

Policy and Procedure:

Complaints and Appeals

Objective:

The Australian Institute of Fitness ('AIF') is committed to providing an effective, efficient, timely, fair and confidential complaints and appeals handling process for all Students. This document establishes AIF's policy with regards to the resolution of complaints and appeals.

This policy and related procedure covers both academic and non-academic complaints as well as academic appeals.

Effective Date:

7 June 2022

Definitions:

Access and equity means policies and procedures approaches aimed at ensuring that the Vocational, Education and Training (VET) Sector is responsive to the individual needs of clients whose age, gender, cultural or ethnic background, disability, sexuality, language skills, literacy or numeracy level, unemployment, imprisonment or remote location may present a barrier to access, participation and the achievement of suitable outcomes.

An appeal is where a student wishes to express dissatisfaction with a particular assessment result and/or another adverse Registered Training Organisation (RTO) decision impacting the student, such as non-eligibility to enrol.

An appellant is the student who is dissatisfied with a particular assessment result and has lodged a request for a review using AIF's Complaints and Appeals Handling procedure.

ASQA stands for the Australian Skills Quality Authority, which is the national VET Regulator.

A complaint is an expression of dissatisfaction or concern regarding a decision or action that relates to any aspect of AIF's services and activities, including:

- products & services policies
- conduct of staff and any third-party service provider, and
- decisions of the organisation.

A complainant is the person making the complaint. This may include:

- student and/or their parents/guardians and/or their families
- a member of the public
- an employee
- a stakeholder, or
- an employee of an engaged stakeholder or partnership body.

A final decision is the decision made by an external and independent third tier resolution body authorised to make that decision by AIF and communicated to the complainant/appellant in writing when all internal complaint and appeal avenues have been exhausted.

A formal complaint is one that is considered more serious and complex and will require investigation or consultation.

A grievance (or an informal complaint) is one that is considered minor in nature and one, which is immediately correctable and will usually be the result of error rather than from a systemic problem. It is usually against a decision made by AIF.

RTO means Registered Training Organisation, commonly known as a Training Provider or Provider and has the meaning given as defined in the *National Vocational and Training Regulator Act 2011*.

Staff means any person who is an employee of AIF at any stage during the complaint and/or appeal process or the events preceding it, including full time, part time, sessional or casual employees.

VET means vocational education and training.

VET Student Loan (VSL) Common Definitions:

Approved courses are courses delivered only by an approved course provider that has been approved to offer that particular approved course.

CAN means the Commonwealth Assistance Notice which is issued after the Census date and includes information about the Student's enrolment, any HELP debt incurred or Student contribution amounts paid to date and any loan fee incurred.

Census Day is the day the student incurs financial liability for the unit of study. Students may cancel their enrolment by the census day without incurring tuition fees (or a HELP or VET Student Loans debt) for the course or the part of the course.

CHESSN is the Student ID issued as part of the Student's Commonwealth Assessment Notice (CAN).

Covered fees are the amount of the course tuition fees to be covered by a VET Student Loan and is set out on the Student's VET Student Loans Statement of Covered Fees.

Course loan cap means the total amount of loan an eligible student may access for a particular course.

Fee periods are the tuition fees for the course which are proportionately distributed across at least three sequential fee periods. Each fee period contains at least one Census Day. Therefore, there are at least three census days/three units over the course.

Gap fees are the difference between the covered fees and the total tuition fee for a course.

Genuine student is one that has been determined by the RTO as having demonstrated they are reasonably engaged in the course and have completed the student progression requirements.

HELP loan limit is the maximum amount a person can borrow over their lifetime for VET Student Loans, VET FEE HELP, FEE-HELP, and HECS-HELP. (Note, only HECS-HELP incurred after 1 January 2020 counts towards the HELP loan limit). The HELP loan limit is indexed annually on 1 January.

HELP balance is a person's HELP limit minus any VET Student Loans, VET FEE HELP, FEE HELP and HECS-HELP loans they have used.

Provider fee limit is the maximum dollar amount for VET Student Loans that can be paid to an approved course provider for a particular period of time and/or for a particular approved course(s).

Tuition fees are the total fees for the course (including the covered fees plus any gap fee).

Unit of study may comprise a group of units of competency or one unit of study may equal one unit of competency. Rules apply to providers in respect of units of study, such as determining census days, publishing fees, issuing notices, reporting fees and completions, and withdrawal and penalty provisions.

VSL tuition protection levy is a risk-based annual levy, payable by leviable providers, to fund tuition protection arrangements for the VSL program.

Policy:

AIF strives to ensure that each student is satisfied with their learning experience and outcome. It is anticipated that issues of concern can be resolved by meaningful and respectful communication. In the unlikely event that this is not the case, all students have access to rigorous, fair and timely complaint and appeal processes which are outlined in this document. The same processes are made available to any other stakeholder who is seeking to lodge a complaint, for example, an employer about one of AIF's staff.

AIF ensures that all complaints and appeals are dealt with fairly, transparently and consistently at every stage of the complaint and appeal process. AIF will ensure that the decision maker is independent of the decision being reviewed and that anyone subject to a decision by AIF and/or anyone who has an allegation made against them, will also be provided with the opportunity to tell their side of the story before a decision is made. This is based on the principles of natural justice and fairness that will ensure all complaints and appeals are addressed effectively and efficiently. This complaints and appeals policy and procedure ensures students and other stakeholders understand their rights as well as the responsibilities of AIF. At no time through AIF's complaints and appeals process, will the person making a complaint or appeal be victimised or discriminated against for:

- Using this complaints or appeals procedure
- Seeking a review or reconsideration of a decision or

- For VSL Students, making an application for re-crediting the student's HELP balance.

All complaints and appeals lodged with AIF will take into account AIF's policies, the applicable conditions of enrolment (if a student) and all relevant legislation and regulation when determining the outcome of a complaint or appeal.

Responsibilities and Accountabilities:

This version of the policy and procedure and any amendments to related documents, have been authorised by AIF's Chief Executive Officer (CEO). The Head of Compliance & Training, as delegated by the CEO, is responsible for ensuring this policy and procedure is implemented at all times across AIF and ensuring that all staff are fully trained in its operation.

AIF's Compliance Manager is also responsible for ensuring this policy and procedure and related documents are maintained and up to date through an annual revision, as well as through any ongoing quality activities including audits and feedback.

In accordance with the AIF Code of Conduct, any breach of this policy is dealt with seriously and may result in disciplinary action including termination of employment, depending on the severity of the breach.

Where Team Members consider that significant departures from the principles of this policy have occurred, they are obligated to report it immediately to their Line Manager or iExec Team Member. Failure to do so constitutes a breach of this policy and AIF Code of Conduct.

Procedure:

Overview

This policy and procedure covers both academic and non-academic complaints and appeals.

Academic matters include those matters that relate to Student selection, progress, course content or issuing of certificates in a VET course of study.

General Principles

These principles are adhered to by AIF and apply to all stages of the complaints and appeals handling process:

- AIF deals with all complaints and appeals in a fair, constructive and timely manner.
- The Appellant/Complainant and any Respondent can present their case at each stage of the process.
- The Appellant/Complainant and any Respondent have the option of being accompanied/assisted by a third person (such as a family member, Student or counsellor) if they so desire. Where a complaint is submitted on behalf of an enrolled Student, any responses by AIF will only be directed back to the Student – or where the Student is under 18 years old, the response may be directed back to the Student's supervising parent or legal guardian

- In accordance with the Disability Standards for Education 2005, for students or persons with a disability, a guardian, carer, advocate, or support person may make a complaint or an appeal on behalf of the student or person with a disability, and may also be involved in assisting the complainant/appellant to make the complaint/appeal and in resolving the complaint/appeal.
- The Appellant/Complainant and any Respondent is not discriminated against or victimised.
- No Student, Employee or other stakeholder is disadvantaged in any way during the complaint and resolution process.
- A Student's progress through a study program is not disrupted whilst a complaint is being heard unless the nature of the issue itself means further progress is not possible.
- At all stages of the process, discussions relating to complaints and appeals are recorded in writing and details are stored in AIF's electronic 'Complaints Register'.
- Reasons and a full explanation in writing for decisions and actions taken as part of this procedure are provided to the Appellant/Complainant and/or any Respondent.
- AIF and the Appellant/ Complainant observe strict confidentiality during all stages of the resolution process. All communications and proceedings relating to the complaint or appeal and its resolution remain confidential.
- An Appellant/ Complainant has the right to appeal a decision.
- An Appellant/ Complainant has access to the internal stages of the complaints and appeals process at no cost. Should the matter require external mediation, charges will apply as outlined below.
- AIF makes all reasonable effort to resolve the appeal or complaint and expects that the Appellant/Complainant will also act in good faith throughout the resolution process.
- Where a complaint or appeal is likely to take more than 60 days to resolve, AIF will notify the Appellant/Complainant in writing and provide regular update reports.
- Where an Appellant/ Complainant has not responded to communication from AIF for a period of 60 calendar days from the last AIF notification, the complaint or appeal will be deemed 'closed' and no further action will be taken by AIF unless or until the Appellant/Complainant recommences communications.
- Records of all complaints are kept for a period of five years to allow parties to the complaint appropriate access to these records. These records are kept strictly confidential and stored electronically by AIF.

Appeals

Appeals relate to:

- Assessment activities
- Assessment decisions after re-assessment processes have been exhausted.

If a Student feels that the decision around their assessment is incorrect or unreasonable, the Student can submit a 'Request to Appeal' by emailing the regional Training Team Leader / regional General Manager. AIF will respond within 5 business days of receipt of email with the reasons why the decision was made and the next steps, should the Student remain dissatisfied with AIF's response.

AIF will set up an Appeal Review panel, which will be chaired by the Compliance Manager and include an Assessor. The original Assessor is not permitted to conduct the appeal review. The Appeal Review will be held within 10 working days of the appeal lodged and the Student will be provided with written advice of the outcome within 5 working days.

Complaints

Complaints include those matters which do not relate to a Student's academic assessment. Student complaints tend to arise from events occurring at an AIF campus or from administrative decisions made by AIF and may involve:

- Course advice and enrolment
- Suspension and/or cancellation of enrolment by AIF
- Course content or delivery including both online and face to face
- Marketing or other promotional activity
- Safety issues
- Access and equity issues
- Bullying or harassment
- Fees and charges
- Administrative issues
- Issuing of awards
- Record keeping including personal details

Informal and Formal Student Complaints

Students are encouraged to try to resolve a concern informally. Where the concern relates to the training or assessment, the Student is encouraged to approach the trainers ('Coaches') of their course and/or where necessary the Training Manager ('Training Team Leader') at their Campus. Where the training may relate to fees or other administrative matters, the Student is encouraged to approach a member of the Support Team. In most instances, it is likely that the issue will be able to be resolved informally.

Where the Student is not satisfied with the results of this informal approach and wishes to take the matter further, the process described in the Complaints Procedure are followed.

Please note that it is not mandatory for Students to raise a complaint informally.

Where someone wishes to lodge a formal complaint or appeal, they are encouraged to do so using the 'submit a complaint form' on AIF's website.

External Resolution of both a Complaint or Appeal

If the complaint or appeal remains unresolved, the Complainant/Appellant is able to request an external review from an appropriate independent third party / mediator. This request must be in writing to AIF's Head of Compliance and Training within 10 business days of receipt of the internal review outcome and lodged to: compliance@fitness.edu.au

The Head of Compliance and Training or their representative will organise the external resolution and provide written advice to the Appellant/Complainant of the process and the requirements from each party within 10 business days of receipt of the request. Both parties must enter this phase with goodwill and a desire to seek resolution.

AIF uses the Resolution Institute as its preferred mediation agency, with high quality dispute resolution practitioners available in all jurisdictions in which AIF operates. AIF will organise the mediation and advise the Complainant/Appellant in writing of all details at least 5 working days prior to the mediation session and, including:

- Date and time
- Venue
- Name of Mediator
- Person present from AIF.

The Complainant/Appellant is required to provide the names and role of any support person or representative who they have invited to also participate in the mediation and at least 48 hours prior to the mediation session.

AIF will fully cover the cost of the mediator and the cost of the mediation venue, however each party is required to pay the costs for any support person or representative/s who they decide to engage.

On completion of the external stage, AIF will provide reasonable time for due consideration of the recommendations arising from this stage, by providing a copy of the mediator's findings and recommendations as well as by providing a further 10 working days for any final claims by the Complainant/Appellant against the evidence presented - however no new evidence will be permitted. Should no further claims be presented, the mediator's recommendations will be adopted and AIF will advise the Complainant/Appellant in writing that it will consider the matter as closed once the recommended action/s is taken.

The National Training Complaints Hotline and website directs the Appellant/Complainant to the right authority in their state should they wish to also lodge a complaint through these agencies, which may include the national VET Regulator (ASQA), Offices of Fair Trading, Appeals Tribunals and/or other Funding Bodies which fall within any given State or Territory jurisdiction:

National Training Complaints Hotline

Phone: 13 38 73

<https://www.employment.gov.au/national-training-complaints-hotline>

It is not the role of ASQA to act as an advocate for individual student complaints or appeals, however students and stakeholders are entitled to lodge a complaint with ASQA, which is at no cost:

<https://www.asqa.gov.au/complaints>

Other Stakeholder Complaints

A complaint may be lodged by any person if they feel aggrieved regarding AIF staff, a third party, a subcontractor, another Student or any other stakeholder, such as an employer related to AIF's training services. Similarly, this policy and procedure is used by a third party, a subcontractor, another Student or any other stakeholder, such as an employer.

Recording of Resolution Processes

AIF has in place a Complaints and Appeals Register, located on the HubSpot Service Desk software. This provides full transparency of complaints and appeals received, what stage of resolution they are and historical data. All details are entered by the relevant Head of department with the Register cross referenced for its completion and accuracy by the Compliance Manager upon receipt of a completed Corrective Action Report (CAR) (refer next point).

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Access to Records

AIF permits all parties who have used this procedure to access the records of that use, but otherwise keeps the records in strictest confidence.

Continuous Improvement

AIF also recognises that collecting and analysing information around complaints and appeals is one way for AIF to improve its services. This in turn enhances the level of satisfaction which employees and stakeholders have in AIF's performance.

All complaint and appeal continuous improvement activities are recorded on a Corrective Action Report (CAR) within 5 working days of the resolution.

Accordingly, all AIF complaints and appeals and their handling are reviewed at its Executive Meetings, as well as collated and tabled at AIF's Quality Advisory Committee.

When the initial causative factor of the complaint or appeal identifies a problem with existing policies and/or procedures, the continuous improvement procedure will ensure changes are made to prevent reoccurrence of the problem.

Where the matter may require individual and/or staff training, the relevant line Supervisor will organise this within one month of the complaint or appeal's resolution.

Should the matter be deemed as high or medium risk to AIF, it will be included in the RTO's internal auditing schedule to ensure that the amended practices are embedded across AIF.

The Compliance Manager is responsible for ensuring:

- all records are maintained securely for a 5 year period
- the CAR has been completed and all evidence is attached
- ensuring that the agreed continuous improvement actions are implemented
- monitoring the likelihood of recurrence through AIF's self-assurance practices.

NSW Smart and Skilled Program - Additional Requirements:

NSW Consumer Protection Officer

AIF's designated NSW Consumer Protection Officer for Smart and Skilled subsidised Students is the General Manager, NSW, contacted through compliance@fitness.edu.au

NSW Department Contact Details

Students have the right to contact the departmental Customer Support Centre on 1300 772 104 if they have a concern, should they not resolve their concern with AIF, using AIF's Complaints and Appeals Policy and Procedure in the first instance.

So that all Smart and Skilled subsidised Students are aware of their rights and options for making a complaint or providing feedback about their training, AIF provides contact details of the NSW departmental Customer Support Centre:

- On its website
- In its Consumer Protection (Smart and Skilled) Policy and Procedure
- Through the Smart and Skilled section within its Student Handbook and
- on its Online Enrolment Form.

It also provides a link to the department's website:

www.smartandskilled.nsw.gov.au on the AIF website and in its Student Handbook.

In the event that the Student cannot resolve their complaint with AIF, they are encouraged to contact the department by:

- Applying online:
(www.training.nsw.gov.au/build/online_forms/general_enquiry_form.html)
- Phone: 1300 772 104
- In person at a Training Services NSW regional office (see http://www.training.nsw.gov.au/about_us/sts_contacts.html)

VET Student Loans (VSL) - Additional Requirements:

Student Complaint or Appeal

If a Student has a complaint or wishes to appeal a decision in relation to AIF's conduct to their VET Student Loan (VSL), the Student may, in addition to lodging a complaint through AIF's complaints and appeals handling procedure, also wish to lodge a complaint through:

- <https://www.dese.gov.au/about-us/contact-us/complaints>/VET Student Loans Debt Complaint and/or
- the VET Student Loans Ombudsman:
<https://www.ombudsman.gov.au/How-we-can-help/vslo>

Both these services are free, independent and impartial.

Should a Student believe that AIF has incorrectly charged and that, as a result, the Student has a debt which they should not have, the Student may, in addition to lodging a complaint through AIF's complaints handling procedure, make a complaint directly with the VET Student Loans Ombudsman.

Under the Ombudsman Act 1976 (the Act), the Commonwealth Ombudsman, in its capacity as the VET Student Loans Ombudsman (VSLO), can assess the actions of AIF as a VET provider and make recommendations to the Department of Education, Skills and Employment (DESE) about the recrediting of HELP balances.

The Higher Education Support Act 2003 (HESA) provides for a student's HELP balance to be recredited where the student incurred the VET FEE-HELP debt as a result of unacceptable or inappropriate conduct by a VET provider or their agents.

If the VSLO decides to investigate such a matter, the VET provider will be notified and the provisions under s 8 of the Act will apply.

If the VSLO decides not to investigate, they may instead make a recommendation to DESE. Where DESE determines that unacceptable conduct - or in certain circumstances inappropriate conduct - has taken place, it may make a decision to seek cost recovery from the VET provider, administrators or liquidators in relation to the amount re-credited.

If the VSLO intends to recommend that DESE recredit a VET FEE-HELP debt under a provision that involves a cost recovery mechanism, AIF will be notified and afforded procedural fairness (an opportunity to supply VSLO with further information or comment relevant to the assessment). If the VSLO decides to recommend that DESE not re-credit the student or that DESE re-credit the student under a provision that does not involve a cost recovery mechanism, the VET provider will not be notified. The VSLO does not investigate nor recommend re-credit if the VET provider has already resolved the complaint.

AIF- Initiated Student Withdrawal/Cancellation

Where AIF withdraws/cancels a student's enrolment (for any reason) after the Census date, it will notify the Student and advise of the reason for the withdrawal/cancellation as well as advise that it is providing 28 days for the Student to initiate a grievance procedure, referred to as an appeal in AIF, before the cancellation takes final effect, with AIF's appeals procedure administered as outlined above.

Should a Student lodge an appeal, cancellation of enrolment will only take final effect after the appeal process has been completed and subject to the independent finding of the internal or external review panel who investigated and reviewed the Student's claims.

Decision to Not Re-Credit HELP Balance

A review of a decision to not re-credit a Student's HELP Balance (refer to Variation to Enrolment Policy and Procedure) may be requested by the person affected by the original decision or without a request by AIF if there is sufficient reason to do so. A request for review is only accepted in writing, addressed to AIF's Head of Compliance and Training and submitted to: compliance@fitness.edu.au. Requests submitted within 28 days of receipt of AIF's initial decision will be accepted. Students are advised of these requirements within the Student Handbook.

AIF's CEO or delegate appoints a review officer to reconsider AIF's decision not to re-credit a person's HELP balance (for special circumstances), based on the following:

- Was not involved in making the initial decision and
- Must occupy a position that is not lower than that occupied by the person who made the original decision.

Each application will be examined and determined on its merits, with the person's claims, together with any independent supporting documentary evidence that substantiates these claims. The review officer will:

- Confirm the decision
- Vary the decision or
- Set the decision aside and substitute a new decision.

The review officer will after the decision is made and within 5 working days:

- Provide written notice of the decision and provide a statement of the reasons for making the decision
- Advise in the notice of the person's right to appeal to the Administrative Appeals Tribunal (AAT) for a review of the reviewer's decision if the person is unsatisfied with the outcome, using AIF's Review of a Reviewable Decision template.

Should an application for application review be made outside the application period (that is, 28 days after the person was notified of the decision) and AIF did not extend this time, the person should be advised the application has been refused on the basis the person is out of time and will not provide any advice about whether the special circumstances test has been satisfied.

Review by the Administrative Appeals Tribunal

A person may apply to the AAT for review of a review officer's decision and may supply additional information to the AAT they did not previously supply to AIF, including to the review officer.

The department will receive notification from the AAT that a person has lodged an application for a review of a review officer's decision. The department is the respondent for cases that are before the AAT and after notification to AIF, AIF will fully cooperate with the provision of all information it holds that are relevant to the department and within 5 working days.

At this point in time, AIF's review officer may also elect to reconsider the decision at any time up until the AAT makes a final decision. If a decision is made to re-credit a person's HELP balance, AIF must advise the department, however commits to also meeting its obligation to provide all information to the department within the timeframe, regardless of any decision it has made.

Reporting the remission decision to the department

Where a decision results in the re-crediting of a person's HELP balance, AIF will report this outcome via submission of a HEIMS revisions file and repay any amounts of VET Student Loan received from the Commonwealth on the person's behalf through subsequent reconciliations, unless the department decides to issue a separate invoice.

**VET in Schools
(VETiS) - Additional
Requirements:**

Nil

**SA VET for Schools
(VETiS) - Additional
Requirements:**

A parent or guardian may lodge a complaint/appeal on behalf of a person who is under the age of 18 years, which may include a school student studying a course approved under the SA VET for Schools program.

In the event of a dispute with a home school, and should AIF dispute the home school's assertions, it will instigate the matter in accordance with this Complaints and Appeals Policy and Procedure, however AIF will fast track the process to immediately execute the Tier 3: independent review phase.

Should a dispute arise which cannot be resolved between the home school and AIF, AIF's Head of Compliance & Training will inform the Minister or their departmental delegate and seek advice. At all times AIF agrees to act in good faith to settle the dispute by mediation before considering arbitration or

litigation. Should the parties fail to settle any dispute by mediation, the parties may agree to submit the dispute for resolution to final and binding arbitration.

Regardless, AIF will continue to perform its obligations pending resolution of the dispute.

Publication:

This policy and procedure is available through publication on the website, www.fitness.edu.au and in summary form within the Student Handbook.

Related documents:

Submit a Complaint Form
Corrective Action Report (CAN)
Complaints and Appeals Register
Student Handbook
Team Member Handbook
Request to Re-Credit HELP Balance Form (VSL only)
Review of a Reviewable Decision template (VSL only)

Associated Policies and Procedures:

Commitment to Meeting all Legislative and Regulatory Requirements policy and procedure
Access and Equity policy and procedure

Amendments:

Version	Date	Descriptor
V4.0	30 June 21	Addition of all stakeholder complaints lodgement and handling procedure and continuous improvement procedures. Amalgamation with Grievance Policy and Procedures.
V4.1	24 January 2022	Reference to Disability Standards for Education 2005, a guardian, carer, advocate or person can make a complaint or an appeal on behalf of the student and/or person with a disability
V4.2	23 February 2022	Typo error page 5 amended
V5.0	08 March 2022	Updated with new 2022 VET for Schools requirements
V6.0	18 May 2022	Updated with new VET FEE-HELP debt - Communication process for complaints - Commonwealth Ombudsman
V6.1	7 June 2022	Update hyperlinks compliance@fitness.edu.au



**AUSTRALIAN
INSTITUTE OF
FITNESS**

BE YOUR BEST. TRAIN WITH THE BEST.

Authorised by:

Title: Head of Compliance and Training
Date Authorised: 7 June 2022