

Complaints and appeals policies and procedures

1.1 Policy background and objectives

The SNR standard 6.1, 6.2 and 6.3 requires a RTO to provide appropriate mechanisms and services for learners to have complaints and appeals addressed efficiently and effectively. Likewise, the SNR Standards 2.1, 2.2, 6.5 and 8.5 further *imply* that a RTO must have an effective complaints handling process. This policy is designed to meet these requirements.

Through this policy MTS ensures that all complaints about MTS services are:

- Dealt with professionally, fairly, objectively and efficiently;
- Communicated clearly with an explanation of the steps involved in the process of complaints and resolution;
- Recorded effectively including complaints process, outcomes and rational for the outcomes or decisions.

The main purpose of this policy is to:

- Provide a fair, equitable and confidential means of resolving student complaints;
- Provide a framework for managing and investigating students complaints; and
- Fully adhere to SNR 8.5 and other implicating standards including The National Complaints Code.

1.2 Scope of the policy

This policy (referred to as the Complaints Policy) applies to all complaints, formal or informal, received by MTS in relation to its provision of training, assessment and related services including recognition of prior learning (RPL), in-house training and student support services.

This Complaints Policy should be read in conjunction with School's following policies:

- Access and equity policies and procedures;
- Assessment policy and procedures;
- Academic misconduct and plagiarisms policies and procedures; and
- MTS' code of practice

1.3 Policy dissemination

This access and equity policy will be made available to all staff and students through the Student Handbook, pre-enrolment information and through staff and student inductions.

1.4 Implementation arrangements

This policy will be directly implemented by the School CEO.

1.5 Procedures for complaints

1.5.1 Definitions

Complaints

Complaints are issues raised or escalated by a student or a staff in relation to MTS' operations or, in relation to an individual or organisation (including staff, trainer/assessor, peer, contractor, or supplier) associated with the School. Operations of MTS that may give rise to complaints include:

- Student services;
- Assessments;
- Refunds;
- Training delivery;
- Trainer/assessor or employee's conduct;
- Training equipment, resources and environment;
- Access and equity issues;
- Process and outcome of recognition of prior learning; or
- Workplace health and safety concerns.

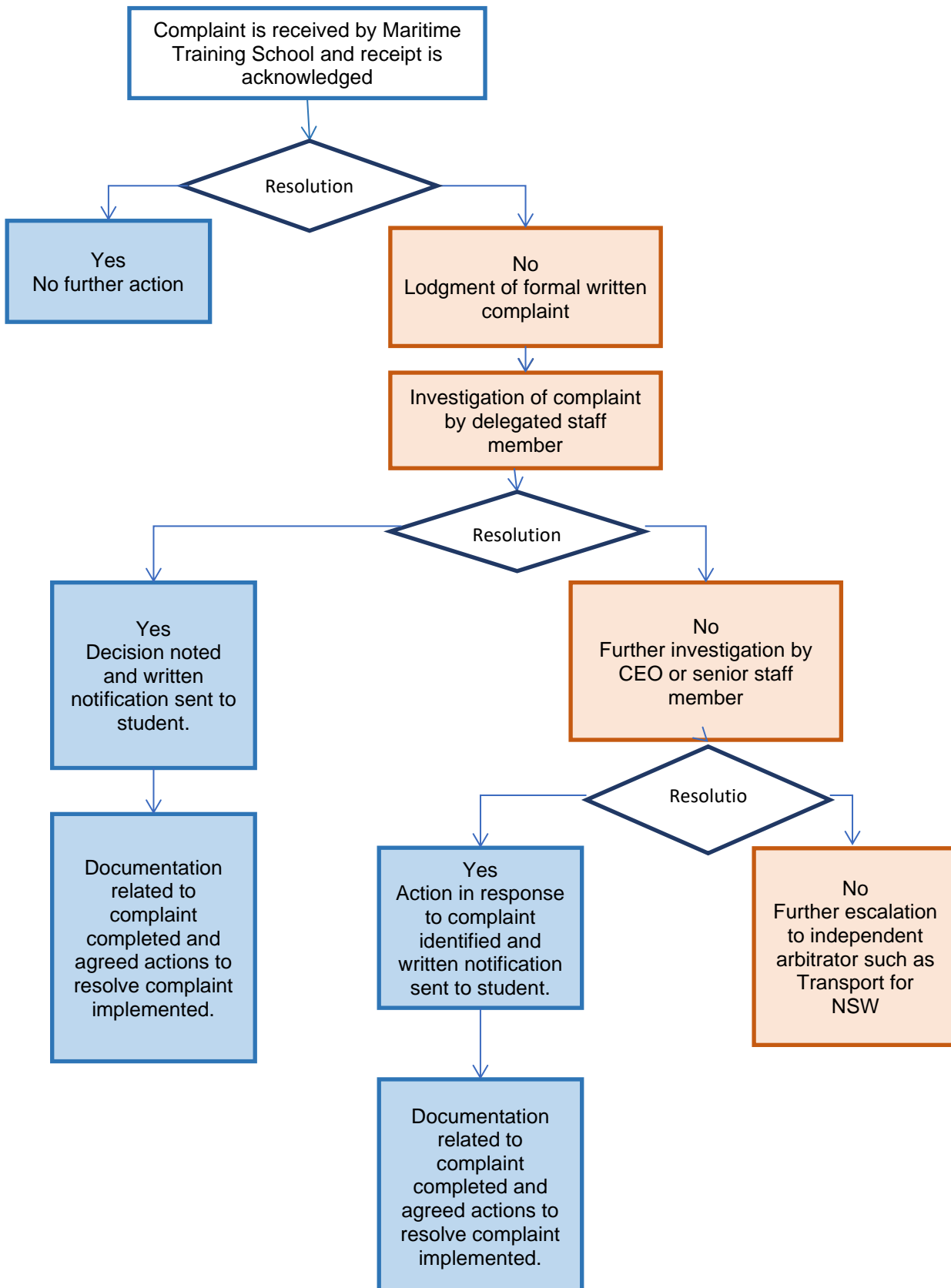
Students

In this Complaint Policy, a student means any student enrolled in any of MTS course/s as well as third party providers.

1.5.2 Complaints management process

Maritime Training School generally applies the following procedures to deal with the investigation and resolution of a student complaint.

Figure I. Complaints Management Process



1.5.3 General procedures

- If a student has a complaint about any aspect of their involvement with MTS, they should first contact the delegated staff member to discuss their complaint.
- An acknowledgement of receipt of any complaint received is required
- liaising with sensitivity to the needs of vulnerable Applicants
- Other means of making a complaint including contacting Transport for NSW or other National Transport departments.
- After discussion with the staff member, the concerned student may request to speak with another senior staff member or the School CEO.
- If the complaint is about the CEO, who was in the role of Trainer/Assessor at the time, the complaint will be given to a senior staff member and not the CEO.
- If the student is not satisfied following these discussions, they may submit a written complaint.
- All formal or written complaints are lodged to and investigated by a senior school staff member or directly by the School CEO.
- If the situation warrants it, an independent arbitrator/mediator could also be appointed at any time.
- All complaints will follow the standard principles of procedural fairness, rights of privacy and confidentiality of the complainant, and the rights of representation or third-party negotiation, and opportunities for appeal or re-appeal.
- All complaints will be dealt with professionally, fairly, objectively, efficiently and confidentially.
- All parties to the complaints will be provided clear information on the steps involved in the complaints procedures and their resolutions.
- Everything relating to the complaint will be recorded, particularly the complaints, complaints processes, outcomes and reasons for the given outcome.
- Resolution of a complaint may be reached at any stage by mutual agreement between the involved parties.
- Upon resolution of a complaint, all further investigation ceases unless, in the interest of improving the services or processes, the School CEO considers further investigation.
- In the event of a complaint not being resolved internally the School may appoint an independent arbitrator or mediator. In such event, the complainants do not need to pay any legal fees.
- If the complaint is not resolved internally or after appeal, the complainant may take their complaint to any appropriate government body or the court system for resolution.
- The complainant may access external authorities such as Transport for NSW or mediation arrangements or the legal system at any time and at any stage in the complaints process.
- All complaints will be addressed and rectified within 60 days from receiving the complaint. Where the MTS considers more than 60 calendar days are required to process and finalise the complaint or appeal, MTS:
 - Will inform the complainant or appellant in writing, including reasons why more than 60 calendar days are required, and
 - Provide regular updates to the complainant or appellant on the progress of the matter.

1.5.4 Lodging a formal complaint

1. Students may lodge a formal complaint via an email or a letter.
2. To assist in the speedy resolution of their complaints, students should include at least the following information in their written complaint:
 - If the complaint is lodged via an email or a letter they should use the word 'Complaint' in their email or letter subject line;

- If the complaint relates to training, they should identify the training course and the training period linked with the complaint;
- Should summarise the issues relating to the complaint as precisely as possible; and
- Provide any supporting evidence linked to the complaint such as any email communication, witness etc.

1.5.5 Investigation of a complaint

Upon receipt of a formal complaint, details of the complaint will be recorded on the '**Complaints Register**'. All formal complaints will be investigated by the Training Coordinator and escalated to the School CEO for resolution, if they cannot be resolved in the first instance. In the event that a complaint is raised about the CEO, the Training Coordinator will refer the complaint to a senior staff member.

Complaints regarding assessment should be made by the students within 30 days of the release of the results, describing the reason for the complaint. The investigation of assessment related complaints could include:

- Reviewing marked examination papers or assignments;
- Reviewing course materials or resources;
- Consulting other course participants;
- Reviewing unit/course assessment practices;
- Speaking to staff or trainers/assessors; and
- Speaking to student's representative.

Once the investigation has been conducted and a determination made, the complainant will receive a written response to their complaint within 30 days from the date of formal complaint.

The complaint and determination will be recorded on the '**Complaints Register**'. Electronic copies relating to complaints will also go into the concerned student's file. If the determination of complaints has implications for the improvement of School operation, the outcome of complaints will also be noted into the continuous improvement register.

Where the complaint relates to access and equity or discrimination or academic misconduct, the School CEO will immediately arrange an interview with the complainant.

1.5.6 Resolution of a complaint

These guidelines will be followed while handling following specific complaints:

Access and equity issue

- Where there is a complaint in relation to the access and equity or discrimination, the School CEO will be directly and immediately involved. The CEO will resolve the complaint consultatively by involving all involved parties as far as practicable.
- The School will immediately address any complaints concerning access and equity linked to training and assessment including learning resources, access to learning facilities, equipment and assessment materials.

Complaint relating to a subject of study or a course

Where a determination in relation to a complaint about a subject or course is made in favour of a student, the School may compensate that student by one or a combination these benefits:

- Refunding the student's subject fees;
- Offering the student an opportunity to attempt another similar subject;
- Providing additional tuition or training options;
- Making a written apology to the student;
- Providing new subject materials or access to revised information;
- Offering a discount of subject fees; or
- Another type of compensation as deemed appropriate by CEO.

Staff or trainer/assessor related complaint

- If the complaint relate to a trainer/assessor or any School staff, the concerned trainer/assessor or staff will be requested to resolve the complaint at their level. If a resolution could not be achieved at that level, the CEO/Training Manager will be requested to investigate.
- If the determination above is in favour of the student, the complaint would be dealt with according to the staff disciplinary procedures. There could be situations of counselling the staff, serving verbal warning or undertaking disciplinary action depending on the damage made to the student.
- Based on the circumstances of the complaint the School CEO, in consultation with the Training Manager, they will determine the nature of action to be taken.

Assessment related complaint

Where the complaint received relates to assessments, the following procedures will apply:

- The Training Manager/CEO will be immediately informed.
- The Training Manager/CEO will be directly involved in the investigation.
- Agreed actions to resolve the complaint will be determined by the Training Manager/CEO.
- The Training Manager/CEO will make a decision about any continuous improvement implications of the decision.
- If the decision has improvement implications, it will also be noted in the School's 'Continuous Improvement Register'.

Refunds related complaint

Where the complaint relates to refund of the fees, the following principles apply:

- Silver Spirit Cruises Pty Ltd trading as Maritime Training School will maintain a tuition assurance scheme to safeguard students in the event of it becoming insolvent and unable to return fees that have been paid in advance. The tuition assurance scheme will source similar training to allow the effected participants under this condition to complete their studies without further financial burden. However if the student cannot be placed, the tuition assurance will make refunds.
- All complaints relating to refund will be directly investigated by the CEO in consultation with the School Accountant.
- While investigating this complaint, the refund decision will be re-examined against the School's Refund Policy. This may involve recalculating the given refund and ascertaining its accuracy.
- If the original refund decision was correct, the CEO will advise the complainant clearly describing why the decision was correct and what options are available to them including their rights to appeal.
- If the refund decision is reviewed in favour of the complainant, appropriate adjustments in refund amount will be made and the complainant will be advised of the decision and paid the refund in difference within seven (7) working days.

1.5.7 Follow-up to student or complainant

- In all formal complaints, written determination will be prepared by the School CEO detailing the actions taken in response to the complaints. This will be sent to the student within 30 calendar days of receipt of the complaint.
- If, due to the nature of the complaint or the investigation the determination takes longer than 30 calendar days, the concerned student will be advised.
- Copies of the decision or determination will be sent to other parties as appropriate. A copy of the written determination will be retained on the student's personal file.
- If the School receives no communication from the student within 30 calendar days of the student receiving the determination, the complaint will be considered closed.

1.5.8 Referral of a complaint for external resolution

If a complaint cannot be satisfactorily resolved according to the policies and procedures outlined in this document, the student concerned may take the complaint to an appropriate government organisation. Please see Appendix I for the list of organisations where a student should be able to make complaints.

1.6 Appeals process

8.6.1 Right to appeal

Any student, subject to a determination in relation to their complaint, who believes they have grounds for appeal is entitled to appeal that determination to the School CEO. If the determination is made by the CEO and the student is not interested in re-appealing (or reconsidering) the decision through the CEO, they may avail government bodies listed in Appendix I.

1.6.2 Notice of appeal

If a student decides to appeal a determination, they must lodge a written 'Notice of Appeal' within 30 calendar days of the determination. The 'Notice of Appeal' must include the following information:

- Request an appeal (in subject line of email or letter)
- Set out the grounds of appeal
- Provide evidence supporting the grounds of appeal or any new information not previously provided in support of the grievance, and
- Specify the expected outcome

1.6.3 Grounds of appeal

An appeal of a determination may be made on one or more of the following grounds:

- When new evidence is available;
- When it was felt that the decision was made without due consideration of the facts, evidence or circumstances;
- When there was perceived bias, prejudice or a conflict of interest, or
- When there was an alleged policy or procedural irregularity in the investigation or hearing.

1.6.4 Duty and power of the CEO

Upon receiving an appeal application, the CEO may determine whether to hear an appeal or dismiss it. If the CEO believes there are no grounds for appeal or that the appeal is lacking in substance, the

appeal may be dismissed without proceeding to a hearing. Alternatively, the CEO will proceed to hearing.

The CEO will have the power to:

- Hear the appeal in relation to the determination;
- Review, uphold, dismiss or vary the determination;
- Refer the matter for further inquiry, investigation and determination.

1.6.5 Granting an appeal application

Where the CEO allows an appeal application, a meeting will be convened to hear the appeal within a reasonable time, which will normally be not more than ten (10) working days after receiving the Notice of Appeal.

Before hearing the appeal, the CEO should make the following decisions on the procedures of the hearing:

- The general conduct of this appeal hearing.
- The procedures to be adopted based on the general principles of natural justice and procedural fairness.
- The nature of the appeal.
- The order of proceedings at the hearing.

1.6.6 Dismissing an appeal application

Depending on the nature and circumstances of the appeal and the student's grounds for appeal, the CEO may determine that there are no grounds for appeal. In this case the CEO may determine that no hearing is necessary and dismiss the appeal application.

The decision of the CEO to allow or dismiss the appeal application will be final and there will be no further right of appeal within the School complaints mechanism.

However, the complainant may access any of the external complaint hearing bodies identified in Appendix I.

Where the CEO dismisses an appeal application, the student will receive written notification from the CEO informing them:

- That their appeal application was not successful, and
- The reasons why their appeal application was not successful.
- Other organisations where they can take their complaint/appeal further, such as the organisations in appendix 1.

1.6.7 Appeal hearing

- The CEO will consider all documentation submitted in connection with the appeal, including any written submissions from the student and the representative of the School.
- The CEO will also refer to any documentation or evidence tendered during the investigation or hearing as well as that considered in appealing the determination.

- At the appeal hearing, the student concerned is entitled to be represented by legal counsel or by another person appointed by the student, but must advise the School prior to the hearing if they intend to do so. Maritime Training School may also appoint a legal representative at the appeal hearing if necessary.
- At the appeal hearing, the student and the School nominee may call and cross-examine witnesses and, at the conclusion of evidence, may address the CEO.
- The CEO may reasonably adjourn the appeal hearing any time to consider any matter deemed relevant.

1.6.8 The CEO's decision

- After hearing from all parties, the CEO must decide within ten (10) working days whether to uphold or deny the appeal.
- The determination of the CEO must be communicated in writing to the student and the School staff involved.
- The proceedings and decision of an appeal will be kept confidential, subject to the legal requirements.
- The student is entitled to be informed of the determination of the CEO and reasons for the determination.
- The student will also have rights to access the records of the hearing.
- The decision of the CEO will be final and binding on all parties. There will be no further right of appeal within MTS complaints and appeals mechanisms.
- If the student feels that the appeals process did not resolve the matter to their satisfaction, the student will have rights to pursue other relevant legal remedies available to them under the Commonwealth or State legislation.

Where an appeal is upheld, the CEO may determine what action to take. Where an appeal is upheld in relation to the assessment/recognition process, the CEO may decide to:

- Uphold the assessment/recognition decision
- Use their professional judgment to revise the assessment/recognition decision, or
- Arrange for the student concerned to be reassessed by another assessor.

Where the CEO does not uphold (or dismisses) an appeal, the original determination will be confirmed and proceeded with the original decision.

1.6.9 Referral of complaint for external resolution

If a grievance cannot be satisfactorily resolved in accordance with this Complaint Policy, the Student concerned may take the grievance to an appropriate government organisation including:

- The Australian Skills Qualification Authority –ASQA-<http://www.asqa.gov.au/>
- The Office of Fair Trading – www.fairtrading.nsw.gov.au

Appendix I gives more information on other government organisations where the grievance could be lodged.

Appendix I Organisation External to MTS Where Complaints Could be Lodged

Organisation	Contact details
Australian Skills Quality Authority (If complaints relate to training quality and training services)	Complaints Team Australian Skills Quality Authority GPO Box 9928 Melbourne VIC 3001 Tel: 1300 701 801 E-mail: enquiries@asqa.gov.au complaintsteam@asqua.gov.au
NSW Department of Fair Trading (If complaints relate to fees and refund)	NSW Department of Fair Trading 1 Fitzwilliam St Parramatta NSW 2150 Tel: 02 9895 0111 Fax: 02 9895 0222 Web: http://www.fairtrading.nsw.gov.au
Ombudsman NSW	HSBC Centre Level 24 , 580 George Street Sydney, NSW 2000 Tel 02 9286 1000 (Monday-Friday: 9:00 am -5:00 pm Fax 02 9283 2911 Web: http://www.ombo.nsw.gov.au/
Legal avenues based on the court system	Please contact any legal advisors. Here are some web links a. www.codea.com.au b. www.legallaid.com.au c. Browse web for others.
Transport for NSW	Complaints and feedback Tel 13 22 13 Web: https://www.transport.nsw.gov.au/about-us/contact/complaints-and-feedback

Document Version History

Version No.	Summary of Changes	Author	Date
1.0	New Document	Danielle Smith	13/2/2015
2.0	Periodic Review. No changes required	Dijla Koutsouras	13/02/2019
3.0	Formatted into new controlled document template	Dijla Koutsouras	03/03/2022
4.0	<p>Added general requirements in sections 1.5.2 in the flow diagram and 1.5.3 as advised by the 2022 Approved Boat Driving Licence Training Provider Scheme.</p> <ul style="list-style-type: none"> • <i>General Provisions, 12. Complaint management procedure).</i> <ul style="list-style-type: none"> (ii) acknowledgement of receipt of any complaint received; and (iii) liaising with sensitivity to the needs of vulnerable Applicants, (vii) Other means of making a complaint including contacting Transport for NSW <p>Added Transport for NSW complaints and feedback contact details to appendix I</p>	Dijla Koutsouras	30/04/2022