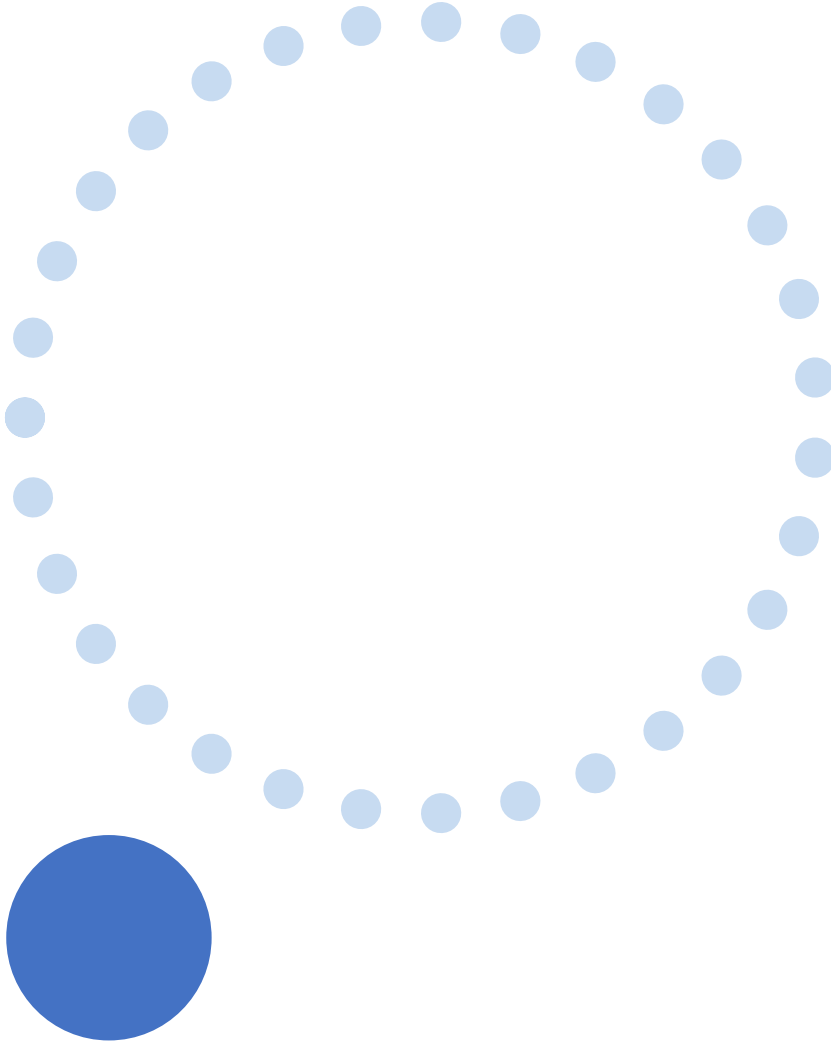
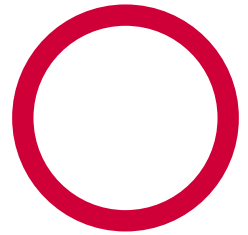


# Smart and Skilled Third Party (Brokering Arrangement) Approval Policy

29 April 2021



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This policy must be read in conjunction with all Terms and Conditions of the Smart and Skilled. Particular attention should be given to the Third Party Arrangement clauses of the Contract and the Third Party Arrangement paragraphs in the Smart and Skilled Operating Guidelines.

The Department may, in its absolute discretion, reject or approve any proposed Brokering Arrangements. The Provider must not enter into any Brokering Arrangement in relation to the Smart and Skilled Contract without the Department's written consent.

This policy sets out how a Provider may apply for the Department's approval of a Brokering Arrangement under the Smart and Skilled Contract.

The Provider maintains the obligation to ensure that all activities conducted under a Third Party Arrangement including a Brokering Arrangement comply with all Terms and Conditions of the Smart and Skilled Contract.

Any approved Brokering Arrangement must not allow the broker to further assign their obligations to any third party.

## What is a Third Party Arrangement?

Smart and Skilled providers sometimes work with other organisations (third parties) to deliver a range of services, including marketing, undertaking recruitment, using facilities and resources and training and/or assessment of vocational education and training (VET) courses. A third Party Arrangement occurs where the Provider defers day-to-day responsibility to another organisation or individual for such services.

## Brokering Arrangements

Brokering Arrangements are a type of Third Party Arrangement defined in the *Smart and Skilled Terms and Conditions*, as an arrangement between the Provider and another person for the person to do one or more of the following:

- (a) recruit students, or enrol students, or accept applications for enrolment, in Subsidised Training
- (b) market, or provide information or advice in relation to, Subsidised Training
- (c) assist students to complete or submit applications for Subsidised Training; or
- (d) assist, or provide support for, students who could be eligible for Subsidised Training to complete any assessments required to show that students are academically suited to undertake the Subsidised Training.

The Department requires a Brokering Arrangement application where a Provider intends to enter into these arrangements.

The Department will consider a Brokering Arrangement where the Provider is able to justify their proposed use of a broker. This may encompass a specific alignment with NSW Government priorities, including:

- improved outcomes for disadvantaged groups
- Smart and Skilled delivery in regional and rural communities, and
- apprenticeship commencements and completions.

## What is a Passive Intermediary?

A Passive Intermediary is a person who refers clients to various programs including Subsidised Training that does not recruit learners on behalf of specific Providers, but rather fulfils their obligations in relation to their clients, normally on behalf of a government department. They do not receive funding from a government department, Providers or Prospective Students in exchange for referrals.

### Examples of Passive Intermediaries

A government-appointed intermediary, 'ABC Training Centre', has an arrangement in place with a government department to provide programs to unemployed youth, which may include a training component. 'ABC Training Centre' refers its clients to one or more government contracted RTOs in order to provide training to its clients.

Examples of government appointed Passive Intermediaries may include Australian Apprenticeship Centres, Disability Services Commission, Department of Correctional Services, some employment service providers and the Migrant Resource Centres.

In New South Wales, intermediaries may include those operating in relation to programs such as Regional VET Pathways, or programs such as the Refugee Employment Support Program.

Brokering Arrangements involving a Passive Intermediary do not require the approval of the Department.

# What is the process for applying for Brokering Arrangement approval?

## The application

The Provider must only submit the application once it is fully completed. The Provider is responsible for submitting the application, which must be lodged at least 28 days prior to the intended commencement of the proposed Brokering Arrangement.

To apply for a Brokering Arrangement the Provider must provide the Department with:

- the Provider's details
- details of the proposed third party to the Brokering Arrangement
- details of the responsibilities that the Provider proposes to broker (including information regarding the relevant Approved Qualifications/Units of Competency and Regions)
- Justification for the use of a broker in relation to the identified subsidised training,
- A copy of the Third Party Agreement; and
- Verification that the provider has an appropriate completed third party agreement with the proposed broker as required by the Australian Skills Quality Authority (section 2.3 of the *Standards for Registered Training Organisation (RTOs) 2015*).

The Department may request additional information in support of an application.

**NOTE:** Providers that apply for the Department's approval to enter into a Brokering Arrangement associated with the Smart and Skilled Targeted Priorities Prevocational and Part Qualifications Program (TPPPQ) that requires a Training Needs Identification (TNI) application must do so before submitting the TNI Form. Any relevant Brokering Arrangement approval numbers must be submitted as part of the TNI Form. Obtaining an approval number for a Brokering Arrangement does not guarantee that the TNI will be accepted or that a Provider Activity Schedule (PAS) will be issued.

## Assessment of applications

The Department will assess applications for Brokering Arrangements by using the following criteria:

- Consistency with the Smart and Skilled NSW Quality Framework Provider Performance Monitoring compliance and NSW Fair Trading compliance history
- Provider capacity, including the type, volume, proportion and range of Subsidised Training involved
- Relevance and adequacy of the Third Party Arrangement and the third party agreement and any associated service charges
- Compliance with the Commonwealth Government's *VET Student Loans Act 2016* (No. 98, 2016)
- Extent to which student, industry and community training needs are met, and
- Relevance and adequacy of identified risk mitigation strategies.

## How will the Provider be notified of the outcome of the application?

The Provider will be advised via email of the outcome of an application for approval to enter into a Brokering Arrangement.

If consent is given, the Provider will be given an approval number which the Provider must maintain as evidence of the Department's consent to enter into that Brokering Arrangement.

## Related information

- Smart and Skilled Contract Terms and Conditions
- Smart and Skilled Operating Guidelines

These documents are available on the Training Services NSW website at [www.training.nsw.gov.au/smartandskilled/contract\\_policy.html](http://www.training.nsw.gov.au/smartandskilled/contract_policy.html).

Further information can be obtained by contacting [training.market@det.nsw.edu.au](mailto:training.market@det.nsw.edu.au).