

Audit Guide – Clause 6.1-6.6

6.1. The RTO has a complaints policy to manage and respond to allegations involving the conduct of:

- a) the RTO, its trainers, assessors or other staff;
- b) a third-party providing services on the RTO's behalf, its trainers, assessors or other staff; or
- c) a learner of the RTO.

6.2. The RTO has an appeals policy to manage requests for a review of decisions, including assessment decisions, made by the RTO or a third-party providing services on the RTO's behalf.

6.3. The RTO's complaints policy and appeals policy:

- a) ensure the principles of natural justice and procedural fairness are adopted at every stage of the complaint and appeal process;
- b) are publicly available;
- c) set out the procedure for making a complaint or requesting an appeal;
- d) ensure complaints and requests for an appeal are acknowledged in writing and finalised as soon as practicable; and
- e) provide for review by an appropriate party independent of the RTO and the complainant or appellant, at the request of the individual making the complaint or appeal, if the processes fail to resolve the complaint or appeal.

6.4. Where the RTO considers more than 60 calendar days are required to process and finalise the complaint or appeal, the RTO:

- a) informs the complainant or appellant in writing, including reasons why more than 60 calendar days are required; and
- b) regularly updates the complainant or appellant on the progress of the matter.

6.5. The RTO:

- a) securely maintains records of all complaints and appeals and their outcomes; and
- b) identifies potential causes of complaints and appeals and takes appropriate corrective action to eliminate or mitigate the likelihood of reoccurrence.

What is this clause about: This clause requires the RTO to establish and apply a complaints policy and procedure and an appeals policy and procedure. These do not need to be separated and can be combined into the one complaints and appeals policy and procedure. It is important to note the difference between a complaint and an appeal. A complaint is merely an expression of dissatisfaction with something or someone in connection to the RTO. An appeal is where the person is seeking the RTO to review a decision that it has made. This is normally where the decision has an adverse impact on the person such as where an RTO declines an application for refund from a learner who failed to attend the course. Most appeals are administrative related and contrary to popular belief appeals of assessment decisions are reasonably rare.

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Another important aspect of these clauses is the requirement for the policies to be broadly applicable to anyone. So, this is not purely a learner centric requirement. If an employer seeks to make a complaint about the RTO, if a staff member wishes to make a complaint about a learner or the learner wishes to make a complaint about the RTO, it is applicable in all of these situations. This is why the policy needs to be publicly available and not simply contained within the learner handbook. The complaints and appeals policy needs to adopt the principles of natural justice and procedural fairness particularly relating to where allegations may be made by one person about another. This includes the requirement to hear both sides of the matter and allow for unbiased and fair representation. Most states and territories ombudsman have guidelines on the principles of natural justice and procedural fairness. These typically provide a good source of information to ensure your policy is achieving the requirement. The following link provides access to the NSW Ombudsman (as an example), Fact Sheet relating to Natural Justice and Procedural Fairness ([click](#)).

The remaining tricky component in these clauses relates to providing for independent third-party review where a complaint or an appeal remains unresolved. After the person has had an opportunity to make their complaint and receive a response, if they remain not satisfied with the process or response then they now have the right to request the RTO to have the matter reviewed by an independent third-party. Just to be clear, the independent third-party is not ASQA, is not the National Training Complaint Service and is not your State Fair Trading Authority. It is an independent third-party that you engage. This may be a professional complaints resolution service provider or a consultant that you engage to review and report back on the matter. You will need to establish arrangements for how this review will occur including how the person is engaged, the timeframe for their review, reporting requirements, actions on receiving their recommendations, et cetera. It's only after the person has made a complaint, received a formal reply by the RTO, is not satisfied and seeks a third-party review, the review is undertaken by the independent third-party and reported, that if the person remains not satisfied with the process then they have the option to take their complaint or appeal further to other authorities. They can clearly take their issue to these authorities before all of this has occurred; however, generally these authorities will require them to first utilise the RTO's complaints and appeals arrangements (there have been exceptions to this but generally this is the case).

The remaining specific items that the auditor will want to confirm are that you provide a written acknowledgement when you receive a complaint or an appeal to the person as soon as practicable. I suggest you do this within 24 hours. You should establish arrangements to provide the person with regular updates and ensure that the records of the complaint or the appeal are securely stored and kept confidential. Finally, at the end of the process you need to identify any opportunities for improvement to prevent the recurrence of the complaint/appeal. This requirement dovetails with clause 2.2 which identifies outcomes coming from complaints and appeals as an input to quality improvement. You need to be able to identify at the end of the complaints process that this action is undertaken and there is a systematic method of referring or reporting these opportunities for improvement.

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<p>Evidence to prepare:</p> <ul style="list-style-type: none"> – Complaints and Appeals Policy – Complaints and Appeals Procedure – Complaints and Appeals Policy Forms and other forms – Complaints and Appeals register – Records of completed complaints or appeals (especially correspondence). – Opportunities for improvement that have resulted from handling complaints or appeals and evidence of how these have been acted upon 	<p>You must be able to demonstrate that:</p> <ul style="list-style-type: none"> – You have a suitable policy for the handling of complaints and appeals which adopts the principles of natural justice and procedural fairness, is publicly available and includes the procedure for submitting a complaint or appeal. – You provide a complaints and appeals arrangement which is broadly applicable not only for learners but also the RTO staff and third parties. – You acknowledge complaints and appeals as soon as practicable and provide regular updates to those making a complaint or seeking appeal – You resolve complaints and appeals as soon as practicable, but if the matter is likely to take longer than 60 days then you must advise the person in writing and provide regular updates. – You provide for an independent third-party review of complaints and appeals where this is requested. – You maintain the security of complaints and appeals records to ensure confidentiality and identify and act on opportunities for improvement resulting from complaints and appeals handling
<p>You should prepare for these types of questions:</p> <ul style="list-style-type: none"> – Can you talk me through your complaints and appeals handling process? Is there a policy and procedure? Is this publicly available? – Do you have any examples of complaints over the last 12 months? Can I see all the documentation relating to these? – How do you record complaints and appeals. Do you place timeframes for the initial response to the candidate? – How do your arrangements adopt the principles of natural justice and procedural fairness? – Can you talk me through your arrangements to refer unresolved complaints and appeals to an independent third-party? – Can you identify any opportunities for improvement that have resulted from your complaints handling? 	

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