

# COMPLAINTS AND APPEAL PROCEDURE

## Policy

Smartlink Training (“Smartlink”) and any of its third-party providers who offer any service/s on behalf of Smartlink Training under the third-party arrangement agreement will take steps to ensure that all complaints and appeals are dealt in accordance with the principles of natural justice and procedural fairness as per this policy and procedure.

Natural Justice is concerned with ensuring procedural fairness:

- Decisions and processes should be free from bias.
- All parties have the right to be heard.
- The respondent has a right to know of what He / She is accused.
- All parties are told about the decision and the reasons for the decision.

We shall readily and openly receive, manage and respond to allegations involving the conduct of:

- Our business, trainers, assessors or other staff; or any third party provider providing services on our behalf, its trainers, assessors or other staff
- A learner of our RTO.

## Relevant Standards

Clauses 6.1 to 6.6

Clause 6.1 The RTO has a complaints policy to manage and respond to allegations involving the conduct of:

- a) the RTO, its trainers, assessors or other staff
- b) a third party providing services on the RTO's behalf, its trainers, assessors or other staff
- c) a learner of the RTO.

Clause 6.2

The RTO has an appeals policy to manage requests for a review of decisions, including assessment decisions, made by the RTO or a third party providing services on the RTO's behalf.

Clause 6.3

The RTO's complaints policy and appeals policy:

- a) ensure the principles of natural justice and procedural fairness are adopted at every stage of the complaint and appeal process
- b) are publicly available
- c) set out the procedure for making a complaint or requesting an appeal
- d) ensure complaints and requests for an appeal are acknowledged in writing and finalised as soon as practicable
- e) provide for review by an appropriate party independent of the RTO and the complainant or appellant, at the request of the individual making the complaint or appeal, if the processes fail to resolve the complaint or appeal.

Clause 6.4

Where the RTO considers more than 60 calendar days are required to process and finalise the complaint or appeal, the RTO:

- a) informs the complainant or appellant in writing, including reasons why more than 60 calendar days are required
- b) regularly updates the complainant or appellant on the progress of the matter.

Clause 6.5

The RTO:

- a) securely maintains records of all complaints and appeals and their outcomes
- b) identifies potential causes of complaints and appeals and takes appropriate corrective action to eliminate or mitigate the likelihood of reoccurrence.

Clause 6.6

Where the RTO is an employer or a volunteer organisation whose learners solely consist of its employees or members, does not charge fees for the training or assessment, and does not have in place a specific complaints and appeals policy in accordance with clauses 6.1 and 6.2, the organisation has a complaints and appeals policy which is sufficiently broad to cover the services provided by the RTO.

# COMPLAINTS AND APPEAL PROCEDURE

## DEFINITIONS

### **INFORMAL COMPLAINT**

A matter which has a minor impact on the services provided by our business, for which the complainant does not feel require significant action to resolve i.e. the air conditioning is too cold or not working.

### **FORMAL COMPLAINT**

A matter which has a medium to significant impact on the services provided by our business, for which the complainant feels will require significant action to resolve and will severely impact on their training and its outcomes

### **APPEAL**

An appeal is a request for the review of a decision including:

- Assessment decisions made by our trainers/assessors; or a third party providing services on our behalf or
- Suspension or exclusion from our training.

## GENERAL PRINCIPLES

- The Appellant and Respondent will have an opportunity to present their case to the CEO.
- The Appellant and Respondent have the option of being accompanied or assisted by a third party (such as a family member, friend or counsellor) if they so desire
- The Appellant and the Respondent will not be discriminated against or victimised

## GENERAL PROCEDURE

- This complaints and appeals policy and procedure is publicly available to all interested parties in the student pre-enrolment information package (including all third party providers who may deliver a service/s on behalf of Smartlink Training under the third party arrangement agreement), downloaded from Smartlink Training's website or by contacting the office via phone or email.
- Any complainant who wishes to raise a complaint/appeal must first read and follow this complaints and appeals policy and procedure as per Smartlink Training's RTO policies and procedures before making a complaint about us to ASQA.
- We shall resolve all complaints and appeals in a fair, effective, transparent and efficient manner to ensure minimum of disruption to our business without detriment to the Learner or complainant.
- We shall ensure that the decision maker is independent of the decision being reviewed.
- We shall not exclude any person from training for which they have paid while we investigate and respond to a complaint or appeal lodged by them or on their behalf.
- We shall not subject a complainant or appellant to any harassment, coercion or other derogatory action while we investigate and respond to a complaint or appeal lodged by them or on their behalf.
- We shall not charge a fee for the investigation and response to any complaint or appeal.
- However if an outcome will incur a cost to our business, the CEO is to be notified for the expenditure to be approved and actioned.
- All staff handling complaints and appeals will be trained regularly on an ongoing basis and will treat all information as confidential and respect all parties.
- Any complaint or appeal which contains threats of violence or clearly identifies a breach of Australian Laws shall be deemed non - complying and will not be considered under the terms of this procedure. Further such threats or breach of Australian Law shall be reported to the most appropriate law enforcement agency.

**Please note:** This complaints and appeals procedure, does not remove the right of a student to take action under Australia's consumer protection laws.

## COMPLAINTS AND APPEAL PROCEDURE

### INFORMAL COMPLAINTS AND APPEALS (Level of Authority)

- Due to the nature and possible outcomes of informal complaints and appeals, the authority to deal with informal complaints and appeals is any person be it a trainer, assessor or other staff member.
- It is generally expected and accepted that informal complaints and their outcomes will not be recorded. However the CEO will be informed of all informal complaints and appeals and their outcome.

### INFORMAL PROCEDURE

- The trainer, assessor or other staff member receiving an informal complaint will make all efforts to address the concerns of the learner or complainant through an informal exchange of information, with a view to clarifying and understanding the nature of the complaint and attempting to resolve the issues presented.
- Once the nature of the complaint is found the trainer, assessor or other staff member is required to work with the learner or complainant to close the complaint with an agreed outcome within fourteen (14) working days.
- All informal complaints to be finalised within fourteen (14) working days, if the matter is still unresolved then the complainant will be informed accordingly and any additional days required to resolve the issue will need to be approved by the CEO.

### FORMAL COMPLAINTS AND APPEALS (Level of Authority)

- Due to the nature and possible outcomes on our business the authority to deal with formal complaints and appeals lies with the CEO.

### FORMAL COMPLAINT AND APPEAL PROCEDURE

The learner or complainant will:

- Be required to submit their formal complaint or appeal in writing and submit to administration;
- Have an opportunity to present their case
- Have the option of being accompanied or assisted by a third party (such as a family member, friend or counsellor) if they so desire.
- Once the formal complaint/appeal form has been lodged in writing and received by administration then it will be forwarded to the CEO.
- The CEO will review the complaint/appeal form and conduct the required investigation to assess the situation/circumstances as applicable, before contacting the complainant via phone and in writing within fourteen days to acknowledge the receipt of the form and to discuss suitable options to scheduling a meeting.
- Based on the discussion with the complainant the CEO will decide the best course of action to resolve the matter and will record this on the form under the actions to be taken section to implement the suitable corrective action.
- CEO will conduct all necessary consultations with the complainant, respondent and any other relevant person/s including any third party provider/s and their respective staff who deliver a service on behalf of Smartlink to make a determination.
- The required actions will be implemented based on the agreed timeframes and the completed complaints and appeals form will be filed and stored securely as per privacy and confidentiality requirements for six months and then scanned and archived for audit purposes.
- The CEO will notify the complainant in writing to confirm that the complaints/appeals has been dealt with as per the agreed outcome.
- The CEO will then update the complaints and appeals register to record actions taken to resolve the issue which is reviewed regularly to identify any areas that need to be addressed as a part of continuous improvement by implementing preventive actions.
- All formal complaints and appeals will be managed within twenty one (21) working days by the CEO, unless exceptional circumstances arise that may prevent it. If this happens then the CEO will record the relevant outcome on the complaints/appeals form by selecting the most applicable outcome at the time (not resolved, pending, needs further action) and specify the reasons in the comments/notes section for future reference.
- All written complaints and appeals including reviews are to be finalised within 60 calendar days of the date of the complaint or appeal received. In circumstances where we consider more than 60 calendar days are required to process and finalise the complaint or appeal, we will:

## COMPLAINTS AND APPEAL PROCEDURE

- Inform the complainant or appellant in writing, including reasons why more than 60 calendar days are required; and
- Regularly update the complainant or appellant on the progress of the matter.
- If the complainant is not satisfied with the outcome, then they must advise in writing that they are not satisfied with outcome and that they are escalating the matter to an external independent mediation service provider to review as a third party.
- They can request mediation through the National Training Complaints Hotline on <https://www.dese.gov.au/national-training-complaints-hotline/national-training-and-complaints-hotline-complaints-form> or by contacting them on 13 38 73.

### INDEPENDENT MEDIATION SERVICES

Should you decide to escalate a complaint or appeal, you are free to engage a mediation service. To assist you in this we have found the following mediation services:

1. Dispute Resolution and Mediation Services NSW (02) 9948 4423
2. Community Justice Centres 1800 990 777
3. Anderson Law and Mediation Services (02) 4925 6126

**Note:** We have no affiliation or connection with these services. Please note that these external independent mediation providers or any other mediation service you may choose may charge you for their services. Hence you should confirm this prior to engaging any of their services. Smartlink Training and any of its third party providers are not liable to pay for these additional services.

### EVIDENCE

- Complaints and Appeals Policy and Procedure
- Complaints Form
- Complaints Register
- Pre-Enrolment Information Package
- Smartlink Website
- Third party documentation