

# Complaints and Appeals Policy (Learners)

## 1. PURPOSE

To outline Holmesglen's commitment to timely, respectful and appropriate resolution of complaints and appeals initiated by a prospective, current or former learner and the principles to be followed for resolving such complaints and appeals.

## 2. SCOPE

Applies to complaints and appeals raised by prospective, current or former learners involving:

- a person, including Holmesglen learners, employees, or people external to Holmesglen with whom learners interact as part of a course
- third parties providing services on behalf of Holmesglen
- administrative issues or processes including complaints of mismanagement, unreasonable decisions, inconsistent application of Holmesglen policy or procedure, denial of procedural fairness, failure to provide rights
- matters that are not dealt with by other Holmesglen policies/procedures
- matters that are referred to Holmesglen by an Ombudsman, Victorian Equal Opportunity and Human Rights Commission, Australian Human Rights Commission, other government agencies or legal services.

## 3. POLICY STATEMENT

Holmesglen is committed to providing learners with a supportive and inclusive learning environment. As part of this commitment, Holmesglen recognises that, from time to time, learners may raise complaints relating to their experiences at the Institute.

Holmesglen supports learners who raise concerns and complaints and acknowledges the value of feedback for continuous improvement of the learner experience.

Holmesglen will respond to complaints and appeals in a respectful, timely and responsible manner, at no cost, and consistent with the principles of fairness, equal opportunity and natural justice.

## 4. PRINCIPLES

### Complaints

- 4.1 Learners are encouraged to resolve their complaint informally in the first instance. Should a learner deem that informal resolution is not possible, appropriate or satisfactory; they may submit a formal complaint.
- 4.2 Anonymous complaints will be investigated at Holmesglen's discretion taking into account:
  - (a) the nature and seriousness of the complaint
  - (b) whether there is sufficient information for an investigation to be conducted
  - (c) whether there is a statutory requirement for investigation
  - (d) the limitations to verify claims made and to provide feedback or offer a resolution.
- 4.3 A formal complaint can be made if a learner is being affected by one or more of the following.
  - (a) A decision made by Holmesglen, its employee, or third parties providing services on Holmesglen's behalf.
  - (b) A failure to adhere to appropriate or relevant published policies and procedures.
  - (c) A penalty applied to the learner being unduly harsh or inappropriate.
  - (d) Improper or negligent conduct.
  - (e) Unfair treatment, prejudice or bias.

- 4.4 All parties to a complaint must respect privacy and confidentiality principles, except where the release of information is required by law.
- Holmesglen balances the right to confidentiality against the principles of procedural fairness and will not unnecessarily disclose the identity of the complainant or witnesses to the respondent where this may constitute a risk to safety.
- 4.5 Complaint information is communicated with relevant stakeholders on a 'need to know' basis as appropriate. The International Student Programs/International Projects and Partnerships will be notified of international learners' complaints. All parties to a complaint must act in good faith, with the aim of reaching a mutually satisfactory resolution. Holmesglen ensures learners do not suffer any victimisation or discrimination as a result of raising complaints. Intimidating, harassing, threatening or offensive behaviours are not tolerated from any parties.
- 4.6 Holmesglen may close a complaint where there is evidence that complaints are malicious, vexatious, mischievous or frivolous, or the complainant conduct is found to be unreasonable.
- 4.7 The Complainant may be referred for assistance in preparing and submitting a complaint or appeal to appropriate advocacy and support services. A Complainant or Respondent may at any stage seek the assistance of a support person, other than a person acting in the capacity of a lawyer.
- 4.8 Parties to a complaint will be kept informed of the progress and are provided with written advice of the determination(s) and the reason for the determination(s), within specified achievable timeframes.
- 4.9 Complaints are dealt with promptly and sensitively and are assessed on merit. All responses, correspondence and documentation are provided within the required timeframes.
- 4.10 Where there are concerns about risk or safety, Holmesglen may take immediate action to remove or isolate learners or employees from the campus or immediate workspace while an investigation is carried out.
- 4.11 A learner may at any time withdraw their complaint, by notice in writing. If a complaint is withdrawn, any processes arising out of the complaint may, at Holmesglen's discretion, be either continued or discontinued.
- 4.12 The Complainant or Appellant is informed in writing where Holmesglen considers more than 60 calendar days are required to process and finalise the complaint or appeal.
- 4.13 Complaint and appeal records and their outcomes are kept centrally, monitored and reviewed to ensure effective implementation of this policy.
- 4.14 Complaint data is analysed and reported to relevant Holmesglen committees on regular basis to identify systemic issues. opportunities for improvement and appropriate actions to improve Holmesglen operations and services.

## **Appeals**

- 4.15 Learners have the right to appeal Holmesglen decisions made in respect of them if they believe their complaint has not been adequately resolved.
- 4.16 Grounds for appeal include, but are not limited to the following:
- (a) A procedural irregularity has occurred (which may include that the learner has not received a fair hearing in all circumstances).
  - (b) There is new information that could not reasonably have been provided at the time of the original decision and that would probably have affected the decision or any penalty imposed.
  - (c) The penalty imposed is considered excessive or inappropriate.
- 4.17 If the appeal relates to a decision to cancel the learner's enrolment, Holmesglen will maintain the enrolment until the internal appeals process is completed.

- 4.18 Holmesglen will only report overseas learners through the Provider Registration and International Student Management System (PRISMS) after the learner has accessed the internal and external complaints and appeals process, and the appeal decision supports Holmesglen.
- 4.19 Holmesglen reserves the right to decline to pursue an appeal, including but not limited to circumstances where another process is more appropriate, or where the learner does not have sufficient grounds to lodge an appeal.
- 4.20 Learners have the right to access an external complaints and appeals process after all internal processes have been exhausted under this Policy.

## 5. ACCOUNTABILITIES

Action	Accountability
<ul style="list-style-type: none"> <li>▪ Oversee the implementation, monitoring and reporting requirements of this policy.</li> <li>▪ Report to the Board on complaints with potential risk to the Institute's reputation or compliance with regulatory requirements and the actions taken in response.</li> </ul>	Chief Executive
<ul style="list-style-type: none"> <li>▪ Establish procedures and resources to ensure effective implementation of this policy.</li> <li>▪ Ensure complaint and appeal records are kept securely and oversee the establishment and maintenance of the complaints and appeals register.</li> <li>▪ Provide annual analysis and reporting of complaints data.</li> <li>▪ Monitor, review and improve effectiveness of complaints handling within Holmesglen.</li> <li>▪ Determine if an anonymous complaint will be investigated.</li> <li>▪ Determine if any processes arising out of a withdrawn complaint will be continued or discontinued.</li> </ul>	Executive Director, Engagement and Support
<ul style="list-style-type: none"> <li>▪ Coordinate complaint and appeals investigation, resolution, communication and reporting processes in accordance with the Learner Complaints and Appeals Procedure.</li> </ul>	Complaints and Appeals Officer
<ul style="list-style-type: none"> <li>▪ Provide information and training to employees in relation to the learner complaints and appeals policy and procedure, and effective response/management.</li> <li>▪ Give consideration to learner concerns and complaints within their responsibility.</li> <li>▪ Assess the complaint, determine and undertake appropriate action in accordance with the Learner Complaints and Appeals Procedure.</li> <li>▪ Report on all child safety and wellbeing and sexual harassment /assault matters.</li> <li>▪ Respond to learner complaints in a timely manner and with courtesy and respect.</li> <li>▪ Document and report the investigation outcome, reasons for the findings, and recommendations.</li> <li>▪ Implement any actions to be taken as a result of the investigation and resolution process within nominated timeframe.</li> <li>▪ Analyse learner complaints data on regular basis to identify systemic issues, opportunities for improvement and appropriate action to improve Holmesglen operations and services.</li> </ul>	Executive Director Dean Associate Director Head of Department Relevant Manager

Action	Accountability
<ul style="list-style-type: none"> <li>Perform periodic quality audits on complaints and appeals management processes to ensure compliance and report findings to the Audit Committee.</li> </ul>	Manager Internal Audit Manager Enterprise Risk

## 6. DEFINITIONS

Term	Meaning
Appeal	Formal written request by a Complainant to have a matter heard and/or re-considered after receiving an unfavourable decision.
Complaint	<p>An expression of dissatisfaction by a complainant that their rights, existing interests and/or reasonable expectations have been adversely and unjustifiably impacted because of an action, decision or omission within the control or responsibility of Holmesglen.</p> <p>Any circumstance related to Holmesglen operations, services, and decisions, or the conduct of its employees, its learners, or people associated with Holmesglen or using Holmesglen facilities may be the subject of a complaint.</p>
Complainant/Appellant	The party lodging a complaint or appeal.
Confidentiality	An assurance that complaint information will only be shared with those persons critical to the investigation and resolution of an issue.
Informal Complaint	<ul style="list-style-type: none"> <li>May be an enquiry or raise a concern that is suitable to be addressed informally and usually resolved easily (eg through discussions with a Holmesglen employee, clarification of a misunderstanding) or,</li> <li>An expression of dissatisfaction with a decision or action or lack thereof by Holmesglen, or the behaviour of a learner or an employee, where no formal response or resolution is requested or implicitly expected.</li> </ul>
Formal complaint	A complaint that is submitted in writing to Holmesglen in accordance with the Complaints and Appeals Procedure.
International learners	<p>Includes:</p> <p>i) Overseas learners or 'overseas students' (as defined within the ESOS Act).</p> <p>This includes the enrolment of a person, (whether inside or outside Australia) who holds a 'student visa' to undertake study in a course that is registered on the CRICOS Register.</p> <p>Persons with the following visa are excluded (as defined in regulation 1.03 of the Migration Regulations 1994):</p> <ul style="list-style-type: none"> <li>a Subclass 576 (Foreign Affairs and Defence Sector) visa, or</li> <li>a person who satisfies the secondary criteria, but not the primary criteria, under the Migration Regulations 1994 for the grant of the visa, or</li> <li>a secondary exchange student within the meaning of the Migration Regulations 1994, or</li> <li>an overseas student who has been approved under a scholarship scheme, or an exchange scheme, sponsored by the</li> </ul>

Term	Meaning
	<p>Commonwealth to undertake a course of study or training in Australia.</p> <p>ii) Offshore learners who undertake programs while remaining in their country of origin.</p>
Natural justice	<p>Natural justice, also known as procedural fairness, is concerned with the procedures used by a decision-maker, rather than the decision reached. It requires a fair and transparent procedure be used when making a decision, which includes the Respondent being informed of the complaint. All parties to a complaint (Complainant and Respondent) must be afforded natural justice.</p> <p>Natural justice requires that all:</p> <ul style="list-style-type: none"> <li>▪ people affected by a disputed matter are given the right to present their case including the opportunity to be heard, be provided with adequate notice of the allegations and the procedures to be used</li> <li>▪ hearings held to investigate and/or determine the matter are fair and conducted with transparency</li> <li>▪ members of the decision-making body are free of bias and perceived bias or other personal interest in the outcome.</li> </ul>
Managers	The person who is responsible for the operations of a faculty, department, centre, unit or another functional area within Holmesglen.
Procedural fairness	Is present when processes ensure all parties have a reasonable opportunity to have their viewpoint heard fairly, by impartial decision-makers; are well informed about the processes; and have a reasonable time-frame in which to follow them; and parties in a decision-making process have a chance to review and respond to all evidence and submissions that are considered by the decision-makers.
Respondent	A person(s) named in the complaint and against whom the complaint has been made.
Support person	<p>A person chosen by the Complainant to be present at complaint resolution meetings and to provide support and advises outside of meetings. The support person may be a friend, a partner, immediate family member, health professional or Student Wellbeing Officer, other than a registered legal practitioner or a person acting in the capacity of a lawyer.</p> <p>The support person may not speak on behalf of nor make arguments on behalf of the learner.</p>
Unreasonable complainant conduct	Behaviour by a current or former Complainant which, because of its nature or frequency, raises substantial health, safety or resource issues for the parties to a complaint.

## 7. CONTEXT AND/OR REFERENCED DOCUMENTS

### Internal

Academic Integrity Policy

Assessment and Moderation Policy (Higher Education)

Assessment Policy (VET)

Conduct Rule

Child Safety and Wellbeing Policy

Discipline Policy (Learners)

Privacy Policy

Sexual Harassment and Sexual Assault Policy

### External

Higher Education Standards Framework (Threshold Standards) 2021

Standards for Registered Training Organisations (2015)

The National Code of Practice for Providers of Education and Training to Overseas Students 2018

Higher Education Support Act 2003 (Cth)

Victoria's Charter of Human Rights and Responsibilities Act 2006

Independent Broad-based Anti-corruption Commission Act 2011

Privacy and Data Protection Act 2014

Public Interest Disclosures Act 2012

Child Safe and Wellbeing Standards

Equal Opportunity Act 2010 (Vic)

Freedom of Information Act 1982 (Cth)

Information Privacy Act 2000 (Vic)

Education and Training Reform Act 2006

Ombudsman Act 1973 (Vic)

## 8. REVIEW

8.1 This policy must be reviewed no later than three years from the date of approval.

8.2 The policy will remain in force until such time as it has been reviewed and re-approved or rescinded. The policy may be withdrawn or amended as part of continuous improvement prior to the scheduled review date.

## 9. VERSION HISTORY

Version number	Date	Summary of changes
1	February 2019	New policy.
2	August 2021	Updated to clarify the scope of the policy applies to learner-initiated complaints and responding to learner complaints referred by external agencies.
3	April 2023	Minor updates to anonymous complaints, accountabilities and definitions.