
Name:	Complaints and Appeals Policy and Procedures
Endorsed by:	Continuous Improvement and Management Committee
Date approved:	April 2020
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PURPOSE

Despite the best efforts of Benchmark College to provide quality services and outcomes to its students, complaints may occasionally arise that require formal resolution. The Complaints and Appeals Policy and Procedure addresses Benchmark College's formal, systematic approach to complaint (grievance) handling and ensures through its processes a timely, fair and objective investigation and resolution of complaints and/or assessments appeals.

SCOPE

This policy applies to students and/or their employers, Benchmark College trainers, assessors, staff and any third-party providing services on behalf of Benchmark College. The policy applies, regardless of the training location at which the grievance has arisen, the trainee's place of employment and/or mode of study. The document is available publicly on the Benchmark College website. Information about complaints and appeals has been included in student and staff induction documents.

RELATED DOCUMENTS

- Complaints and Appeals Register
- Assessment Policy and Procedure
- Complaints and Appeals Communique Templates
- Consumer Protection Policy and Procedures
- Privacy Policy and Procedure
- Harassment, Bullying and Discrimination Policy and Procedure
- Recognition Policy and Procedure
- Continuous Improvement Policy & Procedures
- Pre-Records Retention Policy and Procedure
- Continuous Improvement Report
- Enrolment Information
- Student Handbook
- Validation Policy and Procedure
- Validation Record

RELEVANT STANDARDS AND GUIDELINES

This Complaints and Appeals Policy & Procedure specifically addresses Standard 6 of the Standards for Registered Training Organisations (RTOs) 2015.

ADDITIONAL REFERENCES

- Smart and Skilled Contract Operating Guidelines (current)
- Smart and Skilled Consumer Protection Strategy (current)
- VET Student Loans Act 2016
- VET Student Loans Rules 2016, Part 7, Division 1, Subdivision F, Section 88 Grievance Procedure
- Ombudsman Act 1976

DEFINITIONS

Academic grievances	Grievances relating to those matters which relate to student progress, assessment, course content or awards in a VET course of study.
Appellant	A person who appeals.
AQF	Australian Qualifications Framework.
ASQA	Australian Skills Quality Authority.
CEO	Chief Executive Officer.
Complaint	Any expression of dissatisfaction regarding a product or service that requires action or response.
Complainant	A person or organisation expressing their dissatisfaction.
Non-academic Grievances	<p>Grievances relating to those matters which <u>do not</u> relate to student progress, assessment course content or awards in a course and include complaints in relation to personal information that Benchmark College holds in relation to the student.</p> <p>Non-academic grievances may come from decisions made by Benchmark College. Non-academic grievances cover issues such as harassment, vilification, discrimination, financial matters, fines and payments, application procedures, exclusions from events and facilities.</p>
Procedural Fairness & Natural Justice	<p>Procedural fairness is concerned with the procedures used by a <i>decision-maker, rather than the actual outcome reached. It requires a fair and proper procedure be used when making a decision. The term procedural fairness is thought to be preferable when talking about administrative decision-making because the term natural justice is associated with procedures used by courts of law. However, the terms have similar meaning and are commonly used interchangeably. For consistency, the term procedural fairness¹</i> is used in this policy and procedures.</p>
Respondent	The person or committee whose decision on an academic or non-academic matter is the subject of the student complaint.
RTO	Registered Training Organisations (RTOs) are those training providers registered by ASQA to deliver VET services.
VET	Vocational Education and Training.
VSL	VET Student Loans

¹ <http://www.ombudsman.wa.gov.au/Publications/Documents/guidelines/Procedural-fairness-guidelines.pdf>

POLICY

The Complaints and Appeals Policy and Procedure provides students and/or consumers the opportunity to have all issues relating to their complaint or appeal investigated in an objective way using the principles of procedural fairness and natural justice.

The objectives of our complaints and appeals process is to;

- evaluate and improve programs and services,
- inform decisions about future service delivery,
- provide an appropriate resolution for the complainant/appellant and,
- maintain good relationships with all stakeholders.

This policy and procedure ensure a fair and equitable outcome, with sensitivity to the concerns of the complainant/appellant and a process that is undertaken with discretion and complete confidentiality.

What is a complaint?

A complaint is generally negative feedback about services or staff which requires a systematic and formal resolution management process. A complaint may be received by Benchmark College in any form and does not need to be formally documented by the complainant to be acted on.

Complaints may be made by any person or agency in contact with Benchmark College or a third-party providing services on the College's behalf and can be lodged in a variety of different mediums, including email and phone or in person.

What is an appeal?

An appeal is an application by a student for reconsideration of an unfavourable decision or finding during training and/or assessment. An appeal must be made in writing and specify the particulars of the decision or finding in dispute. A student appeal must be lodged to Benchmark College within twenty-eight (28) days of the decision or finding being advised to the student.

Types of Complaints or Appeals

A complaint or appeal may include, but is not limited to;

Complaints

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

Appeals

- Assessment process and decision
- Candidate progress and academic progress decisions

Early resolution of complaints and appeals

Where possible and to facilitate early resolution of complaints and appeals, all complaints are investigated, and every attempt is made to resolve the complaint as soon as practicable.

Relationship to continuous improvement

Examination of all complaints and appeals provide an opportunity to improve service delivery and educational outcomes. The complaints and appeals handling process may also be related to administrative processes.

All complaints raised are tabled for discussion at the Continuous Improvement and Management Committee meeting and where required, corrective action to eliminate or mitigate the likelihood of reoccurrence is implemented and reviewed.

Procedural Fairness

This policy follows the rules of procedural fairness in complaints/appeals-handling²:

- a hearing appropriate to the circumstances;
- lack of bias;
- evidence to support a decision; and
- inquiry into matters in dispute.

Provision of information

Information on the complaints and appeals process is communicated to students at pre-enrolment and induction via written mediums; Pre-enrolment Information Flyer and Student Handbook. The Complaints and Appeals Policy and Procedures is also publicly available on the College website. A complainant /appellant can request a copy of the Complaint's and Appeals Policy and Procedure without charge.

So that consumers are aware of their rights and options for making a complaint or providing feedback about NSW Smart and Skilled subsidised training a link to the Smart and Skilled website and details of the 1300 number are printed on all public information, application forms and student induction material.

Employees and Contractors working for Benchmark College are made aware of the Complaints and Appeals Policy and Procedures at induction.

VET Student Loans Ombudsman

The VET Student Loans Ombudsman will act as the external dispute resolution body to conduct investigations and make recommendations in relation to VET loan assistance (i.e. VET Student Loans and VET FEE HELP) and compliance by VET providers with the Act³.

Benchmark College:

- Complies with the requirements of the VET Student Loans Ombudsman⁴
- Fully cooperates with the VET Student Loans Ombudsman to ensure compliance with the Act⁵

² <http://www.ombudsman.wa.gov.au/Publications/Documents/guidelines/Procedural-fairness-guidelines.pdf>

³ VET Student Loans, Manual for Providers, Version 3.0 March 2019

⁴ VET Student Loans Act [42C]

⁵ VET Student Loans Act [46]

PROCEDURES

1. Informal Complaint/Appeal

Benchmark College may receive complaints from students, employers, staff or stakeholders and members of the public through a variety of means, for example: verbally (by phone or in person), written documentation or electronically (email).

Where possible all non-formal attempts shall be made to resolve the issue within the shortest timeframe. This may include advice, discussions, and general negotiation in relation to the issue.

For training and assessment-related issues, Benchmark College recommends students speak to their Trainer/Assessor in the first instance to resolve any concerns. If a satisfactory outcome cannot be reached, the student can then approach the Training and Engagement Manager.

If no resolution can be reached, the student/complainant has the option to lodge a formal complaint or appeal.

2. Formal Complaint / Appeal

General principles applying to all stages of the complaint/appeal procedure.

Acknowledgement and Record Keeping

- The acknowledgement and handling of a complaint or appeal is to commence within three (3) business days of lodgment.
- Benchmark College acknowledges the complaint or appeal in writing and all reasonable measures are taken to finalise the process as soon as practicable.
- At all stages of the process, discussions relating to complaints, grievances and appeals will be recorded in writing. Reasons and a full explanation in writing for decisions and actions taken as part of this procedure will be provided to the complainant and/or the respondent.
- The complainant or person lodging an appeal has appropriate access to their records, while ensuring all records are kept confidential.
- A complainant/appellant may contact Benchmark College and speak with the Training and Engagement Manager for progress updates at any time. Should the Training and Engagement Manager be unavailable, the Compliance Manager, Finance Manager and/ or CEO will be available to discuss any matter relating to the progress of the complaint.
- Where Benchmark College considers more than sixty (60) calendar days are required to process and finalise the complaint or appeal, Benchmark College
 - informs the complainant or person lodging an appeal in writing, including reasons why more than 60 calendar days are required; and
 - regularly updates the complainant or person lodging an appeal on the progress of the matter
 - The Compliance Manager is responsible for maintaining/updating the complaints register.
- Finalisation of the complaint/appeal is provided in writing to both the complainant/appellant and where relevant the respondent.
- Records of complaints and appeals and all associated evidence⁶ are kept in the Complaints and Appeals Register for a period of five (5) years

⁶ E.g. the Complaints and Appeals Form, written correspondence, written notification (acknowledgment and finalisation correspondence), Validation Record and where relevant external mediator reports

Procedural Fairness

- A comprehensive and objective investigation that respects the rights and privacy of all involved is undertaken.
- To ensure a fair and objective process the decision maker is always independent of the decision being reviewed.
- In the case of an appeal the student's assessment task(s) is reviewed by a suitably qualified independent panel (moderation activity) to ensure that the principles of assessment and rules of evidence have been implemented. Recommendations from that activity form the outcome of the student's final result.
- Where a person is the source of the complaint they will be notified of the allegation and have an opportunity to respond as part of the investigative process.
- The complainant/appellant and respondent have the opportunity to present their case at each stage of the procedure prior to any action or outcome determination.
- Benchmark College maintains the enrolment of the complainant or person lodging an appeal throughout the complaint or appeals process and where relevant the student enrolment.
- The complainant/appellant and the respondent are not to be discriminated against or victimised throughout the complaints and appeals process or throughout the term of their enrolment.
- The complainant/appellant and the respondent have the option of being accompanied/assisted by a third person (such as a family member, friend or counsellor) if they so desire, at that party's cost.
- The complainant or person lodging an appeal has the opportunity for a person or a body that is independent of Benchmark College to review his or her complaint or appeal following the internal Benchmark College complaint or appeals process. It is noted that a review of findings by an independent person or body will generally only relate to the appeals process and is less likely to be required in complaints handling.
- Students who are not satisfied with the complete complaints handling by Benchmark College may refer their complaint to the National VET Regulator for consideration. Students are to be advised that the National VET Regulator will require the student to have exhausted all avenues through Benchmark College before taking this option. Note: Appeals of assessment decisions are not able to be referred to the National VET Regulator and are to be determined by an approved independent body

HOW TO MAKE A COMPLAINT/APPEAL

1. Informal complaints/appeals can be made verbally (e.g. by phone or in person), electronically (e.g. email or SMS) or written documentation (e.g. a letter).
2. The College requires students or employers, or relevant stakeholders to communicate with their trainer/assessor in the first instance, to try to resolve the issue.
3. Students or employers who are not satisfied with the response from their trainer/assessor may contact the Training and Engagement Manager, to try to resolve the issue.

Benchmark College Consumer Protection Officer/ Training and Engagement Manager

☎: 1800 286 916 (office hours)

✉: trainingmanager@benchmark.edu.au

4. Staff complaints are to be directed to the CEO, or Group HR (dependent upon availability or the nature of the complaint).
5. For Formal Complaints, please refer to the three-stage procedure outlined on the following pages.

Stage One – Formal Complaint/Appeal

Formal complaints/appeals should be submitted in writing to the Training and Engagement Manager or CEO of Benchmark College. The complainant/appellant is encouraged to clearly outline the nature of their complaint so that a targeted investigation can occur.

The complainant/appellant will receive notification in writing (i.e. acknowledgement of the receipt of the complaint/appeal) within three (3) business days.

The Training and Engagement Manager or CEO will then investigate/assess the complaint/appeal, determine the outcome and advise the complainant in writing of his/her decision within ten (10) working days of receipt of the formal complaint.

Academic Appeals: A formal moderation activity conducted in accordance with the Validation Policy and Procedure is undertaken and recommendations from that activity used to determine the students final result. The written notice of the decision includes:

- the reasons for the decision;
- advice about how to have the decision reviewed.

The complainant/appellant will be advised of his/her right to access Stage Two of this procedure if he/she is not satisfied with the outcome of Stage One.

There are no charges from Benchmark College to the complainant or appellant for Stage One. Each party at this stage of the procedure can be accompanied or assisted by another person, at that party's cost⁷.

Stage Two – Internal Review

If the complainant/appellant is dissatisfied with the outcome of Stage One, they may request that their case be reviewed by the Continuous Improvement and Management Committee. To do this the complainant/appellant contacts the Consumer Protection Officer/Training and Engagement Manager by email or phone. The case will then be tabled at the next meeting or will be reviewed as an out of session item.

The Continuous Improvement and Management Committee (the review committee) will conduct all necessary consultations with the complainant/appellant and other relevant persons and decide the outcome of the appeal (review). The complainant will be advised in writing of the outcome of their appeal, including the reasons for the decision, within ten (10) working days of receipt of the appeal. The written notice of the decision includes:

- the reasons for the decision;
- advice about how to have the decision reviewed.

Should a decision not be reached within ten (10) working days, the complainant will be advised in writing of all matters relating to the progression of the appeal.

The complainant/appellant will be advised in writing of his/her right to progress to Stage Three of the complaint's procedure if he/she considers the matter unresolved.

There are no charges from Benchmark College to the complainant or appellant for Stage Two. Each party at this stage of the procedure can be accompanied or assisted by another person, at that party's cost⁸.

⁷ VET Student Loans Rules 2016, 88 (3)

⁸ VET Student Loans Rules 2016, 88 (3)

Stage Three – External Appeal

If the complainant is dissatisfied with the outcome of Stage Two, he/she may request (via the Consumer Protection Officer) that the matter be referred to an external dispute resolution process by a body appointed for this purpose by Benchmark College. A mediator can be provided by the Resolution Institute. Benchmark College agrees to pay the cost of one mediation session of up to two hours and advises that, should the matter require further mediation, it will be at the cost of the complainant or appellant (excludes VET Student Loans applicants).

Each party at this stage of the procedure can be accompanied or assisted by another person, at that party's cost⁹.

Dispute Resolution Services can be sourced from:

Resolution Institute
Level 1 and 2
13-15 Bridge Street
SYDNEY NSW 2000
Free call: 1800 651 650 <http://www.resolution.institute/>

Resolution Institute's mediation clause states:

- In the event of a dispute arising both parties shall first meet and attempt to resolve the issues of concern by means of discussion and personal negotiation. If this process does not resolve the issues, they shall refer the matter to mediation.
- The parties must endeavour to settle any dispute by way of mediation. Such mediation would be conducted by a mediator who is independent of both parties and appointed by agreement of the parties or, failing agreement within 7 days of receiving any party's notice of dispute, by a person appointed by the Chair of Resolution Institute or the Chair's designated representative.

Benchmark College will give due consideration to any recommendations arising from the external review within 10 working days of receipt of the external body's report. The recommendations will be presented to the Continuous Improvement and Management Committee for consideration. An action plan will be put in place by Continuous Improvement and Management Committee for the rectification of the matter in conjunction with Resolution Institute's recommendations and applicable timeframes. Finalisation of the matter will be reported as required.

Should matters not be resolved after Resolution Institute's intervention then students have the right to contact the Australian Skills Quality Authority (ASQA).

Making a complaint to ASQA or the Office of the Australian Information Commissioner

Before submitting a complaint to Australian Skills Quality Authority (ASQA), the complainant needs to¹⁰:

- Complete the Benchmark College Complaints Procedure (as outlined in this document);
- Confirm that ASQA can consider the complaint (or part of the complaint).

Should a student choose to make a complaint to the Australian Skills Quality Authority (ASQA), they should contact ASQA on 1300 701 801 or email enquiries@asqa.gov.au

For more information, or to complete the online complaints form, go to ASQA's website www.asqa.gov.au

⁹ VET Student Loans Rules 2016, 88 (3)

¹⁰ <http://www.asqa.gov.au/complaints/make-a-complaint---domestic-students/before-you-make-a-complaint---domestic-students.html>

If the cause of the complaint is around the collection, use, disclosure or storage of personal information the consumer can complain to the Office of the Australian Information Commissioner. Further information can be found on www.oaic.gov.au.

VET Student Loans

For VET Student Loans students who are dissatisfied with Benchmark College's response having been through the internal two-step complaints process, students can refer to the VET Student Loans Ombudsman (contact details below). There are no charges from Benchmark College to a VET Student Loans complainant or appellant for Stage Three.

The VET Student Loans Ombudsman will act as the external dispute resolution body to conduct investigations and make recommendations in relation to VET loan assistance (i.e. VET Student Loans and VET FEE HELP).

Contact details

VET Student Loans Ombudsman (Commonwealth Ombudsman)

Tel: 1300 362 072

Web: <https://vet.ombudsman.gov.au/>

External Complaint/Appeal Written Notice

Written notice of the decision on review is provided to each party, the notice includes reasons for the decision¹¹.

¹¹ VET Student Loans Rules 2016, 88 (4)

Appendix 1 Complaint acknowledgement response.

Dear <COMPLAINANT>,

Thank you for contacting Benchmark College with your feedback re: <Complaint Subject>.

This complaint has been referred to our CEO/ Training and Engagement Manager for review. Once the complaint has been assessed and an outcome determined, you will be advised of the decision in writing within ten (10) working days.

Should you not be satisfied with this outcome, you may lodge an appeal in writing to Benchmark College Continuous Improvement and Management Committee.

Regards,

<Recipient of Complaint including email signature>

APPENDIX 2 Written response of outcome to complaint.

Dear <COMPLAINANT>,

I write to you with regard to the complaint received on <INSERT DATE OF INITIAL COMPLAINT RECEIVED> regarding <INSERT SUBJECT OF COMPLAINT>.

Based on the details presented and the investigation undertaken, the outcome that has been determined is <explain outcome including reasons why, and next steps that will/ may be taken>.

Should you not be satisfied with this outcome, you may lodge an appeal in writing to Benchmark College Continuous Improvement and Management Committee.

APPENDIX 3

Complaint acknowledgement response from Continuous Improvement & Management Committee

Dear <COMPLAINANT>,

I write to you with regard to the complaint escalated to the **Continuous Improvement & Management Committee** <Complaint Subject>.

This complaint has been received for review. Once the complaint has been assessed and an outcome determined, you will be advised of the decision in writing within ten (10) working days.

Should you not be satisfied with this outcome, you may request that the matter be referred to an external dispute resolution process by a body appointed for this purpose by Benchmark College. A mediator can be provided by the Resolution Institute. Please refer to the Complaints and Appeals Policy and Procedure at www.benchmark.edu.au

Regards,

<Recipient of Complaint including email signature>

APPENDIX 4

Closure to complaint response.

Dear <COMPLAINANT>,

I write to you with regard to the complaint received on <INSERT DATE OF INITIAL COMPLAINT RECEIVED> regarding <INSERT SUBJECT OF COMPLAINT>.

Thank you again for contacting Benchmark College with your feedback. We consider this feedback invaluable to our Continuous Improvement practices and as a result have made adjustments to our policies and procedures where necessary.

Regards,

<Recipient of Complaint including email signature>