



1-025 Complaints and Appeals Policy

Version 7

Responsible Person: COM and Manager

Staff Involved: All

Documents referred to: Rules of Incorporation and Code of Practice

Related Policies:

Date that the policy was last updated or revised: October 2015

To be reviewed: every 12 months

INTRODUCTION & PURPOSE

LCC has a fair and equitable policy and procedure for complaints and appeals, and is part of the endorsed Rules of Incorporation of LCC.

The LCC aims to ensure that all participants have the right to work and learn within a safe and supportive environment. The Centre's organisational code of practice also ensures that students will be assessed fairly and equitably. If at any time a student believes that the rights have been infringed by a fellow student or a participant of LCC or staff member then this procedure should be followed.

It is essential that participants have a clear process for making a complaint. If complaints are related to assessment outcomes, students should have a clear and fair process for appealing against assessment outcomes they do not agree with.

LCC will deal with complaints and appeals in a constructive and timely manner.

It is LCC policy to endeavor to ensure that students be satisfied that our programs and services meet all the standards set by LCC as well as the obligations LCC have under the AQF, State and Federal Legislation, and funding body requirements.

This policy ensures that:

- All disputes will be handled professionally and confidentially in order to achieve a speedy resolution
- All parties have a clear understanding of the steps involved in the complaints policy.
- Participants are aware of the LCC policy and procedure for handling complaints and are provided with the appropriate Handbook at induction (Student, Staff, Tutor or Volunteer Handbook).
- This complaints procedure is an arrangement for handling grievances, which is accessible to all LCC participants, is free of costs or charges at all internal stages and encourages timely resolution based on principles of natural justice. It is not an instrument for malicious, false or frivolous complaints. Anonymous concerns cannot transpire into formal grievances. As such, the aggrieved must be identified and a written expression outlining the issue must be submitted to LCC for formal proceedings to commence under the complaints and appeals policy and procedure. Malicious or false complaints may lead to action under LCC's policy relating to conduct and discipline. Frivolous complaints will be dismissed.
- The complainant may be assisted and accompanied by a third party (non-legal) if desired, to provide support, information and advocacy as required.

It is a serious breach of this policy to lodge a complaint that is known to be false, malicious or vexatious.



Definitions

- **Complaint Procedure** - is a procedure or mechanism that allows a member of LCC community who has a complaint or grievance against a LCC user, tutor, volunteer, Committee of Management, staff or persons on placement to have that complaint heard and resolved.
- **Natural Justice** - is a principle that presupposes that a person is to be considered innocent until proven guilty.
- **Disciplinary Procedure** - is a procedure used by the employer when dealing with employee issues. This procedure is set out in the Neighbourhood House Workplace Agreement and Federal Award.

Participant Is any member of the public who enters on to LCC property. This includes staff, students, children and parents of children enrolled in the Childcare Centre or Out of School Hours Care program, and visitors.

A complaint or appeal is deemed to be dissatisfaction with the procedures, outcome or the quality of service provided. For example, in relation to the following:

- Enrolment
- The quality of training delivery
- Training competency assessment, including recognition of prior learning
- Issuing of results, certificates and or statements of attainment
- Any other activities associated with the delivery of training and the assessment of services
- Other issues such as discrimination, sexual harassment, participant amenities, etc.

A complaint or appeal is deemed to be formal when it is made in writing to the Manager, RTO Officer, Children's Services Officer or Committee of Management of LCC.

POLICY

All members and staff of LCC have the following rights under this policy:

- The right to complain about the service provided and to question the overall philosophies of the service.
- The right to access this grievance procedure without fear or prejudice.
- The right to a fair hearing.
- The right to a resolution of disputes that is efficient, accessible and simple.
- The right to be fully informed of all processes involved in this grievance procedure.
- The right to confidentiality.
- The right to withdraw a complaint without prejudice or recrimination.
- The right at all times to be assisted by an advocate or friend.
- The right to access LCC information and files where relevant to the complaint and where confidentiality of other persons is not breached.
- The right to information about persons or organisations outside of the LCC who may be able to provide assistance in resolving a dispute.

PROCEDURE

It is the Aim of LCC to create a positive environment for all staff, students and members.

LCC welcomes suggestions or ideas for improving our services and being informed about any difficulties in dealing with us.

Informal complaint process



An informal complaint process is a way of solving a complaint without a formal complaint, investigation or discipline being taken against the respondent.

If you do not feel confident to raise or discuss inappropriate behaviour directly with the person involved, you may prefer to raise the matter with another person in the workplace first, such as:

- Your supervisor or manager.
- The other person's supervisor or manager.
- In the case of a complaint being made against the centre manager the matter will be considered by the Committee of Management or their nominee/s.

You may ask a colleague to accompany you to a meeting with the appropriate manager/supervisor for support.

Non-disciplinary solutions may include organising training for a person or group, a conciliation or three-way meeting (for example, performing self-management with a witness), asking a manager to have an informal chat with someone or asking for a decision to be reviewed by someone else.

Informal complaint resolution focuses on solving the problem rather than proving something inappropriate actually happened, and means that a matter can be resolved without any formal findings of misconduct.

Formal Complaint process

If the matter is to be dealt with or managed formally you will be asked to describe what has happened and why you feel it was a breach and of which policy or piece of government legislation. You can ask for the matter to be investigated by an independent sub-committee, manager or supervisor.

Formal complaints of discrimination, bullying or harassment, sexual harassment, racial and religious vilification, or victimisation will be treated quickly, seriously and sympathetically. They will be investigated thoroughly, impartially and confidentially.

You may be interviewed, and so will the person or group you have complained about. Witnesses may also be interviewed and other evidence will be considered.

Formal complaints may be treated anonymously, but generally the person or people complained about have to know who is making the complaint. Those complained about may face discipline and have the right to know what you claim they did wrong and give their side of the story.

The investigator of a formal complaint will produce a report that contains:

- A description of the investigation process
- A summary of your complaint
- A summary of the response from the person or group complained about
- A summary of the evidence
- A finding: yes or no, there was or was not a breach of policy
- A recommendation for action (either disciplinary or non-disciplinary).

Both the person who has complained and the person or people about whom the complaint was made have the right to know what the finding was.

However, the person who lodged the complaint may not be told all details of the recommendation because the level of discipline will be confidential between the person complained about and their manager.



Both the person who has complained and the person or people against whom the complaint was made may challenge the fairness of either the finding or the recommendation or both. If challenged, the complaint may:

- be looked at again by a different investigator - identified by the committee of management
- be reviewed by more senior staff
- be investigated the committee of management or their appointee

At any stage of the complaint process you may contact an external organisation for information or to lodge a complaint. Options include:

- Victorian Equal Opportunity and Human Rights Commission: humanrightscommission.vic.gov.au
- Fair Work Australia: fwa.gov.au
- WorkSafe: worksafe.vic.gov.au
- A lawyer

This procedure describes the process by which participants may have problems addressed effectively, professionally and confidentially.

1. The complainant is encouraged to discuss the complaint with the relevant staff member or trainer.
2. If the complaint is unable to be resolved, the complaint should be referred to the Manager, RTO Officer or CS Officer.
3. If the complainant is not satisfied with the response of the Manager to the verbal complaint then it should be recorded in writing and lodged with the Manager, RTO Officer or CS Officer for referral to the Committee of Management.
4. The Manager, RTO Officer and CS Officer are responsible for investigating the complaint.

If the complaint is about a specific individual the Manager, RTO Officer's or CS Officer's response will include:

- a. Informing the person about whom the complaint is made and seeking their views and perspective
 - b. Giving consideration to the use of a mediator
 - c. Informing the complainant of the outcome of the complaint in writing within 7 working days
5. If the matter remains unresolved the complainant will have the opportunity to direct a written complaint to the committee. The committee will investigate the matter, including an opportunity for both the complainant and respondent to present their case, and respond to both parties in writing within 7 working days.
 6. Should the complainant be dissatisfied with the decision of the committee they can request in writing an external review to be conducted by:
 - a. A member of the Institute of Arbitrators and Mediators Australia (IAMA). LCC will acknowledge receipt of this request and pass on all information to the designated member of the IAMA. The committee will consider the recommendation of the external reviewer prior to confirming or amending the original decision and communicate the decision with supporting reasons in writing to the parties involved in the process within two weeks. The cost for the external review process will be borne by LCC.
 - b. Or by an independent person who will be a qualified representative from the Mediation-Dispute Settlement Centre of Victoria. 3/235 Queen Street Melbourne. Web address: www.justice.vic.gov.au/disputes
 - c. Or by the Administrative Appeals Tribunal currently located at Southgate HWT Tower, 40 City Road, Southbank, Victoria if jurisdiction applies. The cost for such applications will be borne by the complainant and application details are located at www.aat.gov.au.



7. If the complaint concerns the delivery or assessment of nationally accredited training please refer to the RTO Section of the Policy and Procedure manual.
8. If the complaint concerns children in care, please refer to the Children's Services section of the Policy and Procedure manual.

The unresolved complaint should be addressed to:
Office of Training & Tertiary Education,
Department of Education, 2 Treasury Place, East Melbourne

LCC strongly encourages any participant who believes they have been discriminated against, bullied or harassed, sexually harassed, vilified or victimised to take appropriate action. Participants should not suffer in silence.

RTO Appeals & Grievances

Grievances received from students enrolled in accredited training will be handled in the same manner as all grievances received by LCC.

Assessment Results - Appeals Process

A fair and impartial appeals process is available to participants of LCC. If a participant wishes to appeal the assessment result, they should first discuss the issue with the trainer/assessor or the RTO Officer.

- a. If the participant would like to proceed further with the request after discussions with the trainer/assessor a formal request is made in writing, to the Manager by completing an Appeal Notification Form outlining the reason(s) for the appeal, which must be lodged within 28 calendar days after the participant has been issued with the results of their assessment.
- b. Receipt of the appeal will be acknowledged by the Manager within 5 working days. The Manager will follow up the details of the assessment decision with the assessor and arrange for an informal discussion to be conducted between relevant parties. The student may bring another person to the discussion for support or representation. A follow-up discussion may be necessary.
- c. If the appeal cannot be resolved at step b., the Manager will call on another assessor to moderate the assessment decision. This second assessment will be conducted within 20 working days of receiving the Appeal Notification. Every effort is made to settle the Appeal to both the participant's and Langwarrin Community Centre Inc.'s satisfaction.
- d. The appellant is given a written statement of the appeal outcomes, including reasons for the decision.
- e. If a person is not satisfied with the outcome of the appeal, they may take it further by external means at their own expense.

Documentation

It is the responsibility of the Manager to document the steps taken to resolve the appeal on an LCC Appeal Notification Form. This information must then be reported to the Committee of Management. The Manager must also forward a written statement of any appeal outcomes (including reasons for the decision) to the appellant within 10 working days of the second assessment.

Grievance from Children in Care

- Children who have concerns are encouraged to talk with the Childcare Staff in the first instance. If the child's concerns are not resolved, the Child Care Supervisor/ or Children's Services Officer will be advised.



- Families with concerns or complaints are encouraged to discuss these with the Child Care Supervisors in the first instance and/or the Children's Services Officer.
- Complaints, which are not resolved to the family's satisfaction, will then be referred to the Manager and thereafter if necessary, the Committee of Management.
- All written complaints and concerns will be addressed verbally within 24 hours and in writing within 5 working days.
- If the complaint is still not dealt with to the family's satisfaction the Department of Human Services can be contacted.

Children's Services Adviser
Department of Human Services
Thomas Street
DANDENONG VIC 3175
Telephone No: 9213 2020

Treatment of related documents

Any documentation relating to any investigation will be securely filed and will not be accessible to staff other than the Manager, and where necessary the committee of management representative. The documentation may include formal written complaints or assertions, responses to complaints and allegations and formal minutes of mediation processes.

Outside Mediator

The independent person will be a qualified representative from the Mediation-Dispute Settlement

Centre of Victoria. 3/235 Queen Street Melbourne. Web address: www.justice.vic.gov.au/disputes