

BUILDING PERFORMANCE




Biennial BCA Accreditation Report Round 6

JULY 2017-JUNE 2019



MINISTRY OF BUSINESS,
INNOVATION & EMPLOYMENT
HĪKINA WHAKATUTUKI

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Contents

Introduction.....	3
Summary of findings.....	4
Key themes from the latest assessments	5
Non-compliances in more detail.....	13
Conclusion	17
Acknowledgements.....	17
Appendix 1: graphic summary of findings.....	18
Appendix 2: post-accreditation survey – broad findings.....	21
Appendix 3: sample of responses from BCA accreditation survey questions.....	22

Abbreviations

AOB	Accredited organisation - building
BCA	Building Consent Authority
BCO	Building Control Officer
CCC	Code compliance certificate
IANZ	International Accreditation New Zealand
MBIE	Ministry of Business, Innovation and Employment
NTF	Notice to fix
TA	Territorial Authority



Introduction

This report summarises the results from round 6 of Building Consent Authority (BCA) accreditation assessments undertaken by International Accreditation New Zealand (IANZ), which were carried out between 1 July 2017 and 30 June 2019. It is the first round of assessments since the amended Building (Accreditation of Building Consent Authorities) Regulations 2008 (the Regulations) took effect on 1 July 2017.

The report has been written to provide BCAs with:

- › a detailed overview of assessments undertaken in round 6 of the BCA accreditation scheme
- › a summary of key findings and trends from these assessments
- › an overview of feedback from MBIE's post-accreditation BCA survey.

The purpose of the BCA accreditation scheme is...

... to set out the minimum policies, procedures and systems that a building consent authority must have, and consistently and effectively implement, to perform its building control functions.

The scheme's objectives are...

... to make sure all building consent authorities have:

- › appropriate, documented and implemented policies, procedures and systems
- › appropriate, documented and implemented effective quality assurance systems
- › sufficient skills and resources to undertake their statutory functions
- › employees and contractors with appropriate building control competencies and qualifications.

... to support:

- › territorial and regional authorities to transfer their consenting functions where they wish
- › building consent authorities to enter into outsourcing arrangements with other building consent authorities
- › building consent authorities to align nationally, across a region, or a policy, procedure or system.

Sections 250 to 255 of the Building Act 2004 set the requirements for the accreditation of BCAs. The Building (Accreditation of Building Consent Authorities) Regulations 2006 then set the criteria and standards an applicant must meet to be accredited as a BCA.

MBIE's website www.building.govt.nz has more information about the accreditation scheme, as well as guidance (available as an online tool¹) to help BCAs comply with the scheme's requirements.

¹ Go to www.building.govt.nz/building-officials/bca-accreditation/detailed-regulatory-guidance

Summary of findings

Greater collaboration between BCAs, increased uptake of online applications and electronic processing are just some of the positive trends to emerge from the latest round of accreditation assessments.

The amended Regulations made significant changes to the way the accreditation scheme operates for:

- › Building Consent Authorities (BCAs)
- › Accredited Organisations – Building (AOBs)²
- › International Accreditation New Zealand (IANZ), and
- › The Ministry of Business, Innovation and Employment (MBIE).

As required by the Regulations, IANZ assessed 69 BCAs and five AOBs in the latest round. This included the first-time accreditation of three of those AOBs. MBIE representatives were present at the majority of these assessments as observers, to assist where questions arose about the scheme, and to ensure the amendments were implemented as intended.

Key findings from these assessments included:

- › BCAs are employing more effective and collaborative ways to share resources, work, and common policies, procedures and systems. However, there are challenges with attracting and maintaining suitably qualified and experienced staff
- › BCAs are generally coping well with the Regulation changes. However, further improvement is required for notifying the building consent accreditation body and MBIE of specified matters prescribed by the Regulations (Regulation 6A)
- › Some BCAs struggled to consistently and adequately record reasons for decisions they make under the policies, procedures and systems required by the Regulations (Regulation 6)
- › There are positive trends towards online consenting and electronic processing, although the systems currently on offer still have some limitations
- › There is a significant lack of suitable technical resource in the industry to undertake building control functions. Consequently, in order to meet statutory timeframes many BCAs are contracting work out to private organisations.

To coincide with the July 2017 regulation changes, MBIE published online guidance, including checklists, at www.building.govt.nz. This provides an easily accessible and transparent set of guidelines for all parties to help them comply with the amended Regulations. It also takes account of feedback that BCAs were often unsure what was expected of them during assessments, and that expectations altered between assessments.

MBIE's post-assessment survey of BCAs, which is also covered in this report (refer to Appendix 2 and 3) showed an overwhelmingly positive response to the guidance and to the checklists. We will continue to update this guidance as needed to keep the material relevant, while making sure that it remains aligned with the scheme's intent.

² In this report, references to BCAs are to BCAs and AOBs unless otherwise noted.

Key themes from the latest assessments

BCAs are working in more effective and collaborative ways to share resources and work

BCAs could improve on the accuracy of information issued about the legislation and a BCA's functions

There are challenges attracting and maintaining suitably competent and qualified staff



Most non-compliances relate to BCAs' core functions of receiving, processing and certifying (Regulation 7)

Some BCAs are not keeping up with the new notification requirements (Regulation 6A). Documenting the reasons for various decisions also needs more attention in some cases.

BCAs and AOBs are being more proactive in managing their assessments. . .
...for example, by splitting them into two parts – policy review, and on-site

BCAs are accepting building consent applications that are incomplete or without all of the information needed to start processing.



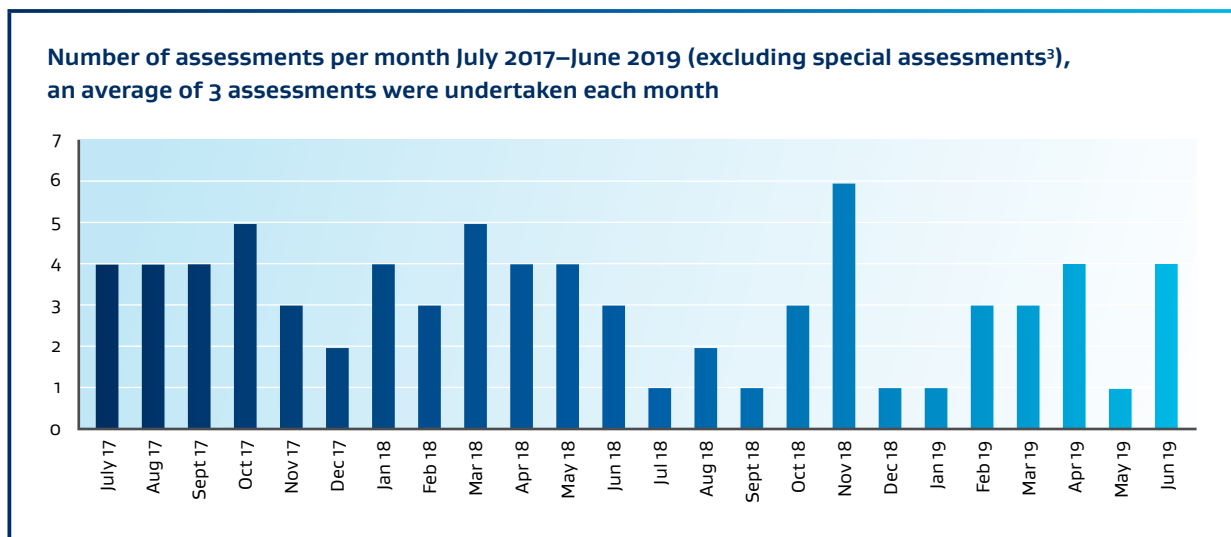
There are positive moves to adopt online consenting and electronic processing.
But improvement and innovation is needed by the system providers.

What's going well – Collaboration, making assessments more effective

In recent years, BCAs have been working in more effective and collaborative ways to share resources through the development and uptake of electronic, online and cloud-based systems. As a result, BCAs are able to share resources anywhere in the country using a common and familiar set of tools.

BCAs have also collaborated to share and align common policies, procedures and systems to make assessments more efficient and consistent. While this has not been entirely without issues, it is a step in the right direction.

MBIE have also seen some BCAs and AOBs explore ways to make accreditation assessments more efficient and convenient for their organisations. Some organisations have chosen to split their assessments into two distinct parts: first, the policy and procedure review, and then the on-site implementation. MBIE expects that this approach may become more common in future rounds, and welcomes organisations talking to IANZ and MBIE about structuring assessments to work best for them.



³ A special assessment is an out-of-sequence assessment or one that is undertaken because there is some concern about a BCA meeting the accreditation requirements.



What BCAs could improve on – Accuracy of information, notifications

BCAs' public websites should display the correct legislative interpretation and guidance relating to the BCA functions. MBIE recommends that BCAs' webpages should link directly to the relevant www.building.govt.nz webpages as a single source of information. If you discover any errors on this website please send the details to consentsystem@mbie.govt.nz

The introduction of Regulation 6A regarding notifications, was an important addition to the accreditation scheme. This Regulation required a BCA to have a system for notifying the building consent accreditation body and MBIE of any of the specified matters in this provision within 20 working days of the matter taking place. Some examples (among others) of the specified matters prescribed by this Regulation include when there is a significant change in the legal, commercial or organisational status of the BCA or wider organisation in which it operates or there is a departure of the BCA's authorised representative or responsible manager. BCAs have generally been very proactive in complying with these requirements.

If a BCA provides notification to the building consent accreditation body and MBIE of a specified matter, usually no further action is required as a result, it may simply be a chance for MBIE and IANZ to update contact details for key personnel, in the organisation. However, where there are significant changes which may affect the BCAs ability to undertake its functions, it is important that this information is notified. IANZ or MBIE may contact the organisation to acquire more information about the changes and enable assistance to be made available, if required.



Some challenges – Staffing, regional priorities

Lack of resource is an ongoing concern for most BCAs as they struggle to attract and maintain suitably competent and qualified staff. BCAs are operating in a sector where there is still a significant amount of growth occurring around the country.

Also, a challenge to BCAs, particularly those that sit within a TA, is the nature of each unique local government construct and its individual focus for that region and community. As BCAs are inherently compliance-focused, they can struggle with the competing priorities and influences of local government objectives which are often about being customer-friendly and accommodating. While this is important, consistency of compliance with the Building Act 2004 is required to ensure the Act's purposes are met. These include, making sure that people who use buildings can do so safely and without endangering their health and buildings have attributes that contribute appropriately to the health, physical independence and well-being of the people who use them.



General observations about receiving, processing, certifying

Most non-compliances raised during the latest assessment round were related to Regulation 7, which encompasses the majority of a BCA's 'day-to-day' functions of receiving, processing and certifying. Regulation 7 requires a BCA to have policies and procedures for performing its building control functions and prescribes what the policies and procedures must include.

BCAs frequently accept building consent applications which do not have the necessary information to start processing the building consent effectively. MBIE recommends that the BCA does not accept applications which do not have sufficient information to allow processing to begin.

A BCA is obligated to grant a building consent if it is satisfied on reasonable grounds that the provisions of the Building Code would be met, if the building work were properly completed in accordance with the plans and specifications that accompanied the application. The BCA can make the decision to refuse to grant the consent at any stage in the building consent application process.

Specified system's information is one area where applicants are not providing enough information. The applicant must provide a list and description of specified systems in the building, their performance standards, and inspection, maintenance and reporting procedures. The BCA must request this information if it is not provided at acceptance of the building consent application. The building control officer (BCO) may then request further information if the information provided is not correct or complete, during processing of the building consent.

Conditions and ‘advice notes’ on building consents

Another common observation related to the practice of placing conditions and ‘advice notes’ on building consents. MBIE’s long-standing and published guidance on conditions to building consent states that the following conditions can be placed on Form 5 of the Building (Forms) Regulations 2004:

- › inspections (under section 90 of the Act)
- › waivers or modifications of the Building Code (section 67)
- › natural hazards (section 72)
- › building on two or more allotments (section 75)
- › buildings with specified intended lives (section 113).

In accordance with section 90 of the Act where the BCA is not undertaking an inspection to confirm compliance with the plans and specifications they may elect to utilise an ‘agent authorised by the BCA’. Inspections carried out by authorised agents should be in agreement with the owner, the agent carrying out the inspection and the BCA. It is important that BCAs do not confuse inspections by authorised agents with practitioners who are undertaking building work and providing what is often referred to as a PS3 (a producer statement-construction).

Section 90 inspections relate to a third-party verifying compliance with an aspect of design that is incorporated in the plans and specifications e.g. an engineer inspecting an element of specific engineered design or confirming that ground bearing capacity is as assumed. Those carrying out building work cannot inspect their own building work. This means a membrane applicator cannot be an authorised agent to carry out a membrane inspection. The closest the Act gets to this type of recognition is self-certification by electricians (electrical workers), in so far as they are able to self-certify energy work per section 43 and 94 of the Act. In effect, a PS3 can support a BCA’s ‘reasonable grounds’ decision-making, but it should not be used as a substitute for a genuine section 90 inspection.

Many BCAs also use ‘Advice notes’ as a form of guidance on certain aspects of the build. These notes have no formal status under the Act or the associated Regulations, but they might be a helpful form of guidance to applicants. Advice notes can therefore not be framed-up or deemed to be section 90 request for information post-completion of the construction process.

Online consenting and electronic processing

There has been an increase in the adoption of online consenting and electronic processing over recent years, which has produced some encouraging efficiencies that are of benefit to BCAs and customers alike. However, MBIE has observed some of the products on offer are difficult to alter or modify once implemented. This has resulted in 'work arounds' being adopted by many BCAs, in effect, this can cause BCAs to work outside of their electronic system, which can have a negative effect on efficiency and compliance with the Regulations.

As MBIE does not have direct influence over these system providers, BCAs are encouraged to work with the system providers to affect and promote change so that they can continue to develop their products to be suitable for both BCA and TA regulatory processes.

Observations from IANZ

In its latest report to MBIE⁴, IANZ said it considered the new assessment regime had been generally successful.

By the end of the two-year cycle, some BCAs were well prepared for their assessment, had audited their procedures against the MBIE guidance document, and had implemented their updated procedures. However it was disappointing to see that many BCAs are not proactive in undertaking the work to ensure compliance prior to the assessment.

Need to improve documenting the reasons for decisions

The assessment data indicates that IANZ continue to raise non-compliances around Regulation 6(b), (c) and (d). These provisions require a BCA to record the decisions it makes under the policies, procedures and systems required by the Regulations, the reasons for the decisions and the outcomes of the decisions. Often commentary provided by BCOs in their processing and inspection notes do not adequately cover their reasons for decisions.

MBIE considers Regulation 6 to be a core component of a BCA's functions. Appropriate recording of decisions made under policies, procedures and systems and the reasons for these decisions provides context for the BCA's actions on a day-to-day basis. It also ensures consistency in decision-making and provides an audit trail where there are challenges to decisions.

⁴ IANZ annual report and fee estimate to MBIE, reporting period 1 July 2018 to 31 June 2019

Changes to the accreditation scheme and Regulations

2006

The accreditation scheme is introduced

In 2006, the Building (Accreditation of Building Consent Authorities) Regulations 2006 (the Regulations) were introduced. The accreditation scheme, sets out the policies, procedures and systems a BCA must have and implement to perform their role.

2017

The scheme Regulations are amended

MBIE reviewed the accreditation scheme with feedback from BCAs, International Accreditation New Zealand (IANZ) and other stakeholders.

KEY CHANGES

- › Clarifying the purpose and set objectives for the scheme. Policies, procedures and systems must be implemented in a consistent and effective manner, so this requirement is obvious to all stakeholders – **Regulation 5c**
- › Identifies the matters where a BCA must notify MBIE and IANZ of changes in their organisation or of key personnel, allowing for better support for BCAs facing changes that could affect their ability to function – **Regulation 6A**
- › Requires Building Control Officers to have or be working to an appropriate specified qualification – **Regulation 18**
- › Moving to a fee-for-service regime for accreditation assessments – **Regulation 19**
- › Improving how non-compliances are reported. IANZ previously reported findings as Corrective Action Requests. Now, these findings are either reported as general non-compliances or serious non-compliances.

Non-compliances in more detail

As this was the first assessment round since the amended Regulations 2017 were introduced, MBIE expected to see an increase in the number of non-compliances compared to the former corrective action requests (CARs). While this was the case, the average number of non-compliances per organisations was 16, which was lower than anticipated.

The charts within Appendix 1 show the number of non-compliances by organisation (in order of assessment) and by Regulation.

There are varied results across the full round of assessments. However, MBIE expect the number of non-compliances to decrease in the next round as BCAs become more familiar with the amended Regulations. We also expect the content of these non-compliances to be more about implementation.

16 Average number of total non-compliances per BCA

Top ten general non-compliances (July 2017-June 2019)

	Number of non-compliances	Regulation	Description
1	65	7(2)(d)(iv)	Policies and procedures for processing applications
2	64	7(2)(f)	Issuing and refusing to issue CCCs, compliance schedules and NTFs
3	58	7(2)(d)(v)	Granting, refusing to grant, and issuing building consents
4	48	7(2)(e)	Planning, performing, and managing inspections
5	48	7(2)(a)	Consumer information
6	44	17(2)(h)	Annual audits
7	34	17(5)(a)	Reviewing quality assurance system
8	32	17(2)(e)	Quality assurance system to cover continuous improvement
9	32	8(1)	System for ensuring enough employees and contractors
10	31	11(2)(d)	Monitoring and reviewing employees' application of training

The 'top ten table' demonstrates that the five highest reported non-compliances were in relation to Regulation 7. This Regulation requires that a BCA must have policies and procedures for performing its building control functions and specifies what the policies and procedures must cover. This Regulation concerns BCAs' core business of performing building control functions.

The highest number of non-compliances (65) was against Regulation 7(2)(d)(iv). This Regulation requires a BCA to have policies and procedures that cover processing the applications to establish whether they comply with

the requirements of the Act, the Building Code and any other applicable Regulations under the Act. As a result of the way the assessments are structured, this also means non-compliances against Regulation 7(2)(d)(iv) will mean there is also non-compliance with Regulation 6(c), which requires a BCA to record reasons for decisions and Regulation 6(d) which requires a BCA to record the outcomes of decisions.

The second highest number of non-compliances (64) was in relation to Regulation 7(2)(f) which requires a BCA to have policies and procedures to cover the issuing and refusing to issue code compliance certificates (CCCs), compliance schedules and notices to fix (NTFs). Most of the concerns here related to compliance schedules not being specific enough in terms of their description of specified systems; the performance standards; and the inspection, maintenance and reporting procedures.

Despite this being the sixth assessment round since the accreditation scheme was introduced in 2007, there was continued non-compliance (48) with Regulation 7(2)(a) which requires BCAs to have policies and procedures that cover giving information in writing or electronically to a person who wants to apply for a building consent about:

- › how to apply for a building consent
- › how an application for a building consent is processed
- › how building work is inspected, and
- › how building work is certified.

This non-compliance suggests there is room for improvement in the documentation of processes for providing information to the public.

Items 5 to 10 in the table concern audits, quality systems, and monitoring of systems to ensure there are enough employees/contractors and sufficient oversight of employee training requirements. Around 60% of organisations received a non-compliance in relation to annual audits.



Non-compliances with regulation 5 and 6

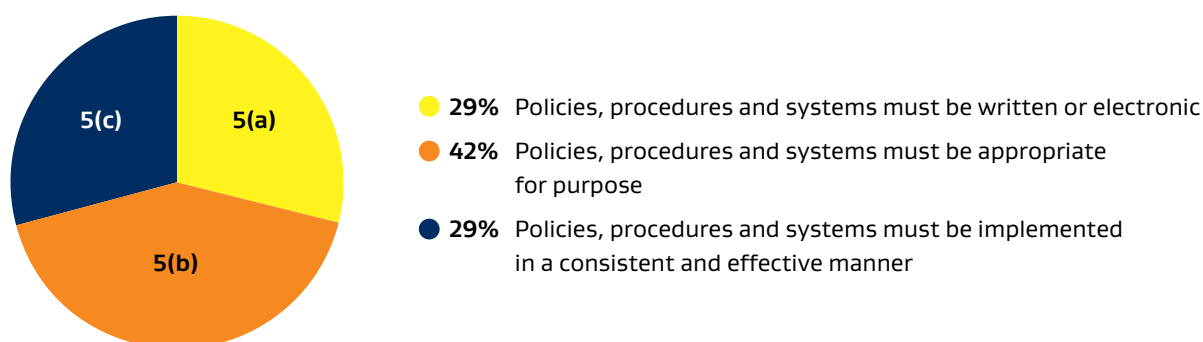
Regulation 5 specifies that policies, procedures and systems required by the Regulations must be written or electronic, appropriate for their purposes and implemented in a consistent and effective manner.

Regulation 6 requires a BCA to record the decisions it makes under the policies, procedures and systems required by the Regulations, the reasons for the decisions and the outcomes of the decisions.

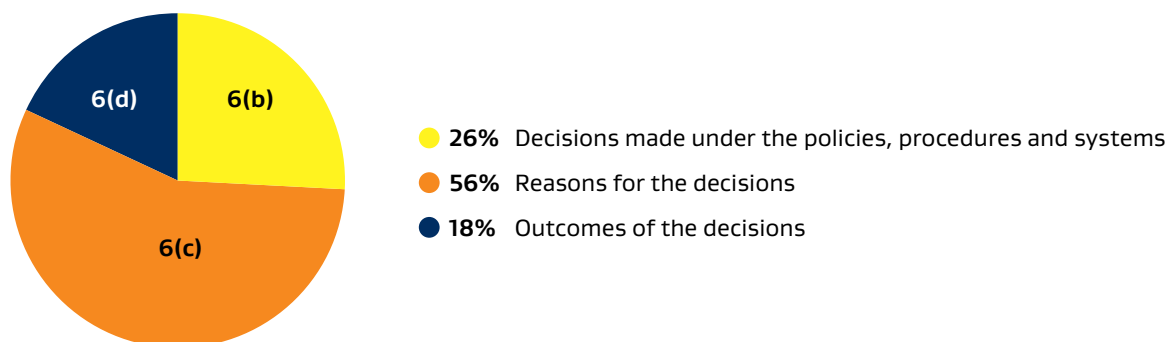
There are a number of required policies, procedures and systems required by the Regulations. Some examples include the requirement for a BCA to have a system for notifying the building consent accreditation body and MBIE of matters specified under Regulation 6A and the requirement for BCAs to have policies and procedures for performing its building control functions (Regulation 7). If there is a failure to meet the requirements to have policies, procedures and systems in the Regulations, then by default there will be non-compliance with the requirements to ensure the requirements of Regulations 5 and 6 are met.

Non-compliances with these Regulations are shown in the graphic below. The highest number of non-compliances were against regulation 5(c) which requires that policies, procedures and systems must be **implemented in a consistent and effective manner** and Regulation 6(c) which requires a BCA to **record the reasons for decisions**.

Non-compliance against Regulation 5



Non-compliance against Regulation 6

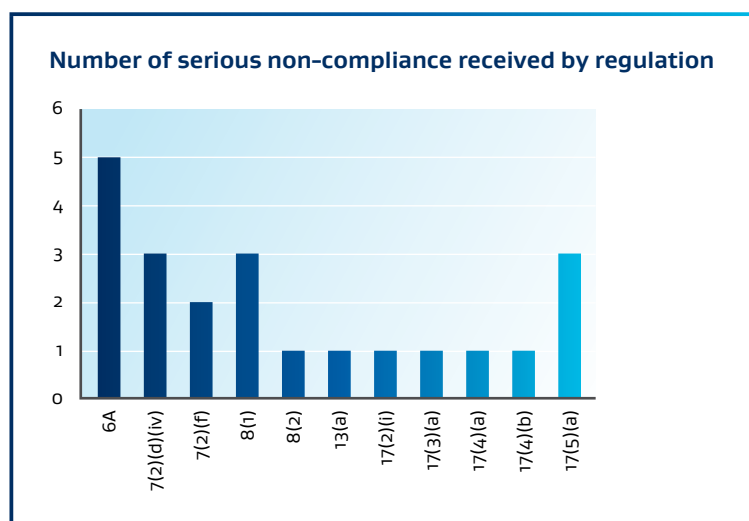


Serious non-compliances during this assessment round

Of the 74 BCAs and AOBs that had accreditation assessments between 1 July 2017 and 30 June 2019, 13 were assessed as demonstrating serious non-compliances.

18% of BCAs and AOBs received a serious non-compliance

Serious non-compliances were recorded for a number of different regulations. Five BCAs (7% of those assessed) were assessed to have demonstrated serious non-compliances for failing to have a system for notifying IANZ and MBIE of changes as required by Regulation 6A. This requirement was introduced as part of the July 2017 amendments.



Of particular concern are the eight BCAs which were recorded as having serious non-compliances relating to:

- › the requirement for BCAs to have policies and procedures that cover processing applications to ensure they comply with the requirements that the Act, Building Code and other application Regulations specify for buildings – **Regulation 7(2)(d)(iv)**
- › the requirement for a BCA to have a system for ensuring it has enough employees and contractors to perform its building control functions – **Regulation 8(1)**
- › the requirement for a BCA to have a system for assessing the need to employ contractors if it does not have enough employees to perform its building control functions – **Regulation 8(2)** and
- › the requirement for a BCA to have a system for annually (or more frequently) reviewing its quality assurance system – **Regulation 17(5)(a)**.

Conclusion

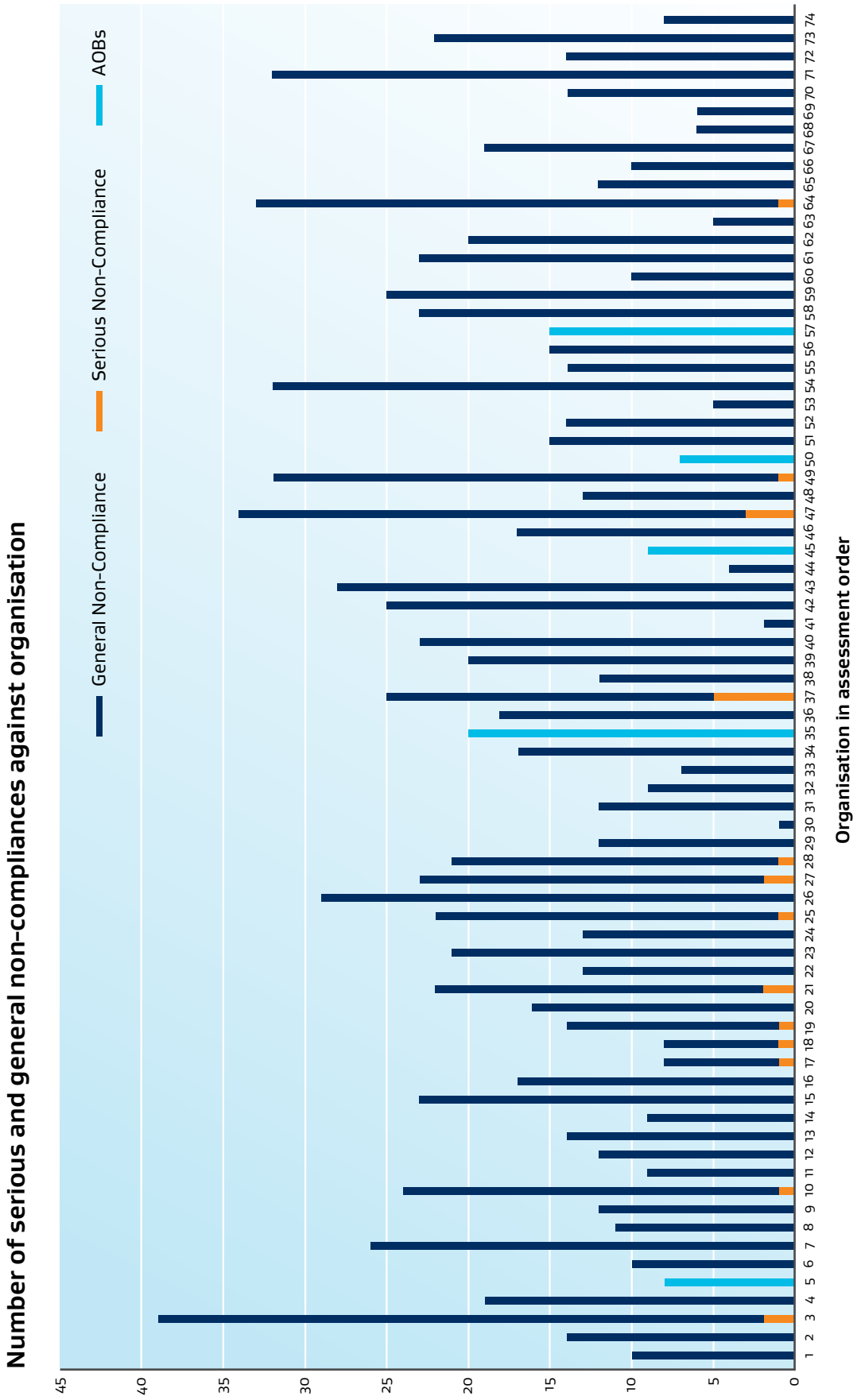
The aim of the BCA accreditation scheme is to ensure BCAs have policies, procedures and systems that are consistently and effectively implemented, to support them in the delivery of their building control functions.

Being the first of its kind, this report seeks to grow a shared understanding of how the scheme is operating under the recently adjusted regulatory settings. It is intended that the report will be produced on a biennial cycle in order to assist BCAs, IANZ and other stakeholders to grow their understanding and knowledge of the scheme. It is hoped it will support BCAs in practising continuous improvement, which is a core principle that supports all successful accreditation models.

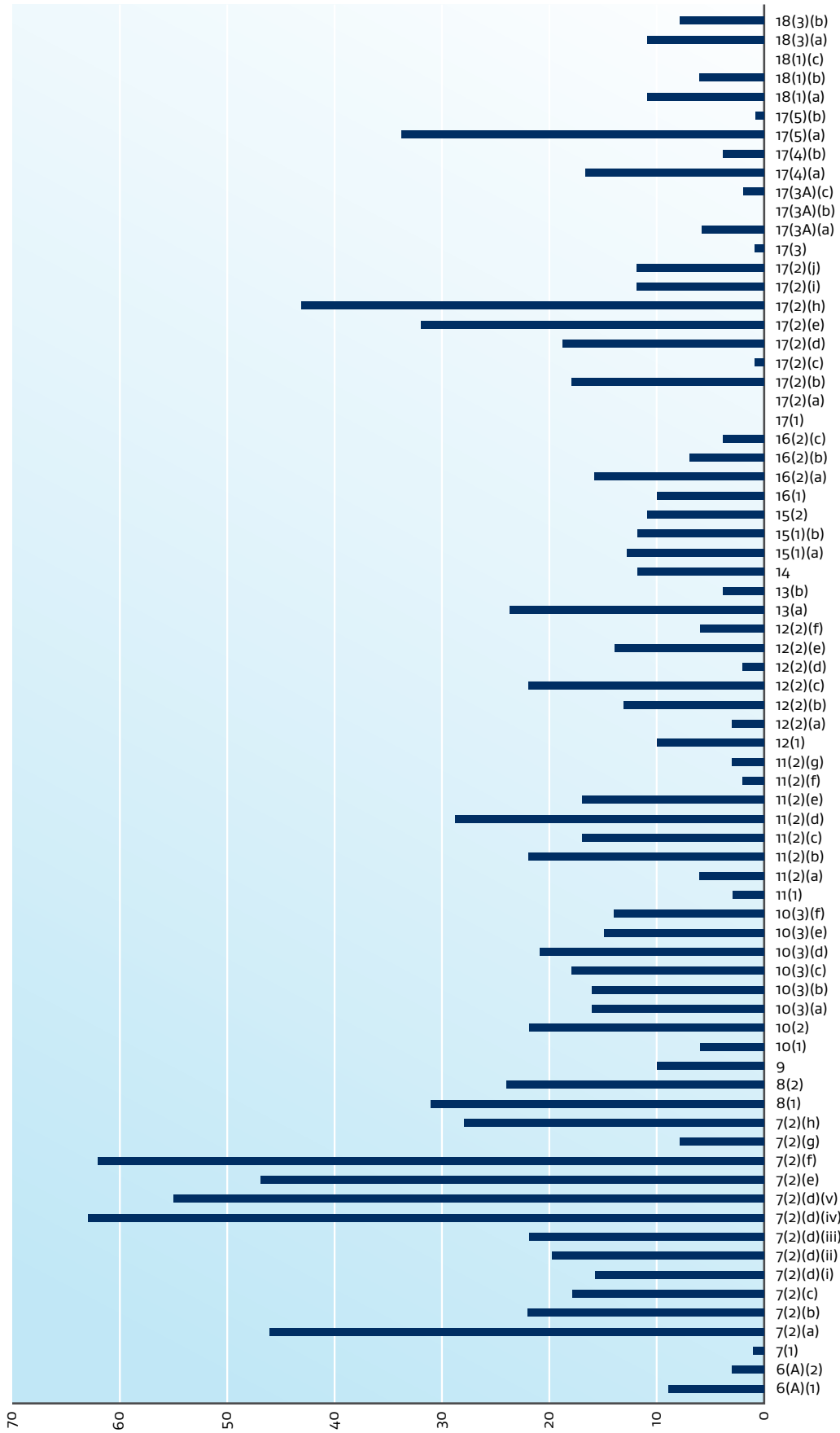
Acknowledgements

MBIE commends all BCAs and AOBs on their efforts to quickly adopt the new guidance and thanks them for their hospitality in accommodating MBIE observers during the latest round of assessments. MBIE would also like to thank IANZ for its hard work and care in carrying out these assessments and its willingness to work closely alongside MBIE observers to ensure the intent of the scheme is met.

Appendix 1: graphic summary of findings

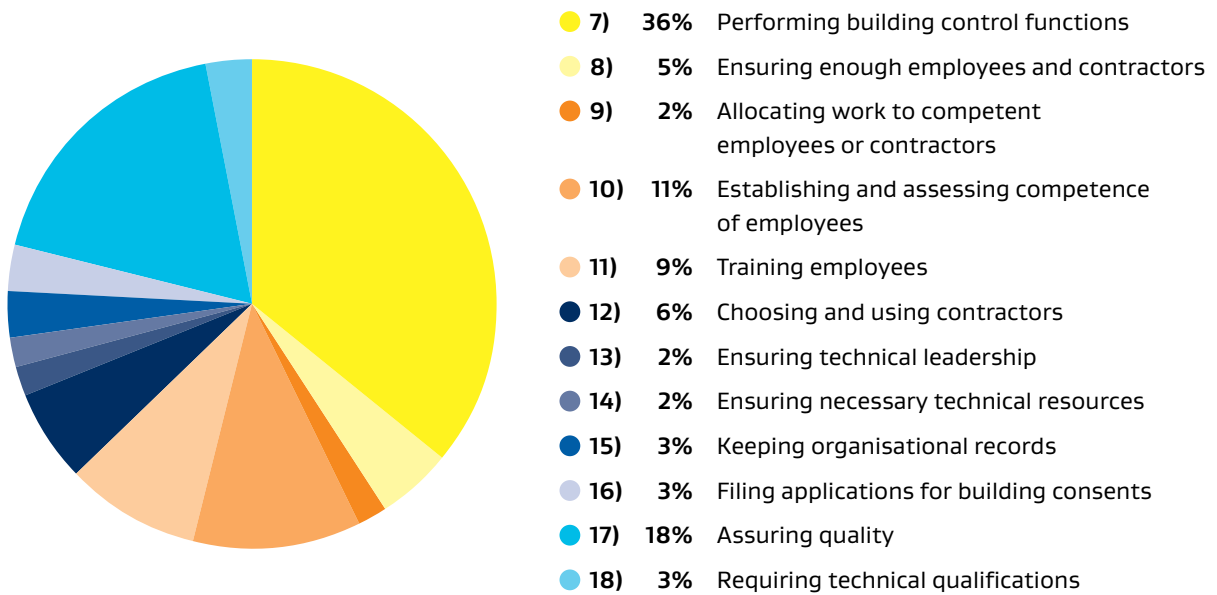


Number of non-compliances by regulation* 1 July 2017–30 June 2019



*With the exception of regulation 5(a), (b), (c) and regulation 6(b), (c), (d) which are not counted in the total number of non-compliances for each assessment.

Proportion of non-compliances by regulation



Appendix 2: post-accreditation survey – broad findings

MBIE surveyed all BCAs and AOBs who completed their accreditation assessments between 1 July 2017 and 30 May 2019

59/74

organisations completed this survey

Overall, the amended scheme and guidance material has been well understood and received

98% of BCAs said they had a good or very good understanding of the scheme's purpose

Most respondents found MBIE's regulatory checklists very useful in helping them prepare for assessments

BCAs were less sure that the scheme supported them to align nationally, across a region, or a policy, procedure or system

Just one BCA said it was not clear what was required to meet the accreditation regulations



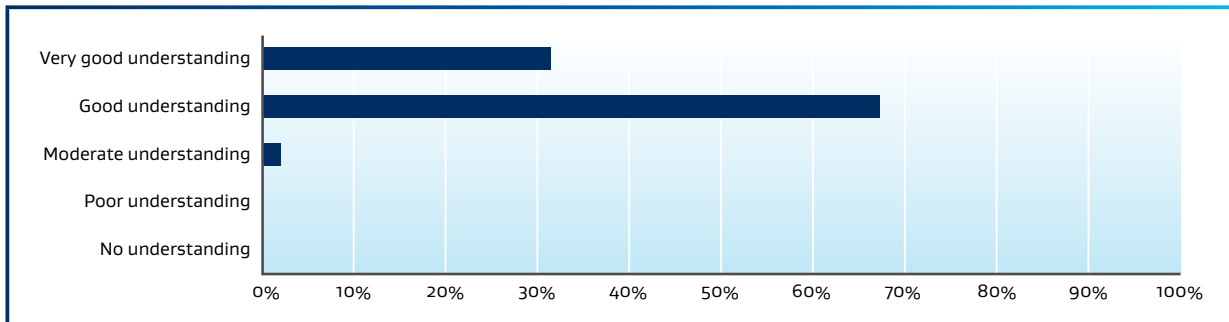
Some of the responses to survey questions are shown on the following pages

All findings and comments from this survey will be used to help inform improvements to the scheme and guidance

Appendix 3: Sample of responses from BCA accreditation survey questions

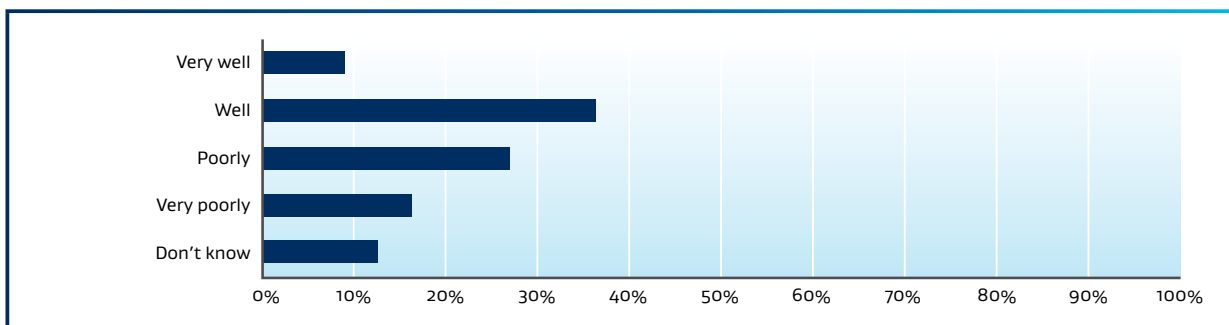
Q7: Which of the following best described your understanding of the purpose of the BCA accreditation scheme?

Answered: 57 Skipped: 2



Q13: How well does the BCA accreditation scheme support BCAs to align nationally, across a region or a policy, procedure or system?

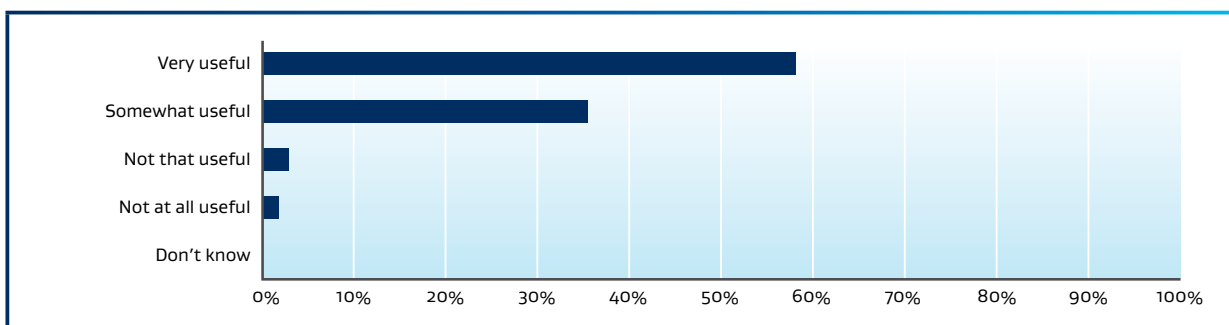
Answered: 56 Skipped: 3



Usefulness of MBIE's online guidance and checklists

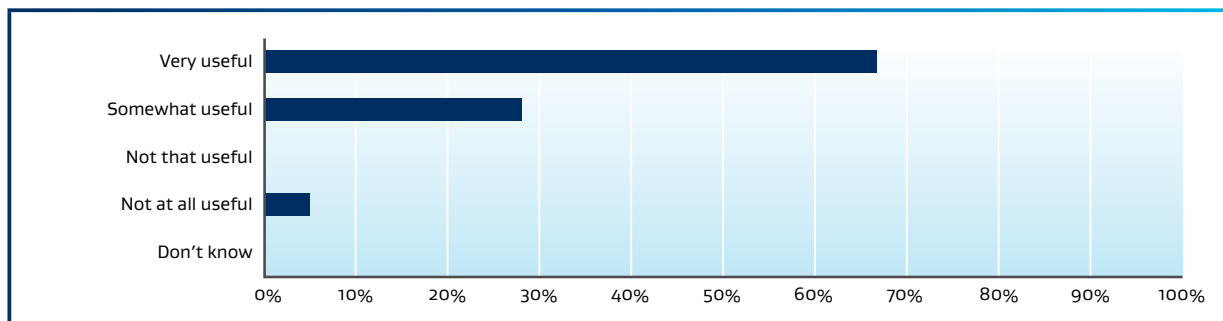
Q14: Detailed regulatory guidance for the BCA accreditation scheme is provided on the building.govt.nz website. Please rate how useful this guidance is for helping you understand the regulatory requirements of the scheme.

Answered: 55 Skipped: 4



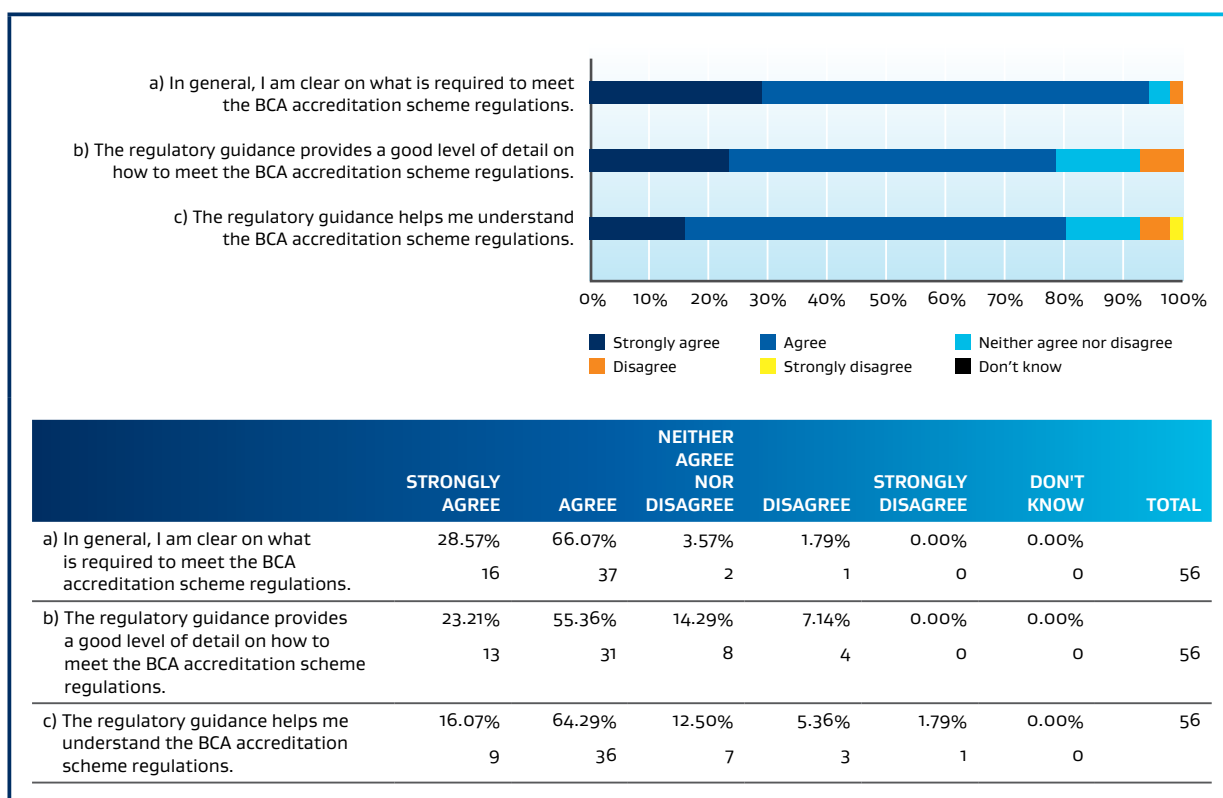
Q15: MBIE’s regulatory guidance for BCA accreditation includes checklists that a BCA can use to undertake self-assessment of their policies, procedures and systems. Please rate how useful the checklists are for helping you prepare for the accreditation assessment.

Answered: 56 Skipped: 3



Q16. Please rate agreement with the following statements (about the guidance and what is required to meet the Regulations).

Answered: 56 Skipped: 3

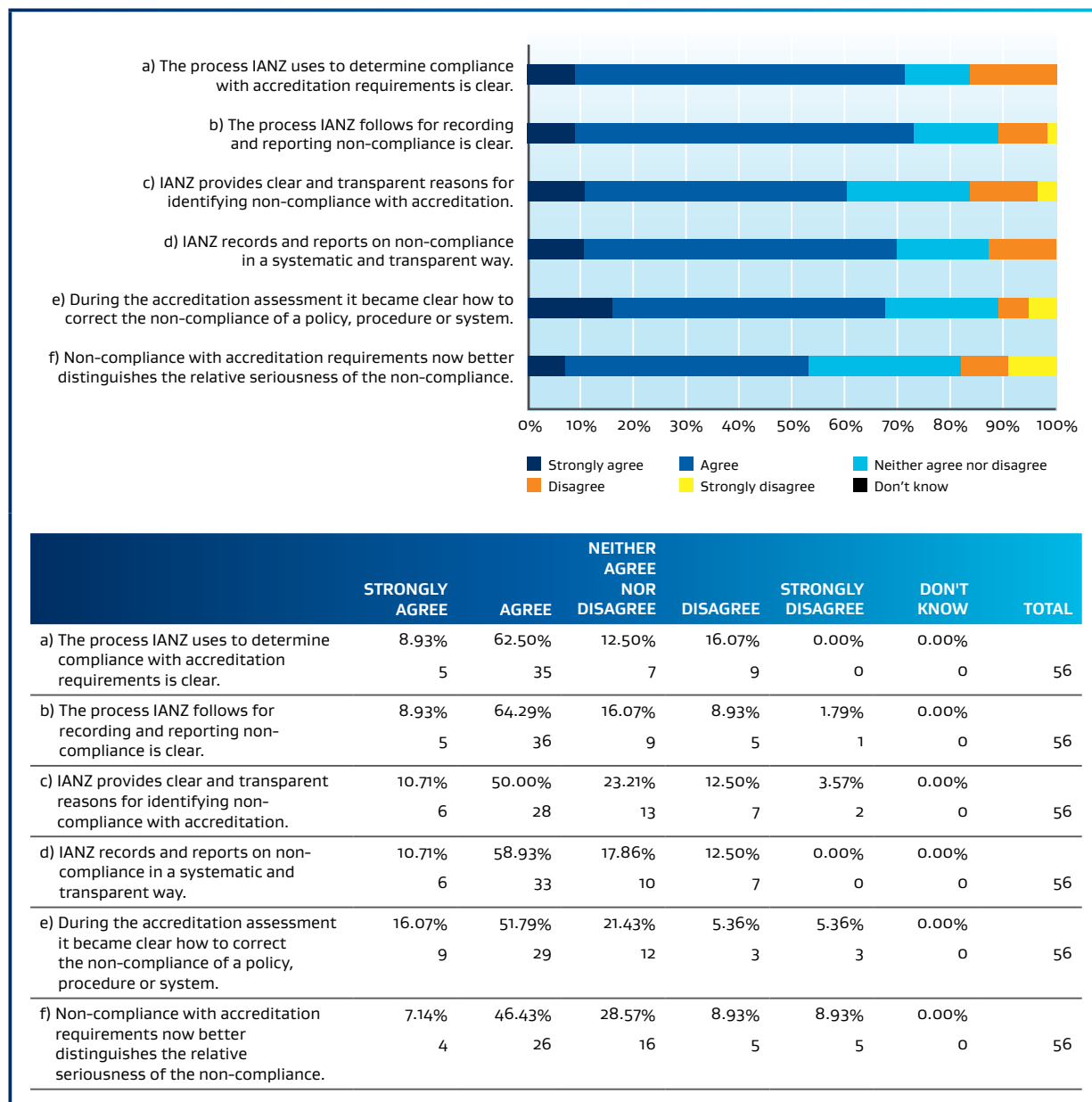


	STRONGLY AGREE	AGREE	NEITHER AGREE NOR DISAGREE	DISAGREE	STRONGLY DISAGREE	DON'T KNOW	TOTAL
a) In general, I am clear on what is required to meet the BCA accreditation scheme regulations.	28.57% 16	66.07% 37	3.57% 2	1.79% 1	0.00% 0	0.00% 0	56
b) The regulatory guidance provides a good level of detail on how to meet the BCA accreditation scheme regulations.	23.21% 13	55.36% 31	14.29% 8	7.14% 4	0.00% 0	0.00% 0	56
c) The regulatory guidance helps me understand the BCA accreditation scheme regulations.	16.07% 9	64.29% 36	12.50% 7	5.36% 3	1.79% 1	0.00% 0	56

Feedback on the assessments

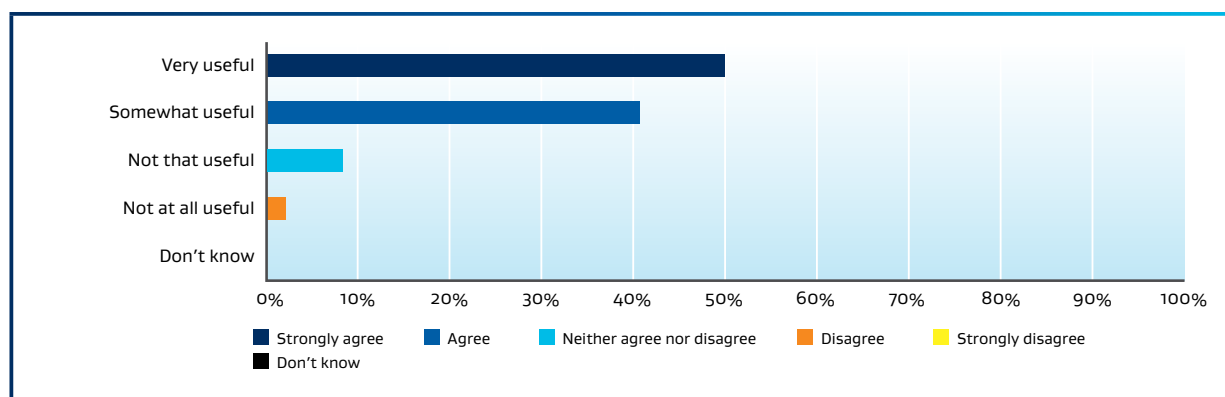
Q18. Please rate how much you agree or disagree with the following statements about your recent accreditation assessment.

Answered: 56 Skipped: 3



Q20. Please rate how useful the accreditation assessment report is for monitoring your performance and compliance with accreditation requirements.

Answered: 56 Skipped: 3

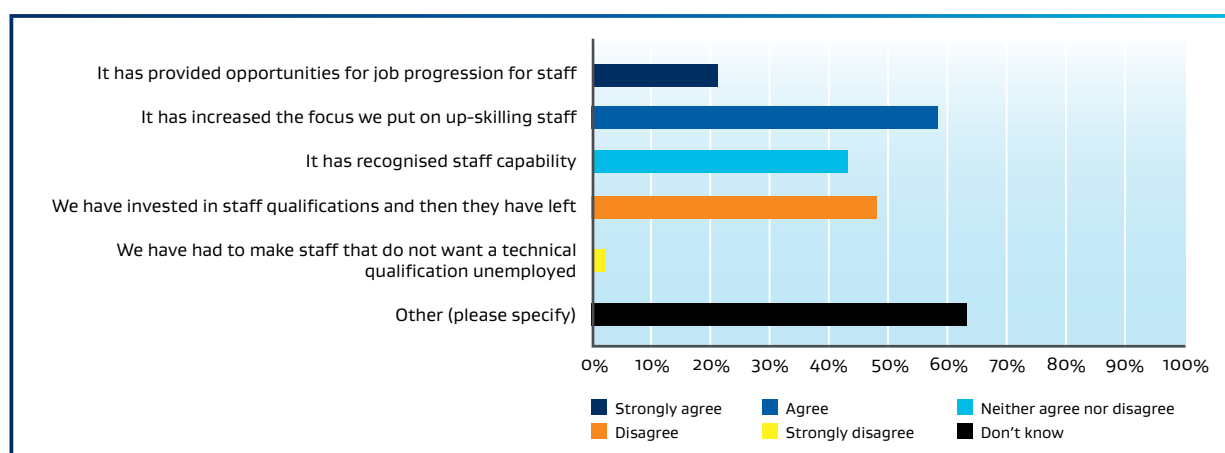


The written responses to this questions included:

- › Some of the descriptions of non-compliance were vague, and would have been more helpful with actual reference to a particular example.
- › The auditors need a reality check about customer focus in a local government environment. They see our role to be all about “ control” and anything that doesnt constitute “ control “ is a black mark. I had a dialogue with our auditor on this during the latest assessment but they were totally unmoveable on this. They need to focus on relative risk not all risk being at the same level, and have some flexibility around the customer interface.
- › Report needs to be more direct on required actions.
- › Discussion during the assessment is of greater value.
- › For the third time now we have had to question the IANZ report and basically “audit the auditors”, which I find to be concerning as this is a professional entity providing a quantified service to a govt. department, at a huge expense to a small BCA.
- › Clear and useful

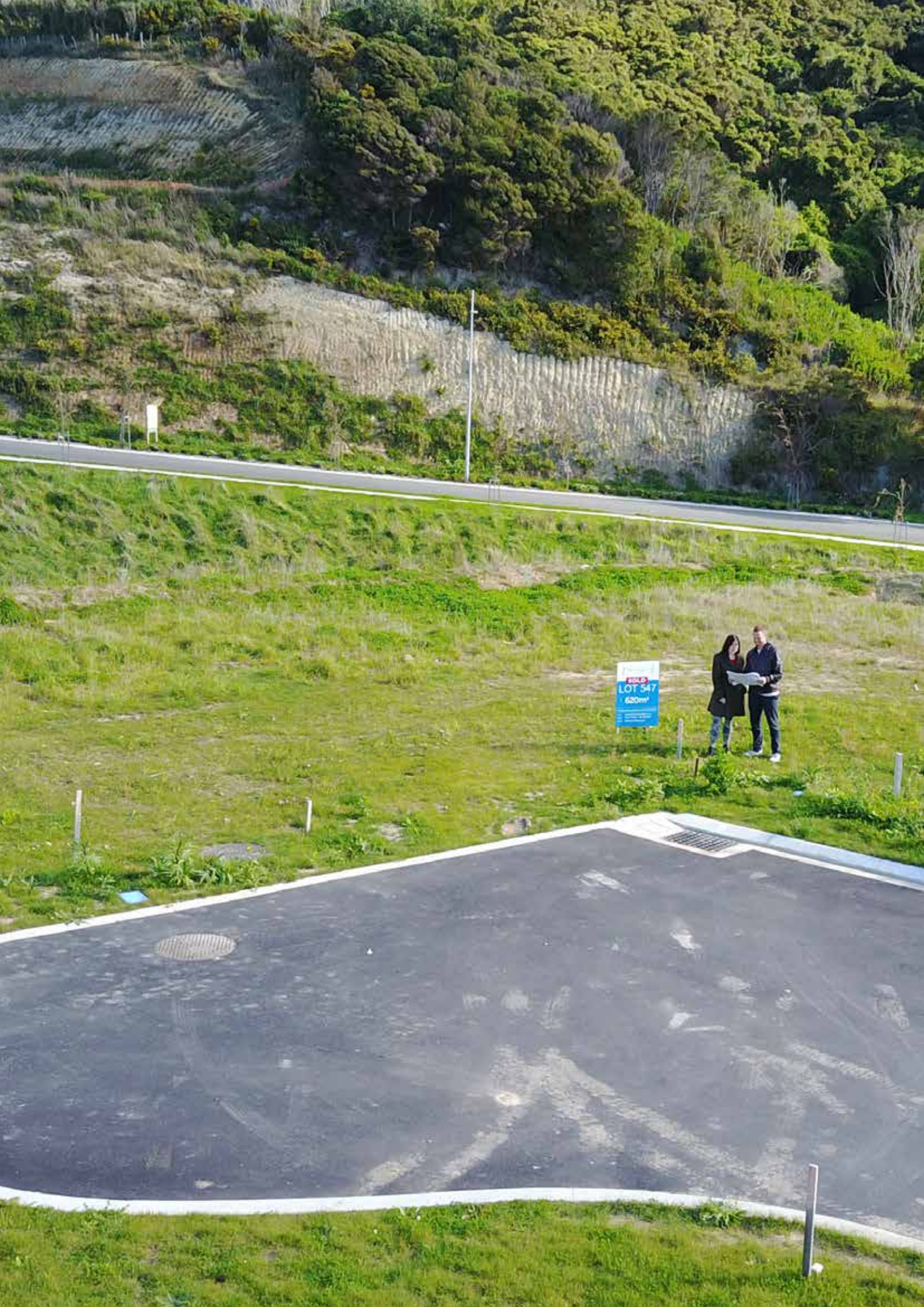
Q30. Please select from the following options how the requirement for all staff doing a technical job to have a technical qualification has impacted on your BCA: (please select all that apply)

Answered: 55 Skipped: 4



The written responses to this question included:

- › The requirement for BCA staff in a technical role to hold a recognised qualification has highlighted the importance of the work undertaken by BCOs. However this is still not adequately acknowledged by TAs in the salaries paid to BCOs
- › What is challenging for a lot of BCAs is the inability to use an assessment of prior learning as we all know that 80% of your learning is done in the role. A qualification doesn't always equate to competency so learning and qualifying through the assessment of prior learning is the most efficient way of meeting regulation 18.
- › It is a struggle to enrol staff into a qualification then have the time for them to attend it.



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