

**COMPLAINT PROCESS**

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|            | : Disciplinary Process Employees   |               |              |
|            | : Student Handbook   |               |              |
|            | : Access & Equity  |               |              |
|            | : Appeal Policy  |               |              |
|            | : Children’s Protection Policy   |               |              |
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### PURPOSE

The purpose of this document is to give clear direction as to the responsibility and manner in which each employee and contractor is to conduct themselves if a complaint arises.

For the purpose of this document the term 'stakeholders' encompasses internal and external clients including but not limited to students, employees, contractors, industry representatives.

### POLICY

It is the policy of *MTC Training* that all stakeholders will be treated in a fair and equitable manner at all times.

It is the policy of *MTC Training* that all stakeholders will receive quality service at all times.

#### ***Guiding Principles***

MTC provides a process for advocacy, internal complaints and external independent mediation to resolve disputes and external formal concerns.

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 complaints process.

*MTC Training* commits to a complaints 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 allegations, 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. Completely Confidential**

Only the people directly involved in making or investigating a complaint will have access to information about the complaint.

Discussion of the matter with other *MTC Training* stakeholders, apart from the investigative discussion, may hamper the effectiveness of the process and will breach Privacy legislation and ethics.

## POLICY & PROCEDURE

### 3. **Impartial**

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

Stakeholders may be represented by an advocate or have a support person involved in the process.

It is the policy of *MTC Training* that all stakeholders will be treated in a fair and equitable manner at all times.

### 4. **Free from Repercussions**

No action will be taken against anyone for lodging a complaint or assisting someone to lodge or manage a complaint.

No action will be taken against anyone for complying with Mandated Notification requirements.

Management will take all necessary steps to ensure that victimisation does not occur against anyone who lodges or is involved in a complaint.

### 5. **Timely & Transparent**

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

### ***What is a “Complaint”?***

A complaint arises when a stakeholder is not satisfied with an aspect of *MTC Training* or their stakeholder’s services, behaviours or activities and requests action be taken to resolve the matter.

## **SCOPE**

This policy encompasses:

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

A complaint may include, but is not limited to:

- Course advice and enrolment
- Suspension and/or cancellation of enrolment

## POLICY & PROCEDURE

- Program delivery
- Marketing and promotional activity
- Personal safety
- Customer service and administration
- Issue of results, certificates, statement of attainment
- Learning resources
- Fees and charges
- Equity and access, discrimination, harassment and bullying

This policy does not cover Appeals. Please refer Appeals Process.

### DEFINITION

|                            |  |
|----------------------------|--|
| Advocate                   | - Individual who accompanies a Complainant 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> .  |
| Child Protection Officer   | - is the CEO.  |
| Complaint                  | - A complaint arises when a stakeholder is dissatisfied with or aggrieved by an action or event or thing under the control of or within the environment or activities of <i>MTC Training</i> . |
| Complaint Event            | - Actual instance that occurred for which the complaint is being lodged.   |
| Complaint/Appeal Committee | - A number of persons nominated by the CEO to review decisions that a Complainant does not accept as satisfactory.   |
| Complainant                | - Person or entity that lodges a complaint.  |
| Contractor                 | - Individual or entity engaged by <i>MTC Training</i> under contract to deliver specified work on its behalf e.g. Sessional trainer/assessor.  |
| MTC Representative         | - For the purposes of the Appeal Process this will normally be the CEO or their delegate.  |
| Employee                   | - Person employed by <i>MTC Training</i> on a full or part time or casual basis. Does not include Contractors.   |

## POLICY & PROCEDURE

|                          |  |
|--------------------------|--|
| Frivolous Complaint      | - Fictitious complaint or one made intentionally without foundation or to cause detriment or mischief. Knowingly lodging a false complaint (without truth or foundation).  |
| Legal Representation     | - A lawyer or similar who is engaged by the Complainant or <i>MTC Training</i> to represent them in a formal and legal process which may be initiated if the complaint process including external mediation fails.   |
| Malicious Complaint      | - Fictitious complaint or one made intentionally without foundation or to cause detriment or mischief. Knowingly lodging a false complaint (without truth or foundation).  |
| Mediation Event          | - Meeting, intervention or other event specifically designed and arranged with the intention of negotiating a solution.  |
| Non Employee Stakeholder | - Individual or Entity who is not legally employed by <i>MTC Training</i> e.g. Supplier, Contractor, Regulatory Authority, General Public, Third Party.  |
| Parties to the Complaint | - All individuals and/or entities who are directly involved in lodging or investigating or mediating a complaint.  |
| Stakeholder              | - General term inclusive of any individual or entity with whom <i>MTC Training</i> has a relationship including but not limited to employees, students, contractors and suppliers.   |
| Zero Tolerance           | - <i>MTC Training</i> will not under any circumstances tolerate or condone behaviours that breach the fundamental principles of access, equity and fairness. <i>MTC Training</i> 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

### ***Children***

Children will in the first instance be encouraged to address all complaints by verbally advising the staff member with whom they feel most comfortable doing so.

If the complaint relates to an allegation of abuse the staff member is to immediately advise the CEO and the Children's Protection Policy is to be followed.

If the complaint does not relate to an allegation of abuse the staff member will support and assist the child student and their parent(s) through the complaints process as per Non Employee Stakeholders below.

### ***Non Employee Stakeholders***

A complaint in relation to *MTC Training* services requires the following the steps to be undertaken.

If for whatever reason the stakeholder is unable to undertake any of the following steps, they should speak with a senior member of personnel 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.

The process will be:

1. Within 10 working days of the complaint event advise to *MTC Training* verbally, by telephone, facsimile, email or by letter. Verbal advice (face to face or via telephone) will need to be lodged in writing as well within the specified time limit; *MTC Training* will acknowledge the complaint in writing and confirm the complaint process.
2. In conjunction with *MTC Training* representative complete the Complaint/Appeal Report Form;
3. Then dependent upon the severity of the complaint:
  - 3.1. Dependent on the nature of the complaint, in the first instance attempt to discuss and negotiate resolution with the person(s) concerned.
  - 3.2. If the outcome of the initial discussion is not satisfactory the non-employee stakeholder should immediately advise the *MTC Training* representative or any *MTC Training* employee that they trust and;
    - 3.2.1. Request mediation/intervention by an alternate party;
    - 3.2.2. The mediator (initially a *MTC Training* representative) will document the complaint in the Complaint/Appeal Register and manage the Complaint/Appeal Report Form which will be updated and co-signed throughout the process. This will include setting of timeframes and provision of copies of all documents and agreements to all parties throughout the process;
4. If resolution is not reached the complaint should be referred to the Complaint/Appeal Committee for further action/determination;
5. Referral to the Complaint/Appeal Committee must be in writing clearly stating the reasons why the Complainant is dissatisfied with the decision and lodged with 5 working days of receipt of the decision.
6. The Complaint/Appeal Committee will meet with both the *MTC Training* representative and the Complainant within 5 working days of receiving the appeal notice. The meeting is to be documented.

## POLICY & PROCEDURE

7. 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 supporting verbal advice.
8. If the Complainant is dissatisfied with the Complaint/Appeal Committee's decision or they consider that the complaint process was unsatisfactory they may:
  - a. Lodge an Appeal with *MTC Training* (please refer Appeal Process)
  - b. request that an external mediator agreeable to all parties be engaged.
  - c. 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
    - Fair Work 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)
    - Or other relevant regulatory body may be available related to the specific issue.

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 legal intervention;
- the CEO of the appellant's intention to seek legal action.

## POLICY & PROCEDURE

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.

### ***Employees***

In the event that an employee has a complaint the following process should be undertaken.

If the complainant finds, for whatever reason, that they are unable to undertake any of the following steps, they should speak with a senior member of personnel with whom they are most comfortable.

#### **If the complaint relates to the conduct of another employee:-**

1. Dependent on the nature of the complaint in the first instance attempt to discuss and negotiate a solution with the person concerned;
2. If a solution cannot be reached complete the Complaint/Appeal Report Form and report to their immediate supervisor or a senior member of staff immediately;
3. Request mediation/intervention from a supervisor or other trusted senior member of staff;
4. The mediator will document the complaint in the Complaint/Appeal Register and manage the Complaint/Appeal Report Form which will be updated, co-signed and copies provided to all parties throughout the process;
5. If resolution is not reached the complaint should be referred to the CEO for action and response within 5 days of receiving the complaint;
6. If a resolution is not reached with the intervention of the CEO an external facilitator agreeable to all parties should be engaged.
7. If the external facilitator is unable to assist with an acceptable resolution the complainant should be advised of their right to seek legal intervention.

**If the complaint relates to a policy/procedure or system issue**, the complainant should initially avail themselves of the Quality Assurance and Continuous Improvement Process.

If the complainant is not satisfied with the outcome of the QA & CI process they should discuss directly with their Supervisor.

1. Advise the Supervisor of your concern;
2. Complete a Complaint Report Form;
3. Should the Supervisor not be able to reach a resolution the complaint should be referred to the CEO;



## POLICY & PROCEDURE

4. If a resolution is not reached with the intervention of the CEO and
  - 5.1 the issue relates to a possible *breach of legislation*, an external facilitator specialising in the relevant legislation and agreeable to all parties should be engaged.

If the external facilitator is unable to assist with an acceptable resolution in regards to a breach of legislation;

    - the CEO should be advised in writing of the intention to notify the relevant Legislative Body and/or The National Training Complaints Hotline on 13 38 73, and/or of possible legal intervention;
    - the complainant should be advised of their right to seek legal intervention and/or advise The National Training Complaints Hotline on 13 38 73.
  - or
  - 5.2 If the issue relates to an internal policy or procedure which does not breach legislative, moral or ethical obligations, the CEO's decision will be final.

The issue, negotiation details, outcome and signed agreement by all parties:

- › are recorded in writing;
- › a copy is provided to the employee within seven (7) days of completion of each event;
- › a copy is filed in line with Privacy Principles.

### HANDLING A COMPLAINT

On receiving a complaint, the person who received the complaint must determine if they are the appropriate person to resolve the matter. Where they consider it would be inappropriate for them to handle the matter, or if the matter is outside the scope of their responsibility, they will discuss this with the complainant within 24 hours of receiving the complaint. The person receiving the complaint is responsible for assisting the complainant to a more appropriate person. This may require escalation to the next level of responsibility. *MTC Training* will ensure complaints and appeals are acknowledged in writing.

Where the person receiving the complaint believes that they are the appropriate person to deal with the matter, they should arrange to discuss the complaint with the complainant at a time convenient to both parties, but as soon as practical after the matter is first raised. Action to resolve the complaint should commence as soon as possible.

#### ***Important Steps for Investigation and Resolution***

1. **Complaints**

Where possible, minor interpersonal issues and misunderstandings should be resolved quickly and with minimal formality. In such cases, the emphasis is on ensuring that individual needs and expectations are met without deterioration to the relationship.

## POLICY & PROCEDURE

### 2. Progress To Resolution

All parties should be consulted throughout the investigation, and no action is to be taken toward resolving their complaint without their prior knowledge and agreement. At a minimum, the parties will be given regular reports on the progress towards resolution of their complaint. The timeframe should be agreed by all parties dependent upon the nature of the complaint.

The person investigating the complaint should establish with the parties the options for resolution they perceive as satisfactory. These are initial ideas and may change or be further developed after more detailed investigation.

If at any stage of the process it becomes apparent that the matter is more complex or serious than originally considered the matter should be referred to a more appropriate person.

### 3. Resolution

If the parties are satisfied with the proposed resolution, all agreed actions should be documented, implemented as soon as is reasonably possible and the complaint considered resolved.

Where resolution is not achieved, the matter should be escalated to the next level of responsibility.

The complaint process does not intend to preclude recourse to other avenues of resolution including Industrial Relations Commission for conciliation or arbitration purposes, or State Authorities, but rather to facilitate an agreeable and speedy resolution.

### ***Guidelines for Negotiating Solution of a Complaint***

- Negotiation should focus on 'win – win' situation
- Outcome should aim for the preservation of long term relationship
- Process, activities and outcomes should provide benefits for all parties.

#### Step 1 - PREPARATION

- Date & Time that is suitable to all parties
- Ensure that venue is private, neutral and comfortable
- Prepare meeting agenda commencing with a positive opening statement
- Clearly articulate the guidelines for negotiation of solution e.g. Demands are not acceptable, blame and justification will not contribute to a positive and outcome focussed discussion/negotiation, etc.

#### Step 2 – CLARIFICATION OF ISSUE

- Identify what the issue is
- Focus discussion on the issue
- Listen carefully and empathise
- Identify shared/common needs

### Step 3 – IDENTIFY & DOCUMENT SOLUTION(S)

- What are the individual and shared needs for outcome
- Ensure solutions are achievable for both parties
- Discuss and prioritise identified solutions
- Negotiate final and most appropriate and satisfactory solution
- Develop action plan and timeframe for the implementation of the solution ensuring all tasks are achievable for all parties within nominated timeframe(s)

### Step 6 – FORMAL AGREEMENT

- Agreement should include:
  - Identification of all parties to the agreement
  - Goal/outcome(s) to be achieved
  - Non negotiable items
  - Expectation each parties input/action
  - Realistic timeframe(s)
  - Evaluation process
  - Communication process
  - Date and Sign off by all parties.
- Agreement and copy of the finalised Complaint/Appeal Report Form are to be:
  - are recorded in writing;
  - copied to all parties within seven (7) days of completion of each event;
  - a copy is filed in line with Privacy Principles.
- Complaint/Appeal Register & Form
  - The Complaint/Appeal Register is to be updated with Agreement details.
  - The Complaint/Appeal Report Form is to be updated throughout the process and details of the Agreement to be recorded.

### WITHDRAWING A COMPLAINT

An individual has the right to withdraw a complaint at any stage. However, where the complaint concerns:-

- proven misconduct and/or breach law or regulatory compliance on the part of any individual or entity;  
or
- where the failure to resolve the complaint would adversely affect other individuals or *MTC Training*,

*MTC Training* reserves the right to finalise the investigation of the original complaint and take the necessary recourse.

### FRIVOLOUS OR MALICIOUS COMPLAINTS

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

Complainants found to have made a 'Frivolous or Malicious Complaint' will face disciplinary action as per the Disciplinary Process – Employees and/or Student Information Booklet.

### CONTINUOUS IMPROVEMENT

All complaints (not including personal details) will be directed through the Quality Assurance & Continuous Improvement process for evaluation and actioning of opportunities.

### RESPONSIBILITIES

#### **CEO**

It is the overall responsibility of the CEO to ensure that *MTC Training* operations mitigate opportunity for complaint.

It is the responsibility of the CEO to respond as a matter of priority to any issue identified as a potential 'complaint' and therefore an opportunity for improvement.

#### **Staff & Stakeholders**

It is the responsibility of, predominantly, all *MTC Training* personnel but also all stakeholders to immediately report potential risks for complaint to the CEO.