



Australian Council of TESOL Associations

Opening Statement to the Joint Committee of Public Accounts and Audit Inquiry into the Contract Management Frameworks Operated by Commonwealth Entities

Public Hearing

Wednesday 4 December 2024

Thank you. Re my authority to speak on these matters, please see my bio on p. 46 of the ACTA submission.

In this statement, I'll address:

1. the Inquiry's purpose: examining whether AMEP contract management is fit for purpose
2. questions the Committee asked in the 13th November hearing
3. three crucial questions that Deputy Auditor-General Mellor asked at the end of that hearing – regarding the relationship between policy intent, procurement approach and whether this approach and its administration actually drive performance.

I've timed myself and I have to apologise because, at last count, this statement took 18 minutes. But I think this might be the most efficient way to deal with the concerns from the previous hearing.

1. Re management of the AMEP contract

The key point is that the 2017-2021 AMEP contract *itself* was not fit for purpose.

The Department of Education & Training, who wrote the contract, lacked the expertise and had no commitment to (or interest in) the AMEP's policy intent, namely: to deliver English language teaching to adult migrants as a key component in their successful settlement in Australia.

The contract's sole purpose was *bureaucratic*: to re-align the AMEP with the Department's Skills for Education & Employment Program, the SEE Program.

The Department also had no grasp of what this re-alignment entailed. There was nothing in place, even to meet the Department's own misguided policy goals. Defective and missing arrangements for governance, record-keeping and measuring performance caused chaos, and brought the Program close to collapse – with student walk-outs, mass teacher refusal and resignations, worthless KPI data, and criticism from outside bodies.

The evidence supporting this claim is in the ACTA submission, especially the footnotes, the 8 Exhibits in the attachment to that submission, and the other submissions on the AMEP to this Inquiry.

In 2019, the AMEP moved back to the Immigration portfolio within Home Affairs. The AMEP team attempted to mitigate the chaos and then the impact of the pandemic. The Auditor's criticisms are

unfair in failing to clarify that Home Affairs was engaged in cleaning up a mess and finding a way forward.

This task was confused and complicated by the 2021 draft Business Model. Its centrepiece was paying providers for learning outcomes. Home Affairs was exemplary in consulting with stakeholders who – through submissions, forums and other responses – were, as far as we can tell, universally critical of this Model, which was abandoned after Labor took office.

Generally speaking, ACTA has faith that the current AMEP team in Home Affairs is committed to the Program’s policy intent *and* has the necessary administrative expertise. But the fundamental issues raised by Deputy Auditor-General Mellor have not been resolved. I’ll return to that shortly.

2. Questions asked by the Committee on 13th November.

The Committee asked why the KPIs were not implemented.

Senator Reynolds focussed particularly on why the English gains KPI was dropped. Measuring English gains is both possible and desirable. *Meaningful* measurements require, firstly, **a measurement tool that’s fit for purpose** and, secondly, that the measurements are **not tainted by perverse incentives**.

Re fit for purpose:

Prior to 2017, the AMEP had a common curriculum that included an assessment system. This system was used to measure and report on learner English gains. It had some problems (that I can explain) but worked reasonably well.

The 2017 contract allowed providers to *choose* a curriculum. Different curricula meant that curriculum-based reporting varied. So the contract mandated a second *common* reporting framework, which was how the AMEP was aligned with the SEE Program. Assessment requirements therefore doubled: *once* as required by the provider’s choice of accredited curriculum and *again* using the common framework required by the Education Department.

Please see section 4.5 in the ACTA submission for why we believe that the Education Department made these decisions, disregarding evidence and “value for money”.

The IT for reports from curriculum and the common assessments never eventuated. Instead, 1000s of spreadsheets were used to record data and then re-enter it for different purposes, e.g. QA file audits and reporting to the Department.

The common assessment framework was not fit for purpose. It was designed for native English speakers. It had no actual infrastructure of tasks/tests, so for at least a year teachers needed to design their own. Its requirements were complex, time-consuming and punitive (I can explain why if you would like -- e.g. teachers had to *transcribe* 5 minutes of spoken English – one minute of speech requires one hour to transcribe; if a required word was missing, the answer had to be marked wrong). The QA provider had a clear conflict of interest, being at once the file *auditor*, the assessment framework *developer*, and responsible for *training teachers* in using it. Their expertise in teaching English to migrants was questionable (and questioned).

Assessments were required for every 200 hours of tuition. Because AMEP students are admitted to classes on a continuous basis, assessments had to be *individualised*. Providers were paid according to student attendance, which had to be recorded every 15 minutes. To maximize class sizes, students were frequently placed in classes irrespective of their English level. (This will remain a problem in the new contract.) Diverse English levels multiplied assessments even more. Classes consisted of non-stop assessments, teaching to the test and checking rolls. That’s why students walked out.

The submissions to this Inquiry detail the horror followed. Here’s just one description (from Submission 7, p.3):

I have been an education manager for nearly 20 years, and I have never seen a work group so stressed, exhausted and despairing to the extent that some would sit sobbing at their desks and others would be found crying loudly in the stairwells.

When Home Affairs took over, they returned to the pre-2017 procedure of providers just reporting gains in the curriculum. The QA provider was tasked to align the different assessments against the common framework – it would be interesting to know what that cost.

The four KPIs (~~participation, attainment, timeliness, accuracy~~) all hinged, in one way or another, on the common English language assessments. The resulting data was invalid, unreliable and impossible to deliver. That's why the KPIs were abandoned.

The English gain data was also worthless because it was tainted.

Assessing a provider's performance on the basis of students' English gains is different from assessing whether contractors have built a submarine that works. It's pretty clear if the submarine doesn't, because it's still around (or at the bottom of the sea).

However, when a student passes an English test, the student disappears. Whether or not their English "works" is unverifiable.

Competitive tendering for AMEP services has casualised the teaching force, so teachers are permanently in fear of losing their jobs. Achieving KPIs looms large in their thinking.

Here's how an English attainment KPI actually functions (described in Submission 1 to this Inquiry):

Teachers were ... encouraged to "pass" the student and "assist" them in the assessment in order to move them up the scale ... simply to achieve KPIs, even though the student was not yet competent. The result was that sometimes students were elevated to the next level which was far too difficult for them. ... It is ... demoralising and frustrating for students if they are placed in a level that is far too high. It is also hard for the teacher and unfair on the rest of the class.

Plenty more (and worse) examples are in the footnotes in the ACTA submission. These footnotes also demonstrate how it was (and is) impossible for file verifications to determine the accuracy of assessments.

Data on English gains in the AMEP should be meticulously recorded and analysed. Benchmarks should be developed for different cohorts that reflect the factors that impact English gains (notably, age, previous education, class attendance, effects of torture & trauma etc).

To be valid and reliable, these data must be 100% disconnected from KPIs that incentivise employers to pressure teachers and that threaten their employment. That is, discovering whether and how the AMEP delivers English gains requires valid and reliable research methods that exclude perverse incentives.

3. Deputy Auditor-General Mellor asked the Committee to consider three questions.

1. Do the KPIs actually take you to the policy intent of the program?

Because KPIs change from one contract to the next, we cannot measure the AMEP's performance over time.

The five KPIs in the current RFT reflect the AMEP's policy intent (participation, learning outcomes, pathway guidance, data timeliness and service quality). As always, the devil is in the detail.

The feasibility and the quality of KPI data will depend on adequate staffing and data management technology.

The **participation** and **learning outcomes** KPIs are susceptible to the perverse incentives I've just described. Participation data are important but tying participation to a KPI incentivises providers to enrol students who are not ready to start classes. New arrivals are liable to relocate and may be re-interviewed by another provider. The participation KPI promotes inefficiency, duplication and evaluates providers for behaviours over which they have no control.

The new measure for **learning outcomes** sets a low bar that's probably achievable, except with students who (for various reasons) cannot attend full-time – this runs counter to the aim of offering flexible provision. Necessarily framed as a bare minimum, this KPI will reveal very little about the English gains the AMEP delivers.

The fifth KPI will be developed as **Standards** by the incoming QA provider. In 2009, the then-QA provider developed AMEP-specific Standards that the 2015 AMEP Review said were “beneficial”. *I'll table these.* They were abandoned in the 2017 contract. Mr Mitchell asked if it's possible to assess one provider against another. Our Recommendation 18 for a Standards-based approach allows such comparisons – based on detailed but holistic evaluations of performance in relation to the AMEP's policy goals. ACTA has long advocated for this approach. *I'll table how we see this working.*

Depending on details, complying with the new KPIs may be time-consuming, focussed on trivia and expensive. Since acceptance of the auditor's recommendations, at least one provider now has two full-time positions devoted solely to compliance. Exhibit 6 in the Attachment to the ACTA submission provides examples of dysfunctional and time-wasting compliance activities.

In short, the KPI system does little to further the AMEP's policy goals and is likely to undermine substantive performance.

2. Are you measuring whether or not the procurement mechanism is delivering the AMEP's policy intent?

The answer is no.

The procurement approach has never been independently or comprehensively evaluated.

The closest was in a 2001 Auditor's report, which found no significant cost savings with the switch to competitive contracting.

Competitive contracting, “commercial-in-confidence” and self-interest disallow independent and in-depth scrutiny of how contracts are awarded and function. The hearing on 13 November showed just how the current system blocks access to the truth of what actually happens in the AMEP.

ACTA proposes that the new AMEP contracts should be independently monitored, right from how they are awarded and throughout their life, including the effectiveness and efficiency of the new KPIs and the forthcoming Standards. A starting point is our Recommendation 15 for an independent advisory committee.

Senator Reynolds asked about “barriers to entry” for potentially new providers. Investigation would show that providers without expertise and experience fail. The Committee also needs to know that the pool of qualified (much less experienced) teachers is limited, ageing and drastically shrinking – partly due to what's happened since 2017 and partly because schools' policy has decimated teacher training in this space. When providers lose contracts, the new providers re-hire the teachers who've lost their jobs. The only changes are that experienced teachers retire, casualisation increases, qualifications requirements are weakened, wages and conditions worsen, and excellent programs disappear: for an example, see ACTA Exhibit 8. The 2021 AMEP Review produced data showing that participation drops significantly when providers change. Stability, not changing providers, supports the AMEP's policy intent.

3. Is the procurement approach, contract administration and how we're driving performance in the contracts actually leading to the policy outcome?

The procurement mechanism in the 2017 contract, managed by a bureaucratic hierarchy, deflected the AMEP from its policy intent, embedded conflicts of interest, disregarded value for money and destroyed program quality. It is a textbook demonstration of how to drive performance and a Program right off the rails.

Competitive contracting is supposed to promote efficiency, effectiveness and accountability. Administered by a bureaucratic hierarchy, it *stifles* performance in the AMEP, because it undermines student participation and engagement, long-term planning, employing well-qualified and committed teachers, continuous improvement, innovation and the free exchange of ideas. The purchaser-provider divide waives the Department's responsibility for core issues, such as employment conditions, gender equity, and preventing bullying, abuse and mismanagement within a Centre or provider. The insecurity inherent in short-term contracting breeds fear, secrecy and distrust between providers and up and down the management line. Please see ACTA submission section 5 for an elaboration of these points.

In short, the competitively driven and hierarchical system that governs the AMEP is a self-sustaining closed circuit that thwarts real accountability and transparency.

This Inquiry cannot address the wholesale reform of the AMEP that's needed. ACTA Recommendation 11 proposes a further but different inquiry into AMEP contracting, which we hope this Committee will initiate.

Thank you for your patience in allowing me to speak at such length. I look forward to answering your questions.
