA (see Chapter 2.1.4).

A potential future state organisational structure which reflects the above is outlined in Figure 23. Functions grouped underneath the direct reports to the CEO do not necessarily represent a team structure.

Figure 23: Potential future state organisational structure for VIT



Recommendation 26

Following the appointment of a new CEO:

- The VIT consider enhancing and streamlining its Corporate Services through the introduction of a shared services model.
- Revise the organisational structure, giving consideration to:
 - Realigning divisions / branches to integrate like functions (e.g. corporate, accreditation, registration, conduct and compliance).
 - Ensure a more appropriate balance is struck between corporate and regulatory resource allocation, including with regards to the composition of the Executive and allocation of the most senior roles in the organisation.
 - Executive roles being 'right-sized', with appropriately balanced spans of control, functions, roles and responsibilities.

2.4.2 Leadership and accountability

Any successful organisation begins with effective leadership. It comes before strategy, before function, before structure and before business planning. Leadership is the core role of the CEO and Executive, however, it extends to staff in leadership roles (either formally or informally) at all levels of an organisation.

Effective leadership is a prerequisite to sustainable organisational development and performance and requires a range of elements, including:

- The Executive must create and present a unified vision and identity for the organisation, and effectively engage staff to contribute to and buy into these core elements of an organisation's purpose.
- The Executive must role model the values, behaviours and culture of the organisation.
- The Executive must be empowered, and in turn empower other leaders, to work with an effective level of independence and autonomy to perform their role.
- The Executive and all organisational leaders must be held accountable for their performance and behaviours.
- The Executive must be strategically-focused, and meet regularly to have future-focused discussions, problem-solving, and prioritisation in support of advancing an organisation's strategic and business plan.
- The scope and purpose of the Executive Leadership Team must be clearly defined. The purpose of the body, membership, key processes, agenda-setting practices, and decision-making mechanisms should be clearly defined, documented and regularly reviewed to ensure they are fit for purpose.

In addition to consulting broadly with external stakeholders and VIT staff, the Review has met several times with the leadership of the VIT to consult and seek input in relation to the terms of reference. From this engagement, the Review makes the following range of observations:

- **Staff consulted consistently reported a lack of engagement and responsiveness to feedback by senior leaders.** Consistent feedback was received from VIT staff related to senior leadership not engaging with staff on issues that affect them and failing to consistently and genuinely seek and respond to feedback. Senior leadership attributed such concerns to natural resistance which emerges during periods of change, however, the level of input from a range of staff on this issue means it is likely that more needs to be done in this area. An example of an area where staff engagement is limited at present is in relation to the creation of the VIT's current 2017-2020 strategic plan. VIT leadership advised this document was created with only Council and the CEO's input.
- **Decision-making transparency and communication needs to be improved.** The VIT Executives advised the Review Team of two current internal working groups designed to include staff in decision-making:
 - The Annual Registration Group (AEG) – a group that co-ordinates the invoicing, communications and processes associated with annual payment, renewal of registration and criminal record checking for annual registration, the provisional to full registration application process and the initial registration application process
 - The Business Readiness Forums – forums where staff are invited on a rotational basis to the Business Readiness Forums to be briefed about the development of the PoC project.

Whilst these groups demonstrate an attempt to include staff in internal conversations and promote shared understandings, there is clearly more work needed in this space. A significant number of staff expressed a strong desire for improved transparency about decisions affecting staff and rationales underpinning these decisions. Staff spoke of confusion and uncertainty regarding key decisions impacting their work, which added to workplace stress and morale issues.

- **Inconsistency in the empowerment of management-level staff to perform their role with an appropriate degree of autonomy.** For example, staff noted a lack of control over their division / team approved budgets, even when pursuing expenditure in alignment with pre-planned business-as-usual activities. Several stakeholders identified a culture of centralised control in the CEO's office, along with a select group of trusted advisors.
- **An absence of consistent engagement between the Council and the organisation's staff, apart from the CEO.** VIT Executives advised that only the CEO regularly attends the VIT Council meetings, with the exception being that Conduct and Compliance staff regularly attend meetings of the PCC. The

Council expressed concern about a lack of line of sight to a range of organisational functions and key personnel responsible for strategic priorities. VIT management-level staff also identified the lack of engagement between Council and the broader organisation as a potential missed opportunity in terms of improving Council understanding of the work of the VIT, and improving the understanding of VIT staff of the priorities and directions of Council.

Developing and embedding a unified vision and shared sense of identity

The VIT has developed a Strategic Plan which identifies a future vision of:

- A respected teaching profession
- A trusted regulator
- An informed community.

As noted in Chapter 2.1.2, the Review recommends the VIT revise its vision and mission statement to reflect the primary role of the regulator in promoting the quality of teaching and protecting child safety. In addition, the Review recommends the VIT create and adopt a set of regulatory principles to accompany this vision. Both of these reforms offer excellent opportunities to broaden staff engagement around cornerstone organisational directions. Engaging staff would be a positive step towards developing a sense of shared identity and encouraging staff ownership of the organisation's vision and values. Once agreed, these should be widely promoted, both internally and externally. VIT leadership should endeavour to ensure staff are clear in their understanding of how the vision, strategy and regulatory principles apply to their particular team and individual role.

Improving engagement, decision-making transparency and communication

VIT leadership should invest greater time and resources in genuinely engaging with staff to explain issues impacting the organisation, how these issues connect with the broader operational environment, and why the organisation may be pursuing particular strategies. Regular and consistent communication of events, issues and decisions, both positive and potentially challenging, should assist with improving trust between leadership and VIT staff. Transparency around decision-making processes for key decisions which impact staff should also be improved. This starts with good practice internal communications, which explain not just what decisions have been made, but the process which was undertaken before reaching them, the rationale which supports it, and where staff can go for further information.

Empowering and holding accountable leadership at all levels

The Review recommended in Chapter 2.3.1 that the VIT adopt a more outcomes-focused approach to planning and performance. Such an approach should align to the performance development of leadership. The CEO should set expectations with leadership for where they are expected to:

- Consult on decisions with CEO
- Bring issues to the Executive team to make decisions by consensus
- Act autonomously within their realm of responsibility.

At a minimum, VIT leaders should be empowered to make business-as-usual decisions aligned to business and workplans following an appropriate level of consultation and exercise of their professional judgment.

Building stronger linkages between Council and the organisation

Currently, only the CEO regularly attends the VIT Council meetings. It is common in many organisations for other staff, particularly other members of the Executive team, to regularly or semi-regularly attend meetings of the governance body to provide information, subject matter expertise and advice. This both allows the governance body to hear directly and ask questions of those with line management responsibility for particular functions and get to know the leadership of the organisation. In turn, this enables the Executive to

hear directly from Council about their expectations and priorities, supporting greater alignment between the governance body and the organisation.

Summary

This Review has identified a broad range of reforms. Reform must be owned by leadership, and taking them forward will require a strong, strategic and nuanced approach. The new CEO will be the key to successful reform and sustainable performance, however, leaders across the VIT will need to buy in and champion the change program. The Executive team of the VIT will need to not only drive change in their respective areas of responsibility, but work together in a unified manner to build a common vision and identity for the organisation.

Recommendation 27

Strengthen the executive leadership of the organisation, including through:

- a) Developing a vision for the organisation reflective of the new objects, complimented by a strong outcomes-focused strategy.
- b) Ensuring alignment with GSERP and VPSC executive performance management guidance.

Recommendation 28

Strengthen staff engagement, decision-making transparency and communication to improve staff morale and associated performance of the VIT.

2.4.3 Capability

The VIT requires a range of specialised technical and sector capabilities and experience in order to deliver its functions. The organisation requires both deep expertise and knowledge of the education sector, as well as contemporary expertise across regulatory functions, including regulatory policy and strategy, education, registration, data analytics and intelligence, investigation, registration, accreditation and professional development. It must be able to leverage and apply both of these capabilities in order to achieve its regulatory outcomes. In addition to regulatory capabilities, mature corporate capabilities in governance, finance, people and culture, learning and development, procurement, communication, customer service, ICT and administration capability are required to support the organisation. Cutting across all regulatory and corporate functions, strong stakeholder engagement capabilities are required for the VIT to effectively perform its role.

The VIT has developed or improved a number of capabilities and areas of expertise, including in regards to professional registration, accreditation, and client services. The professional registration capability and performance appears to have improved significantly over the past couple of years, demonstrated by the successful integration of early childhood teachers into the registration scheme and the development of a robust provisional registration process to support new teachers. The accreditation capability of VIT was also identified by stakeholders as having improved in recent years, with successful process improvements in accrediting education providers being implemented. As noted in Chapter 2.3.2, the registration capability has also improved, demonstrated by improved timeliness in the end-to-end timelines management of applications.

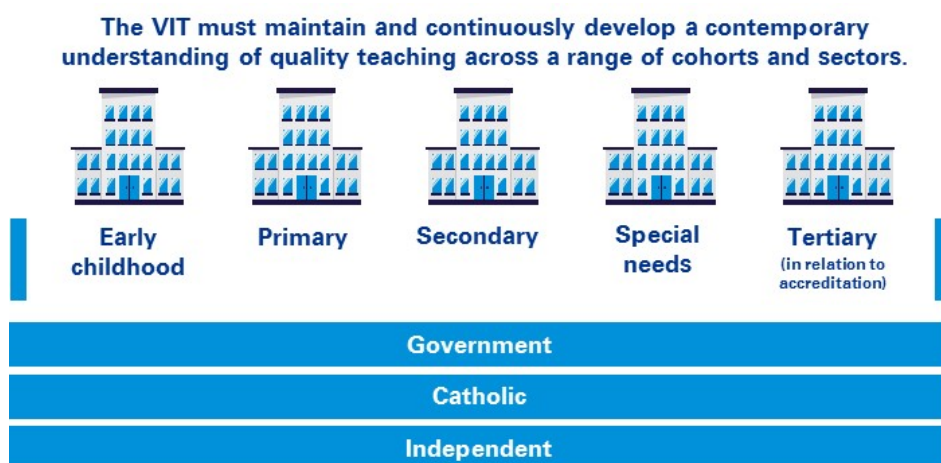
It should be noted that, in regards to all of the above improved capabilities, improving the efficiency of these teams through the transformation programs and other recommendations identified in Chapter 2.3 will further strengthen capability, and enable them to realise efficiency gains and redirect resources other priority areas.

The Review found a number of capability gaps and areas for development. These include capability gaps related to sector expertise, stakeholder engagement and risk-based regulation.

Deepening the VIT's education sector and teaching expertise

The VIT's core business is regulating the Victorian teaching profession. To do so, the organisation requires a deep understanding of the sector across cohorts (including early childhood, primary, secondary, special needs) and sectors (government, catholic, and independent). The organisation also needs to maintain and continuously develop a contemporary understanding of the teaching profession, particularly in relation to leading practice quality teaching approaches and standards. In addition, a knowledge base of teacher education and training in the tertiary setting is needed to effectively perform the accreditation function. Figure 24 illustrates the components of sector and teaching expertise the VIT must maintain.

Figure 24: Sector and cohort expertise VIT must maintain and continuously develop



External stakeholders consistently expressed concern about a lack of contemporary teaching expertise within the VIT. Several stakeholders noted that this capability had declined over time and that education and teaching professionals were lacking in management-level positions at the VIT. While the VIT currently employs 16 teaching professionals across the organisation, it is clear the organisation lacks a clear central point of senior practitioner expertise.

Facing similar challenges, agencies across Victoria have introduced expert offices led by experienced practitioners. These offices are dedicated to developing integrated subject matter expertise, practice leadership and supporting robust, evidence-based organisational decision-making. The case study below provides interesting insight into contemporary approaches to this capability.

Case Studies – Establishing practitioner expertise within organisations

In recent years, a number of government departments and agencies, both in Australia and internationally, have introduced expert practitioner positions into their organisations. These positions are dedicated to better support practice leadership and evidence-informed directions. Expert practitioners make recommendations to senior leadership regarding policy and service design to promote continuous improvement in outcomes within organisations. The following agencies provide interesting insight into contemporary approaches to this capability.

Principal Practice Leader - The Department of Education and Training (DET)

The Victorian Government's commitment to establish Victoria as the Education State includes the promotion of inclusive practices in schools through The Special Needs Plan for Victorian Schools. One of the nine initiatives of the Special Needs Plan is a dedicated professional appointed to work with schools and DET to improve management of challenging behaviors in government schools. The Principal Practice Leader (Education) reports to the Senior Practitioner (Disability), and works with schools around addressing the issues / behaviour of concerns. The Principal Practice Leader does this by examining international best practice and tailoring this for application in Victoria.

The Principal Practice Leader works with government schools throughout Victoria to gain an understanding of current processes and staff knowledge in order to provide tailored, best practice approaches and processes for supporting and responding to students with challenging behaviour.

Family Violence Principal Practitioner – Victorian Government Departments

Following recommendations from the Royal Commission into Family Violence, the Family Violence Principal Practitioner role within the Departments of Education and Training, Health and Human Services and Justice and Regulation was established. The purpose of this role is to provide leadership and support to workers across these departments. The Principal Practitioner ensures that specialist practice, knowledge and leadership is strengthened across the range of workforces involved in family violence. In addition, Principal Practitioners lead practice reform in each department and support the key priorities for practice development identified by the Royal Commission into Family Violence and the 10 Year Plan for Change. Family Violence Principal Practitioners provide advice and promote workforce capability development on the dynamics of family violence and best practice approaches, supporting cultural change in workforces that have a growing connection with victim survivors and perpetrators of family violence, including those areas of operation for whom family violence is a new area of focus.

The Education Council, New Zealand - Centre for Leadership Excellence

The New Zealand Education Council has established a Centre for Leadership Excellence. The Centre for Leadership Excellence is a repository for collective knowledge in leadership best practice, strategies and research. The purpose of the Centre is to work closely with the education sector in order to build leadership capability and capacity for all leaders in early childhood and school contexts. The Education Council champions the teaching profession through developing strong leadership capability and capacity in all teachers and principals.

Chief Scientist – Environmental Protection Agency

In May 2017, the Environmental Protection created the position of Chief Environmental Scientist to enhance the EPA's scientific standing, and provide the organisation with an authoritative and expert voice on environmental issues. The Chief Environmental Scientist works across the organisation, reporting directly to the CEO and also providing advice to Victoria's Chief Health Officer. The Chief Environmental Scientist commissions and reviews advice and conclusions from the EPA's scientific experts and is a key point of liaison for the EPA within government.

Advantages:

- The above examples highlight the key advantages of establishing an office and key practitioner/s within organisations to promote and drive workforces to use research and best practice to strengthen internal knowledge and capability to deliver positive outcomes. Such an arrangement would provide the VIT with practice leadership and evidence-informed directions and recommendations about policy and service design to promote continuous improvement in client outcomes.

The Review recommends the VIT establish a Principal Practitioner role within the VIT. This role would be a senior Executive-level position, part of the executive leadership team of the VIT, and work at a strategic-level to ensure the VIT develops and maintains the necessary education and teaching expertise and capability to support the organisation deliver its functions. This role would be highly visible externally and play a significant stakeholder engagement and liaison role. Internally, the Principal Practitioner would work across the organisation to disseminate knowledge of leading practice teaching approaches, share intelligence about the sector, and provide advice to all areas about how to ensure that regulatory approaches are tailored to the sector and cohorts. A future function related to workforce development could also sit under the direction of this role, should a broader Office be established.

A Principal Practitioner role should be filled by a highly experienced and respected teaching practitioner, who will build credibility and public trust in the organisation's teaching expertise. This will support the organisation to be perceived as one that adds genuine value to the education sector.

The Principal Practitioner role can also assist to ensure rigor of decision-making in teacher professional conduct matters, including by giving evidence in VCAT where necessary.

Strengthening and broadening strategic stakeholder engagement capabilities

Over 100,000 Victorians interact directly with the VIT every year by telephone, email, in person, or digitally (through the website, social media etc.). Many of these engagements relate to the VIT's core regulatory function of teacher registration, however, there are a range of other interactions which occur in relation of professional development, accreditation, and conduct and compliance. Furthermore, the complexities of the VIT's co-regulatory environment mean the organisation needs to proactively engage with a diversity of stakeholders. This level of interaction demands highly developed stakeholder engagement capabilities.

Having engaged with external stakeholders across the education and co-regulatory sector, it is clear to the Review team that the VIT is perceived as a largely passive organisation from an engagement perspective, and is relatively invisible to the profession and other stakeholders. This passive engagement refers to the VIT being largely focused on responding to external engagement (e.g. through the client service team), as opposed to actively and strategically identifying key stakeholders, building enduring relationships, and working collaboratively with co-regulators around shared objectives and outcomes. This aligns with the discussion in Chapter 2.3.1.

Stakeholder engagement is broader than just communications and passive information provision. It is also not a function performed by only one individual or team within the VIT. Stakeholder engagement extends to proactive relationship building, listening to stakeholders, and building trust through open, regular and transparent engagement. More mature, proactive and sophisticated stakeholder engagement capability is required within the communications function of the VIT and leadership. As noted in Chapter 2.1.5, particular areas of focus need to be on improving engagement and relationships with co-regulatory partners, including the Department, VRQA, CCYP, and WWC. Establishing clearer delineation of roles and responsibilities, handover and interface arrangements, shared regulatory practices and mapping of overlapping jurisdictions with these co-regulators is needed. The VIT also needs to strengthen its relationship with the Minister's office, in alignment with the points raised in Chapter 2.2.

Building risk-based regulation capability

The need for the VIT to develop a more mature, risk-based, intelligence-led regulatory approach was articulated in Chapter 2.3. Regulatory strategies and capabilities have undergone a significant evolution since the VIT was established 15 years ago, requiring new enabling capabilities. Greater focus on intelligence-gathering, data analytics, strategic research, evidence-driven risk analysis, and relationship-building and stakeholder engagement are all critical capabilities of modern regulators. It is not evident to the Review that the organisation's capabilities with regards to regulation have similarly evolved.

Developing modern organisational regulatory principles, strategies, frameworks and assessment tools requires staff with experience and expertise in these areas. Once these crucial higher order frameworks are established, this capability needs to be leveraged to support all regulatory areas of the organisation to develop operational approaches aligned to the organisation's regulatory principles and strategy.

The VIT is the custodian of demographic and regulatory data and information for over 100,000 active teachers. This data and information contains key insights and signposts to where areas of high risk to child safety and wellbeing exist now and into the future. It can guide the VIT to where it should target prevention strategies and invest its resources.

Developing a baseline capability to systematically collect, understand, learn from, and leverage this data to inform regulatory-decision-making and deliver organisational outcomes and objectives is required. As a small entity, the VIT does not necessarily have need to develop a large-scale data analytics unit or conduct its major research projects. It does, however, need a baseline data and analytics capability, which is likely best integrated within the policy and strategy unit. The VIT should explore establishing strategic partnerships with research and tertiary institutions to leverage their capabilities in this area. Partnering with research institutes and other jurisdictions to pursue areas of common interest should also be considered, as outlined in Chapter 2.3.

The VIT is well connected to a range of education bodies nationally and some internationally, and the former CEO chaired a number of sector forums. The VIT should broaden its engagement to include other members of the Executive team, the Board Chair, key subject matter experts and the future Principal Practitioner. Focus should be placed on strengthening engagement with other Victorian regulators and regulators with strong risk-based regulation capability. This can occur through informal initiatives, such as more proactive engagement with other regulators through existing forums, networking, sector events, and invitations to knowledge sharing and community of practice events. This can also be facilitated through more formal initiatives, such as staff secondments to other regulators and consideration of co-location (either temporary or permanent) arrangements (see Chapter 2.1.4 for discussion of this latter point with specific regard to other Victorian education regulators).

Becoming a more agile regulator

As a small regulator, it can be comparatively more challenging for the VIT to establish the economies of scale with regards to the full range of functions which enable the development, maintenance and improvement of the capabilities identified in this chapter. This means that the VIT will need to have a more agile workforce, with roles that are skilled across more than one area and an operating model which supports and incentivises the sharing of human resources, enabling the organisation to redirect resources to emerging priorities. Implementing a fit-for-purpose organisational design (see Chapter 2.4.1) is one step towards becoming more agile, however, targeted capability development is required.

Capability development begins with identifying, attracting and developing the capability of staff. This requires mature organisational development, human resource management, and learning and development functions. As critical, however, is ensuring this capability is retained. A poor workplace culture can be a key barrier to retaining capability and instilling a more agile model. The culture of the VIT will be explored in the following chapter.

Recommendation 29

Establish an executive-level Principal Practitioner position as a direct report to the CEO. This position should support the building of public trust and confidence in the VIT's teaching expertise.

Recommendation 30

The Review recommends the VIT Executive and Council strengthen strategic stakeholder engagement capabilities and activities, including by:

- a) Prioritising this in the strategic plan.
- b) Aligning organisational and leadership KPIs to reflect this priority.

2.4.4 Culture

Regulators do not create public value, their staff do. An engaged, motivated and collaborative workforce and organisational culture is fundamental to the success of any organisation. In a dynamic regulatory environment, a functional workplace culture where staff feel motivated, valued, respected and supported becomes an even more important enabler for the VIT to perform its functions.

*"Culture matters because it impacts on most other organisational dynamics; it influences how organisations manage complexity, ambiguity and change. When organisational cultures are dysfunctional, staff become disengaged, and serious underperformance becomes a risk."*¹²³

Individuals bring their own values to workplaces, and values drive behaviours. When the values and behaviours of staff do not align to organisational values or the values of staff, the result of this values clash can ripple and manifest in a range of areas. At the initial stages, it results in disengagement and a loss of

¹²³ 2013 VPSC Leading Public Organisations 'Organisational Culture'

motivation for staff, with “discretionary effort replaced by ‘work to rule’ or ‘clock watching’”. When values clashes become more embedded and systematic, high-conflict behaviours, factionalism, and siloes can emerge. The outcome is a dysfunctional culture, often characterised by high turnover, absenteeism, poor organisational performance and suboptimal decision-making¹²⁴.

The Review met with a range of committed staff who expressed a passion for their work. Many staff and Council members at the VIT have dedicated their career to the teaching sector, and several have been associated with the VIT for many years, even pre-establishment.

“A key strength of the organisation is our people. Over the years we have benefited from the passion and experience of individuals who have spent decades in the sector and many years with the Institute”¹²⁵

“The large number of resignations and staff leaving the institute over various issues has meant a loss of experience, expertise and corporate memory.”¹²⁶

The Review engaged with roughly one-third (30+) of the staff of the VIT and several former staff members through interviews, staff forums and the receipt of submissions. A degree of turnover and varying levels of workplace satisfaction is normal in any organisation, particularly ones experiencing change. However, the level and consistency of feedback from staff about the current workplace culture of the VIT has made this an area of very significant concern to the Review.

The VIT 2017-2020 Strategic Plan identifies a “future-focussed culture” as a key tool in delivering on its strategy, noting:

- We maintain the resources to reflect on and review our practices
- We pursue a culture that values quality
- We acknowledge and celebrate success
- We learn from our practice in order to deliver continuous improvement
- We cultivate an agile and capable workforce¹²⁷.

Beyond these strategic outcomes, the VIT has a number of baseline legal obligations to create and maintain a safe workplace. The *Equal Opportunity Act 2010* mandates that the VIT undertakes proactive steps to address and eliminate sexual harassment, discrimination and victimisation¹²⁸. The *Occupational Health and Safety Act 2004* obligates the VIT to maintain a safe workplace, as well as mandates employees’ general duty of care to ensure that they work in a manner that is not harmful to the health and safety of others¹²⁹. Under the PAA, all VIT employees are also required to comply with the VPSC Code of Conduct, including demonstrating the values of responsiveness, integrity, impartiality, accountability, respect, leadership and a commitment to human rights¹³⁰.

The VIT as an organisation displays characteristics of an adversarial and disrespectful culture. In its engagement externally, a significant number of key stakeholders described an Institute fiercely protective of its independence, lacking transparency in its processes, sometimes adversarial in its approach, and reluctant to proactively collaborate except where a strong (often legalistic) justification existed. In its engagement internally with staff, a culture lacking in transparency, openness, collaborative behaviours and strong and positive engagement between leadership and staff was also described by a significant number of staff at forums, during interviews and in written submissions. These characteristics of an adversarial and disrespectful culture appear to have manifested in a range of areas, most notably a staff turnover rate

¹²⁴ 2013 VPSC Leading Public Organisations ‘Organisational Culture’

¹²⁵ VIT staff input and submissions.

¹²⁶ VIT staff input and submissions.

¹²⁷ 2017 VIT, ‘Strategic Plan 2017-2010’

¹²⁸ 2010 *Equal Opportunity Act* (Vic)

¹²⁹ 2004 *Occupational Health and Safety Act* (Vic)

¹³⁰ 2004 *Public Administration Act* (Vic)

consistently above 30%, roughly 15% above the average benchmark. Further evidence of cultural challenges are outlined below.

Throughout the Review, a large number of VIT staff expressed serious concern about the current workplace culture and human resource practices of the organisation. A number of consultations and submissions noted concerns about serious and persistent issues related to declining staff morale, employee satisfaction, and high levels of workplace stress. A 2016 survey of the Registration Unit provided to the Review noted 76% (13 of 17 respondents) reported experiencing “anxiety, stress or depression” as a result of work¹³¹. A number of staff consulted by the Review described the workplace culture as being “toxic”, and indicated issues raised were frequently not addressed in a timely or sufficiently effective manner. An individual described this further as a “culture of secrecy”, whereby issues raised were frequently unacknowledged and not addressed¹³².

A significant amount of the individual submissions received from VIT staff raised allegations of a serious nature regarding workplace behaviour and conduct. Some of these submissions extended to allegations of bullying and / or inappropriate behaviour. Whilst the confidentiality of individual submissions has been maintained by the Review, the Review team has advised the VIT Council and Executive of the nature of these allegations and informed the relevant individuals of their options if they should wish to pursue their complaints further¹³³.

A 2014 Peoples Matters survey (the last time the VIT conducted this survey) found that:

- 36% of respondents had “witnessed bullying at work in the last 12 months” (previously 41% in 2012)
- 16% of respondents had “personally experienced bullying at work in the last 12 months” (previously 20% in 2012)¹³⁴.

Both of these results placed the VIT in the third quartile of entities surveyed (with the fourth quartile being the quartile where bullying was most frequently reported).

Collectively, if this situation is accepted on its face as being factual (and without the scope of the Review allowing for investigation of any allegations), these inputs evidence potential unacceptable workplace culture and behaviours, which may be in breach of the Victorian Public Sector Commission Code of Conduct.

Stakeholders noted that the impacts of this workplace culture have manifested in staff retention issues, high turnover rates, and a subsequent loss of organisational capacity, capability and corporate knowledge. The Review found both quantitative and anecdotal evidence supporting these observations in staff surveys and turnover rates. The VIT staff turnover rates have been significantly above industry benchmarks since 2011, with the last few years all having turnover rates above 30%. This level of turnover is in the lowest quartile of standard industry benchmarks. Figure 25 illustrates the change in staff turnover since 2011.

¹³¹ 2016 CPSU VIT Registration Unit Workload Survey.

¹³² VIT staff input and submissions.

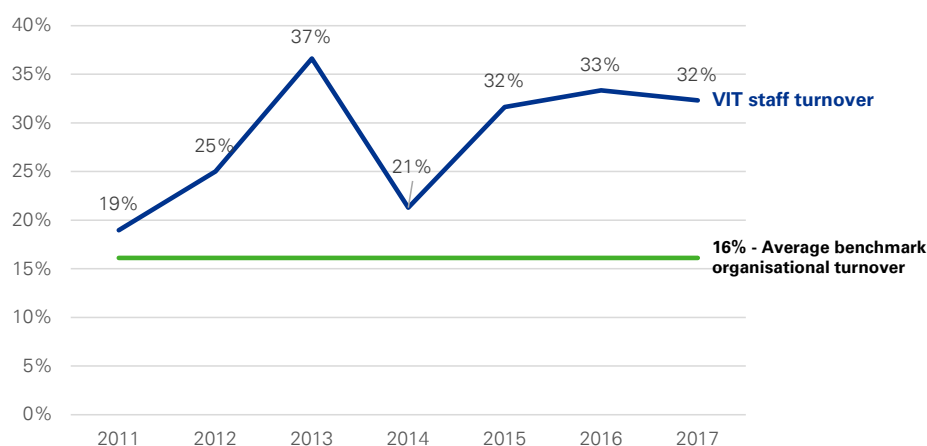
¹³³ Submissions received which alleged bullying behaviour or other improper conduct that had:

- either been notified to VIT human resources and not, in the submitter’s opinion, been adequately managed; or
- had not been notified to VIT human resources for fear of detrimental action

have been advised by the Review of their ability to make a protected disclosure under the *Protected Disclosure Act 2012*.

¹³⁴ 2014 VPSC People Matter Survey Benchmark Report: Executive summary and detailed results report.

Figure 25: VIT Staff Turnover (2011 – 2017)



Source: Data provided by VIT 25 October 2017. Excludes casual staff. (Turnover = number of staff departures in a year divided by average number of staff per year). Benchmark based on 50th percentile of overall APQC employee turnover rate benchmark (sample size 1,015 companies).

A culture of siloes between organisational units was also described by several staff consulted by the Review. Staff noted the VIT is characterised by low levels of individual staff understanding of the work conducted outside their own area, and an absence of regular collaboration. This is also evidenced by a 2017 internal audit report by consultancy RSM, which found:

“Communications between [the Triage and Registration] teams are limited or funnelled through the team leaders resulting in delays and potential miscommunication between the teams. It would appear the teams have separate objectives, rather than focusing on achieving VIT’s goal of completing registration of teachers in the most efficient manner.”¹³⁵

Some staff noted, however, that there have been some notable exceptions to the lack of effective cross-divisional collaboration. The RCS implementation, for example, was identified by staff as a good example of a cross-section of staff coming together to plan jointly for reforms.

Enhancing staff engagement and improving organisational culture, starting with leadership

Developing a positive organisational culture is a complex task, which is influenced by an organisation’s vision, strategy, mission, values, leadership behaviour, structures, systems and processes, workplace, reward and recognition practices, as well as many other factors. As a result, improving the culture of the VIT will require effective implementation of a range of other proposals in this Review, which touch on most of these areas.

The VIT Executive must lead the cultural change required.

“Leaders in organisations influence culture by acting as role models for the behaviours and actions that align with what the organisation needs to value the most.”¹³⁶

The Executive team needs to work together as a collective to lead reform to organisational culture. They must role model the values, behaviours and culture they expect of the organisation, hold those accountable who do not, as well as be held accountable by the CEO and Council for their own actions.

In addition to leadership, the VIT must develop comprehensive and targeted strategies to improve staff engagement, workplace culture and workplace satisfaction. This begins with leadership acknowledging the problem, genuinely engaging staff to better understand and define the issues, and **developing a cultural change strategy and plan to address the issues**. The Review strongly recommends that this cultural change plan be driven by senior leadership with direct participation from staff from across the organisation

¹³⁵ 2017 RSM, ‘VIT Internal Audit Report: Triage Process Review’.

¹³⁶ 2013 VPSC Leading Public Organisations ‘Organisational Culture’

(no more than 10) in the development of the plan. These staff should be of different seniority levels and aim to include representation from all divisions and branches. Consideration should be given to having an independent person facilitate the development of the plan, which should ultimately be signed off by the CEO, presented to and reported on regularly to Council. Progress on development and implementation of the plan should be reported on regularly to the staff themselves.

Acknowledging and understanding the staff perceptions should not be addressed in a one-off manner, and more formalised and contemporary people and culture policies and processes will need to be implemented, including regular staff surveys, staff forums and other engagement mechanisms (see Chapter 2.4.5).

Improving people management skills across the VIT

Based on feedback received, the VIT will need to improve the people management capability of the organisation. This begins with recruitment and selection processes, whereby people management skills and cultural fit should be key considerations in staff selection. For existing staff, people management and staff engagement responsibilities, accountabilities and performance measures should be clearly articulated and documented in position descriptions.

Regular 360 Degree Feedback processes should be introduced, whereby employees receive anonymous and confidential feedback from the people who work for them, their peers and senior managers. Feedback received through these processes should be key inputs to performance reviews, with promotion, reward and remuneration decisions reflecting their consideration. These changes should support greater accountability for people management and staff engagement for line managers.

Over the course of the Review, the Review team discussed issues regarding culture and morale with the VIT Council Chair. The VIT Council Chair has expressed a very clear commitment to addressing these issues. She has indicated that:

*'The VIT is fully committed to ensuring that we are a high-performing organisation with an engaged and motivated staff team. We will confidently achieve this transformation by restoring a workplace culture which lives and breathes the Victorian Public Services Values and also embraces a critically reflective, open and proactive culture.'*¹³⁷

Improving collaboration across organisational divisions and units

Improving awareness, relationships and collaboration across the VIT is needed in order to embed a common vision, strategy and purpose at the organisation. Breaking down siloes will be supported through the implementation of recommendations related to leadership (see Chapter 2.4.2) and structural reform (see Chapter 2.4.1). Additional changes to the VIT's ways of working and operating model should also be considered. Prioritising the importance and visibility of common organisational objectives, which require the contribution of multiple divisions, will assist. Examples of such objectives include child safety and wellbeing measures and indicators of quality teaching, objectives which require contributions from all regulatory functions as well as other agencies and actors.

Collaboration ultimately requires relationships, and improving physical contact between divisions can also assist in this. Co-locating teams, hot-desking, regular information sharing sessions and other staff engagement events which bring together individuals from different divisions and teams should immediately be put in place. As a small organisation, improving awareness, relationships and collaboration across the VIT is a very achievable objective.

Recommendation 31

Develop a people and organisational change strategy and plan that is clearly aligned with the Victorian Public Sector Code of Conduct and the new Council Charter. This strategy should be developed through positive proactive engagement with staff and include agreed organisational values. It should be owned by

¹³⁷ Statement provided by Lesley Lamb to the Review, 2017

the CEO and the VIT Council Chair, with progress against objectives regularly reported to Council and staff at the VIT.

The VIT to consider use of an independent organisational consultant to co-facilitate engagement with staff before, during and after development of the strategy.

Recommendation 32

Prioritise safety and wellbeing of VIT employees who have experienced or been exposed to potential harm in the workplace, including through:

- a) Developing a clear policy and organisational process for promoting the Code of Conduct, and managing allegations of bullying or other violations of the Code.
- b) Transparently promoting this across the organisation, championed by the VIT Executive.
- c) Ensuring staff found to be engaging in inappropriate behaviours are the subject of timely and appropriate disciplinary processes.

Recommendation 33

Prioritise the importance, visibility and staff accountability for:

- a) Common organisational objectives, which require the contribution of multiple divisions.
- b) Staff engagement and culture KPIs – which should also be included in the position descriptions of all staff with people management responsibilities and results in a key input to performance reviews.

2.4.5 Human resource management and organisational development

Human resource management and organisational development is a key function for any organisation, overseeing the recruitment, performance management, organisational development, compensation and workplace culture. Managed effectively, the function is a critical enabler of a high-performing organisation. Performed ineffectively, an entity can struggle to attract and retain the right capability and capacity and build a collaborative workforce culture. This can result in capability, capacity, role clarity and efficiency challenges for an organisation.

Human resource management is not the role of any one individual or team, and all management-level staff have a role to play with respect to people development. That said, the human resource management team has a critical role to play in developing the organisation's workforce strategy, policies and procedures, as well as providing transactional support for recruitment, induction, learning and development and supporting performance management.

The human resource management function, currently located within the People and Culture Directorate, is significantly under-developed at the VIT. Key observations which the Review has made in relation to this include:

- An absence of an up to date human resource / people and culture business plan, organisational policies and key position descriptions. None of the executive-level position descriptions provided to the Review were reflective of the current organisational structure and division of responsibilities. A partially completed business plan was provided to the Review. The Review was advised by the VIT that progressing this work is planned for FY 16-17.

- **Gaps in good practice staff engagement activities**, including regular and consistent staff surveys. Several staff surveys have been conducted in recent years, however, each survey has been performed using a different tool, resulting in the organisation being unable to track trends over time. The standard People Matters survey utilised by Victorian public sector agencies has not been conducted at the VIT since 2014 (some of the results of which have been included in sub-section 2.4.4). The 2016 People Matters survey was cancelled due to what was described as concern about “survey fatigue” by a VIT Executive. This decision seems particularly unusual given the cultural challenges reported by the staff surveyed in 2014.

Staff consulted noted exit interview practices were in place in the organisation, however, a number expressed concern that the information provided during these processes did not result in any observable changes in the workplace.

- **VIT staff expressed concern that recruitment practices are not conducted in line with good practice.** Several staff made submissions alleging concerns about recruitment transparency and consistency, including staff being promoted to new roles without an appropriate merit-based recruitment process. Results of staff surveyed as part of the 2014 People Matters survey placed the VIT in the bottom quartile for “choosing people for the right reasons (merit)”¹³⁸.
- **A lack of confidence amongst a significant number of staff that issues raised will be proactively managed and addressed.** Several staff interviewed and submissions received by the Review alleged behavioural issues of concern and instances of potential breaches of the Victorian Public Sector Code of Conduct being reported to human resources and / or management, however, not resulting in appropriate consideration or any subsequent observable changes in behaviour. Results of staff surveyed as part of the 2014 People Matters survey placed the VIT in the bottom quartile for “resolving issues fairly (avenues of redress)”¹³⁹.
- **Concern about the effectiveness of the employee relations function.** The Review observed that the VIT’s approach to EBA negotiations had been drawn out and caused a significant strain on staff and employee relations. The delay in the finalisation of the current EBA has potentially contributed to current issues with staff morale.

Strengthening organisational development and human resource management

Effective human resource management based on leading practice will support the organisation to recruit, retain and develop an effective, collaborative and engaged workforce. In light of the findings of the Review related to organisational culture and capability, building a robust, transparent, and consistent human resource and organisational development function needs to be a priority of the entity. Key activities which need to be undertaken related to organisational development and include:

- Reviewing and updating key organisational development business plans, policies and procedures to ensure they are fit for purpose and aligned with contemporary practice. These include policies and procedures for recruitment, induction, staff development, complaints management, and exit interviews.
- Updating and making consistent position descriptions across the organisation.
- Implementing robust and consistent staff survey and engagement mechanisms, including regular People Matters surveys, and reporting back to staff on the results and initiatives taken to address areas of concern
- Reviewing and strengthening the exit interview process to ensure information provided is collected, systematically analysed, trends shared appropriately, and follow up action taken. This will help the VIT to understand key drivers for high staff turnover rates.

¹³⁸ 2014 VPSC, ‘People Matter Survey Benchmark Report: Executive summary and detailed results report’

¹³⁹ 2014 VPSC, ‘People Matter Survey Benchmark Report: Executive summary and detailed results report’

- Implementing more robust and consistent staff survey and engagement mechanisms, including regular People Matters surveys and robust exit interview and continuous improvement processes.

Recommendation 34

Implement more robust and consistent staff survey and engagement mechanisms, including regular People Matters surveys and robust exit interview and continuous improvement processes. Develop an annual action plan to ensure continuous improvement in regards to organisational development and human resource management.

Part 2.4 – Summary of recommendations

Part 2.4: Expert capability and agile operational requirements

Recommendation 26

Following the appointment of a new CEO:

- The VIT consider enhancing and streamlining its Corporate Services through the introduction of a shared services model.
- Revise the organisational structure, giving consideration to:
 - a) Realigning divisions / branches to integrate like functions (e.g. corporate, accreditation, registration, conduct & compliance).
 - b) Ensure a more appropriate balance is struck between corporate and regulatory resource allocation, including with regards to the composition of the Executive and allocation of the most senior roles in the organisation.
 - c) Executive roles being 'right-sized', with appropriately balanced spans of control, functions, roles and responsibilities.

Recommendation 27

Strengthen the executive leadership of the organisation, including through:

- a) Developing a vision for the organisation reflective of the new objects, complimented by a strong outcomes-focused strategy.
- b) Ensuring alignment with GSERP and VPSC executive performance management guidance.

Recommendation 28

Strengthen staff engagement, decision-making transparency and communication to improve staff morale and associated performance of the VIT.

Recommendation 29

Establish an executive-level Principal Practitioner position as a direct report to the CEO. This position should support the building of public trust and confidence in the VIT's teaching expertise.

Recommendation 30

The Review recommends the VIT Executive and Council strengthen strategic stakeholder engagement capabilities and activities, including by:

- a) Prioritising this in the strategic plan.
- b) Aligning organisational and leadership KPIs to reflect this priority.

Recommendation 31

Develop a people and organisational change strategy and plan that is clearly aligned with the Victorian Public Sector Code of Conduct and the new Council Charter. This strategy should be developed through positive proactive engagement with staff and include agreed organisational values. It should be owned by the CEO and the VIT Council Chair, with progress against objectives regularly reported to Council and staff at the VIT.

The VIT to consider use of an independent organisational consultant to co-facilitate engagement with staff before, during and after development of the strategy.

Recommendation 32

Prioritise safety and wellbeing of VIT employees who have experienced or been exposed to potential harm in the workplace, including through:

- a) Developing a clear policy and organisational process for promoting the Code of Conduct, and managing allegations of bullying or other violations of the Code.
- b) Transparently promoting this across the organisation, championed by the VIT Executive.
- c) Ensuring staff found to be engaging in inappropriate behaviours are the subject of timely and appropriate disciplinary processes.

Recommendation 33

Prioritise the importance, visibility and staff accountability for:

- a) Common organisational objectives, which require the contribution of multiple divisions.
- b) Staff engagement and culture KPIs which should also be included in the position descriptions of all staff with people management responsibilities and results should be a key input to performance reviews.

Recommendation 34

Implement more robust and consistent staff survey and engagement mechanisms, including regular People Matters surveys and robust exit interview and continuous improvement processes. Develop an annual action plan to ensure continuous improvement in regards to organisational development and human resource management.

3 Implementation considerations

This chapter provides guidance taking forward the reform recommendations made, including funding the reforms and differentiating between short-term and longer-term imperatives. Whilst the Review understands that legislative reform can be a lengthy process, the significant majority of the Review's recommendations regarding culture and governance can and should be undertaken in the short to medium term. The recommendations that require legislative change and / or major structural reform to the organisation will require additional time to properly scope, plan and implement. These longer-term recommendations are identified in this chapter.

The practicality of implementation was considered when designing recommendations, however, the costs and benefits, or detailed implementation requirements, were not in scope given the timeframes of the Review.

3.1 Funding the reforms

The Review has identified a significant number of reforms which the VIT will need to take forward. These reforms will require robust governance, planning, consultation, project management, implementation and monitoring. At the same time, effective business-as-usual operations will need to be maintained. Sourcing funding for these reforms will need to be undertaken as a priority.

Potential funding sources for implementing the recommendations of the Review include:

- The VIT accumulated surplus
- Seeking a one-off injection of funding from Government
- Increasing registration fees following the conduct of a Regulatory Impact Statement (RIS).

The VIT reported an accumulated surplus of approximately \$6,570,000 in the 2016-17 Annual Report.¹⁴⁰ This surplus is a potential source of investment funding to implement the reforms of the Review. Should additional funding be required beyond this amount, the VIT should seek a one off injection of funding to implement reforms.

While the Victorian registration fees for initial registration are lower than some other Australian jurisdictions, the Review does not recommend the VIT consider increasing registration fees in the short-term¹⁴¹. The reason for this are two-fold:

- The VIT should seek to immediately strengthen its external relationships and demonstrate value and improvement to stakeholders. Seeking to increase registration fees in the current context prior to implementing the reforms would present a potential barrier to progressing this.
- A number of the VIT's ongoing reforms and more transformative recommendations of the Review will fundamentally impact the VIT's structure, operating model and ways of working. Undertaking a RIS at this juncture would not likely reflect the future operational cost base of the organisation.

Once the recommendations of the Review are implemented and have been operational for a period (12-24 months), the VIT should then consider the appropriateness of current registration fees to fund ongoing operations and undertake a RIS.

¹⁴⁰ 2017, VIT, 'Annual Report 2016-17' accessed at <http://www.vit.vic.edu.au/who-we-are/annual-report>

¹⁴¹ For example, Western Australia (\$166), Tasmania (\$146), Queensland (\$141.60) – higher than Victoria's \$126. Figures taken from state registration body website in September 2017.

4 References

1. Kim, S and Law, M 2004, 'Specialization and Regulation: The Rise of Professionals and the Emergence of Occupational Licensing Regulation', accessed at: <http://www.nber.org/papers/w10467.pdf>
2. The General Teaching Council for Scotland 2016, 'History of GTCS', accessed at: <http://www.gtcs.org.uk/about-gtcs/history-of-GTCS.aspx>
3. The Teachers Board of South Australia 2014, 'Submission in response to the South Australian Government boards and committees reform', accessed at <http://www.dpc.sa.gov.au/documents/rendition/B17977>
4. VIT 2003, 'Annual Report 2002-2003', accessed at <http://www.vit.vic.edu.au/who-we-are/annual-report>, p. viii
5. King and Associates, FJ & JM 2008, 'Review of the Victorian Institute of Teaching'
6. Ontario College of Teachers 2007, 'Summary Report on Defining the Public Interest', accessed at https://www.oct.ca/-/media/PDF/Summary%20Report%20Defining%20the%20Public%20Interest/EN/public_interest_summary_e.pdf
7. O'Neill Onora 2015, 'Spotlight – Trust, Trustworthiness and Transparency, European Foundation Centre, accessed at: <http://www.efc.be/human-rights-citizenship-democracy/trust-trustworthiness-transparency>
8. VIT 2017, "Annual Report 2016-17" accessed at <http://www.vit.vic.edu.au/who-we-are/annual-report>
9. 'VIT Educational Video for provisional teachers', Date unknown, provided via email
10. Education and Training Reform Act 2006, Victoria
11. Child Abuse Royal Commission 2017, accessed at: <https://www.childabuseroyalcommission.gov.au/>
12. Protecting Victoria's Vulnerable Children Inquiry 2017, accessed at: <http://www.childprotectioninquiry.vic.gov.au/report-pvvc-inquiry.html>
13. Department of Justice and Regulation 2017, Betrayal of Trust Implementation, accessed at: <http://www.justice.vic.gov.au/home/safer+communities/protecting+children+and+families/betrayal+of+trust+implementation>
14. Victorian Government - Department of Justice and Regulation 2017, Working with Children Check, accessed at <http://www.workingwithchildren.vic.gov.au>
15. Independent broad-based anti-corruption commission 2016, 'Message from the Commissioner', accessed at <http://www.ibac.vic.gov.au/publications-and-resources/ibac-insights/edition-8/message-from-the-commissioner-july-2016>
16. Victorian Government - Department of Education and Training, 'Building confidence in our systems and culture', accessed at <http://www.ibac.vic.gov.au/docs/default-source/reports/det-report.pdf>
17. Melbourne Declaration on Educational Goals for Young Australians 2008, 'Declaration on the Educational Goals for Young Australians', accessed at: http://www.curriculum.edu.au/verve/_resources/National_Declaration_on_the_Educational_Goals_for_Young_Australians.pdf
18. Cribb, A, Gewirtz, A, Hextall, I & Mahony, P 2009, 'Changing Teacher Professionalism: International Trends, Challenges and Ways Forward', accessed at: <https://books.google.com.au/books?hl=en&lr=&id=8HF8AgAAQBAJ&oi=fnd&pg=PP1&dq=better+practice+regulation+trends+changing&ots=YnlpPlngLn&sig=eWe0Z3daB-GaKNQuNofGgTegPBA#v=onepage&q&f=true>
19. ABC News 2016, 'Australian teacher shortage fears as student numbers soar', accessed at <http://www.abc.net.au/news/2016-01-18/fears-of-looming-teacher-shortage-as-student-population-soars/7096102>
20. The Australian Council for Educational Research (ACER) 2015, *The Teacher Workforce in Australia: Supply, demand and data issues*
21. The Australian Bureau of Statistics 2017, 'Summary of Findings – all full-time and part-time students, accessed at: <http://www.abs.gov.au/ausstats/abs@.nsf/mf/4221.0>
22. Boston Consulting Group 2003, *Schools Workforce Development Strategy* report', accessed at: http://www.google.com.au/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0ahUKEwin6_iVhKHXAhXEopQKHVldCOYQFggmMAA&url=http%3A%2F%2Fwww.education.vic.gov.au%2FDocuments%2FSchool%2Fprincipals%2Fprofdev%2Fpcpdschworkforce.doc&usq=AOvVaw0DXzE7wvtnlFLj8zOdpaf
23. Professor Stephen Dinham 2016, the University of Melbourne, 'Leading Learning and Teaching, accessed at: http://education.unimelb.edu.au/news_and_activities/news/opinions/2016/speech-professor-stephen-dinham-book-launch

24. Parliament of Victoria 2006, 'Education and Training Reform Bill: Second reading', accessed at: [http://hansard.parliament.vic.gov.au/?IW_DATABASE=*%26IW_FIELD_TEXT=HOUSENAME%20CONTAINS%20\(ASSEMBLY\)%20AND%20SPEECHID%20CONTAINS%20\(46446\)%20AND%20SITTINGDATE%20CONTAINS%20\(9%20February%202006\)&Title=EDUCATION%20AND%20TRAINING%20REFORM%20BILL&IW_SORT=n:OrderId&LDMS=Y](http://hansard.parliament.vic.gov.au/?IW_DATABASE=*%26IW_FIELD_TEXT=HOUSENAME%20CONTAINS%20(ASSEMBLY)%20AND%20SPEECHID%20CONTAINS%20(46446)%20AND%20SITTINGDATE%20CONTAINS%20(9%20February%202006)&Title=EDUCATION%20AND%20TRAINING%20REFORM%20BILL&IW_SORT=n:OrderId&LDMS=Y)
25. OECD 2014, 'OECD Best Practice Principles for Regulatory Policy', accessed at: <http://www.oecd-ilibrary.org/docserver/download/4214061e.pdf?expires=1505113507&id=id&accname=guest&checksum=53B4FB7369EA10567FA8F3B99CDECCA>
26. Queensland Parliament 2005, 'New Registration Standards for Teachers under the Education (Queensland College of Teachers) Bill 2005 (Qld)', accessed at: <http://www.parliament.qld.gov.au/documents/explore/researchpublications/researchbriefs/2005/200517.pdf>
27. Justice Kevin Bell – President 2008, VCAT, 'The role of VCAT in a changing world: the President's review of VCAT', Speech delivered to the Law Institute of Victoria, 4 September 2008
28. AHPRA 2016, 'Annual Report 2015-16', accessed at: <http://www.ahpra.gov.au/annualreport/2016/>
29. <http://www.workingwithchildren.vic.gov.au/home/about+the+check/statistics/>
30. OECD 2014, 'OECD Best Practice Principles for Regulatory Policy', accessed at: <http://www.oecd-ilibrary.org/docserver/download/4214061e.pdf?expires=1505113507&id=id&accname=guest&checksum=53B4FB7369EA10567FA8F3B99CDECCA>
31. Victorian Public Sector Commission 2016, 'Code of Conduct for Directors of Victorian Public Entities', accessed at: https://vpssc.vic.gov.au/wp-content/uploads/2016/03/VPSC_Code_Directors_2016_Booklet.pdf
32. Governance Institute of Australia 2017, 'Good Governance Guide', accessed at: <https://www.governanceinstitute.com.au>
33. Ontario College of Teachers 2007, 'Defining the Public Interest'
34. Ontario College of Teachers 2007, 'Finding the Meaning in the Public Interest'
35. KPMG 2017, 'Directors' Toolkit', Chapter 10, Company Leadership, accessed at: <https://assets.kpmg.com/content/dam/kpmg/sg/pdf/2017/03/Australia-Directors-Toolkit.pdf>, p. 87
36. KPMG 2017, 'Why digital identity is now a board-level topic', accessed at: <https://home.kpmg.com/xx/en/home/insights/2017/08/why-digital-identity-is-now-a-board-level-topic.html>
37. VRQA website 2017, accessed at: <http://www.vrqa.vic.gov.au/Pages/default.aspx>
38. VRQA 2017, 'Annual Report 2016-17', accessed at: <http://www.vrqa.vic.gov.au/about/Pages/publications.aspx>
39. Sparrow, M 2000, 'The Regulatory Craft: Controlling Risks, Solving Problems and Managing Compliance'
40. ANAO 2014, 'Administering Regulation: Achieving the Right Balance', accessed at: https://www.anao.gov.au/sites/g/files/net616/f/2014_ANAO%20-%20BPG%20Administering%20Regulation.pdf
41. Arjoon, S 2006 'Striking a Balance Between Rules and Principles-Based Approaches for Effective Governance: A Risks-Based Approach'
42. Black, J. 2007 'Principles Based Regulation: Risks, Challenges and Opportunities'
43. AHPRA 2015, 'APRHA Regulatory Principles', accessed at: <https://www.ahpra.gov.au/About-AHPRA/Regulatory-principles.aspx>
44. DET 2017, '2017-2021 DET Strategic Plan', accessed at: <http://www.education.vic.gov.au/Documents/about/departments/strategicplan.pdf>
45. VIT 2016, 'Annual Report 2015-2016', accessed at: <http://www.vit.vic.edu.au/who-we-are/annual-report>
46. Hattie, J 2017, Letter from CEO, Mad to John Hattie of AITSL reporting on progress to day
47. Victorian Institute of Teaching 2015, 'Initial teacher education (ITE) research project', accessed at: <http://www.vit.vic.edu.au/news/news/2017/initial-teacher-education-ite-research-project>
48. Queensland College of Teachers 2013, 'Appendix 1: Survey Questionnaire', accessed at: http://www.qct.edu.au/pdf/ATTRITION_OF_RECENT_QLD_GRADUATE_TEACHERS_Appendices.pdf
49. Queensland College of Teachers 2013, 'Queensland Teachers Report: Statistical Data, Trends and Forecasts 2016', accessed at: <http://www.qct.edu.au/teaching-in-queensland/data-about-teachers>
50. QCT 2017, 'QCT Committee Charter', accessed at http://www.qct.edu.au/pdf/QCT_Committee_Charter.pdf
51. VIT 2016, 'Professional Conduct Committee Induction / Training
52. VIT Review 2017, Provisional Teachers Survey
53. VIT 2017, Moving to (full) registration, accessed at: <https://www.vit.vic.edu.au/registered-teacher/moving-to-full-registration>
54. People Business 2015, 'Report to the CEO for Change to Organisational Structure'
55. VPSC 2013, Leading Public Organisations 'Organisational Culture'
56. VIT 2017, 'Strategic Plan 2017-2010'
57. *Equal Opportunity Act 2017* (Vic)
58. *Occupational Health and Safety Act 2004* (Vic)
59. *Public Administration Act 2004* (Vic)
60. CPSU 2016, 'VIT Registration Unit Workload Survey.'

61. VPSC 2014, 'People Matter Survey Benchmark Report: Executive summary and detailed results report.'
62. VIT RSM 2007, 'VIT Internal Audit Report: Triage Process Review'.
63. VPSC 2013, Leading Public Organisations 'Organisational Culture'

Appendices

Appendix A – Survey Results

The Provisionally Registered Teacher Survey was designed by the Review Team, and distributed by VIT to all provisionally registered teachers in Victoria. The survey was left open for a week, and received 1,954 responses – a very positive result in and of itself.

Key info

Date: 23 October, 2017

Surveyor: Penny Armytage and the Review Team (KPMG)

Surveyed: 1,954 responses from provisionally registered teachers

Purpose: To gain the views and expectations of key matters relevant to the Review Terms of Reference

The aggregate results to each question of the survey are presented below. Key themes from the qualitative responses are included in the following section.

Data: survey responses

This section provides the data for the responses gained from the eight quantitative questions.

Figure 26: What do you think the primary role of a teacher regulator should be?

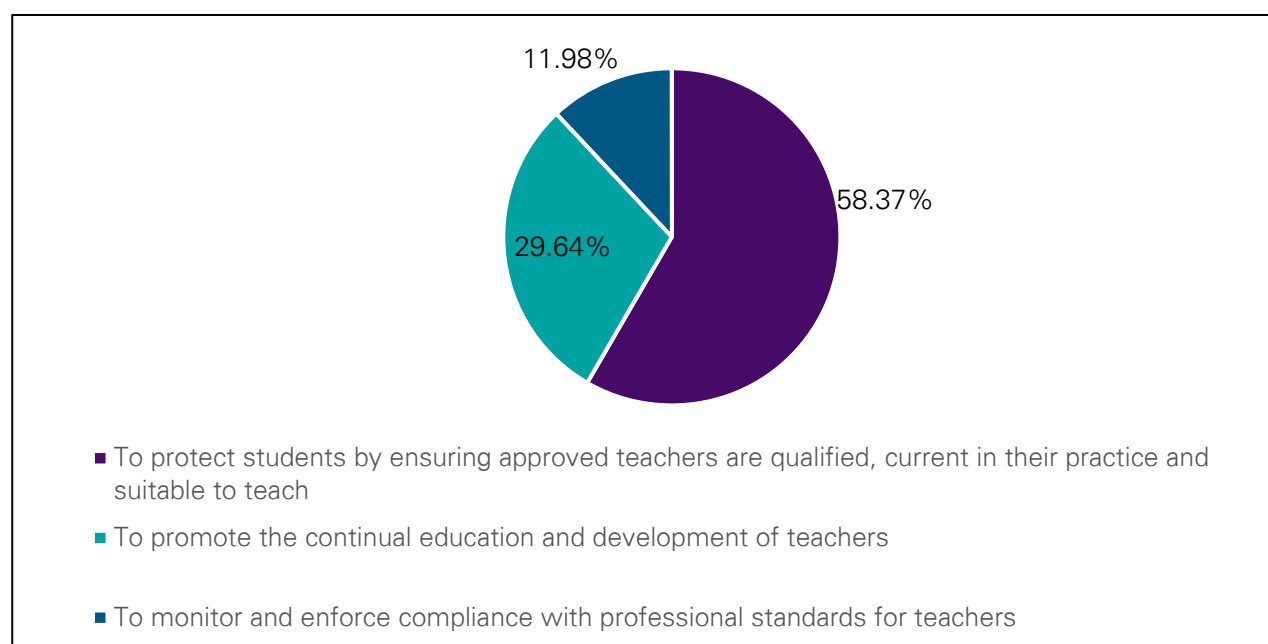


Figure 27: Which of the following responsibilities are the most important for VIT?

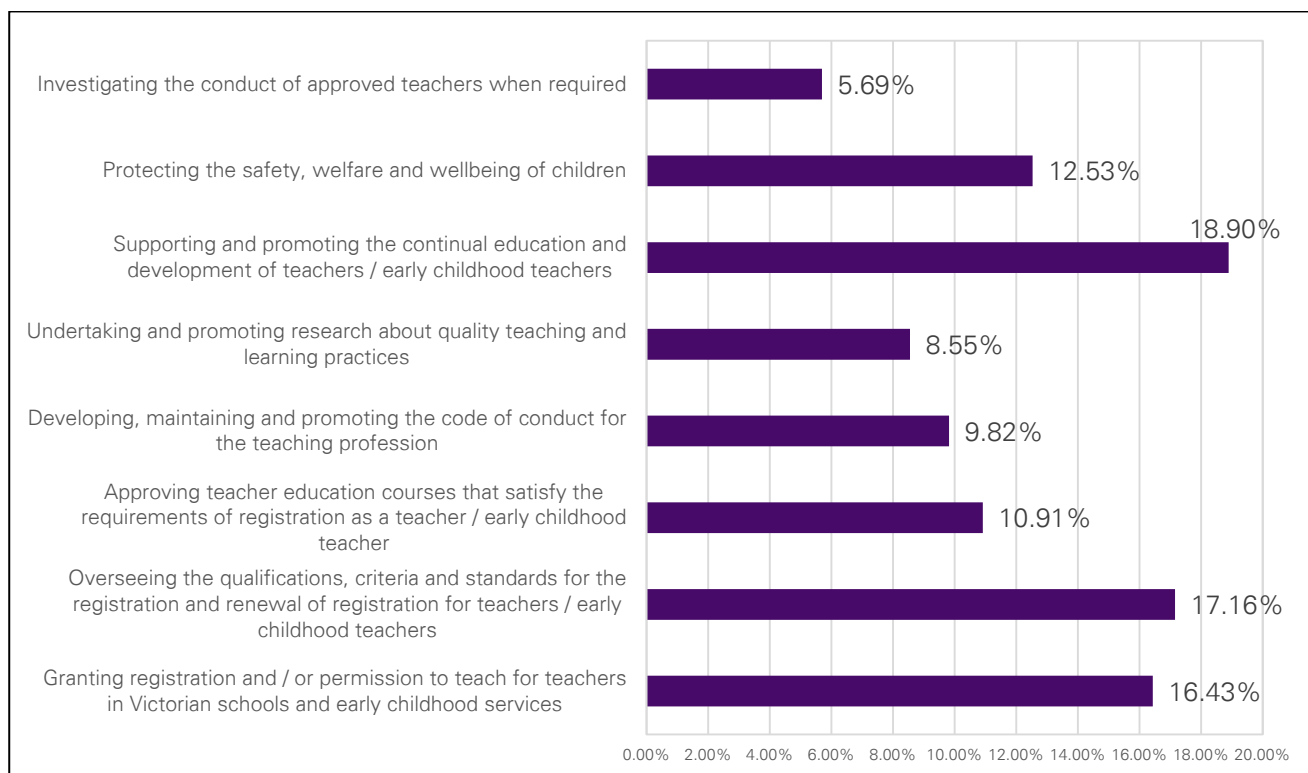


Figure 28: How would you rate your level of understanding of your obligations and responsibilities in regards to professional conduct as a teacher?

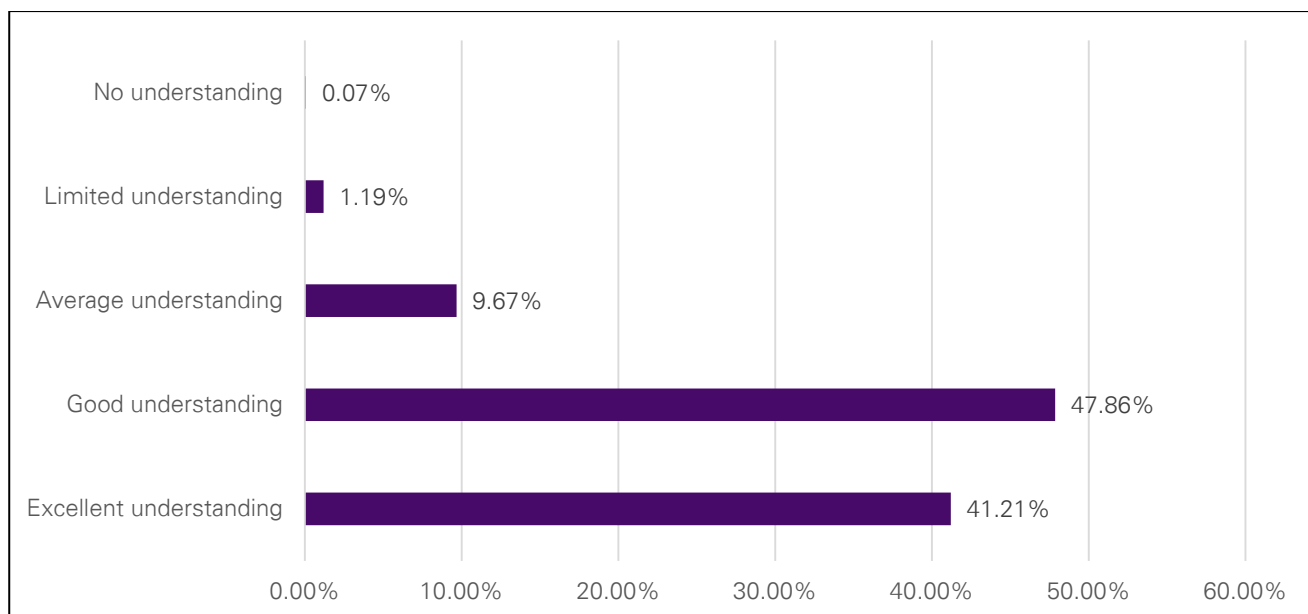


Figure 29: How relevant do you think a teacher's actions / behaviours outside of work (e.g. social media activity) are when considering whether or not they are suitable to teach / continue to teach in regards to potential issues of minor misconduct?

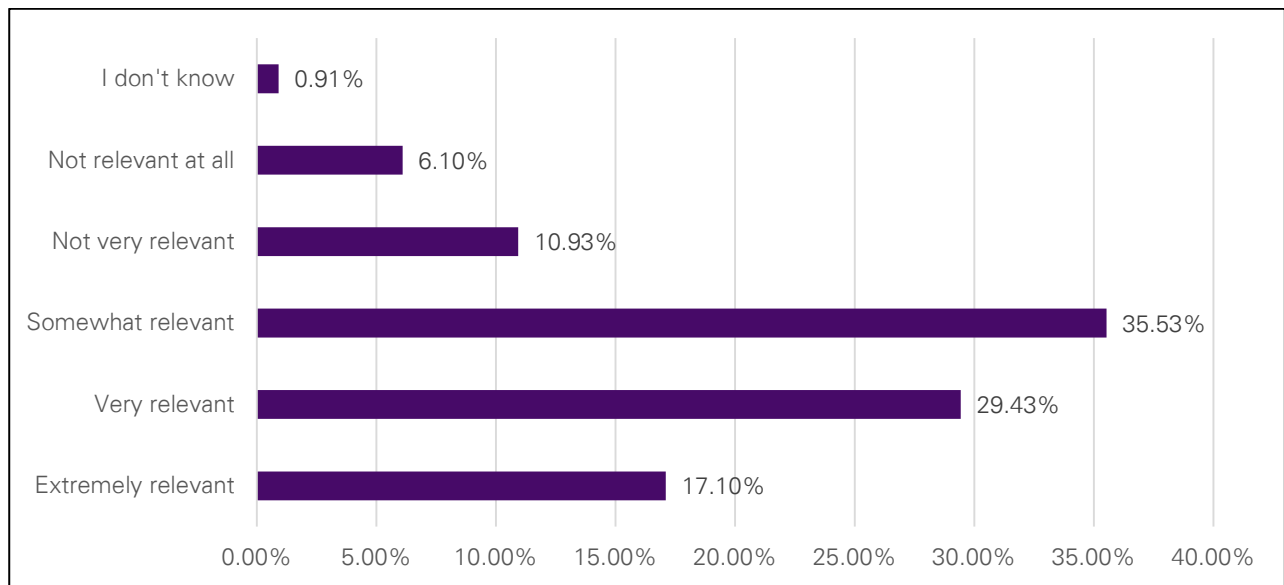


Figure 30: Do the standards required for access to the profession (registration) give you confidence in the quality of teaching within Victoria?

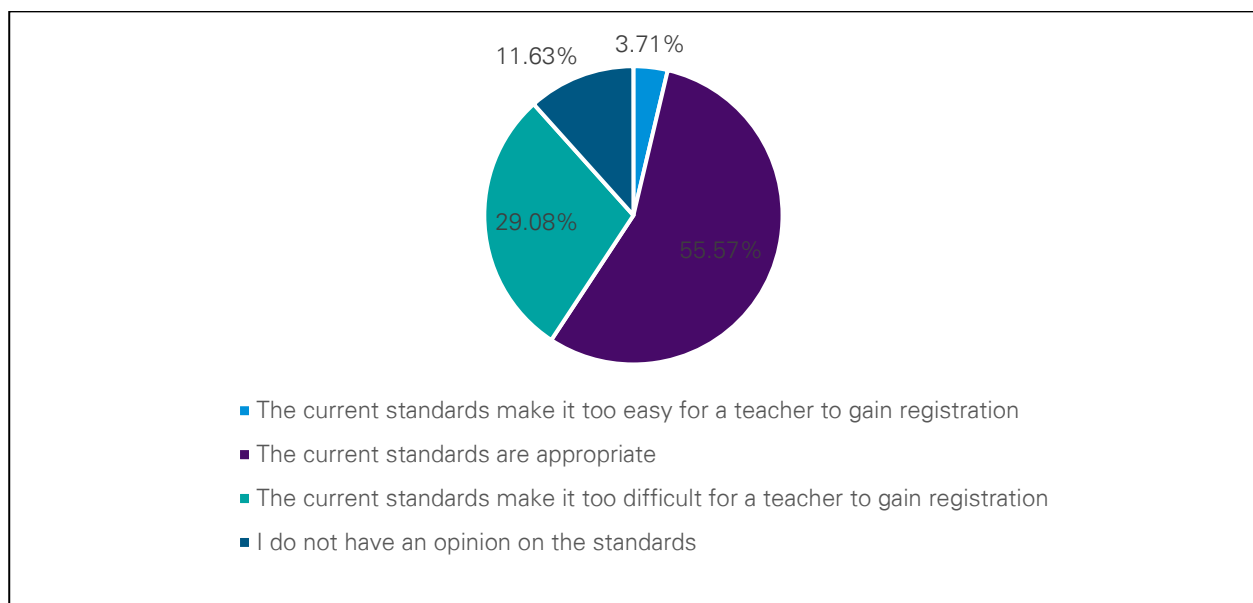


Figure 31: For matters of allegations of teacher professional misconduct or non-compliance, who do you think should be involved in making decisions around the appropriate course of action?

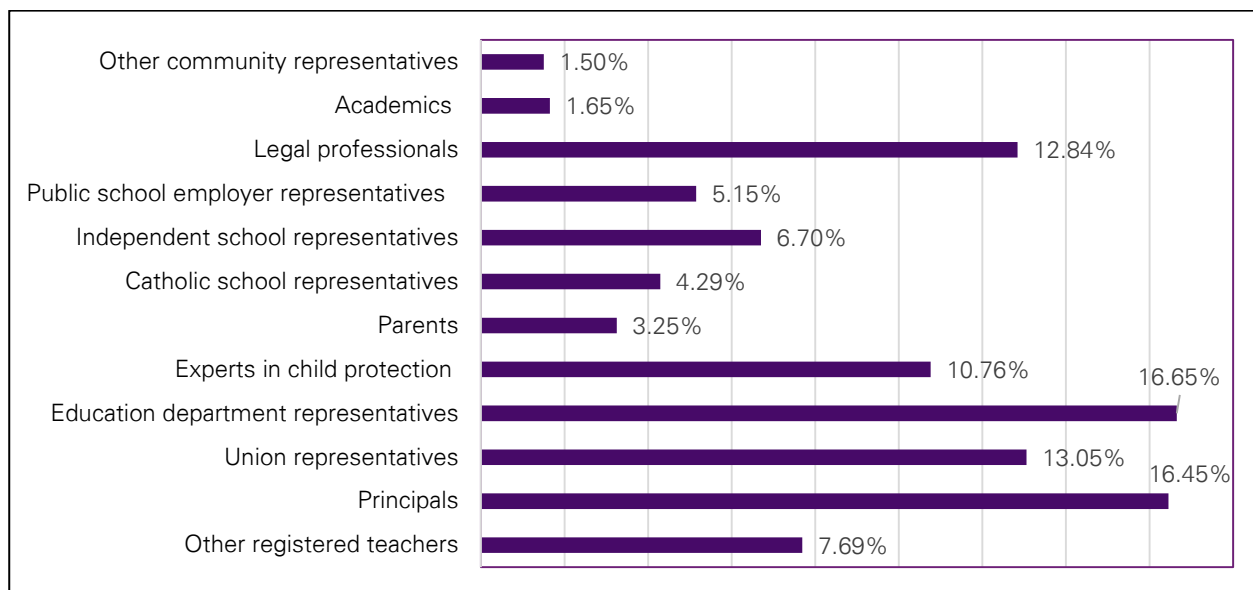


Figure 32: In addition to your VIT Registration do you also have a Working with Children Check (WWCC)?

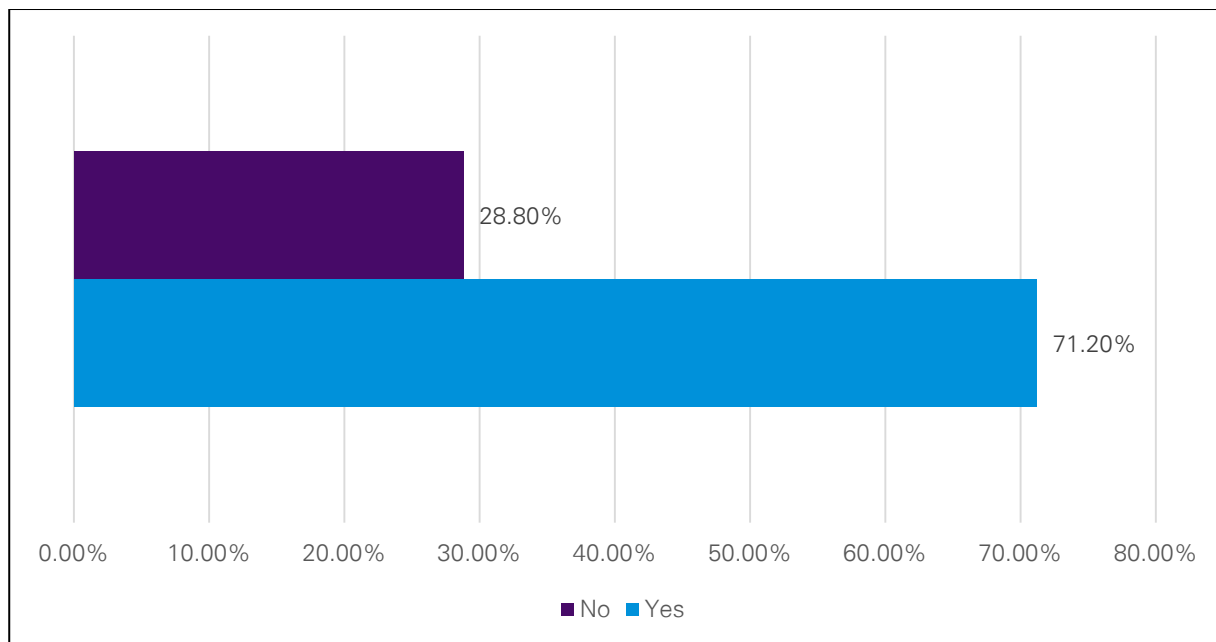
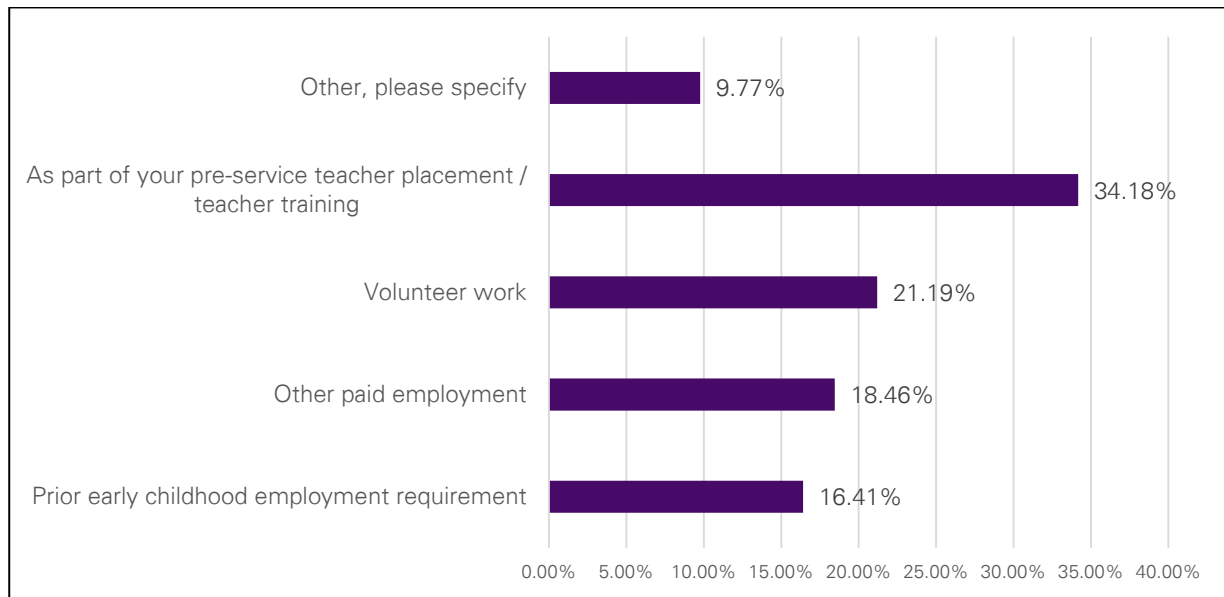


Figure 33: If respondents answered yes to having a WWCC, these were the reasons given:



Key themes from qualitative responses

Survey respondents were provided the option of adding commentary to their survey response. In total additional comments were received from 521 respondents. Key themes from these responses are included below. As the survey was anonymous with responses reported in aggregate, no individual quotes have been included.

Functions

Respondents expressed concern about efficient and timely processes.

- A significant amount of responses expressed that the process for moving from provisional to full registration is laborious and time consuming, requiring lots of time spent manually completing paperwork.
 - Numerous responses expressed concern with the length of time that processes take
 - There were some comments made around the fact that multiple certified copies of documents are required.
 - Several responses expressed confusion or frustration over the duplication of processes once they leave university, with having to undertake further study / assessments. The numeracy and literacy tests were considered to be a good thing, but should be part of the degrees required rather than something done in the first few years of teaching.
 - Several responses indicated they felt the professional requirement and legalities of gaining registration, felt out of proportion to the remuneration of a teacher

Respondents expressed that the VIT could be more active and involved in supporting teachers to ensure that standards continue to be met.

- A significant number of respondents expressed that they would like more support from VIT – particularly in finding a mentor. Several respondents expressed difficulties finding suitable mentors that have the time and capacity to be available to support provisionally registered teachers.
- A significant amount of provisionally registered teachers indicated they found it hard to see what the VIT does for them, indicating the only visible value they derive from the VIT is the registration card

Professional conduct

Some respondents noted they think the VIT should be doing more to ensure professionalism in teaching.

- A number of qualitative responses expressed concern around the professionalism of teachers shown in schools, and believed that the VIT should be doing more to ensure that quality of teaching is upheld.

Communication

A number of respondents indicated the process to move from provisional to full registration is too difficult, lacks consistency, and can be ambiguous for applicants.

- Some responses revealed that advice from VIT around the registration requirements is inconsistent depending on who you speak with, and in need of clarity and consistency.
- Numerous responses mentioned a lack of communication, with requirements for registration not being sent out to provisionally registered teachers or early educators to inform them of the requirements.

Other themes

- A number of respondents expressed concern about a lack of mutual recognition between jurisdictions, indicating that international and interstate experience should be better recognised in applications for registrations.
- A number of respondents expressed frustration over the fact that they had once been fully registered, but had to return to provisional registration following time off (travelling overseas or taking time to look after family).

Appendix B – Consultation Schedule

The Review was informed by a comprehensive and rigorous consultation program. The stakeholders were chosen by the Review team based on their involvement with the VIT's services and/or their involvement and insights into the education and/or child safety sectors more broadly.

Expert Advice

The Review undertook more than 50 consultations with key stakeholders. Below is the list of organisations / individuals that helped inform the Review.

Table 1: Expert Advisors

Group	Stakeholder	Date
VIT Executives and Management	VIT Chair (x2)	30 August 2017 and 12 September 2017
	VIT CEO (Previous)	30 August 2017
	VIT Management Meetings (x7)	5 September 2017 – 2 November 2017
	VIT Director Meetings (x6)	8 September 2017 – 24 October 2017
	VIT Council	13 September 2017
Department of Education and Training	Deputy Premier and Minister for Education	18 September 2017
	Secretary, Department of Education and Training	30 August 2017
	Representatives from People and Executive Services Group, Department of Education and Training	23 August 2017
	Representatives from Conduct and Ethics, Department of Education and Training	3 October 2017
Sector Unions	Independent Education Union	18 September 2017
	Australian Education Union	20 September 2017
	Community and Public Sector Union	27 September 2017
Catholic Education	Catholic Education Commission of Victoria	21 September 2017
	Catholic Diocese of Sandhurst	17 October 2017

Group	Stakeholder	Date
	Catholic Diocese of Sale	1 November 2017
Independent Schools	Independent Schools Victoria	18 September 2017
Peak Bodies	Australian Institute of Teaching and School Leadership	18 October 2017
	Catholic School Parents Australia	28 September 2017
	Parents Victoria	18 September 2017
	School Governance Network	18 September 2017
	Victorian Parents Council	18 September 2017
	Australian Principals Federation	18 September 2017
	Victorian Principals Association	18 September 2017
	Victorian Association of State Secondary Principals	18 September 2017
Co-Regulators	Commission for Children and Young People	24 October 2017
	Working with Children Chick Unit, Criminal Law Policy and Operations, Department of Justice and Regulation	3 October 2017
	Victorian Registration and Qualifications Authority	21 September 2017
	Quality Assessment and Regulation Division of the Department of Education and Training	12 September 2017
	Victorian Civil and Administrative Tribunal	27 September 2017
Experts	Dean Faculty of Education, Monash University	13 September 2017
	Barrister, Dr. Ian Freckelton QC	24 October 2017

Comparator professional regulatory bodies

Comparator professional regulatory bodies were examined to build a strong understanding of emerging trends and challenges across similar agencies. The Review team identified the Queensland model as one of particular interest, and visited Brisbane to meet with a range of key stakeholders.

Table 2: Comparator Professional Regulators

Comparator Regulators	Date
Australian Health Practitioner Regulation Agency	20 September 2017
Victorian Legal Services Commissioner	21 September 2017
New Zealand Education Council	19 October 2017
Queensland College of Teachers	18 September 2017
Chair of the Review of the NSW Board of Studies and Emeritus Professor of Education at The University of Western Australia	26 September 2017
Ontario College of Teachers	1 November 2017
Brisbane Visit - Queensland Department of Education	9 October 2017
Brisbane Visit - Queensland's Blue Card Services	9 October 2017
Brisbane Visit - Queensland's Civil and Administrative Tribunal	9 October 2017
Brisbane Visit - Queensland College of Teachers (x3 consultations)	9 October 2017

Targeted stakeholder consultations

In addition to individual consultations, the Review sought feedback directly from Victorian principals and parents, through selected metropolitan and regional forums. The list is provided below.

Table 3: Targeted stakeholder consultations

Forum Type	Suburb	Date
Parent Forum	Middle Park	10 Oct 2017
Principal Forum	Werribee	11 Oct 2017
Principal Forum	Middle Park	12 Oct 2017
Principal Forum	Wodonga	16 Oct 2017
Principal Forum	Bendigo	17 Oct 2017

Staff forums and future state workshops

In addition, the Review undertook a series of group forums and workshops to refine observations and test opportunities for reform. This list is provided below.

Table 4: Staff Forums

Staff Forum	Number of Attendees	Date
Open staff forum number 1	7 attendees	18 October 2017
Open staff forum number 2	7 attendees	20 October 2017
Open staff forum number 3	15 attendees	20 October 2017

Table 5: Future State Forums

Future State Forum	Date
VIT Executive Forum	24 October 2017
VIT Council Future State Workshop	25 October 2017
Future State Forum	27 October 2017