

PART 3

Report

Office of the

Training Advocate

1 January 2008 – 31 August 2008

**Ms Therese O'Leary
South Australian Training Advocate**



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Ground Floor West
55 Currie Street
ADELAIDE SA 5000
(entrance at Bus Stop W1)
GPO Box 320
Adelaide SA 5001
DX 541

Toll Free: 1800 006 488

Tel (08) 8226 4242

Fax (08) 8226 4278

ABN 16 692 317 206

www.trainingadvocate.sa.gov.au

Emeritus Professor Denise Bradley AC
Chair
Training and Skills Commission
GPO Box 320
ADELAIDE SA 5000

Dear Professor Bradley

I am pleased to present you with my report for inclusion in the 2008 Training and Skills Commission Annual Report.

This report has been prepared for the period between 1 January 2008 and 31 August 2008 to fulfil the reporting arrangements between the Training Advocate and the former Training and Skills Commission, established under the *Training and Skills Development Act 2003*.

The establishment of the Training Advocate as a statutory authority on 1 September 2008 requires that I present a report directly to the Minister for Employment, Training and Further Education. In this regard, the report on activities since September will be prepared in accordance with the *Training and Skills Development Act 2008*.

I look forward to working with you in the year ahead to further raise the quality and responsiveness of the South Australian vocational education training sector.

Yours sincerely

Therese O'Leary
TRAINING ADVOCATE

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Introduction

This report provides an overview of activities undertaken by the Office of the Training Advocate between 1 January 2008 and 31 August 2008. It has been prepared for inclusion in the 2008 Report of the Training and Skills Commission established under the *Training and Skills Development Act 2003*.

A separate report on activities between 1 September 2008 and 31 December 2008 will be prepared in accordance with the *Training and Skills Development Act 2008*. This *Act*, proclaimed to take effect on 1 September 2008, establishes the Training Advocate as a statutory authority with a requirement to provide a report to the Minister for Employment, Training and Further Education on calendar year activities.

The financial report for the Office of the Training Advocate is incorporated within the Department of Further Education, Employment, Science and Technology's (DFEEST) financial statement audited by the Auditor-General's Department and published for the South Australian Parliament.

Context

The South Australian vocational education and training (VET) sector, as a component of a national system, is large and diverse with hundreds of learning, training and employment options available. These are provided through a range of private and public education and training providers including schools, universities and adult community education providers. Added to this, numerous employment and training opportunities exist under apprenticeship or traineeship arrangements in an ever increasing range of occupational fields.

In a system offering such an extensive range of options, the Training Advocate plays a key role in assisting South Australians navigate the system, understand their rights and responsibilities, and respond to enquiries or complaints. In this way the role has the ability to identify ways to improve the training system. More importantly, the service offered is complementary to the many mechanisms that already exist to provide information, offer advice and support or address issues that may arise.

The concept of the Training Advocate, unique in the Australian VET system, was introduced as part of the State Government's *new times – new ways – new skills*, the South Australian Workforce 2010: A Ten Point Plan for Action.

The role has developed considerably since that time, and it is important to recognise that this has largely been shaped by demand from VET clients and stakeholders. For example, in 2005 the role was expanded to incorporate international education by offering services to complement the range of mechanisms that support international students to live and study in South Australia.

Clients seeking assistance from the Training Advocate can expect prompt attention, confidentiality, respect, fairness and impartiality. The service, which is tailored and responsive to the needs of individuals, contributes significantly to the aims of South Australia's Strategic Plan Objective 6 'Expanding Opportunities'.

In March 2008, the Office of the Training Advocate relocated from 31 Flinders Street Adelaide to ground floor premises at 55 Currie Street Adelaide with a direct street entrance at Bus Stop W1.

Office hours are weekdays between 8.30am and 5.30pm. The toll-free telephone number - 1800 006 488 - is monitored after hours to respond to urgent messages. The Training Advocate can also be contacted on trainingadvocate@saugov.sa.gov.au

Role and Function

The Training Advocate provides a public contact point to promote the benefits of education and training, complement existing support or complaint handling mechanisms, and influence the development of employment and skills formation policies and procedures.

Acting as a referral and/or resolution point, the services provided are primarily accessed by students, trainees, apprentices, employers, training organisations or others associated with vocational education and training, adult community education and the higher education systems.

Assistance provided to clients, including complaint resolution, is achieved by working in collaboration with the relevant agencies and the many stakeholders involved in the VET, adult community education and higher education sectors. However, there is no legislative power to adjudicate or enforce binding decisions.

The role is established to:

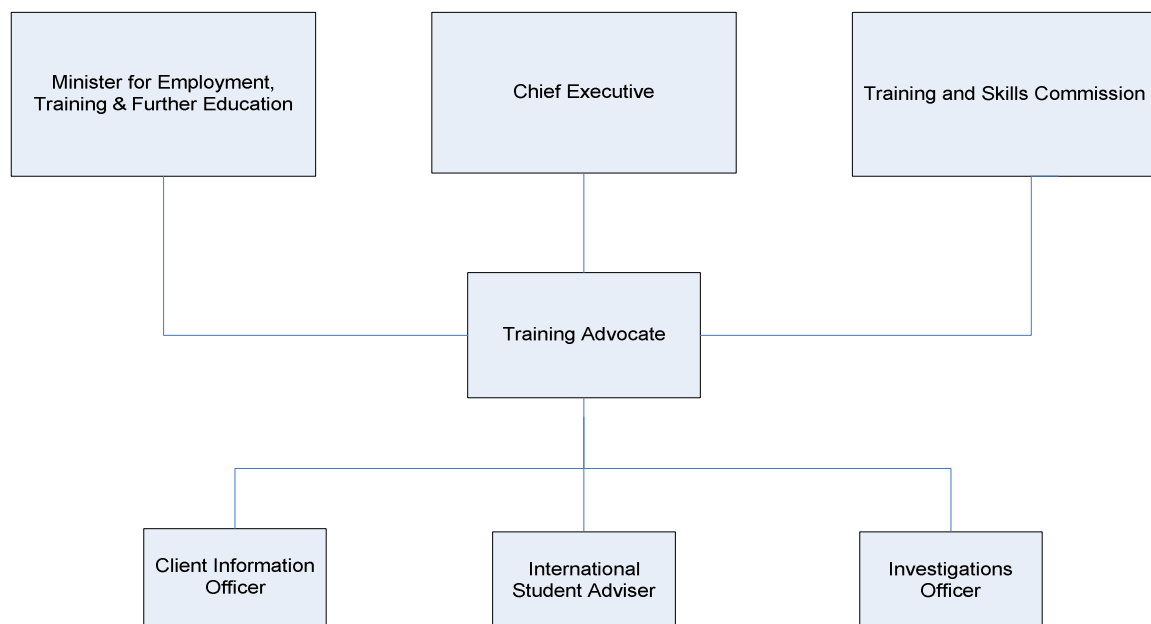
- provide independent advice and assist clients navigate the vocational education and training, and higher education systems
- assist international students, in conjunction with the arrangements and provisions already in existence, with aspects which may impact on their ability to live and study in South Australia
- refer complaints to existing mechanisms for attention
- monitor actions taken on referred complaints
- investigate complaints where appropriate mechanisms do not exist
- maintain confidentiality of information unless the client instructs otherwise

- provide information about training and learning opportunities in South Australia
- identify trends or patterns that indicate a need to consider preventative measures at a training system level
- provide reports to the Minister for Employment, Training and Further Education and the Training and Skills Commission

Complaint handling procedures are consistent with the vocational education and training *National Code of Good Practice for Responding to Complaints about Vocational Education and Training Quality*. This code is endorsed by all Australian Government, State and Territory Ministers with responsibility for vocational education and training.

Reporting Structure

To achieve the level of authority and independence required to carry out the role, a multiple reporting arrangement was in place to 31 August 2008 as indicated in the diagram below.



Under this arrangement, the Training Advocate:

- was accountable to the Chief Executive DFEEST for the administrative and financial accountability of managing the Office
- met regularly with the Minister for Employment, Training and Further Education regarding systemic issues
- provided reports to the Training and Skills Commission about emerging trends and patterns and other systemic matters.

Data and Activity Report

It is difficult to accurately capture data which can measure the value of the services provided by the Office of the Training Advocate. However, it is important to acknowledge that the assistance provided during this year has had a positive impact on the lives of many in the community.

"I would like to give you my biggest thank you for helping me in the past few months. I just received my certificate and when it came I was so excited so thank you again" – an apprentice

"without your support I would not have been able to stay in Australia and finish my qualification" - an international student.

"we were all pleased with this outcome, and thank you so much for your help. This is a very good initiative to help people who don't know where else to go" – an RTO

"the business can get back on track now that you have negotiated the new flexible training arrangements" – an employer

As in previous years, the majority of issues presented by clients were complex in nature and often required the involvement of multiple agencies and organisations to reach satisfactory resolution.

The confidential client register enabled the Office to capture information that facilitated comprehensive reporting and the ability to identify emerging patterns or trends relating to the training system.

It should be noted that as the statistics outlined below are not for a full calendar year, this report makes no comparisons of data with previous years.

Statistics

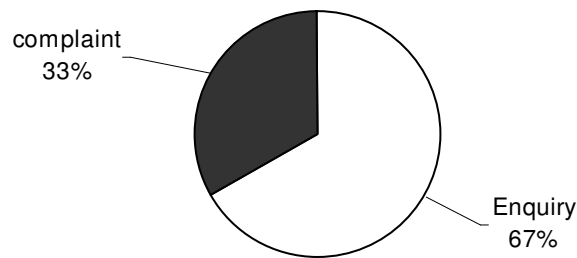
For the purposes of data classification, enquiries and complaints received by the Office of the Training Advocate are defined as:

- **enquiry** - a client seeking general information about any aspect of the training system. This may include information about rights and obligations for apprentices, trainees or students or information that will enable people to navigate their way to the appropriate authority to respond to their enquiry

- **complaint** – a client, who expresses dissatisfaction with any aspect of the training system, makes a formal complaint, registers any type of concern, or seeks assistance in dealing with a training related dispute.

During the nine months, between 1 January 2008 and 31 August 2008, 318 new clients accessed the services provided by the Office of the Training Advocate. These were classified as 212 enquiries and 106 complaints (*Figure 1*).

**Figure 1. Enquiries and Complaints
Between 1/1/08 and 31/8/08**

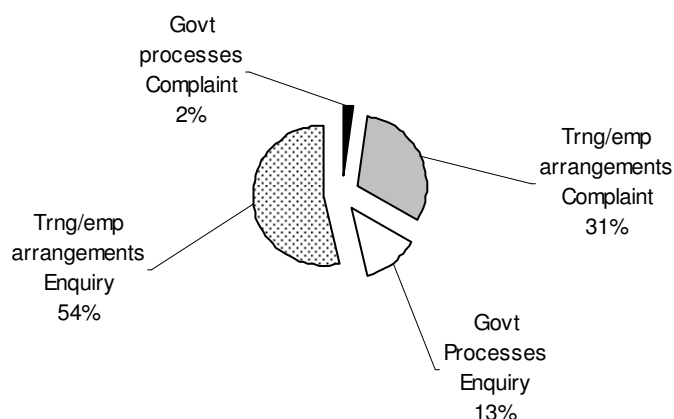


The following two broad categories identify the types of enquiries or complaints received:

- **employment and/or training arrangements** - this identifies an enquiry or complaint made in relation to any aspect of an employment and/or training arrangement concerning employers, Registered Training Organisations, students, apprentices, trainees and other external stakeholders. This category also includes investigations of complaints lodged under Standard 8 of the National Code of Practice for Registration Authorities and Providers of Education and Training to Overseas Students 2007 (the National Code). This Code relates to the *Education Services for Overseas Students Act 2000*
- **government process** – this identifies an enquiry or complaint made about the legislative, regulatory and/or administrative processes of government in relation to employment and training.

The data to 31 August 2008 (*Figure 2 below*) indicates that the majority of matters (270 or 85%) related to employment and training arrangements.

**Figure 2 . Enquiries and Complaints by Type
Between 1/1/08 and 31/8/08**



For statistical purposes, clients accessing the services provided by the Training Advocate are defined in two main groups. These are:

- **individuals** - apprentices, trainees, students (international and domestic) or their representatives (eg parents, friends, unions) trainers, and members of the public. Individual clients receive a personalised service aimed at empowering them to address their enquiry or complaint

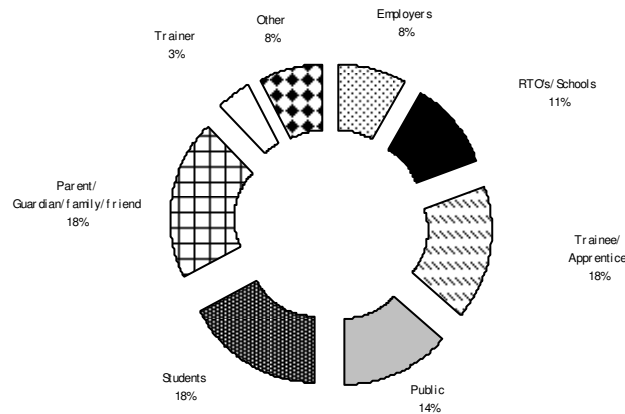
or

- **organisations** - RTOs, employers, Australian Apprenticeships Centres, schools, peak bodies and other government agencies. In the main organisational clients are provided with information, advice, referral and/or assistance in navigating the system or in relation to systemic issues. Organisational clients are provided with assistance where it does not work against the interests of individuals.

During this reporting period, 230 (72%) individual clients and 88 (28%) organisational clients accessed the services provided.

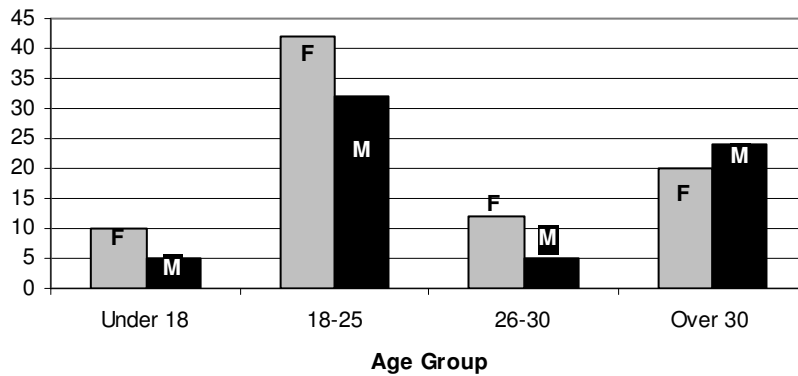
The following diagram (*Figure 3*) illustrates in more detail the client type within the combined individual and organisation categories. The 8% 'other' category includes both organisational or individual clients such as Australian Apprenticeships Centres, Government agencies, visa holders (other than those holding international student visas), unions or industry representatives for example.

**Figure 3. Client Type
Between 1/1/09 and 31/8/09**



Other data indicates that clients comprise 58% females and 42% males. Of the 150 clients who elected to reveal their age, the majority fell within the 18-25 year age group. (Figure 4).

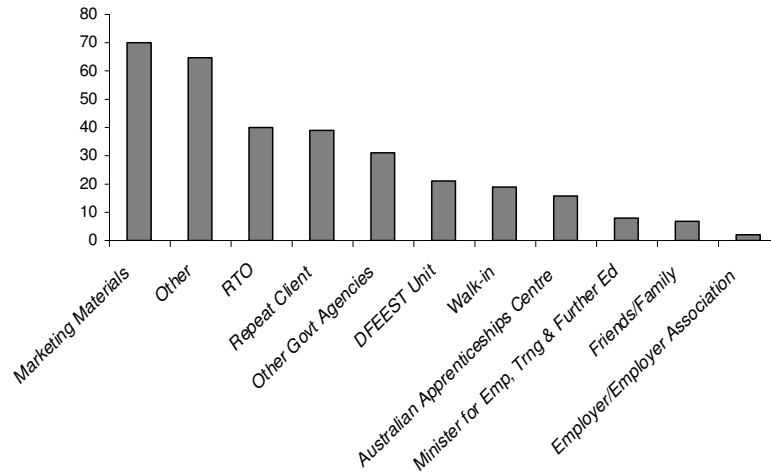
**Figure 4. F Gender by Age Group
Between 1/1/08 and 31/08/08**



Of the 276 clients who identified their geographical region, the majority (83%) were from metropolitan Adelaide while 11% were from rural areas and 6% were from interstate or overseas clients seeking assistance about aspect of the South Australian training system.

Clients were referred to the Office of the Training Advocate from a range of sources. During this period 21% found the service via marketing materials such as brochures, telephone book and the internet. Some 19% (categorised as “other”) were referred by community groups, unions, Industry Skills Boards or indicated that they were unable to recall (Figure 5).

**Figure 5. How Clients were referred to OTA
Between 1/1/08 and 31/8/08**

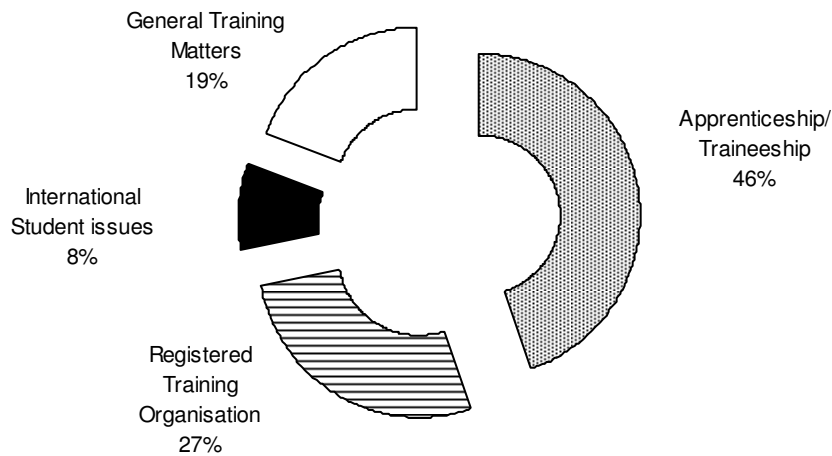


During this reporting period the total number of clients who had accessed the Office on a previous occasion and were seeking assistance with new issues, continued to grow (12% for this nine month period compared to 10% for the full 2007 calendar year).

The total number of enquiries and complaints received (*Figure 6*) are captured within four categories:

1. Apprenticeship or traineeship
2. Registered Training Organisation
3. International Education
4. General training matters

Figure 6.
Categories of complaints & enquiries
Between 1/1/08 and 31/8/08



1. **Apprenticeships and traineeships** – the 46% represents a total of 142 enquiries and complaints comprising 99 apprenticeships and 43 traineeships.

The most frequently asked questions among the 92 *enquiries* related to the rights and obligations of those involved in traineeships or apprenticeships, accessing government subsidies, understanding rates of pay or clarifying working conditions.

The 50 *complaints* comprised 46 within a variety of employment and/or training arrangements such as termination of a contract of training, unfair working conditions, trainee/apprentice not being released to attend off-job training and underpayment of wages. The remaining 4 complaints related to dissatisfaction with some aspect of the government's administration and/or complaints handling processes related to the training system.

In this category a number of clients were supported in taking their matter to the Grievance and Disputes Mediation Committee established under the *Training and Skills Development Act 2003*.

2. **Registered Training Organisations (RTOs)** – a total of 87 clients (27%), comprised 46 enquiries and 41 complaints which related to the delivery or administration of training by RTOs.

Of the 46 *enquiries*, the most frequently asked questions related to confirmation of the status of a provider's registration to deliver nationally recognised training, requests for information about a particular course of study and clarification about the fees and rights associated with the commercial arrangement made with an RTO. Other clients required assistance in accessing assessment results and understanding the recognition of prior learning process.

Of the 41 *complaints*, the majority related to poor quality of training, not being provided with academic records, and dissatisfaction with the training arrangements or commercial arrangements between students and RTOs.

3. **International Education** – Students are offered support to address any aspect of living or studying in South Australia which may impact of their educational experience. In this regard enquiries and complaints are often complex as resolution can require negotiations across a number of agencies and organisations. Of the 27 (8%) international students, 17 presented with ‘enquiries’ and 10 complaints related to students’ dissatisfaction with their assessments, accommodation, commercial arrangements, and the quality of training. Of the 27 international students, 5 were enrolled at university, 21 with a Registered Training Organisation and 1 in a school.

Under the *Education Services for Overseas Students Act 2000*, the National Code requires providers to nominate an external appeals body to hear complaints or appeals arising from the provider’s internal complaints process. A number of providers have nominated the Office of the Training Advocate as their external appeals body. To that end, three international students lodged an external appeal for investigation in this reporting period.

4. **General training matters** - the remaining 62 clients (19%) required assistance with a variety of matters. These included clarification about the content or delivery method of a course or training package; questions about work placements associated with training; employment programs and access to funding for training programs. In addition more specific information was sought on how to access opportunities to gain skills designed to improve employment prospects.

Some 271 of the 318 clients identified the vocational area that related to their enquiry of complaint. *Figure 7* below illustrates those vocations where 10 or more enquiries or complaints were received.

**Figure 7. Vocations
Between 1/1/08 and 31/8/08**

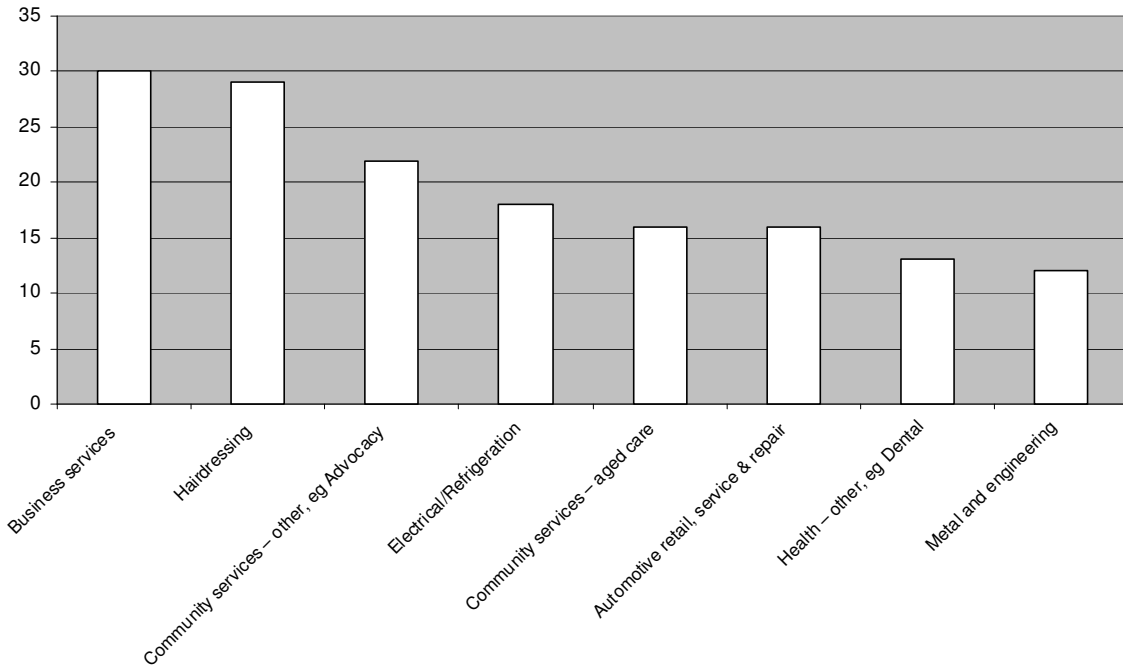


Table 1 below indicates where *less than 10* enquiries or complaints were made in each related vocation.

Table 1 - "Other" Vocational areas - Between 1/1/08 and 31/8/09

Hospitality - general	9	Aeroskills	1
Carpentry & Joinery	8	Animal care & management	1
Plumbing & Gasfitting	7	Baking and/or Breadmaking	1
Retail	7	Bricklaying	1
Beauty	6	Butchering	1
Cooking	5	Entertainment	1
General construction	5	Film, TV, radio & multimedia	1
Information Technology	5	Floor & Wall Tiling	1
Painting & Decorating	4	Horticulture	1
Electrotechnology	3	Pharmacy	1
Tourism	3	Property development and management	1
Transport	3	Real Estate	1
Furnishing	2	Storeworker	1
Manufactured mineral products	2		
Plastering	2		

Client Management

Following the initial consultation with a client, the method of addressing the enquiry or complaint is determined by the client. In this reporting period the results are as follows:

Outcomes

Of the 318 new cases managed during this period, 309 (97%) were finalised to the satisfaction of the client. The remaining 9 (3%) cases were transferred for continued management under the new Training Advocate arrangements commencing on 1 September 2008.

- 215 (68%) cases were managed directly by the Office of the Training Advocate. Factors influencing the decision for the Training Advocate to manage a case included:
 - the complexity of cases which required coordination across more than one jurisdiction or agency
 - a client's request for anonymity
 - a client's preference to have an advocate act on their behalf
- 7 clients (2%), with multiple issues, elected to deal directly with the relevant agencies themselves after being given information and advice
- 57 (18%) cases were referred directly to the related Directorate within DFEEST
- 27 (9%) cases were referred to other government agencies such as, SafeWork SA, Department of Immigration and Citizenship, Department of Education, Employment and Workplace Relations, the Office of Consumer and Business Affairs, Equal Opportunity Commission and the Workplace Infoline
- 7 (2%) were referred to Australian Apprenticeships Centres
- of the remaining 5 clients, 1 opted to address their issue directly with the RTO, 1 was supported in addressing the matter with the relevant University, 2 clients were referred to the relevant peak body and 1 was referred to Young Workers Legal Service

All cases referred to other agencies are monitored by the Office of the Training Advocate until the issue is resolved, the final outcome is satisfactory to the client, or the client advises that they have elected not to progress the issue.

The Training System

A key component of the Training Advocate's role is to contribute to policy development designed to improve the quality and responsiveness of the training system. During this reporting period, the Training Advocate continued to promote the training system and raise awareness of the relevant support

services available to the business and community sectors including key government organisations. In addition, the Training Advocate contributed to discussion and debate with key stakeholders regarding a range of aspects about the training system.

These public relations activities provided a platform for the promotion of the role of the Training Advocate together with an opportunity for clients and other stakeholders to express their views about the training system.

In this regard, trends or patterns detected throughout consultation with clients were raised with the Training and Skills Commission, its Reference Groups and/or the relative Directorate in DFEEST. In this way preventative measures, where appropriate, can be taken at a training system level.

As in past years, the Training Advocate worked collaboratively with agencies to determine strategies to address areas of potential concern. One example in each of the following categories below demonstrates the nature of system-wide issues raised by the Training Advocate during this reporting period.

Apprenticeships and Traineeships – *change of ownership of a business*

System: In the event that an employer of an apprentice or trainee sells the business, it is a legislative requirement that the obligations toward existing apprentices and trainees transfer to the new owner. In this regard the new owner is obliged to inform the Training and Skills Commission of the new arrangements. This action enables the contractual documents to be amended accordingly. There is no onus on the former owner to take any action.

Issue: The change of ownership of a business presents a high risk of termination of employment for apprentices or trainees particularly in the event that the new employer restructures the business and does not wish to retain existing staff. It has been found that in some cases the new owner is not made aware, by the original owner, of the existing obligations to apprentices when purchasing that business. This situation results in a difficult situation for all parties.

Action: The matter was raised with the Training and Skills Commission, Traineeship and Apprenticeship Services (DFEEST) and the Manager of the *Training and Skills Development Act 2003* Review.

Outcome: This resulted in an amendment to legislation in that the *Training and Skills Development Act 2008* (section 52) now requires both original employer and new employer to take responsibility for notifying the Commission of the pending change. This added step is designed to increase the prospect that all parties have the appropriate upfront information in order to preserve the employment arrangements for apprentices and trainees.

Registered Training Organisations - parallel systems

System: To gain employment in some vocations and trades it is necessary to meet specific regulatory criteria in addition to possessing the related nationally recognised qualification. For example, employment may be subject to an individual holding a qualification and a licence or registration with a professional association, and/or a satisfactory Police check.

Issue: There is often confusion and perceived duplication between the regulatory and training systems particularly when the criterion is not understood by students before commencing a training program. In particular, a student may often:

- assume that the qualification is the only prerequisite for employment
- not be aware that successful completion of the qualification does not usually include the licence or the ability to meet any other related employment criteria
- not be in a position to meet any new regulatory requirements that are introduced during the course of study. In this situation, the RTO is also placed in a difficult position.

Action: While it is acknowledged that these issues are under consideration at a national level, this matter was raised with the Training and Skills Commission and DFEEST to determine how local strategies could be introduced to address student concerns. One example is to encourage RTOs to ensure the accuracy of all marketing materials and ensure that prospective students know how to access up to date information regarding employment criteria prior to commencing the related course of study.

International Education – Marketing

System: A registered training provider and an associated education agent is required to ensure accuracy of marketing materials, course fees and English language requirements in any off shore promotions. This is in accordance with standards under the *Education Services for Overseas Students Act 2000*.

Issue: While it is acknowledged that considerable care is taken by providers, in providing clear upfront information, there have been several examples where the misunderstanding or misinterpretation of information has resulted in student expectations not being met.

Action: The Training Advocate raised the matter with the Training and Skills Commission and other key stakeholders in order to explore ways in which South Australia can strengthen its off-shore marketing information.

General Training Category – Consumer Protection

As in previous years, the Training Advocate continued to work with key stakeholders to promote strategies which improve consumer protection, particularly those that enable people to access accurate information in order to make choices about an investment in training. Examples include:

Worker's rights - In May 2008 the Equal Opportunity Commission, in conjunction with radio *Fresh FM*, hosted a campaign at the 2008 Careers Expo to raise the awareness of worker's rights to young people, including apprentices and trainees, and new entrants into the workforce. This occurred in partnership with the Office of the Training Advocate, SafeWork SA, Employee Ombudsman, the Office for Youth and Young Workers Legal Service (SA Unions).

School Based Apprenticeships – Input was provided into the development of new Training and Skills Commission Guidelines for the approval of school based traineeships and apprenticeships. Three areas of interest raised included ensuring clear guidelines about the '*probationary period*', the '*ratio*' of supervisors to apprentices and trainees and the requirement for an '*upfront*' occupational health and safety awareness program.

In addition, the *Training and Skills Development Act 2003* review team consulted the Training Advocate on a number of other aspects relating to the draft *Training and Skills Development Bill 2008*.

International Education – During 2008, ISANA International Education Association Inc. managed a national project, funded by the Department of Education, Employment and Workplace Relations, to develop 6 short animated videos aimed to raise awareness of international student rights. In conjunction with DFEEST, the Office of the Training Advocate provided input to the concept which aims to address the following areas:

- Before Enrolment
- Student Support
- Modes of Study
- Changing Enrolment
- Course Progress and Attendance Reporting
- Complaints and Appeals

Acknowledgements

As in other years, it is acknowledged that the services offered by the Training Advocate can only be achieved with assistance from a range of agencies associated with the vocational education and training and higher education sectors in South Australia.

In this regard appreciation is extended to the Chief Executive and all DFEEST staff for their support and assistance throughout this period. In particular, successful outcomes can be attributed to the collaborative working arrangements with staff from Traineeship and Apprenticeship Services, the

Quality Directorate; the Higher Education Directorate; TAFESA, the Training and Skills Commission Unit, and the Legislation and Delegations Unit.

In addition, a valuable contribution was made by the members of the Training and Skills Commission, the Quality Reference Group and the Grievance and Disputes Mediation Committee. Gratitude is also extended to staff in a range of other state and commonwealth departments, community service and advocacy groups, unions, group training companies, employer associations, peak bodies, industry groups, university personnel and a range of private RTOs. These agencies have generously assisted with the resolution of many training related issues.

In closing, the new role of the Training Advocate from 1 September 2008 will bring with it new ways of working with government, industry and the community to continue to create opportunities for individuals and further enhance the training system in 2009.