

## **Policy 28:                   Complaints and Appeals**

### **Background**

At Pines Learning we aim to foster good relationships and create an environment where issues can be raised and dealt with before they develop into formal complaints. Complaints and appeals are viewed as an opportunity to improve policies, procedures and services at Pines Learning.

### **Purpose:**

1. To provide a process that assists people to raise issues and access information in regard to complaints and appeals.
2. To provide a process for the effective management of complaints that is fair and equitable, in accordance with the principles of natural justice.
3. To address complaints in a timely and systematic manner.
4. To provide guidance and support for the complainant or appellant to complete required documentation as appropriate.

### **Distributed to:**

Students, parents/guardians/carers, employees, Board members and volunteers

### **Applicability:**

This Policy applies to students, parents/guardians/carers, employees, Board members and volunteers associated with Pines Learning.

### **Definitions:**

**Manager** – Can relate to either the Centre Manager (VCAL) or VET Manger (VET) depending on the Program Area.

Employee – relates to all staff members paid and unpaid, full-time, part-time, casual or contracted.

**Program Manager** – Can relate to either the VET Manager or the VCAL Coordinator depending on the Program Area.

### **Complaints Process** *(As per Australian Quality Training Framework)*

A process by which a student/stakeholder of an RTO, or other interested parties, may raise a concern about the RTO's policies, procedures, services or products with a view to having them changed and improved.

**Complaint** - For the purposes of this policy, a complaint may be about any action/non action verbal or otherwise, by management / staff / trainers / volunteers. A complaint can also be about discrimination, harassment, equity or any other employment related decision or behaviour which may be unfair, unjust or upsetting.

### **Appeals** *(As per Australian Quality Training Framework)*

A process whereby a student/stakeholder of an RTO, or other interested party, may dispute a decision made by the RTO. The decision made by the RTO may be an assessment decision or may be about any other aspect of the RTO's operations.

## Complainant

The term 'complainant' is used in this procedure to refer to the person making the complaint, who may be a student, parent or guardian, employer, or employee.

**Respondent** - Person/s whom the complaint is about.

## Appellant

The term 'appellant' is used in this procedure to refer to the person making the appeal, who may be a student, parent or guardian, employer, or employee.

**Grievance** - an expression of dissatisfaction about Pines Learning, a student or member of staff. A grievance is the dissatisfaction an individual feels rather than the action taken.

## Related Documents:

Education and Training Reform Act and Regulations

Complaint form

Investigation report structure

Policy 35 - Privacy and Confidentiality

Policy 31 - Disciplinary Policy and Procedure for Students

Policy 32 - Disciplinary Policy and Procedure for all staff

### VET

Continuous Improvement Procedure – VET

Learner Support Procedure

Class Conduct Guidelines

Assessment Procedure – VET

### VCAL

Continuous Improvement Procedure – VCAL

Learner Support and Wellbeing Procedure

Curriculum and Assessment Procedure – VCAL

<b>Policy:</b>		<b>Responsible party</b>
<b>1.</b>	<b>Options for Informal complaints</b>	<b>Coord / Manager</b>
<b>i</b>	Less serious issues should be dealt with on a day-to-day basis and complainants are encouraged to resolve the complaint they have in an informal manner.	
<b>ii</b>	In some instances, it may be worthwhile pursuing the following options prior to lodging a formal complaint. a. Speak to the person regarding the problem. It may be the easiest way of resolving the issue. That person may be unaware the effect of their behavior/decision. By explaining the grievance, it will give them a chance to address the situation. b. Speak to the relevant teacher/trainer/Coordinator/Manager/Centre Manager/Board of Management representative. With prior agreement, they may approach the Respondent and talk to them informally about the grievance. In this case the grievance may be solved through discussion and conciliation	
<b>iii</b>	In the event the complainant is unable to resolve their complaint through the informal process then they have the option of lodging a formal complaint.	
<b>2</b>	<b>Formal complaints</b>	<b>Manager / BOM</b>

<b>i</b>	Complaints will be dealt with professionally, impartially and confidentially.	
<b>ii</b>	Complaints will only be investigated if they are made in writing or by completing a <a href="#">Complaint Form</a> , which can be obtained from reception or from the Pines Learning website.  Compliant should contain: <ul style="list-style-type: none"> <li>• the reasons for the formal complaint i.e. the why, and</li> <li>• provide situational background to the complaint i.e. the what, when, who, where and how.</li> </ul>	
<b>iii</b>	Completed Complaint Form or Letter is to be forwarded to the relevant Program Manager/Centre Manager or the President of the Board of Management.	
<b>iv</b>	The relevant Program Manager/Centre Manager or the President of the Board of Management will forward a written acknowledgement to the complainant stating the complaint was received.	
<b>v</b>	Each complaint will be dealt with fairly and equitably as soon as possible.	
<b>3.</b>	<b>The investigation Process</b>	<b>CM/BOM</b>
<b>i</b>	On completion of a Complaint Form / Letter, the relevant Program Manager/Centre Manager or the President of the Board of Management will investigate the matter. If the relevant Program Manager/Centre Manager feels that there is a reason why they should not conduct the investigation (e.g., they may be the Respondent or a friend of the Respondent), then the President of the Board of Management will conduct the investigation. If the President is, the Respondent or a friend of the Respondent then another member of the Board will conduct the investigation.	
<b>ii</b>	The Manager, having regard for the relevant circumstances will consider the formal complaint by: <ul style="list-style-type: none"> <li>• reviewing the complainant's completed form / letter</li> <li>• verifying that all appropriate procedures have been correctly carried out;</li> <li>• sourcing additional information by informing the respondent of the complaint and then interviewing the respondent and subsequently any witnesses and appropriate staff concerning the subject of the complaint;</li> <li>• discussing the matter directly by interviewing the complainant</li> <li>• undertaking other investigation or action as appropriate and use the <a href="#">Investigation Report Structure</a> as a guide.</li> </ul>	
<b>iii</b>	If the complaint is serious (e.g. assault, stalking, theft) the Respondent might, at the discretion of the Centre Manager, in consultation with the President, be suspended pending and /or during the investigation. Pines Learning has an obligation to report serious incidents to the Police.	
<b>iv</b>	Both the Complainant and the Respondent will be invited to be accompanied by a support person during the interview.	
<b>v</b>	All complaints received will be considered and investigated and Pines Learning reserves the right to decide the depth and form of its investigations. After consideration of all available evidence, the Manager may decide to: <ol style="list-style-type: none"> <li>a) Dismiss the complaint</li> </ol>	

	<p>b) Uphold the complaint and direct that:</p> <ul style="list-style-type: none"> <li>○ compensation as appropriate be made to the complainant, and/or</li> <li>○ where relevant administrative systems or procedures be reviewed</li> <li>○ appropriate preventative action be undertaken</li> <li>○ other actions as appropriate.</li> </ul>	
<b>vi</b>	The complainant will be informed of the outcome within 10 working days of submission of the formal complaint. The written advice of the outcome shall include the reasons for the outcome and advise the complainant of their right of appeal.	
<b>vii</b>	<p>If the Manager, considers more than 10 working days are required to process and finalise the complaint, they will:</p> <ul style="list-style-type: none"> <li>● inform the complainant in writing, including reasons why more than 10 working days are required, and</li> <li>● regularly update the complainant on the progress of the matter.</li> </ul>	
<b>viii</b>	All investigations will be treated confidentially to protect the people involved and will conclude with a report that has been prepared using the <a href="#">Investigation Report Structure</a> .	
<b>4</b>	<b>Outcomes</b>	<b>CM/BOM</b>
<b>i</b>	<p>There are 3 likely outcomes to a complaint:</p> <ul style="list-style-type: none"> <li>● Proven</li> <li>● Not Proven (not enough evidence to formulate result)</li> <li>● Disproven (complaint fabricated)</li> </ul> <p>One of these outcomes will be stated in the Investigation Report based on the evidence.</p>	
<b>ii</b>	<p>If the investigation outcome is <b>Proven</b>, the report may also document recommendations outlining possible solutions for the Complainant and the organisation.</p> <p>These may include:</p> <ul style="list-style-type: none"> <li>● a written apology from the Respondent</li> <li>● training for Respondent/all staff</li> <li>● an official warning to the Respondent</li> <li>● demotion or dismissal of the Respondent.</li> </ul> <p>In the event disciplinary action is required, refer to the relevant <b>Disciplinary Policy And Procedures</b>.</p>	
<b>iii</b>	<p>If the investigation outcome is <b>Not Proven</b>, the report may also document recommendations for the organisation.</p> <p>These may include:</p> <ul style="list-style-type: none"> <li>● training for all staff</li> <li>● monitoring behaviour of all staff.</li> </ul>	
<b>iv</b>	<p>If the investigation outcome is <b>Disproven</b>, the report may also document recommendations outlining possible outcomes for the Complainant.</p> <p>These may include:</p> <ul style="list-style-type: none"> <li>● a written apology to the Respondent</li> <li>● counselling</li> <li>● official warning to the Complainant</li> <li>● demotion or dismissal</li> </ul> <p>In the event disciplinary action is required, refer to the relevant <b>Disciplinary</b></p>	

	<b>Policy And Procedures.</b>	
<b>v</b>	At the discretion of the Program Manager/Centre Manager/Board Member representative, whoever conducted the investigation a full report or just the outcomes will be provided to the Complainant and the Respondent within 10 working days.	
<b>5</b>	<b>Appeals Management</b>	<b>CM/BOM</b>
<b>i</b>	A complainant has the right of appeal on one or more of the following grounds: <ul style="list-style-type: none"> <li>a) That the investigation process did not take account of all matters related to the complaint;</li> <li>b) That the complainant is able to provide new evidence which could not reasonably have been provided at the time of the formal complaint resolution process;</li> <li>c) That a procedural irregularity occurred in the hearing of a complaint during the formal resolution process.</li> </ul>	
<b>ii</b>	An appeal must be lodged in writing to the Centre Manager/Board Member representative within 5 working days of notice of the outcome of the formal complaints procedure.	
<b>iii</b>	Upon receipt of the written appeal the Centre Manager/Board Member representative will: <ul style="list-style-type: none"> <li>a. Consider the matter and complete the investigations within 5 working days of notification of appeal;</li> <li>b. Report to the Board of Management findings, decision and recommendations, and</li> <li>c. The Board of Management will consider all evidence and on reaching a decision, notify the Appellant in writing of the outcomes of the process, the reasons for the decision(s) and any specific action to be taken.</li> </ul>	
<b>iv</b>	If the Centre Manager considers more than 5 working days are required to process and finalise the appeal, they will: <ul style="list-style-type: none"> <li>• inform the appellant in writing, including reasons why more than 5 working days are required, and</li> <li>• regularly update the appellant on the progress of the matter</li> </ul>	
<b>v</b>	The decision of Board of Management is the final step in Pines Learning’s internal Complaints and Appeals Process.	<b>BOM</b>
<b>6</b>	<b>Appeal Against Assessment</b>	<b>Program Manager</b>
<b>i</b>	Any student dissatisfied with the mark awarded for: <ul style="list-style-type: none"> <li>• an outcome of an assessment task or</li> <li>• a final result for a learning outcome or unit</li> </ul> as they feel the mark or result is unfair or incorrect, may submit a request to the Program Manager for a review within 20 working days of receiving the assessment result. In extenuating circumstances, this timeframe may be extended at the discretion of the Program Manager.	
<b>ii</b>	In the first instance, such review will be undertaken by the original teacher / assessor within 10 working days of notification by the student. If the student or parent (if appropriate) remains dissatisfied with the outcome, then he/she may lodge a formal appeal.	
<b>iii</b>	The formal appeal must be in writing, explain reasons for the appeal, and be submitted to the Program Manager within 10 working days of the student being notified of the review outcome.	

<b>iv</b>	Where reasonable grounds for appeal exist, the Program Manager will arrange for an external moderation of the assessment to be undertaken within 10 working days from receipt of the formal appeal. Any costs associated with the external moderation of the assessment will be borne by Pines Learning.	
<b>v</b>	The student will be notified in writing of the outcome of the external review within 5 working days of the external moderation completion. The outcome of the external review will be final.	
<b>7</b>	<b>External agencies (Independent Mediation and Consultation)</b>	
<b>i</b>	If the Complainant is not satisfied with the way in which the complaint or appeal was handled they may take it to an outside agency, such as a peak body for Adult Community Education (such as ANHLC and/or AceVic), the Human Rights and Equal Opportunity Commission or the Dispute Settlement Centre of Victoria.	
<b>ii</b>	<p>VCAL Students</p> <ul style="list-style-type: none"> <li>• After exhausting Pines Learning’s complaints procedure, students may lodge a complaint to the Victorian Registration and Qualifications Authority (VRQA).</li> <li>• The complaints must be lodged in writing within 12 months of the date of the facts giving rise to the complaint and can be received through the VRQA online complaints portal, via emails to the various VRQA email accounts, through fax and via the post.</li> <li>• Further details are set out in the VRQA Complaints Management Procedure using the following link:</li> <li>• <a href="http://www.vrqa.vic.gov.au/apprenticeships/Pages/disputes-and-complaints.aspx">http://www.vrqa.vic.gov.au/apprenticeships/Pages/disputes-and-complaints.aspx</a></li> </ul> <p>VET Students:</p> <ul style="list-style-type: none"> <li>• After exhausting Pines Learning’s complaints procedure, learners may lodge a complaint to the Australian Skills Quality Authority (ASQA) via the website <a href="http://www.asqa.gov.au">www.asqa.gov.au</a>.</li> <li>• Student complaints can only be lodged via ASQA's <a href="#">online complaint form</a>.</li> </ul>	
<b>8</b>	<b>Record Keeping</b>	<b>Program Manager</b>
<b>i</b>	Staff members associated with investigating and resolving a complaint or appeal will keep file notes of any related discussions or actions. Such file notes are marked ‘Strictly Confidential’ and are held in the administrative file for Complaints (A141), which is restricted to access by the Manager and other relevant management staff. All official correspondence with the complainant/appellant are retained in the same place.	
<b>ii</b>	Notes are kept to a minimum, stating only facts and relevant details as described by the parties. Dates and times of interactions are also recorded.	
<b>iii</b>	All complaints and appeals including the nature of the complaint/appeal and the outcomes of the complaint/appeal for the current year are recorded in the Complaints & Appeals Register by Program Area. Access to the Complaints Register is restricted to the management staff.	
<b>iv</b>	The written complaint is also filed in the administrative file for Complaints (A141). The fact that a complaint has been received is also noted in the student management system - VETtrak. No details are provided there but make note to refer to the Complaints Register.	
<b>v</b>	Actions arising from the Complaints & Appeals Register are used to continuously improve systems and operations.	
<b>vi</b>	If the complaint relates to a teacher / trainer, then mention is made in the teacher file that a complaint has been received and to refer to the	

	Complaints Register for more details.	
<b>9</b>	<b>Rights of the Complainant and/or Appellant</b>	
<b>i</b>	During the complaint investigation and/or appeal process the student will be allowed to continue to participate in the training, provided they do not pose a threat to the staff and/or other students.	
<b>ii</b>	<p>If the complainant and/or appellant has participated in a serious misconduct, then they may be directed to withdraw from the course without a refund as outlined in Policy 31 – Disciplinary Policy and Procedure for Students.</p> <p>(extract from Policy 31) Serious Misconduct may include:</p> <ul style="list-style-type: none"> <li>• behaviour that is detrimental or threatening to anyone who accesses Pines Learning</li> <li>• actions involving harm (or the possibility of harm) to anyone who accesses Pines Learning</li> <li>• verbally abusing another person at the Centre</li> <li>• harassment or discrimination against anyone who accesses Pines Learning</li> <li>• sexual harassment of anyone who accesses Pines Learning</li> <li>• activities involving theft or deliberate reckless damage to the Centre</li> <li>• refusal to carry out lawful instructions of Pines Learning staff</li> <li>• defamation of Pines Learning, staff members, volunteers and other students</li> <li>• participating in any illegal activities</li> </ul>	