



Government of Western Australia
Department of Mines, Industry Regulation and Safety



Report and recommendations

Review of Continuing Professional Development in
Real Estate and Settlement Industries

November 2023

Table of Contents

- 1. Executive Summary3
 - 1.1 Summary of Findings and Recommendation3
 - Findings*.....3
 - Recommendation4
- 2. Background4
- 3. The Compliance Mechanism for the CPD Program6
- 4. Funding of the CPD Program by DMIRS.....6
- 5. Legislation8
 - 5.1 Relevant Provisions of WA Legislation8
 - 5.2 Other Jurisdictions8
- 6. The Internal Review of the CPD Program.....9
- 7. Consultation11
 - 7.1 Why we consulted.....11
 - 7.2 How we consulted.....12
 - 7.3 What we asked13
- 8. Key findings.....13
 - 8.1 CPD Model13
 - 8.2 Voluntary CPD15
 - 8.3 CPD Points Requirements18
 - Real Estate Industry*.....18
 - Settlement Industry*20
 - 8.4 The Role of Consumer Protection in Setting Mandatory Topics22
 - Consultation Process for Setting Mandatory Topics.....23
 - Change in Consumer Protection’s role of Setting Mandatory Topics23
 - 8.5 Registered Training Providers’ Feedback24
 - Impact on Registered Training Providers24
 - Option B (Property Industry Licensees self-fund and Consumer Protection sets mandatory topics).....25
 - Option C (mandatory CPD Program is removed)25
 - 8.6 Transition Period.....26
- 9. Recommendations28
 - 9.1 Recommended Option28
 - 9.2 Recommendation on Compliance Mechanism.....28
- APPENDIX 1 MANDATORY CPD SUBJECTS30

1. Executive Summary

Continuing Professional Development (CPD) is the process of maintaining the knowledge, skills and standards related to an occupational group or profession. It enables an industry participant's technical and non-technical skills and knowledge to remain relevant and up to date and ensures that participants are informed of current standards, legislative changes and practices within an industry.

This report summarises the outcome of recent consultation undertaken by the Department of Mines, Industry Regulation and Safety (DMIRS) - Consumer Protection Division (Consumer Protection) as a result of the issues raised by an internal review of the current CPD program for the real estate and settlement industries, and Consumer Protection's recommendations for the future structure and management of the program.

For the purpose of this report, real estate agents, business agents, real estate and business sales representatives, property managers, settlement and business settlement agents will be referred to as 'property industry licensees'.

1.1 Summary of Findings and Recommendation

Findings

1. A mandatory CPD program is regarded as beneficial by stakeholders.
2. Property industry licensees are evenly divided on whether self-funding CPD activities or an increase in licence fees should fund a mandatory CPD program.
3. If the mandatory CPD program was removed 56 per cent of property industry licensees reported they would continue to complete CPD voluntarily.
4. If the mandatory CPD program was removed, the majority of property industry licensees preferred to be kept up to date with relevant industry information via Consumer Protection e-bulletins, CPD training and professional industry association websites.
5. The real estate industry supported a reduction of CPD points from 10 to five in a calendar year.
6. The settlement industry supported no changes to be made to the prescribed number of CPD points for the settlement industry.
7. There is support for Consumer Protection to retain some of its role in setting CPD activities.
8. If the mandatory CPD program was to continue, registered training providers (RTPs) supported a 12-month transition period prior to the commencement of the new CPD program.
9. If the mandatory requirement for CPD was removed, RTPs supported a two-year transition period.
10. Current enforcement mechanisms for the CPD program are resource intensive and not effective.

Recommendation

The preferred and recommended option is Option B2. This involves:

- retaining the mandatory nature of the CPD program;
- Consumer Protection prescribing broad categories of subjects, with RTPs developing content within those subject categories;
- The Commissioner having power to specify mandatory topics or activities on an ad-hoc basis;
- removing Consumer Protection's role in administering and funding the CPD program with a transition period of 24 months; and
- reducing the number of CPD points to five for both the real estate and settlement agent sectors.

2. Background

In Western Australia (WA), the mandatory CPD program for real estate and business agents was first introduced by the Real Estate and Business Agents Supervisory Board (REBA) in 2007. The program was expanded in 2009 to include settlement agents.

The CPD program was designed to improve professional standards, increase consumer protection and promote consumer confidence in the real estate and settlement industries. The REBA Board's expectation, in introducing the program, was that by raising industry participants' level of understanding of their legislative obligations, the CPD program would result in fewer breaches of the *Real Estate and Business Agents Act 1978* (WA) (REBA Act) and the *Settlement Agents Act 1981* (WA) (SA Act) and Code of Conduct, thereby reducing the number of matters needing to be investigated by the Board.¹

The CPD Program is referenced in the REBA and SA Acts as 'prescribed educational requirements' with specific requirements set out in supporting regulations. CPD requirements are points based and currently comprise a combination of activities designated as either mandatory or elective. Generally, one point is awarded for each hour of a CPD mandatory or elective activity that is approved by Consumer Protection. Licensees in the real estate and settlement industries are required to complete 10 points and six points of activity respectively, which must include prescribed mandatory requirements. A full list of recent prescribed CPD topics is available to the property industries on the Consumer Protection website. A copy of the current list is at **Appendix 1**.

Since 2011, Consumer Protection has administered and delivered the whole of the CPD program as part of the licensing regime for the real estate and settlement industries. **Table 1** below summarises the CPD program as currently administered and delivered by Consumer Protection.

¹ Real Estate and Business Agents Supervisory Board Annual Report 2006 – 2007, page 19.
CPD Program Review Consultation Summary Report November 2023

Table 1 - CPD Program administered by Department of Mines, Industry Regulation and Safety

	Real Estate Agents	Settlement Agents
Points/hours	10 points	6 points
Period	1 January – 31 December	1 January – 31 December
Mandatory activities	3 points	4 points
Elective activities	7 points Topics and proposed activities and content for CPD Program approved by Consumer Protection Commissioner.	2 points Topics and proposed activities and content for CPD Program approved by Consumer Protection Commissioner.
Record keeping	Property agents retain records of completed CPD (4 years). RTPs must notify Consumer Protection with attendance details.	Settlement agents retain records of completed CPD (4 years). RTPs must notify Consumer Protection with attendance details.
Funding	Government funded (mandatory activities only).	Government funded (mandatory activities and some prescribed electives).
Consequences for non-compliance	May result in infringement notice, penalty of up to \$5,000 or disciplinary action to suspend or cancel licence or certificate.	May result in infringement notice, penalty of up to \$5,000 or disciplinary action to suspend or cancel licence or certificate.

In 2023, there are currently over 10,000 individuals in WA required to complete CPD under the REBA and SA Acts. This is made up of:

Property Industry Licensees	Total
Real estate and business agents	2,991
Real estate sales representatives and property managers	7,413
Settlement agents	388
Business settlement agents	14

3. The Compliance Mechanism for the CPD Program

Under sections 40B and 50C of the REBA Act and section 41B of the SA Act, all property industry licensees must complete the CPD program each calendar year. Changes to the REBA Act and the SA Act came into effect in 2019 with amendments to the REBA Regulations and the SA Regulations, prescribing a penalty of a \$5,000 fine for failure to complete the requirements,² or alternately, disciplinary proceedings may be commenced in the State Administrative Tribunal (SAT) to suspend or cancel a licence or certificate. Previously, compliance was tested at licence renewal of triennial certificate of registration under fit and proper person provisions every three years.

The penalty was introduced as an alternative to the historical compliance approach which required action to be taken in the SAT to suspend a licence/certificate of registration if the licensee had failed to meet the prescribed education requirements at the time of licence/certificate renewal. The rationale for changing the approach was twofold; firstly suspension or cancellation of a licence for non-compliance with CPD requirements was perceived to be a disproportionate response to the offence and secondly, the cost of taking action in SAT on each occasion was considerable and likely outweighed the benefit.

Despite the intended streamlining benefits of issuing an infringement notice for non-compliance with the CPD program, this benefit has not realised due to the ongoing high levels of non-compliance across the industry and the requirement to issue infringement notices within a short period of time.

Should CPD be retained as a mandatory requirement in accordance with the recommendations of this review, consideration will need to be given by Consumer Protection to identifying a more efficient and effective enforcement mechanism.

4. Funding of the CPD Program by DMIRS

Since 2011, Consumer Protection has funded the mandatory units for the real estate industry and the mandatory and prescribed elective units for the settlement industry from the Education and General Purpose (E&GP) accounts created under the REBA and SA Acts.

One of the main purposes of the E&GP accounts is to fund expenditure on the administration and enforcement of the REBA and SA Acts.³ The annual cost to administer these Acts in 2021 was \$8.7 million for the real estate industry and \$588,000 for the settlement agent industry. This included compliance, licensing, facilities, staffing and corporate services in addition to the CPD Program.

The E&GP accounts have relied heavily on income generated from interest. Low interest rates over an extended period have reduced the total annual income for these two accounts over the last four financial years from a combined \$8.9 million in 2018-19 to only \$2.05 million in 2021-22 as shown in **Table 2** below. This has put significant pressure on the funding of CPD. Consequently, an internal review of the CPD program was undertaken as a priority in 2022.

² *Real Estate and Business Agents Act 1978* (WA), section 40B and 50C, and *Settlement Agents Act 1981* (WA), section 41B.

³ *Real Estate and Business Agent Act 1978* (WA), section 124C and *Settlement Agents Act 1981* (WA), section 102C.

Table 2 - Combined Real Estate and Settlement Industry Education and General Purpose (E&GP) Account between 2018 and 2022

Income Source	2018-19	2019-20	2020-21	2021-22
Fees	\$1,773,939	\$1,927,544	\$1,476,331	\$1,704,305
Trust Account Interest	\$6,116,965	\$3,051,261	\$116,739	\$183,631
E&GP Interest	\$1,056,748	\$447,026	\$101,497	\$167,781
Other	\$6,909	\$3,729	\$7,267	\$1,123
Combined E&GP Sub Total	\$8,954,561	\$5,429,560	\$1,701,834	\$2,056,840

Table 2 shows that the income generated from licensing fees for the E&GP Real Estate and settlement accounts that are based upon prescribed fee requirements not subject to interest rate fluctuation have remained largely the same over the four financial years between 2018 and 2022.

Importantly, in this same period and due to low interest rates, income received from trust account and E&GP interest has declined significantly and this has impacted the overall income from these accounts.

Based on current contract costing, the total cost to develop, administer and deliver the mandatory CPD program across the real estate and settlement industries is conservatively estimated at \$1.85 million per year as set out below in **Table 3**.

Table 3 - Total annualised cost for providing mandatory CPD in 2021

	Industry	Total Contract Value	Contract Years	Annualised Cost
Development of Mandatory CPD Training Materials	Real Estate Industry	\$104k	1.5	\$69k
Development of Mandatory and Prescribed Elective Training Materials	Settlement Industry	\$57k	1.5	\$38k
Face-to-Face Delivery of Mandatory CPD Sessions	Real Estate Industry	\$8.68m	5	\$1.74m
	Settlement Industry			
TOTAL ANNUALISED COST				\$1.85m

It is clear from the figures in **Table 3**, that the cost of funding the CPD model alone will consume almost all of the current annual income of the industry E&GP accounts.

Although interest rates are now rising, it will be many years before the E&GP accounts increase to previous levels. Hence, the current funding arrangement for the CPD program is not financially sustainable.

5. Legislation

5.1 Relevant Provisions of WA Legislation

Under sections 40B and 50C of the REBA Act and section 41B of the SA Act, all real estate agents, business agents, sales representatives and settlement agents must complete the CPD program each calendar year.

Section 4AA of the REBA Regulations prescribes the educational requirements for the property industry licensees in the real estate industry. Section 4B of the SA Regulations prescribes the education requirements for the property industry licensees in the settlement industry.

Sections 4AC and 4AD of the REBA Regulations, and sections 4D and 4E of the SA Regulations require the Commissioner for Consumer Protection (Commissioner) to approve a list of CPD activities each calendar year and to publish them on Consumer Protection's website.

Schedule 1A of both the REBA and SA Regulations, list the approved subject areas for the real estate and settlement industries, respectively.

5.2 Other Jurisdictions

Three other Australian jurisdictions, New South Wales (NSW), Tasmania and the Australian Capital Territory (ACT) require the property industry to complete mandatory CPD training as a condition of their licence and registrations. In these cases, failure to complete CPD may result in licence cancellation or suspension.

New South Wales

NSW implemented major reforms to the property industry licensing in 2020. There are three licence levels available:

1. certificate of registration for an assistant agent;
2. class 2 licence for a licensed agent; and
3. class 1 licence for a licensed agent or licensees in charge of a business.

New CPD requirements were implemented from March 2023. Class 1 and 2 licensees are required to complete four hours of compulsory topics which include three compulsory topics relevant to their area of practice, in an interactive environment. This is an increase from three hours of compulsory topics required in previous years. If class 1 and 2 licensees were unable to complete this, they can complete CPD online but they need to do a minimum of 10 hours.

Assistant agents are required to complete at least three CPD units from a relevant Certificate IV.

Failure to comply with NSW CPD requirements may result in the suspension or cancellation of licence.

Australian Capital Territory and Tasmania

Property industry licensees in the ACT and Tasmania are required to complete 12 points annually.

Failure to comply with the CPD requirements for property industry licensees in Tasmania may result in refusal for re-licensing or renewal or additional conditions being imposed on their licence. In the ACT, failure to comply by property industry licensees may result in licence cancellation.

Queensland

Currently, licensees in Queensland are not required to complete CPD. However, in 2022, the Queensland Government undertook consultations to seek views on introducing a mandatory CPD program for property industry agents in Queensland. A consultation summary report is yet to be released.

Victoria, South Australia and the Northern Territory

Property industry licensees in Victoria, South Australia and the Northern Territory are not required to complete CPD.

6. The Internal Review of the CPD Program

In 2022, an internal review of the CPD program in the real estate, business broking and settlement industries was conducted by Consumer Protection (the Internal Review). The Internal Review found that:

- The current model for the mandatory CPD program as administered and funded by Consumer Protection is no longer financially sustainable.
- Enforcing compliance with the current CPD requirements is associated with significant costs.
- There are possibilities of more cost-effective options for achieving the objectives of the CPD program, which are to improve industry participants' knowledge of and compliance with the law.
- Consultation should take place to seek feedback on two potential alternative options for CPD:
 1. Continue to make CPD a mandatory requirement under the legislation but consider amending the current requirements to remove Consumer Protection's role in the administration and funding of the delivery of the CPD program.
 2. Cease to mandate CPD under the legislation and allow industry to continue the program on a voluntary basis.

Table 4 compares the costs and benefits of the options identified by the Internal Review.

Table 4 – Summary of costs and benefits identified by the Internal Review

	Option A – Status quo	Option B – Retain mandatory CPD but industry funded	Option C – Remove mandatory CPD – voluntary only
Costs	<p>Direct costs of delivery of the programs estimated to be in excess of \$2.5m p/a.</p> <p>Costs to agents for attendance and travel time and associated potential loss of income.</p> <p>Costs of course development and marketing.</p> <p>Compliance costs.</p>	<p>Significant program delivery costs continue to apply under option B. Potential for some reduction through the removal of the requirement for Consumer Protection’s content approval.</p> <p>Costs to agents of attendance and travel time and associated potential loss of income (equivalent to option A).</p> <p>Potential loss of income for training providers who currently rely on government funding.</p> <p>Increased costs of course development and marketing with removal of guaranteed market.</p> <p>Compliance costs (equivalent to option A).</p> <p>Under option B2 (reduced number of units required) costs would be reduced in each of the above categories, largely in proportion to the reduction in number of units required.</p>	<p>Loss of Consumer Protection control over course content.</p> <p>Potential fall in professional standards through reduced training and resulting consumer detriment.</p> <p>Potential for increased number of consumer complaints and associated additional compliance costs.</p> <p>Loss of income for training providers (equivalent to option B).</p> <p>Additional costs for industry in monitoring professional standards and making provision for training.</p> <p>Costs associated with course development, delivery, agent attendance are anticipated to be less than options A or B. Cost will depend on the extent to which agents choose to participate and/or industry bodies mandate training.</p>
Benefits	<p>All industry participants engage in regular training.</p> <p>Consumer Protection is able to control training content to ensure that it addresses identified high risk issues.</p> <p>Promotes consumer confidence and potentially improves consumer service.</p> <p>Potential to maintain a low rate of complaints</p>	<p>All industry participants engage in regular training.</p> <p>Consumer Protection is able to manage training provider approval process and training topics.</p> <p>Training providers have greater flexibility in development of training packages in comparison to option A.</p> <p>Promotes consumer confidence and potentially improves consumer service.</p>	<p>Voluntary participation provides for greater flexibility for industry in planning professional development activities that meet industry requirements and minimise costs for participants.</p> <p>Potential benefits for consumers from training that can be delivered in a timely manner in response to specific issues.</p> <p>Training providers have flexibility to develop</p>

	Option A – Status quo	Option B – Retain mandatory CPD but industry funded	Option C – Remove mandatory CPD – voluntary only
	<p>and associated compliance requirements.</p> <p>Provides certainty for training providers as to training content and demand.</p>	<p>Provides certainty for training providers as to subject requirements.</p> <p>Opportunity for costs to be reduced through reduction in number of units required.</p>	<p>activities in accordance with industry demand.</p> <p>Provides greater flexibility and responsiveness in development of course content.</p> <p>Peak bodies have increased control over training requirements.</p> <p>Removes CPD monitoring and enforcement costs for government.</p>

7. Consultation

7.1 Why we consulted

Following the Internal Review, consultation was undertaken to obtain feedback on the proposed options for the CPD program from real estate and settlement industries, property industry peak bodies and RTPs who deliver property-related courses. The aim of this consultation was to learn from their firsthand experiences regarding:

Property Industry Licensees:

- mandatory topics as set by Consumer Protection;
- whether the CPD model is working as intended.

RTPs:

- the likely impacts on training providers if the CPD model was to change or be removed.

Property Industry Licensees and RTPs

- views on the following options for the future of the CPD model:
 - option A – Status quo – retain the current mandatory CPD model;
 - option B – retain CPD as a mandatory statutory requirement with prescribed requirements, but remove Consumer Protection’s role in funding the CPD program with a transition period. Option B includes (as B2) consideration of whether to retain the current required number of units, or reduce the number of units for both real estate and settlement agents; and
 - option C – remove mandatory CPD as a legislative requirement with a transition period.

7.2 How we consulted

In February 2023, Consumer Protection released a consultation paper outlining:

- the background and history of the CPD program;
- the findings and recommendations of the Internal Review;
- the administration and funding arrangements for the CPD program by DMIRS;
- CPD requirements in other jurisdictions and industries; and
- identified proposals for the future for discussion in consultation.

Stakeholders were invited to share their thoughts with Consumer Protection either via an online survey or written submissions.

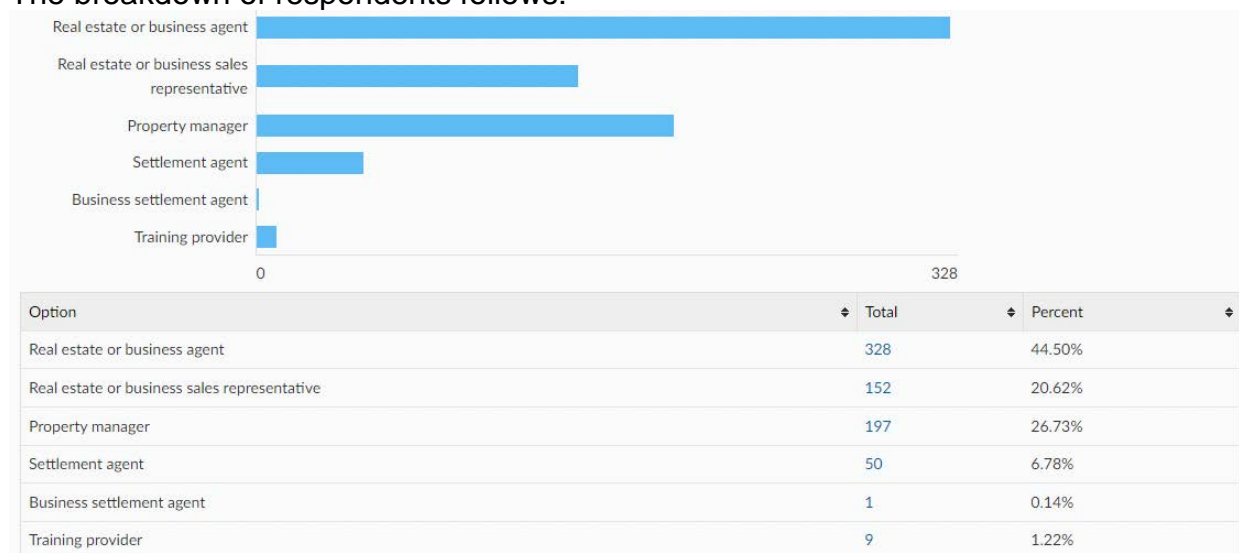
The consultation paper and survey were publicised through:

- direct contact with stakeholders via e-bulletins sent by Consumer Protection to property industries stakeholders; and
- social media posts.

Consumer Protection also presented the consultation paper to the Consumer Advisory Committee for comment and distribution through committee member networks.

Consultation closed on 15 March 2023. Consumer Protection received six written submissions and 737 survey responses.

The breakdown of respondents follows:



The majority of respondents were from the real estate industry (91.85 per cent), with the remainder being licensees in the settlement industry (6.92 per cent) and RTPs who deliver CPD activities (1.22 per cent).

Of the respondents in the real estate industry, 57 per cent had worked in the industry for 16-plus years, 33.5 per cent had worked between six to 15 years and the rest had worked less than five years in the industry. Only six per cent of the respondents no longer work in the industry.

Ninety per cent of the respondents who work in the settlement industry had worked 16-plus years in the industry. Only 10 per cent no longer work in the industry.

7.3 What we asked

The consultation sought stakeholders' feedback on a number of key questions about the CPD Program including:

Property Industry Licensees

- Is the CPD program beneficial to the licensees?
- Should the CPD program remain as a legislative requirement?
- What should the CPD program entail?
- How should the CPD program be delivered?
- If the CPD program is removed as a legislative requirement, how will the industry keep itself up to date with relevant information?
- Which proposed option they prefer for the future of the CPD program?

RTPs

- What will be the likely impact on training providers if the CPD program was to change or be removed?
- Which proposed option they prefer for the future of the CPD program?

8. Key findings

The feedback to the consultation indicated that there is a clear majority support for continuing a mandatory CPD program to maintain the standard and reputation of the property industries in WA. A slight majority of respondents indicated they preferred to pay increased licence fees and have Consumer Protection continue to administer the CPD program rather than self-fund their own CPD activities. The real estate industry respondents also indicated a preference for a change in regulatory requirements to ease the compliance burden by reducing the number of CPD points they require annually.

The findings from the consultation feedback follow.

8.1 CPD Model

All survey respondents were asked to consider the following options for the future of CPD program in WA:

- Option A – Retain the current mandatory CPD program, as approved by Consumer Protection and funded by cost recovery through an increase in licence fees.

- Option B1 – Retain CPD as a mandatory statutory requirement with current prescribed CPD topics, but remove Consumer Protection’s role in funding the CPD program with a transition period.
- Option B2 – Retain CPD as a mandatory statutory requirement with prescribed CPD topics and reduced number of CPD points but remove Consumer Protection’s role in funding the CPD program with a transition period.
- Option C – Remove mandatory CPD program as a legislative requirement with a transition period.

Overall Preferred Options:

The answers have been ranked by the most preferred to the least preferred options.

Option	Overall	Real estate industry	Settlement industry	Training providers
A	2	2	3	1
B1	3	3	1	2
B2	1	1	2	3
C	4	4	4	4

Overall, the most preferred option was option B2. However, when looking at the data more closely and separating the responses by the three groups, real estate industry, settlement industry and RTPs, the results differed.

While the real estate industry’s most preferred option was B2, the settlement industry preferred option B1 and the RTPs preferred option A.

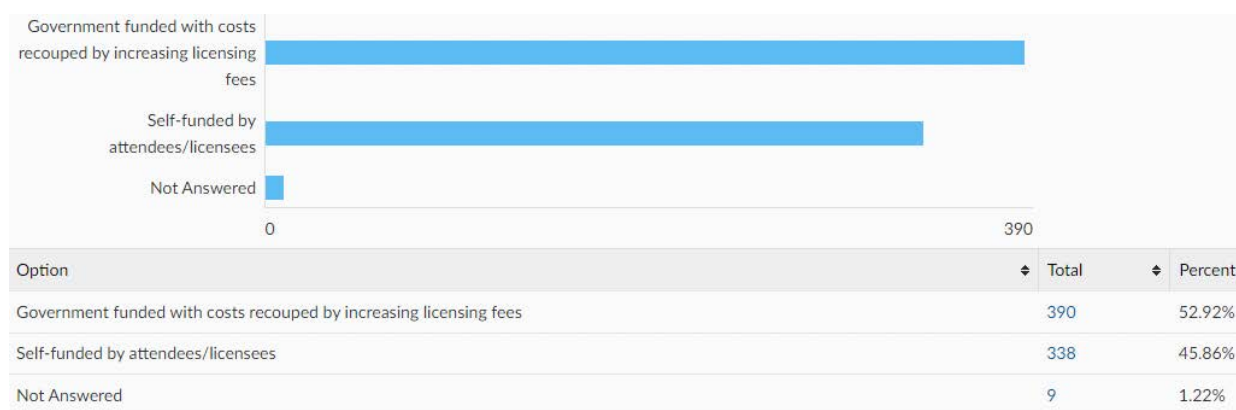
Supported by the answers to the survey questions and the general comments provided by the real estate industry, the preferred option is to continue the mandated CPD program with a reduction of CPD points and self-funding of CPD activities.

For the settlement industry, there was a different preference regarding the current prescribed number of CPD points. The settlement industry prefers that the current mandated CPD program continue with no change to the number of prescribed CPD points but change to self-funding of CPD activities.

Based on the RTPs’ feedback, it is clear that they wanted the current CPD program to continue as is due to a broad concern that if changes were made to the CPD program, such as reducing the number of CPD points or removing the mandated statutory requirements, it would have a negative impact on their business.

Fee Structure Options

If the mandatory CPD program was to continue, property industry licensees were advised that the fee structure would need to change to ensure that the program is financially sustainable. Property industry licensees were asked which fee structure they preferred; maintain the government funded CPD program with an increase to licence and certificate fees, or to change to a model self-funded by CPD attendees.



There is a strong support (53 per cent) for the government to continue to fund the mandatory CPD program, with the costs being recouped by increasing licensing and certification fees. Additionally, there is almost equally strong support (46 per cent) for self-funding of the CPD program by property industry licensees.

Finding 1

That continuing a mandatory CPD program is regarded as beneficial by the property industry. All respondents to the survey put Option C – Removing mandatory CPD as their least preferred option.

Finding 2

That property industry licensees equally support self-funding CPD activities or an increase in licence fees to fund a mandatory CPD program.

8.2 Voluntary CPD

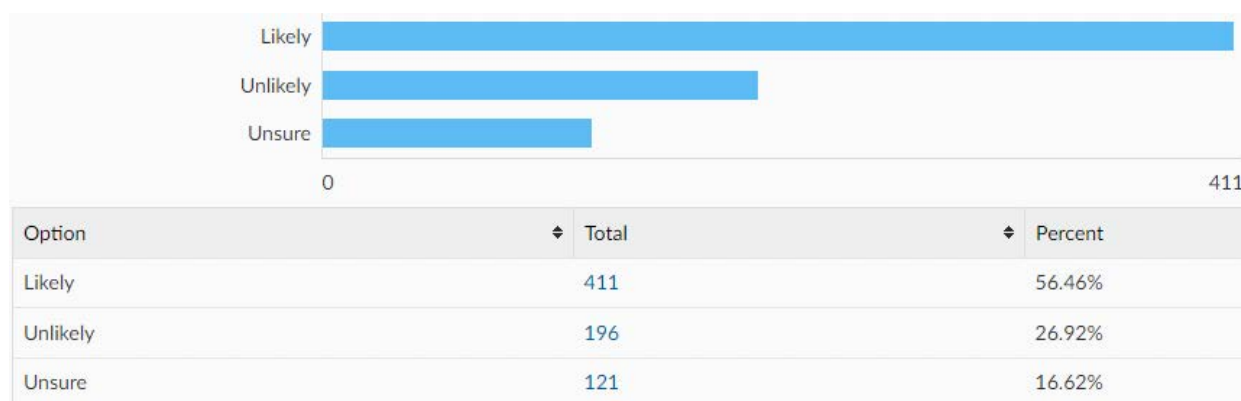
One of the options proposed in the consultation regarding the CPD program was to remove the mandatory requirement. If this option was chosen, Property Industry Licensees would no longer be required by law to complete the CPD Program. However, they could continue CPD voluntarily, at their own expense. Removing the statutory requirement would save the industry costs in both fees and attendance time, and give Property Industry Licensees the flexibility to decide which and how many CPD activities they want to complete.

Under this option, professional industry associations could choose to retain CPD obligations as a condition of membership. Examples of relevant professional associations include the Real Estate Institute of WA (REIWA) or Australian Institute of Conveyancers WA (AICWA). Professional associations would also have the flexibility to decide what and how CPD is provided. This option could allow industry to better meet the professional development interests of members.

As an example, REIWA's accreditation program linked to CPD demonstrates they are already heavily invested in the ongoing education and development of the industry. As a professional industry association and RTP, REIWA could continue to use their accreditation process to support CPD objectives and encourage ongoing training attendance.

Other RTPs could continue to offer CPD but it would no longer be compulsory for property industry licensees to undertake training as a statutory requirement.

Property industry licensees were asked how likely they were to continue to undertake CPD if the mandatory statutory requirement was removed.



The majority of both real estate and settlement industry respondents indicated that they would be likely to continue CPD voluntarily (56.5 per cent). Almost 17 per cent respondents were unsure whether they would continue completing CPD voluntarily.

Those who indicated they would not complete CPD voluntarily have generally commented that they did not see the benefits of completing CPD due to:

- receiving e-bulletins from Consumer Protection on necessary information relevant to their industries such as legislative changes, scam prevention, etc.;
- being informed by relevant industry associations on changes and emerging issues relevant to the property industries;
- the regulatory burden of the mandatory CPD program;
- learning enough on the day-to-day job; and
- the financial burden of completing CPD activities each calendar year, including the costs of fees, loss of income and time away from job.

Property industry licensees were also asked if they had completed all mandated CPD activities in 2022 and only five per cent said they did not. Of these, 67 per cent commented that they were not working in the property industry in 2022. General comments for the remaining respondents who did not complete CPD in 2022 included:

- not finding any benefit/value in completing CPD;
- being affected by illness that did not allow free time to complete CPD; and
- obtaining a property industry licence or certificate in the last three months of 2022.⁴

RTPs reported that they would be likely to reduce or discontinue their courses should completion of CPD become voluntary. More detailed analysis of their views is below.

⁴ Section 4AA(2) of REBA Regulations and section 4B(2) of SA Regulations prescribes that property industry licensees who have obtained their property industry licence or certificate between 1 October and 31 December do not need to complete CPD for that calendar year.

Alternative ways of keeping informed

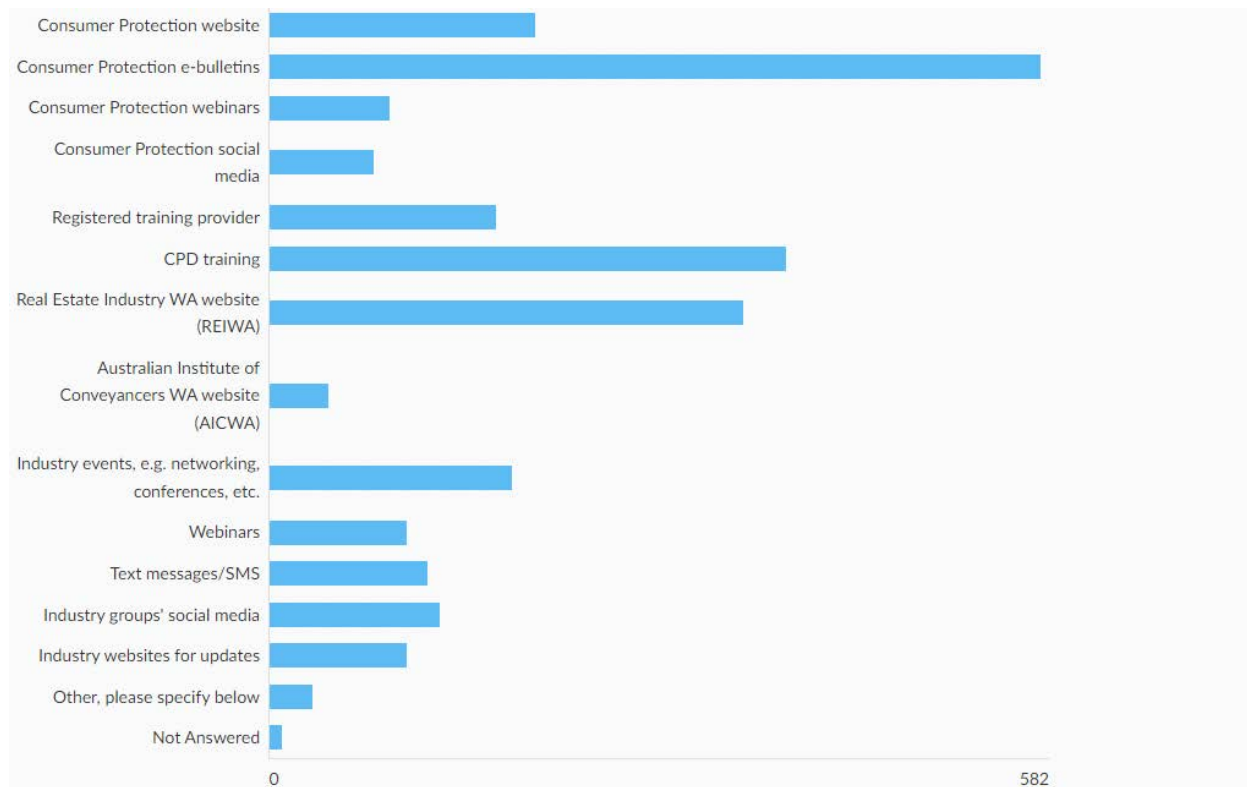
The key objective of a mandatory CPD program is to ensure the property industry licensees are kept up to date with new industry requirements and skills. If the mandatory CPD Program was removed, there is a risk of the property industries not being informed of new/changed legislation, current standards and practices within the industries.

Currently, Consumer Protection provides information to the property industries about legislative changes and educational and guidance activities throughout the year via e-bulletins. On average, Consumer Protection issues around 20 e-bulletins to the real estate industry and six e-bulletins to the settlement industry annually. These are also available on the Consumer Protection website.

Changes to technology have made it easier to communicate information effectively and cheaply. An example is when the introduction of the COVID-19 emergency period measures in early 2022 was successfully communicated using a combination of webinars, e-bulletins and emails, as face to face training method could not be used.

The internal review of CPD undertaken by Consumer Protection indicated that these methods may be sufficient to keep industry members informed.

The survey asked respondents their preferred method of communication when Consumer Protection needed to communicate with the property industries quickly and effectively, or if the mandatory CPD program was removed.



Option	Total	Percent
Consumer Protection website	200	27.14%
Consumer Protection e-bulletins	582	78.97%
Consumer Protection webinars	90	12.21%
Consumer Protection social media	78	10.58%
Registered training provider	170	23.07%
CPD training	389	52.78%
Real Estate Industry WA website (REIWA)	357	48.44%
Australian Institute of Conveyancers WA website (AICWA)	44	5.97%
Industry events, e.g. networking, conferences, etc.	182	24.69%
Webinars	103	13.98%
Text messages/SMS	119	16.15%
Industry groups' social media	128	17.37%
Industry websites for updates	103	13.98%
Other, please specify below	32	4.34%
Not Answered	9	1.22%

The top three most preferred communication methods for being informed were via Consumer Protection e-bulletins, CPD training and REIWA websites.

Finding 3

That if the mandatory CPD program was removed, 56 per cent of property industry licensees reported they would voluntarily continue to complete CPD.

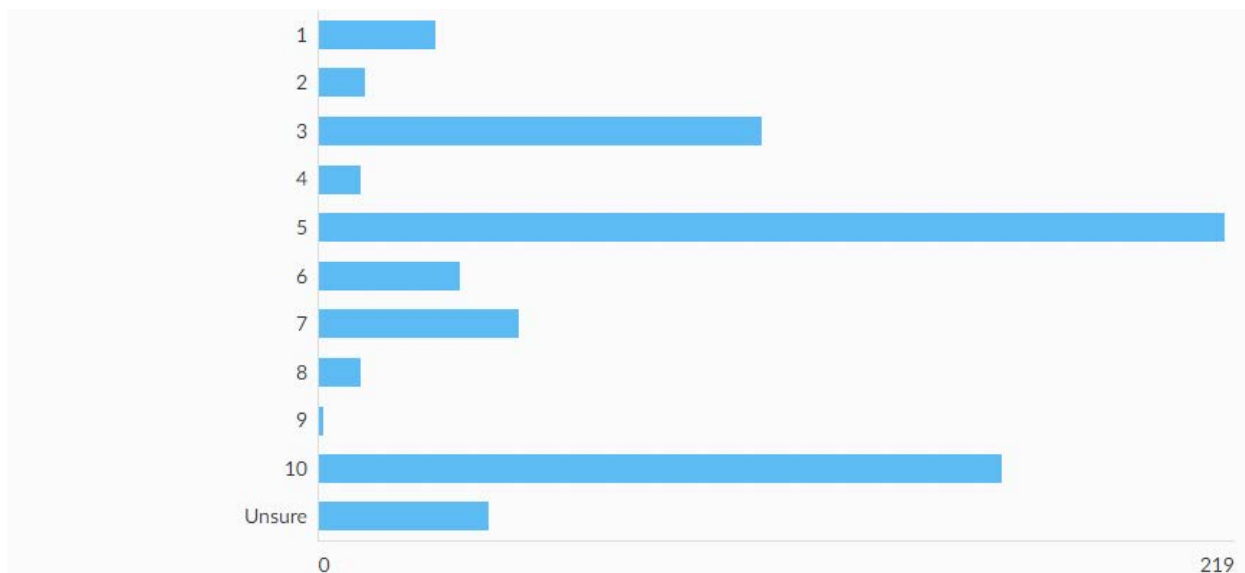
Finding 4

That if the mandatory CPD Program was removed, the majority of property industry licensees preferred to be kept up to date with relevant industry information via Consumer Protection e-bulletins, CPD training and relevant industry association websites.

8.3 CPD Points Requirements

Real Estate Industry

As part of the survey, real estate industry licensees were asked how many CPD points they thought would be reasonable to require them to attain in a calendar year.



Option	◆ Total	◆ Percent
1	28	4.15%
2	11	1.63%
3	107	15.88%
4	10	1.48%
5	219	32.49%
6	34	5.04%
7	48	7.12%
8	10	1.48%
9	1	0.15%
10	165	24.48%
Unsure	41	6.08%

The real estate industry's ($N = 677$) most preferred number of CPD points was consistent with Consumer Protection's proposal to reduce CPD points from 10 to five (32.5 per cent). The next most preferred option was to retain the current number of CPD points (24.5 per cent).

The general comments made in support of a reduction in CPD points requirements in the real estate industry were:

- finding that completing 10 CPD points each calendar year is too onerous on professional and personal resources, such as time and money;
- finding some CPD activities to be too repetitive each year or are not relevant to their role;
- wanting to decrease the number of elective CPD activities so that more investment and focus are on the mandated CPD activities; and
- wanting to have more flexibility with regard to elective CPD activities.

Quotes:

“I consider the industry should have mandatory CPD to ensure all industry professionals are up-to-date with legislative and best practice change. The 3 points Mandatory sessions are excellent, but always rushed being crammed into half a day. It would be better to have a day of mandatory content, so 5 or 6 points. Elective CPD should not be mandated. People can seek and complete their own professional development if they choose.”

“The cost of completing CPD points is prohibitive to many people. It provides valuable information but finding a few hundred dollars each year is difficult (for me at least).”

“CPD is good to ensure people within the industry are kept up to date with major changes however the model itself needs to change. Keep the 3 point mandatory units as they are and remove the elective units.”

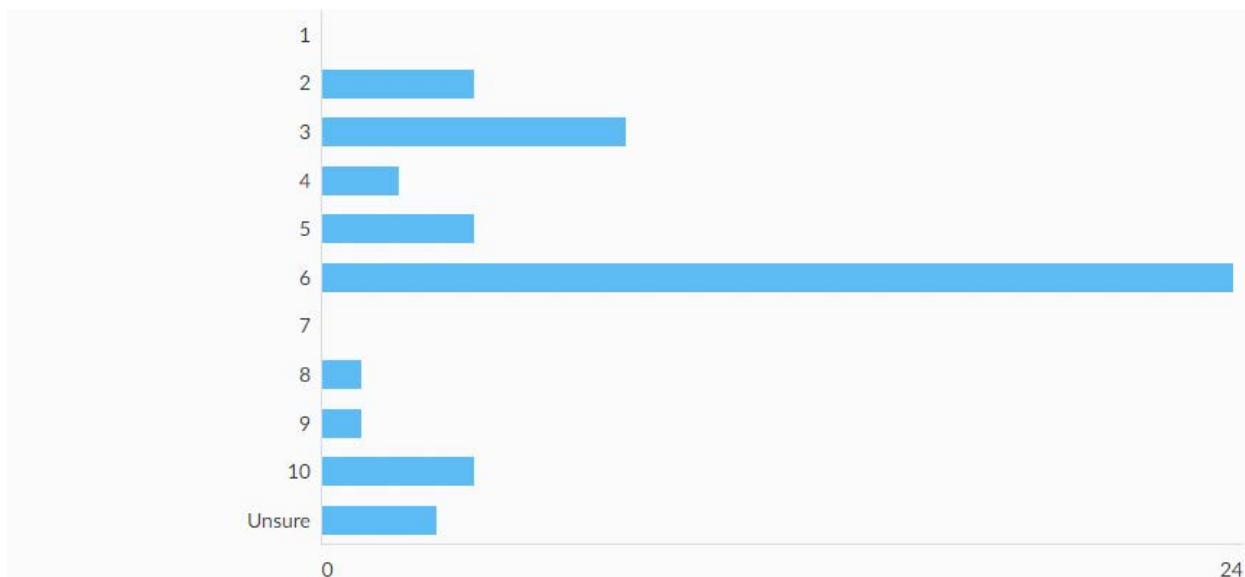
“The current model has 7 elective points that we typically have to pay for anyway. A lot of the courses take too much time away from work and are essentially a waste of time for busy industry professionals. Keep the mandatory, scrap the electives.”

Finding 5

That the real estate industry supports a reduction of CPD points from 10 to five in a calendar year.

Settlement Industry

Settlement industry licensees are required to complete six CPD points each calendar year, with four of these being from mandatory activities. Consumer Protection proposed reducing the current six points to three points. Consumer Protection sought feedback from the settlement industry licensees, asking how many CPD points they thought would be reasonable to require them to attain in a calendar year.



Option	Total	Percent
1	0	0.00%
2	4	7.84%
3	8	15.69%
4	2	3.92%
5	4	7.84%
6	24	47.06%
7	0	0.00%
8	1	1.96%
9	1	1.96%
10	4	7.84%
Unsure	3	5.88%

Nearly half of the respondents in the settlement industry ($N = 51$) preferred to keep the current CPD points at six (47 per cent). The majority of the settlement industry commented that they felt that the mandatory CPD program is important to retain the standard in the settlement industry and found benefits in completing the CPD activities. The following quotes from survey respondents reflect this statement.

Quotes:

“There is nothing wrong with the current system.”

“If CPD is not mandatory & funded by Consumer Protection, I am sure that some (if not most) Settlement Agents will not undertake CPD. There are enough deficiencies in licensee’s knowledge & experience without further dumbing-down the industry.”

“The current system works and is well supported by the profession. I see no reason to change the system for conveyancers as this program is about protecting the public by ensuring conveyancers keep their skills current and up to date.”

Finding 6

That the Settlement Industry preferred no changes to be made to the prescribed number of CPD points for the settlement industry.

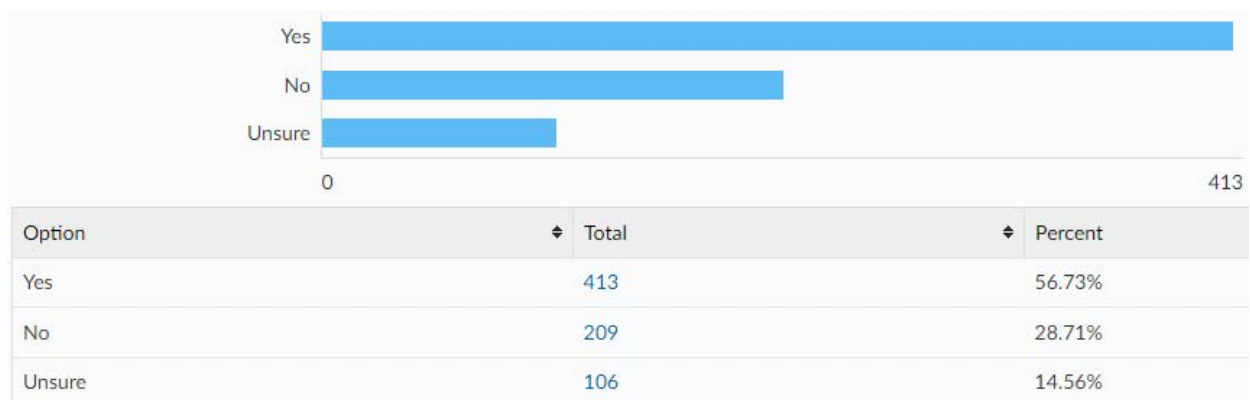
8.4 The Role of Consumer Protection in Setting Mandatory Topics

Currently, the Commissioner prescribes topics for mandatory CPD activities annually and these are usually based on legislative changes that may impact the property industries, emerging issues or identified risks.

In the consultation, the survey participants were advised that:

- Under option B - if the mandated CPD program was to continue, CPD activities would be developed and delivered by professional industry associations and individual RTPs. Consumer Protection would set mandatory topics, administer and monitor CPD compliance and bear the costs associated with enforcement.
- Under option C – if the mandated CPD program was removed, Consumer Protection would no longer administer the CPD program, including the role of setting mandatory topics. Property industry licensees would be responsible for their own professional development and maintaining industry standards. Consumer Protection would continue to respond to complaints.

Property industry licensees were asked if they support Consumer Protection retaining its role of setting mandatory topics.



Just over half of the respondents supported Consumer Protection continuing its role of setting mandatory topics. The main reasons provided by the property industry licensees for the support of Consumer Protection retaining its role of setting mandatory topics were:

- Consumer Protection receives complaints about the real estate and settlement industries, and therefore is best placed to determine the relevant mandatory topics for the CPD Program; and
- Consumer Protection develops and amends relevant legislation and issues licences for the real estate and settlement industries, and consequently is best placed to determine the relevant mandatory topics.

It is noted that some comments made by respondents who answered 'No' to this question indicated a lack of understanding of Consumer Protection's role in setting mandatory topics. It appears that these respondents were not aware of Consumer Protection undertaking consultation each year, including with the professional industry associations

for topic suggestions. In light of this, consideration could be made to how Consumer Protection can improve the property industries' understanding of Consumer Protection's role. This may be done by publicising on Consumer Protection's website the consultation process and advising property industry licensees to provide CPD activity suggestions to the relevant professional industry associations.

Quotes:

"I believe that Consumer Protection would be aware of complaints/issues within the industry and any new impacts coming into the industry - therefore would have knowledge of what mandatory topics we should undertake".

"Consumer Protection has a handle on the issues been experienced in the industry, and seems to address them very well by making us aware through the Mandatory CPDs."

"Since they [Consumer Protection] are the body responsible for licencing, they have the knowledge to set requirements".

Consultation Process for Setting Mandatory Topics

As mentioned, some comments made in the feedback indicated a lack of understanding of how Consumer Protection chooses mandatory topics. While Consumer Protection develops, administers and delivers the mandatory units for real estate, and the mandatory core and prescribed elective units for settlement agents, Consumer Protection also undertakes a consultation process each year.

In April each year, Consumer Protection invites both internal and external stakeholders, including a number of industry associations, training providers and government agencies, to make suggestions for possible topics for inclusion in the CPD Program for the following year. A list of possible topics is then considered by the Commissioner.

Following the approval of CPD topics, Consumer Protection contracts out the delivery and development of training materials to suitably qualified training organisations. Consumer Protection subsequently reviews the content to ensure it is legally sound, consistent with legislation and appropriate for adult learning.

Change in Consumer Protection's role of Setting Mandatory Topics

Currently, Consumer Protection develops and administers all mandatory CPD activities. The Internal Review identified that continuing this role was not sustainable. However, the consultation feedback identified that the property industry values the role played by Consumer Protection in informing the topics for the CPD program.

Although Consumer Protection would not continue to administer the CPD program, it could retain a role in setting mandatory topics for CPD. The Commissioner could determine general CPD subjects to guide the RTPs in developing relevant CPD activities for the property industry licensees and publish these on DMIRS website. This will be similar to schedule 1A in both REBA and SA Regulations. Examples of subjects may include 'legislation', 'IT security' and 'business management practices'. Consultation will be undertaken with industry to identify appropriate subject areas.

This change would mean that the CPD program would no longer differentiate CPD activities as mandatory or elective topics. The real estate and settlement industry licensees will be required to complete five and six CPD activities respectively, that are based on the subjects set by the Commissioner.

In circumstances where the Commissioner wants the real estate or settlement industries to update their knowledge, skills or standards due to specific changes in legislation or identified areas of concern, it would be useful for the Commissioner to have the power to specify mandatory CPD activities on an ad hoc basis. For example, if the REBA Regulations have been changed, the Commissioner may mandate the completion of CPD activities based on promoting awareness of those legislative changes. Giving a delegation of power to the Commissioner will address the issue raised in the Internal Review, of delivering important information such as unplanned legislative changes to the property industries in a timely manner. This increases the capacity to provide fast and flexible responses to unforeseen events or circumstances.

Finding 7

That there is support for Consumer Protection to retain some of its role of setting topics for CPD activities and to continue to consult with the property industries on this.

8.5 Registered Training Providers' Feedback

Each year, Consumer Protection awards contracts to RTPs by way of an approval and procurement process. The contracts for providing mandatory CPD training for the real estate and settlement industries are divided between five RTPs to deliver training sessions on mandatory and prescribed elective topics for property industry licensees. Elective CPD training for the real estate industry is provided by approximately 35 RTPs. However, in 2021, 90 per cent of the elective CPD activities attended were provided by seven RTPs.

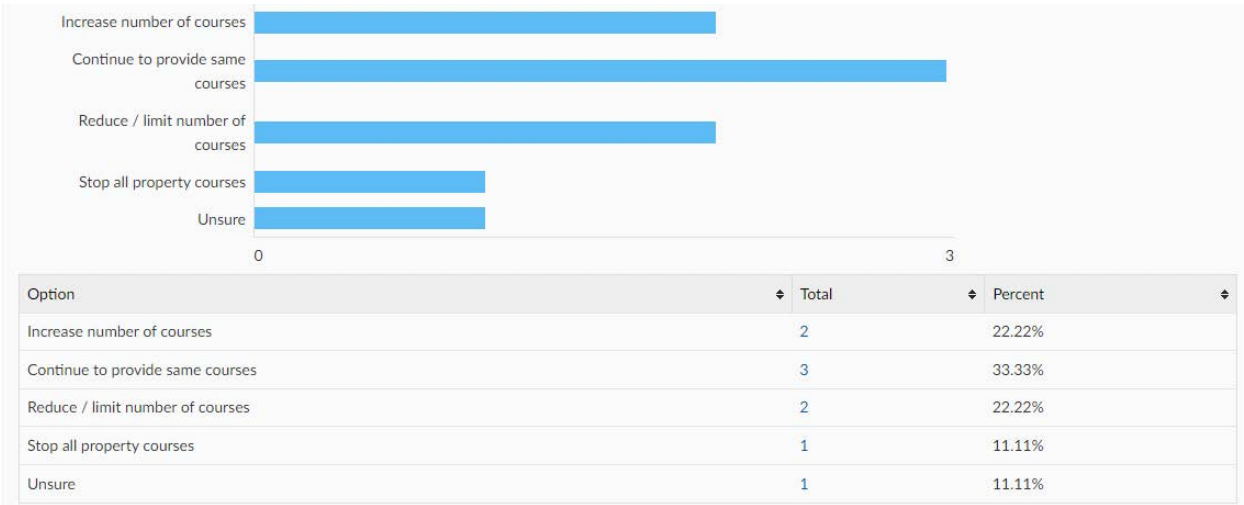
RTPs offer approximately 600 course options approved by Consumer Protection equating to the seven hours of elective training required for 2,800 real estate agents and 6,800 real estate sales representatives. The RTPs for the delivery of the CPD program derive a significant financial benefit from the existing model and are likely to be financially impacted by proposed reforms to the current CPD program model.

Impact on Registered Training Providers

RTPs delivering the CPD program in WA were invited to participate the consultation, either via survey online or written submission. Nine RTPs who deliver CPD activities have provided their feedback in the consultation either via survey or written submission. Six RTPs deliver CPD activities for the real estate industry and the remaining deliver CPD activities for the settlement industry.

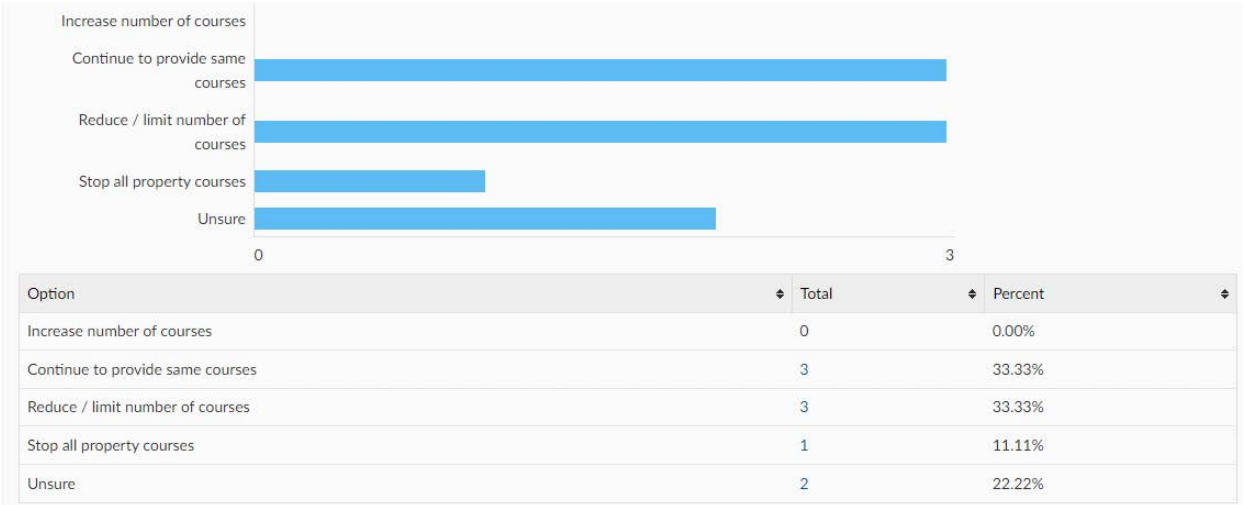
RTPs were asked about the likely impacts on the number of property-related courses if the CPD model was changed or removed.

Option B (Property Industry Licensees self-fund and Consumer Protection sets mandatory topics)



Five RTPs indicated they would either continue to provide the same courses or increase the number of courses if option B was the future CPD model. Two RTPs indicated that they would reduce the number of CPD activities and one RTP was unsure what it will do. One RTP stated that they would stop delivering CPD activities.

Option C (mandatory CPD Program is removed)



Four RTPs indicated that they would either decrease the number of CPD activities they deliver, or stop delivering courses for the CPD program if the CPD program was not mandatory. Three RTPs said that they would continue to provide the same courses.

The same RTP who indicated that it would stop all property-related courses if Option B was selected, commented that once the mandatory requirement for the CPD program is removed, property industry licensees are less likely to complete CPD voluntarily as they have seen from operating in other states in Australia. Therefore, they did not think it would be viable to continue to deliver property-related CPD courses.

Nearly all RTPs anticipated negative impact to their business due to decreased participation and consequently decreased income.

Quotes:

“CPD is important. In the case of other states here CPD is not mandatory, very few agents/salespeople or property managers make the choice to invest in their own professional development. This means that their training may well be out of date and they don’t know about it.”

“Having worked in other Australian states, if CPD is not mandatory, people would not do it, it is as simple as that. The training providers vanish and the standards within the industry decline. Every other profession self-funds their CPD, lawyers, accountants, engineers, doctors, scientists and all of these professionals have mandatory CPD. Real estate needs to transition to the same model, simply removing mandatory CPD will result in a decline in professional standards and the position of the industry.”

“If CPD was not mandatory, I am confident many in the industry would not bother at all, based on feedback over a number of years.... There is absolutely no doubts that removing the requirement to complete CPD each year will drastically reduce the amount of people electing to attend any training.”

Finding 8

If the mandatory CPD program was removed, about half of the RTPs who responded expect to have negative impacts on their business due to decreased training attendance and income. One third of RTPs would however continue to provide the same courses.

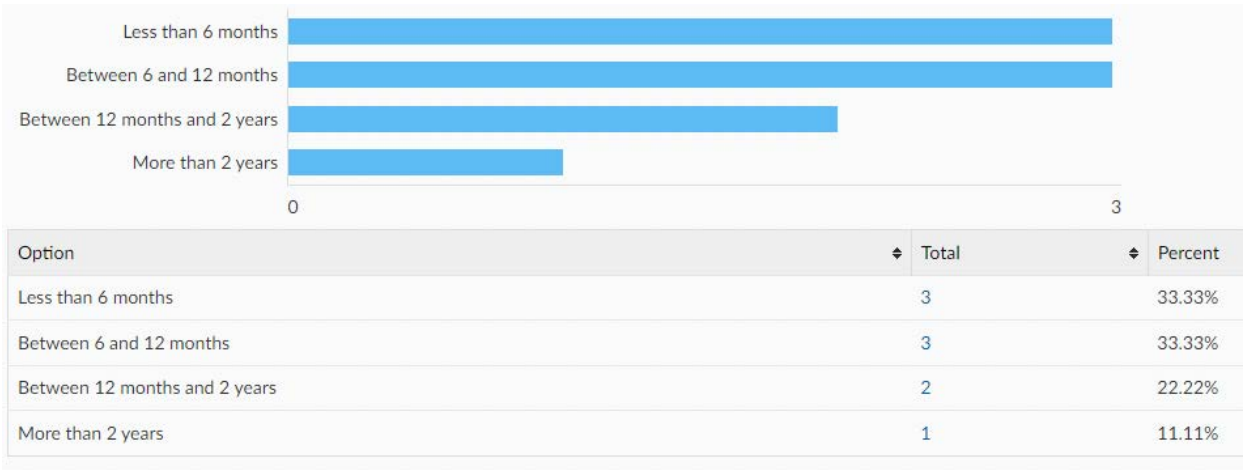
8.6 Transition Period

A key issue for implementing Options B or C would be transition arrangements that allow a sufficient lead-in time to conclude government contract arrangements and for current contracted RTPs to make preparations to start offering different property industry training courses.

The consultation sought information to enable the impacts on this sector to be better understood so that possible arrangements can be put in place to minimise the impacts.

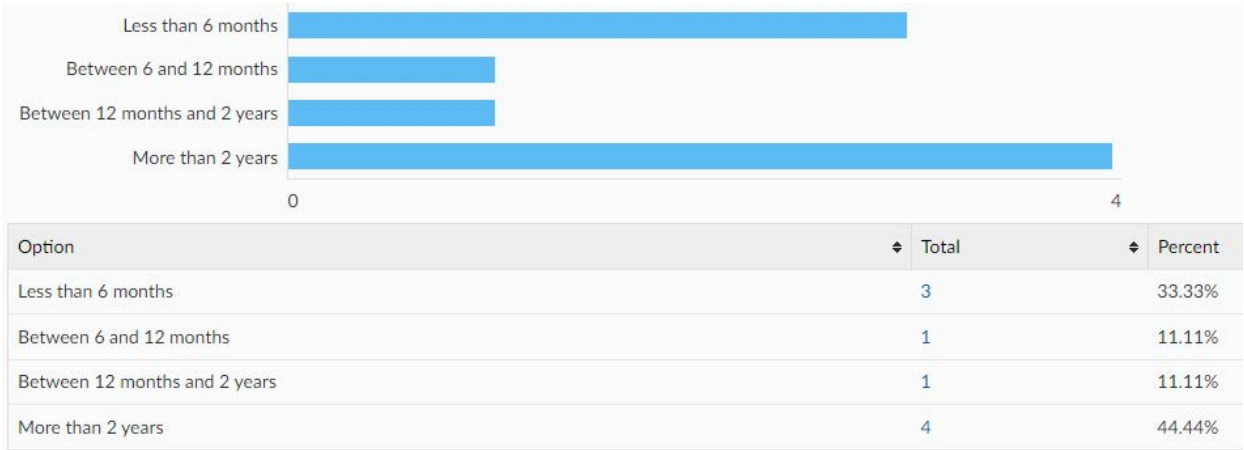
For both Options B and C, RTPs were asked how long they needed to transition to the proposed options.

Option B – Retain mandatory CPD Program, change to self-fund with consideration for reduction of number of CPD points



Five of the nine RTPs supported a transition period of between six months and two years if the CPD program was changed to become self-funded by Property Industry Licensees.

Option C – Remove mandatory CPD Program



Four RTPs indicated they would need more than two years transition period if the mandatory CPD Program was discontinued.

Finding 9

That if the CPD program was changed to become self-funded by property industry licensees, RTPs preferred a 12-month transition period prior to the commencement of the new CPD program.

Finding 10

That if the mandatory requirement for CPD was removed, RTPs preferred a two-year or longer transition period, to either change or cease their business structure.

9. Recommendations

The feedback from the consultation indicates that the majority of the real estate and settlement industries, and relevant RTPs prefer to retain the CPD program as a mandatory statutory requirement and supported either through an increase in licence fees or self-funding of activities.

The key reasons provided for this were to ensure the reputation and standards of the property industries are maintained and that consumer confidence in the property industries remains high.

The RTPs also supported retaining mandatory CPD due to the potential loss of business from removing this requirement.

9.1 Recommended Option

Based on the feedback from the consultation and taking into account the findings of the Internal Review, Option B2 is recommended as the preferred option.

Option B2 – Retain CPD as a mandatory statutory requirement with prescribed CPD topics and reduced number of CPD points but remove Consumer Protection's role in funding the CPD program with a transition period.

This option is the most supported by industry based on the consultation feedback.

The following is recommended as part of implementing this option:

- Consumer Protection would continue to set CPD subject areas and would do this in consultation with the property industries;
- the Commissioner would also have the power to specify mandatory topics or activities on an ad-hoc basis;
- Consumer Protection would continue to provide educational information via e-bulletins and DMIRS website;
- the number of CPD points would be reduced from 10 to five for the real estate industry and from six to five for the settlement industry;
- Consumer Protection would no longer administer the delivery of the CPD system and property industry licensees would self-fund all CPD activities; and
- a transition period of 24 months would be provided to allow property industry licensees to adjust to self-funding CPD activities, RTPs to prepare for compliance with the new requirements; and for Consumer Protection to withdraw from its funding role.

9.2 Recommendation on Compliance Mechanism

As noted earlier, as well as identifying the current model of funding the CPD program as not sustainable, the Internal Review found that the enforcement of the CPD requirements was associated with significant costs. There are also concerns about the effectiveness of the current compliance system, in particular the use of infringement notices for non-compliance with the CPD requirements.

If the mandatory CPD program is to continue as recommended, there is a need for a more effective compliance mechanism.

In other jurisdictions that have introduced mandatory CPD in recent years, completion of CPD is tied to entitlement to maintain a licence and there is an obligation on property industry licensees to maintain their own records of completion of CPD activities. Specifically, in Tasmania, compliance with CPD is checked when a property industry licensee applies to renew their property industry licence. Failure to complete required CPD activities may result in their licence not being eligible for renewal and may result in having it suspended. Additionally, the Property Agents Board conducts audits each year by randomly checking CPD records of property industry licensees by requesting them to produce the following:

- evidence of records of attendance;
- statement of attainment certificates or record of completion;
- transcripts of results; or
- any other evidence to demonstrate attendance and participation in the training.

An approach similar to this could be implemented in WA to enforce compliance with CPD. This option would need further consideration as part of the implementation of the recommendations in this report to determine the need for any legislative amendments, record keeping and notification requirements for industry participants and the resourcing impacts.

It is recommended that further consideration of possible enforcement mechanisms be undertaken and a separate briefing on this aspect be provided.

APPENDIX 1 MANDATORY CPD SUBJECTS

Table 5 - Mandatory CPD subjects from 2021-2023 for the Real Estate Industry

Year	Licensed Agents (Commercial and Residential)	Agents / Sales Representatives (Commercial and Residential)	Property Managers – Residential	Property Manager - Commercial
2023	<ul style="list-style-type: none"> Automatic mutual recognition of occupational registration. Family and domestic violence provisions and protections. Cyber-crime, cyber-security and best practice prevention. 	<ul style="list-style-type: none"> Strata and community title. Automatic mutual recognition of occupational registration. Cyber-crime, cyber-security and best practice prevention. 	<ul style="list-style-type: none"> Strata and community title Family and domestic violence provisions and protections. Cyber-crime, cyber-security and best practice prevention. 	<ul style="list-style-type: none"> Cyber-crime, cyber-security and best practice prevention. Overview of the Small Business Friendly Approvals Program. Automatic mutual recognition of occupational registration.
2022	<ul style="list-style-type: none"> Staff management; including remote working. Workplace safety and health. Business records. 	<ul style="list-style-type: none"> Ethical and professional behaviour. Understanding valuations. Risk awareness; identifying high risk practices and behaviours. 	<ul style="list-style-type: none"> Rent increases, breaches and terminations. Conflict management. Strata-titled rental properties: Responsibilities and obligations of the Property Manager and Strata Manager. 	<ul style="list-style-type: none"> Rent increases, breaches and terminations. Conflict management. Strata-titled rental properties: Responsibilities and obligations of the Property Manager and Strata Manager.
2021	<ul style="list-style-type: none"> Acting in the best interest of the client. What is a material fact and when should it be communicated. How to resolve conflict and maintaining effective communication. Strata title changes (including community titles). 	<ul style="list-style-type: none"> Acting in the best interest of the client. What is a material fact and when should it be communicated. How to resolve conflict and maintaining effective communication. Strata title changes (including community titles). 	<ul style="list-style-type: none"> Rights and responsibilities of tenants and owners and property manager’s role in this relationship. What is a material fact and when should it be communicated. Retention and security of documentation virtually (e.g. Cloud based systems – how to ensure necessary records are retained in terms of statutory requirements). 	<ul style="list-style-type: none"> Rights and Responsibilities of tenants and owners and property manager’s role in this relationship. What is a material fact and when should it be communicated. Retention and security of documentation virtually (e.g. Cloud based systems – how to ensure necessary records are retained in terms of statutory requirements).

Table 6 - Core and prescribed elective CPD requirements for Settlement Industry from 2021-2023

Year	Core CPD (4 points must be completed)	Prescribed Electives (2 points must be completed)
2023	<ul style="list-style-type: none"> • Automatic mutual recognition (AMR) and cybercrime prevention (2 hrs): <ul style="list-style-type: none"> ○ A brief overview of AMR and its application to industry. ○ Processes, systems, software and approaches to help minimise risk of cyber breach. • Strata schemes and conveyancing document preparation (2 hrs): <ul style="list-style-type: none"> ○ Strata schemes and subdivisions. ○ Preparation of conveyancing documentation – correct preparation of land title documentation. 	<ul style="list-style-type: none"> • Continuity planning for your business and <i>Transfer of Land Amendment Act 2022</i> (2 hrs.): <ul style="list-style-type: none"> ○ How to strategise and plan for the unplanned. ○ Changes to abolition of duplicate certificates of title, electronic service of notice; and clarification of the definition of counterpart documents. • Reconciliation of trust accounts (2 hrs): <ul style="list-style-type: none"> ○ Updated in 2019 to account for e-conveyancing. • Various CPD sessions to be delivered by Office of State Revenue (2 hrs each): <ul style="list-style-type: none"> ○ Deceased estates transactions and transfer duty. ○ Transfer duty overview. ○ The First Home Owners Grant for Professionals. ○ Overview of land tax.
2022	<ul style="list-style-type: none"> • The Supervising Agent: a discussion of the key factors in running a successful, compliant settlement business (2 hrs): <ul style="list-style-type: none"> ○ Responsibilities of the agent/BFC. ○ Staff management; including remote working. ○ Workplace safety and health. ○ Financial management; including trust accounts. • Compliance fundamentals: conducting your own proactive audit (2 hrs): <ul style="list-style-type: none"> ○ Business records. ○ Disclosures and Authorities. ○ Systems security. ○ Verifying trust account transactions. 	<ul style="list-style-type: none"> • Commercial settlements (2hrs): <ul style="list-style-type: none"> ○ Key points of commercial settlements. • Reconciliation of trust accounts (2 hrs): <ul style="list-style-type: none"> ○ Updated in 2019 to account for e-conveyancing. • Various CPD sessions to be delivered by Office of State Revenue (2 hrs each): <ul style="list-style-type: none"> ○ Deceased estates transactions and transfer duty. ○ Transfer Duty overview. ○ The First Home Owners Grant for Professionals. ○ Overview of land tax.

2021

- Managing agency risk for licensed settlement agents (2 hrs):
 - Retention and security of documentation virtually e.g. Cloud based systems – how to ensure necessary records are retained in terms of statutory requirements.
 - Contract for sale of land or strata title by offer and acceptance.
 - Costs disclosure.
 - Preparation and lodgment of caveats.
- Amendments to strata titles legislation (2 hrs):
 - Strata title changes (including community titles).
- Reconciliation of trust accounts (2 hrs.):
 - Updated in 2019 to account for e-conveyancing.
- Various CPD sessions to be delivered by Office of State Revenue (2 hrs each):
 - Deceased estates transactions and transfer duty.
 - Transfer duty overview.
 - The First Home Owners Grant for Professionals.
 - Overview of land tax.
- Changes to the Model Participation Rules and preparing notices (2 hrs face to face).