

**APPEALS POLICY**

NUMBER	: POL007_12	PAGES	: 8
VERSION	: V5.0	CREATED	: 08/04/2012
		LAST MODIFIED	: 12/10/2017
		REVISION DATE	: 12/10/2018
DOCUMENTS	: Complaint/Appeal Report Form Complaint /Appeal Register Complaint/Appeal Schematic		
REFERENCES	: Access, Equity & Fairness Policy Student Handbook Appeal Policy Privacy Policy Records Management Policy		
AUTHORISED	:	DATE	:
	_____		_____
	CEO		

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### PURPOSE

It is the purpose of this policy to ensure that *MTC Training* stakeholders and in particular employees and students are aware of the appeals process and the rights and responsibilities afforded to everyone.

### POLICY

It is the policy of *MTC Training* to manage its process in a fair and equitable manner that ensures all stakeholders are provided with a timely and transparent framework to lodge appeals.

*MTC Training* provides a process for advocacy, internal mediation and external independent mediation to resolve disputes and appeals.

A stakeholder and/or *MTC Training* may nominate;

- an advocate to accompany, represent and support them
- or
- an external independent mediation process

at any stage of the appeal process.

*MTC Training* commits to an appeal process with the following guiding principles:

#### 1. **Principles of Natural Justice and Procedural Fairness**

Complaints and appeals lodged by individuals will be dealt with according to the principles of fairness and natural justice. *MTC Training* will inform those involved of the appeal, give those involved adequate opportunity to present their case (the fair hearing rule) and will make a decision free from actual or apprehended bias (unbiased decision-maker). The decision that is eventually made will be based on logical evidence (proven on the balance of probabilities – that is, the alleged behaviour is more likely to have occurred than not). *MTC Training* adopts the principles of natural Justice and procedural fairness at every stage of the complaint and appeal process.

#### 2. **Confidentiality**

Only the parties directly involved in lodging or investigating or mediating an appeal will have access to information about the appeal.

Discussion of the matter by parties to the appeal with other *MTC Training* stakeholders, or other parties either internal or external is not permitted and will breach Privacy Principles. Such discussion may also hamper the effectiveness of the process.

#### 3. **Impartiality**

All parties will be provided with equal opportunity for discussion and response. No assumptions will be made and no action will be taken until all relevant information has been collected and considered.

## POLICY & PROCEDURE

*MTC Training* reserves the right to seek expert advice as to the appropriate action to be taken in regards to the outcome of an investigation.

Stakeholders may have an advocate present throughout the process.

### 4. Free from Repercussions

No action will be taken against any individual or entity for lodging a bona fide appeal or assisting someone to lodge or manage a bona fide appeal.

*MTC Training* will take all necessary steps to ensure that victimisation does not occur against anyone who lodges or is involved in a bona fide appeal.

*MTC Training* reserves the right to take appropriate action against an individual or entity that lodges a Frivolous or Malicious appeal, or knowingly lodges a false appeal.

### 5. Timely & Transparent

All appeals will be dealt with as quickly and transparently as possible.

## SCOPE

This policy encompasses:

- current and past students;
- student candidates;
- employees;
- contractors;
- suppliers and providers;
- members of the public;
- third party;
- regulatory authorities.

This policy does not cover complaints. Please refer Complaint Process.

## DEFINITION

Advocate	- Individual who accompanies an appellant for the purposes of support throughout the process. An advocate for the purposes of this policy does not include Legal Representation.
Appeal	- An appeal arises when a stakeholder is not satisfied with a decision taken by <i>MTC Training</i> .
Appeal Event	- Actual instance of decision that occurred for which the appeals being lodged.

## POLICY & PROCEDURE

- Complaint/Appeal Committee - A number of persons nominated by the CEO to review decisions that an Appellant does not accept as satisfactory.
- Appellant - Person or entity that lodges an appeal.
- Contractor - Individual or entity engaged by *MTC Training* under contract to deliver specified work on its behalf e.g. Sessional trainer/assessor.
- MTC Training* Representative - For the purposes of the Appeal Process this will normally be the RTO Manager or their delegate.
- Employee - Person employed by *MTC Training* on a full or part time or casual basis. Does not include Contractors.
- Frivolous Appeal - Fictitious appeal or one made intentionally without foundation or to cause detriment or mischief. Knowingly lodging a false appeal. (without truth or foundation).
- Legal Representation - A lawyer or similar who is engaged by the appellant or *MTC Training* to represent them in a formal and legal process which may be initiated if the appeal process including external mediation fails.
- Malicious Appeal - Fictitious appeal or one made intentionally without foundation or to cause detriment or mischief. Knowingly lodging a false appeal (without truth or foundation).
- Mediation Event - Meeting, intervention or other event specifically designed and arranged with the goal of a satisfactory outcome.
- Non Employee Stakeholder - Individual or Entity who is not legally employed by *MTC Training* e.g. Supplier, Contractor, Regulatory Authority.
- Parties to the Appeal - All individuals and/or entities who are directly involved in lodging or investigating or mediating an appeal.
- Stakeholder - General term inclusive of any individual or entity with whom *MTC Training* has a relationship including but not limited to employees, students, contractors and suppliers.
- Zero Tolerance - *MTC Training* will not under any circumstances tolerate behaviours that breach the fundamental principles of access, equity and fairness. *MTC Training* will take action against any individual or group of individuals proven to have breached these principles and that action may be to the extent of termination of employment or contract or removal of students from hosting.

### PROCEDURE

#### ***Documentation***

The process must:

- be documented at each step using the Complaint/Appeal Report Form;
- registered in the Complaint/Appeal Register;
- ensure that all parties receive hardcopy of the record within 5 working days of the completion of each step.

#### ***Appellant Support***

If for whatever reason the stakeholder is unable to undertake any of the following steps, they should speak with a senior staff member with whom they are most comfortable.

NB: The stakeholder is encouraged, at any stage of the process, to invite an advocate or support person to participate.

*MTC Training* will provide assistance throughout the process.

#### ***Appeal Process***

The process will be:

##### Step 1

1. Appellant lodges a verbal or written appeal to *MTC Training* within ten working days of the date of the decision. *Note: **all** verbal appeals (telephone or face to face) must also be formalised in writing within the same ten working day period; *MTC Training* will acknowledge the appeal in writing and confirm the appeal process.*
2. Within 5 working days of receipt of the appeal a meeting will be arranged with *MTC Training* representative at which the *MTC Training* representative will:
  - discuss the with the Appellant and attempt to resolve the issue;
  - document the meeting using the Complaint/Appeal Form and register the Appeal in the Complaint/Appeal Register.
3. Within 5 working days of the meeting *MTC Training* representative will inform the Appellant of their decision. The decision may be given verbally or in writing, however, written notification within the specified 5 working days of the decision must be provided to the Appellant confirming verbal advice.

##### Step 2

4. If the Appellant is dissatisfied with the decision, they may make an appeal to the *MTC Training* Complaint/Appeal Committee. This appeal must be in writing clearly stating the reasons why the Appellant is dissatisfied with the decision and lodged with 5 working days of receipt of the decision.

## POLICY & PROCEDURE

5. The Complaint/Appeal Committee will meet with both the *MTC Training* representative and the Appellant within 5 working days of receiving the appeal notice. The meeting is to be documented.
6. Within 5 working days of the meeting the Complaint/Appeal Committee will inform the Appellant of their decision to either uphold or set aside the *MTC Training* representative's initial decision. The decision may be given verbally or in writing, however, written notification within the specified 5 working days of the decision must be provided to the Appellant confirming verbal advice.

### Step 3

7. If the Appellant is dissatisfied with the decision, they may make an appeal to the CEO. This appeal must be in writing clearly stating the reasons why the Appellant is dissatisfied with the decision and lodged with 5 working days of receipt of the decision.
8. The CEO will review the Complaint/Appeal Committee's decision and will meet with both the *MTC Training* representative and the Appellant within 5 working days of receiving the appeal notice. The meeting is to be documented.
9. Within 5 working days of the meeting the CEO will inform the Appellant of their decision to either uphold or set aside the *MTC* representative's initial decision and/or that of the Complaint/Appeal Committee. The decision may be given verbally or in writing, however, written notification within the specified 5 working days of the decision must be provided to the Appellant confirming verbal advice.

### Step 4

10. If the Appellant is dissatisfied with the CEO's decision, they may make an appeal to Catholic Education. This appeal must be in writing clearly stating the reasons why the Appellant is dissatisfied with the decision and lodged with 5 working days of receipt of the decision.
11. Catholic Education will review the complete history of the decision and will meet with both the *MTC Training* representative and the Appellant within 20 working days of receiving the appeal notice. The meeting is to be documented.
12. Within 10 working days of the meeting the Catholic Education will inform the Appellant of their decision to either uphold or set aside the *MTC Training's* decision. The decision may be given verbally or in writing, however, written notification within the specified 5 working days of the decision must be provided to the Appellant confirming verbal advice.

### Step 5

13. If the Appellant remains dissatisfied with the decision or they consider that the appeals process was unsatisfactory they may:
  - a. request that an external mediator agreeable to all parties be engaged.

## POLICY & PROCEDURE

b. contact:

- Training Advocate 1800 006 488
- The National Training Complaints Hotline –  
Phone - 13 38 73 – Monday-Friday, 8am to 6pm nationally  
Email – [skilling@education.gov.au](mailto:skilling@education.gov.au)
- Australian Skills Quality Authority  
<http://asqa.gov.au/forms.html#complaintforms>
- Office of Consumer & Business Affairs 13 18 82
- Safe Work SA 1300 365 255
- Fairwork Ombudsman – 13 13 94
- Union Representative
- Access Counselling: 45 Wakefield Street, Adelaide SA 5000  
Phone – (08) 8210 8102 Free Call – 1300 66 77 00  
Fax – (08) 8232 8920 Email – [enquiries@accesssa.com.au](mailto:enquiries@accesssa.com.au)  
(MTC Training will absorb any costs of counselling services)
- Young Workers Legal Service – (08) 8279 2233 (free of charge service)

### ***Unsuccessful Appeal Process***

If all MTC Training avenues of appeal process are not successful the MTC Training Complaint/Appeal Committee should advise in writing:

- the appellant of their right to seek:
  - Australian Appeals Tribunal (AAT) <http://www.aat.gov.au/ContactUs.htm>
  - or legal advice;
- the CEO of the appellant's intention to seek AAT or legal action.

All issue, negotiation/mediation, outcome details and agreements;

- are recorded in writing;
- a copy is provided to all parties within seven (7) days of completion of each event;
- are signed by all parties;
- a copy is filed in line with Privacy Principles;

## POLICY & PROCEDURE

- Complaint/Appeal Register is to be updated throughout and at the completion of the process;
- Complaint/Appeal Report Form is to be updated and copied to all parties throughout and at the completion of the process.

### COMPLAINT/APPEAL COMMITTEE MEMBERSHIP

The Appeal Committee will generally comprise three *MTC Training* representatives who are not parties to the Appeal.

Where an external mediator or specialist is required one *MTC Training* representative will step down in favour of the mediator or specialist.

### FRIVOLOUS OR MALICIOUS APPEALS

A 'Frivolous or Malicious Appeal' is a fictitious complaint or one made intentionally without foundation or to cause detriment or mischief.

*MTC Training* maintains a Zero Tolerance policy in regards to frivolous or malicious appeal.

Appellants found to have made a 'Frivolous or Malicious Appeal' will face disciplinary action and dependent upon the issue and results the consequences may include termination of employment or contract or expulsion from further studies.

### RESPONSIBILITY

#### ***Appellant***

It is the responsibility of the Appellant to ensure that they commence the appeal process within the specified period and that their appeal is supported with a genuine argument and/or evidence.

#### ***CEO***

It is the responsibility of *MTC Training* to ensure that the appeal process is open, fair and accurate at all times; well documented and that the Appellant signs off and is provided with a copy of each stage of the process.

### ACCESS

All *MTC Training* stakeholders have the right to access the appeal process and to be treated in a fair and equitable manner.

All parties to an Appeal have the right to access their records as per Records Management Policy.