

**Feedback regarding the proposed NAS:**

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**Overall Feedback:**

Whilst the intent behind the standards is an important step forward in improving auditing standards and industry compliance, there are some inconsistencies in the wording which is noted below.

The proposal also does not contain any guidance as to how potential or perceived conflicts of interest are expected to be managed in order to ensure quality impartial auditing.

There are also practical considerations around the prohibition of auditors having any links, affiliations or associations within the industry. This will be very difficult to manage and may result in quality auditors exiting the system, to the overall detriment of HVNL compliance.

**Key Concern:**

Whilst stating several prohibitions regarding auditor conflict of interest, the document gives no direction as to how potential or perceived conflicts of interest may be managed.

This leaves auditors and consultancies in limbo, with no ability to determine if they are compliance with the proposed standards.

It is essential that any auditors that allow business associations or relationships to influence their auditing results must be censured or deregistered, which the proposed NAS seeks to achieve.

It is also essential that any auditors that utilise their position as an auditor for unfair personal financial gain above audit payments must be censured or deregistered, which is also the intention of the proposed NAS.

It is also essential that competent, professional, impartial auditors are not penalised for associations or perceived associations that do not impact on their auditing ability or standards. The proposed NAS does not address this issue.

Heavy vehicle compliance is a relatively small industry, so it is impossible for auditors to avoid all and any associations with other organisations or auditors. Consequently, the current NAS proposal carries a high risk that auditors with a high level of industry knowledge will find it far more viable to focus on consultancy and training activities and not auditing.

As currently written, the standards also have the potential to disadvantage reputable and impartial auditors and reduce the number of auditors who choose to continue to participate in NHVAS auditing, to the overall detriment of the entire program. By focussing on potential conflicts, it also does not address the core problem of audit quality.

Whilst some organisations and auditors are known to behave disreputably and inappropriately, most have audited fairly and appropriately.

Many reputable auditors have relationships with reputable compliance management organisations, and many find it beneficial to their customers to suggest they seek external assistance to improve their compliance with NHVAS requirements. This is to the overall betterment of the industry.

It is also important to note that whilst an auditor may audit a system they are familiar with, or was provided by a consultancy they have a working relationship with, the system itself is only a small part of the audit, the most important part being how the operator is complying with the requirements of that system, and the evidence available to demonstrate such compliance. This will become increasingly important with the implementation of the PSOE auditing framework.

### **Suggestions:**

#### **NHVR to define a management process for potential or perceived conflicts of interest.**

Include wording to determine how the regulator will manage potential or perceived conflicts of interest:

- Take a risk-based approach to assessing potential or perceived conflicts of interest, not a blanket ban
- Require auditors and consultancies to have clear Conflict of Interest Management policy and procedures in place
- Provide clear guidelines and definitions as to the NHVR interpretation of words like 'affiliation', 'interest' and 'linked' as used in the NAS
- Provided guidelines which allow reputable, ethical and impartial organisations and auditors to work cooperatively for the overall betterment of the industry
- Establish clear standards of conflicts which are clearly unacceptable (eg; a spouse auditing their partners transport business, or an individual auditor auditing systems they have developed)
- Establish clear standards of unacceptable auditor behaviour (eg: conducting audits remotely, selling services as a condition of passing an audit)
- Organisations and auditors to be able to submit their structures and controls for review and approval by the NHVR.

#### **NHVR to focus on audit and auditor integrity**

- Auditors must undertake periodic training in standards and expectations
- Auditors must re-register periodically with the NHVR, including completion of declarations of Integrity, Accountability and Conflict of Interest
- Auditors to submit completed Audit Matrices with each audit – this will ensure that auditors complete matrices correctly, and gives the regulator the opportunity to review content (this may be resolved with the introduction of the new digital auditing tool)
- Provision for photographs to be attached to the digital audit tool, or other means to ensure that the audit is conducted in person, on the customers premises
- Making NAS expectations clear to both the auditor and operator for each audit – such as by adding wording to the Audit Application Confirmation email received by operators and auditors that audits that do not meet the standards of the NAS (including remote audits) may be considered invalid and the NHVR may require a replacement audit be conducted, at the operators own cost
- Proactive investigation & censure of auditors known to breach the standards of the NHVR, including conducting audits remotely

**The most effective way to improve auditor integrity is to remove inadequate auditors – this immediately ensures that auditors raise standards or exit the industry if they are unwilling to conduct detailed, impartial and quality audits.**

In short, instead of a blanket prohibitive approach, a transparent, risk-based approach, with appropriate controls and co-operation will benefit the industry overall.

**See notes below regarding inconsistency of wording:**

### **3.6 Conflict of Interest**

NAS wording:

*Auditors must not audit any SMS or management framework that they, or the consultancy or organisation they are affiliated with, have developed, implemented, or significantly influenced.*

What is the intent of the above, especially in regards to the definition of ‘affiliated’. A consultancy organisation may work with, or refer to, a number of known independently contracted auditors. Would this count as an affiliation?

If a consultancy organisation is asked by a customer if they can recommend an auditor, and that consultancy recommends an auditor they know to audit fairly and professionally, would that be considered an affiliation and consequently be banned?

The above sentence is in conflict with 5.2 which states an auditor may conduct an audit on a system they have designed after 3 audits have been conducted:

*Auditors who are systems providers or consultants (individual or company) cannot conduct any audit, for the first period of accreditation, on a participant’s system that they have designed and/or implemented. After these three (3) audits have been conducted, they may then carry out further audits of that participant.*

Suggested wording be revised along the lines of:

*Auditors must not audit any SMS or management framework that they have developed, implemented, or significantly influenced, subject to the requirements of Section 5.2*

#### **3.6.1 Strengthening Auditor Independence**

NAS wording:

*An auditor associated with, or operating across multiple entities, must not audit an SMS or framework that has been developed, implemented, or influenced by any business or consultancy service with which they are linked, either directly or indirectly. This includes scenarios where separate businesses are used to provide consultancy or administrative services for system development while also performing audits for the same operator.*

Does the use of the wording ‘linked, either directly or indirectly’ have the same intent as the ‘affiliated’ wording of 3.6? What is the definition of ‘linked’ or ‘affiliated’

If an independently contracted auditor frequently performs audits on the customers of a consultancy, would this be considered as linked?

If an auditor provides other services unrelated to NHVAS accreditation, such as delivering training or assisting with permits, to the customer of a consultancy service, will that prohibit them from auditing customers of that consultancy service?

Would an auditor be banned from conducting training services if they have audited a customer?

Consultancy businesses often refer to, or assist to arrange audits for, auditors that they have a working relationship with. Reputable consultancies only engage reputable & professional auditors in this instance. Would this be considered as 'linked' or 'affiliated', and as such would consultancies be banned from recommending quality auditors?

Similarly, would an auditor be banned from recommending a reputable consultancy?

If a consultancy employee conducts training services on behalf of the consultancy, and has no involvement or influence over NHVAS consultations or systems, and that consultancy has a clearly documented Conflict of Interest Policy and Procedure, and that auditor has declared their association, and that auditor can demonstrate a history of impartial and fair audits, would that auditor be banned from conducting audits on customers of that consultancy?

Whilst auditor independence is fully supported, it is important that consultancies can work with high quality, professional independent auditors.

This will increase overall levels of compliance and professionalism across the industry. If a consultancies customers are unable to receive any guidance in auditor selection, and must pick an auditor at random, then the poor quality/disreputable auditors enjoy an advantage, as an auditor's reputation, knowledge, skills and abilities are no longer part of the selection process. This is to the disadvantage of the industry as a whole.

### 3.7 One Period Rule

3.7 states '*for each accreditation period, the operator must select a different auditor*' but 5.2 States an auditor must not carry out more than 1 consecutive audit.

These two sections are contradictory.

Need to confirm if an auditor can carry out multiple audits in 1 accreditation period (eg: an Entry and Initial Compliance Audit within the same period)

### Summary

Addressing the above issues, providing clear practical standards for managing potential conflicts and actively addressing poor quality auditors will result in a stronger auditing process, whilst retaining quality auditors.