

## RTO Complaints and Appeals

RTOs must implement a transparent complaints policy and an appeals policy that enable learners and clients to be informed of their rights and the RTO's responsibilities under the *Standards for Registered Training Organisations (RTOs) 2015*. Any complaint or appeal is required to be recorded, acknowledged and dealt with fairly, efficiently and effectively (Standard 6).

This Fact Sheet considers complaint and appeal processes and suggests strategies to reduce the likelihood of receiving them.

### RTO Complaints and Appeals Explained

**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 the RTO.

**Appeals** are requests for a review or reconsideration of decisions made by the RTO. These decisions could involve assessments or access to support services.

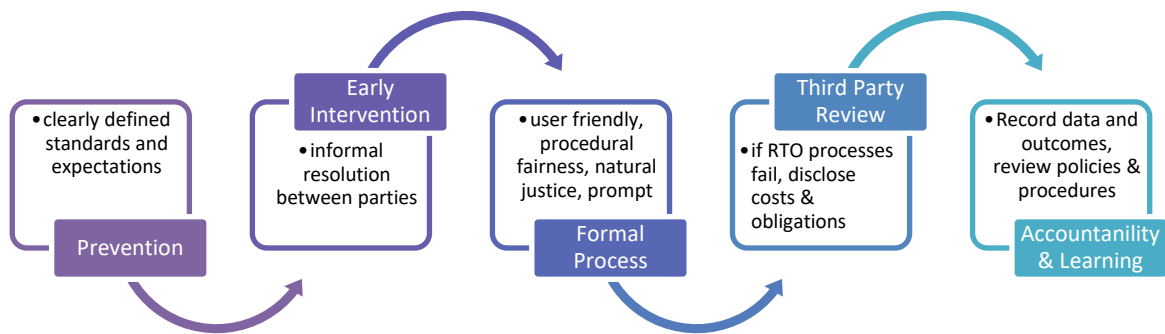
In both situations the principles of natural justice and procedural fairness must apply.

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

It is not a comfortable feeling to raise a complaint or an appeal, or for the RTO to respond to allegations of unfair decisions. For this reason, we sometimes see complaint and appeal policies and procedures that are complicated, confusing, drawn out, heavy handed, secretive, deny the right of the individual to be heard or see the relevant evidence, or processes that are not impartial.

It is therefore crucial that an RTO's complaint and appeal policies and procedures are publically available and understood so that individuals have the right to a fair training and assessment experience, and that the RTO uses these as an opportunity for review and improvement. (Clause 4.1, 5.1 and 5.2)

## Suggestions for good practice



### 1. Prevention

The best remedy for complaints and appeals is prevention, which relies on clearly defined standards and expectations. To help 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 (e.g. by flow charts) and adhered to. In the appeal 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.

### 2. Early Intervention

The next best remedy for appeals and complaints is early intervention. Potential appellants and complainants should be encouraged to seek resolution directly with the other party, using a clear and comprehensive guide on having challenging conversations, developed within the RTO.

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.

### 3. Formal Process

In the event that an informal process is unsuccessful, 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. 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.

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 (Clause 6.4).

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

#### **4. Third Party Review**

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 (Clause 6.3);
- 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;
- the RTO ensures those services are the subject of a written agreement and comply with Standards (Clause 2.3 and 2.4); 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.

#### **5. Accountability and Learning**

The RTO is obliged to securely maintain evidence of all complaints and appeals and their outcomes as a minimum level of documentation (Clause 6.5). 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 (Clause 2.1 and 2.2).

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.

## What can TAC receive complaints about?

TAC is only able to progress complaints received about TAC registered training organisations and where the complaint relates to an RTO's compliance with the *Standards for Registered Training Organisations (RTOs) 2015*. Issues that may be investigated by TAC include, but are not limited to:

- quality of training and assessment;
- assessment processes, including recognition of prior learning (RPL);
- inaccurate or misleading advertisements; and
- a learner not receiving the services detailed in the learner agreement.

TAC is also able to receive complaints relating to organisations in Western Australia who are claiming to be an RTO and/or to provide nationally recognised training when they are not registered to do so.

## How to lodge a complaint to TAC

1. Ensure you have provided the RTO with an opportunity to address the issues identified in your complaint.
2. Confirm the RTO is registered with TAC.
3. Read the TAC [Complaints about RTOs policy](#).
4. If you decide you will progress a complaint with TAC, you must complete the complaint form available from the [TAC website](#).