

## RTO Complaints and Appeals

RTOs are required to have accessible, efficient, effective and fair processes to manage and respond to both complaints and requests for appeals of decisions. This Fact Sheet considers these two processes and suggests strategies to reduce the likelihood of complaints and appeals.

### RTO Complaints and Appeals Explained:

**Appeals** are requests for review of decisions made by the RTO. These decisions could involve assessments, progression to further training, enrolment or access to support services.

**Complaints** are allegations made by a learner or client that relate to the conduct of an RTO, its staff, a third party offering services on its behalf, or other learners.

In either situation the principles of natural justice and procedural fairness must apply. These principles are that all parties to the complaint or appeal must have full access to the relevant evidence and must have the right to a personal hearing. Those conducting the review and deciding the outcome must be free of bias and not be directly connected to the circumstances of the complaint or appeal, and the ultimate decision must be based on clear logic based on evidence that is relevant, sufficient, current and authentic. There may be circumstances where the complaint or appeal would need to be heard by a person not associated with the RTO in order to ensure that they are not directly involved in the original incident or decision.

The complaints and appeals procedures must be prompt, publically available (such as being available on the RTO's website, or in a reception or common area), clearly defined and fully documented, and must be used to identify actions that could be taken to reduce the likelihood of reoccurrence.

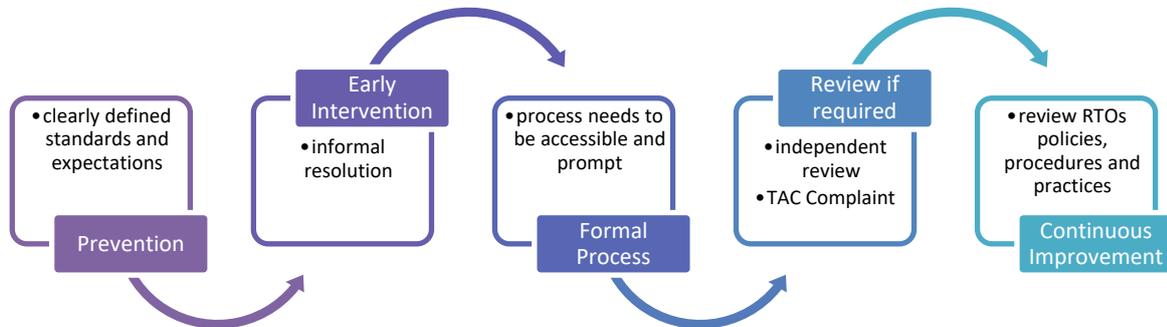
### Common misunderstandings, challenges, risks and compliance issues

It is not a comfortable feeling to have to respond to allegations of unfair decisions. For this reason complaints and appeals policy and procedures are often hidden away. It is crucial that these policies and procedures are publically available and understood so that individuals can see that they have the right to a fair training and assessment experience, and that the RTO sees these processes as an opportunity for review and improvement.

Other problems could include: processes that are too slow and drawn out; processes that are heavy-handed and threatening; processes that are secretive and deny the applicant the right to be heard or to see the evidence against them; and processes that are not impartial. Complaints and appeals processes with these characteristics deny natural justice and

discourage access to the right of protection.

## Suggestions for good practice



### Prevention

The best remedy for complaints and appeals is prevention, which relies on clearly defined standards and expectations. To prevent behaviour that might be the basis for a complaint, the RTO would benefit from the publication of a clear and comprehensive code of conduct for all parties (RTO staff and learners) that is followed and applied.

In the case of appeals, the basis of decisions needs to be clearly defined (eg by flow charts) and adhered to. In the particular case of assessment decisions, there needs to be a clear relationship between the competencies to be demonstrated, the assessment evidence (the Rules of Evidence) and the assessment judgement (the Principles of Assessment). Where a learner is confident that a decision is fair because they understand and accept the basis of the decision, an appeal becomes less likely.



### Early Intervention

The next best remedy for appeals and complaints is early intervention. Potential appellants and complainants should be

encouraged to seek resolution with the other party before the issue escalates. In many cases the problem can be quickly resolved to the satisfaction of both parties before the formal complaints and appeals process needs to be invoked.

In the event that an informal process cannot be pursued, then the publicly available formal process needs to commence. This process needs to be accessible and prompt and must reflect the principles of natural justice and procedural fairness as described above.

In particular the procedure must ensure that:

- there are no barriers to an individual lodging an appeal or complaint (e.g. overly complex forms);
- the individuals have full access to the relevant evidence;
- all parties involved have the opportunity to be personally heard;
- the situation is reviewed by an impartial person who was not involved in the original issue;
- the review is evidence-based, defensible and transparent; and
- the complaint or appeal is resolved within a reasonable timeframe.



## Formal Process

There is no set complaints or appeals process for an RTO to follow, but RTOs must have a policy that is known to its learners and clients that complies with Standard 6. This includes ensuring that:

- complaints and appeals are acknowledged in writing;
- complaints and appeals are finalised as soon as practicable;
- appeals and complaints are resolved in less than 60 days unless reasons are given by the RTO in writing for a longer process; and
- the progress of the complaint or appeal is regularly reported to the complainant or appellant in writing.

In general, complaints should be pursued through the RTO and its complaints and appeals process before making a complaint to TAC.



## Review if Required

It is also important that the RTO's formal process allows for:

- the complainant or appellant to request a review by a party independent of the RTO should the processes fail to resolve the issue;
- disclosure of any costs associated with a third-party review in the policy, so all parties are aware of any financial obligations associated with involving a third party; and

- the complainant or appellant to be advised of their right to seek redress through TAC in the event that they are not satisfied with the process followed by the RTO or the resolution of the issue.



## Continuous Improvement

The RTO is obliged to securely maintain evidence of all complaints and appeals and their outcomes as a minimum level of documentation (Clause 6.4). RTOs should consider keeping further records regarding the investigation to enable them to identify the cause for the complaint/appeal and take steps to minimise the chances of the issue occurring again.

Complaints and appeals may indicate that there is a need for the RTO to review its policies, procedures and practices. The process should contribute constructively to the RTO's continuous improvement process.

It is noted in Clause 6.6 that if the RTO is an employer or volunteer organisation whose learners solely consist of employees or members, does not charge fees for its training and/or assessment services and does not have its own appeals and complaints policy, it can use the organisation's complaints and appeals policy if it is sufficiently broad to cover the RTO's services. In this event, it would be expected that the organisation's appeals and complaints policy would comply with Clauses 6.3, 6.4 and 6.5.