

LC14-SF: RTO Complaints and Appeals Policy & Procedure

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Purpose

The purpose of this policy and procedure is to outline Berry Street Victoria’s approach to managing dissatisfaction, formal complaints and appeals of learners, clients, staff and other members of the community. It provides a transparent approach for all complaints and appeals to be addressed in a fair, efficient and confidential manner.

This policy and procedure outlines Berry Street’s approach to ensuring compliance with these requirements:

- Standard 6 of the Standards for RTOs 2015; and
- Clause 4.9(i) of the Skills First VET Funding Contract.
- Skills First Quality Charter.

Definitions

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Appeal means a request for a decision made by Berry Street Victoria or a third party/subcontractor providing services on its behalf to be reviewed

Complaint means a person's formal expression of dissatisfaction with any product or service provided by Berry Street Victoria or a third party/subcontractor providing services on its behalf.

Contract means the VET Funding Contract for the Skills First Program issued by the Department.

Department means the Victorian Department of Education and Training

Learner means a 'person being trained and/or assessed by the RTO for the purpose of issuing AQF certification documentation.'¹

Services means training, assessment, related educational and support services and/or activities related to the recruitment of prospective learners. It does not include services such as learner counselling, mediation or ICT support

SRTOs means the Standards for Registered Training Organisations – refer definition of 'Standards'

Standards means the Standards for Registered Training Organisations (RTOs) 2015 from the VET Quality Framework

Policy

1. Nature of Complaints and Appeals

- Berry Street Victoria responds to all allegations involving the conduct of:
 - The RTO, its trainers and assessors and other staff.
 - Any third-party providing Services on behalf of Berry Street Victoria.
 - Any learner or client of Berry Street Victoria.
- Complaints may be made in relation to any of Berry Street Victoria's services and activities such as:
 - the application and enrolment process
 - marketing information
 - the quality of training and assessment provided
 - training and assessment matters, including learner progress, student support and assessment requirements
 - the way someone has been treated
 - the actions of another learner
 - program curriculum

¹Definition taken from the ASQA User's Guide to the SRTOs , Appendix 1, accessed 19th October 2015, <http://www.asqa.gov.au/users-guide-to-the-standards-for-registered-training-organisations-2015/appendices/appendix-1/appendix-1.html>

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- issuance of testamurs/statements of attainment or other official documents
- Appeals should be made to request that a decision made by Berry Street Victoria is reviewed. Decisions may have been about:
 - program admissions
 - refund assessments
 - response to a complaint
 - assessment outcomes / results
 - other general decisions made by Berry Street Victoria

2. Principles of resolution

- Berry Street Victoria is committed to developing a procedurally fair complaints and appeals process that is carried out free from bias, following the principles of natural justice. Through this policy and procedure, Berry Street Victoria ensures that complaints and appeals:
 - Are responded to in a consistent and transparent manner.
 - Are responded to promptly, objectively, with sensitivity and confidentiality.
 - Are able to be made at no cost to the individual.
 - Are used as an opportunity to identify potential causes of the complaint or appeal and take actions to prevent the issues from recurring as well as identifying any areas for improvement.
- Berry Street Victoria will maintain a record of all complaints and appeals and their outcomes on either the *RTO Complaints/RTO Appeals Register*, which are securely stored according to the *RTO Privacy Policy and Procedures*.
- Nothing in this policy and procedure limits the rights of an individual to take action under Australia's Consumer Protection laws and it does not circumscribe an individual's rights to pursue other legal remedies.
- Where a learner chooses to access this policy and procedure, Berry Street Victoria will maintain the learners' enrolment while the complaints/appeals process is ongoing.

3. Timeframes for resolution

- Complaints and appeals will be finalised as soon as practicable or at least within 30 calendar days unless there is a significant reason for the matter to take longer. In matters where additional time is needed, the complainant or appellant will be advised in writing of the reasons and will be updated weekly on the progress of the matter until such a time as the matter is resolved.

4. Records of Complaints and Appeals

- Berry Street Victoria will maintain a record of all complaints and appeals and their outcomes on either the *RTO Complaints/RTO Appeals Register* which is stored securely on our internal file management system. These registers will be regularly reviewed by management and used as an opportunity for improvement and reflection.

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- If a complaint or appeal involves a learner or staff member, details will also be held on the relevant secure file which only authorised staff have access to.

5. Making a complaint or appeal

- Complaints about a particular incident should be made within 90 calendar days of the incident occurring and appeals must be made within 30 days of the original decision being made.
- Complaints and appeals should be made in writing using the *RTO Complaints and Appeals Form* (upon request), or other written format and sent to:

RTO Manager

Berry Street Victoria

1 Salisbury Street

Richmond, Victoria, 3121

- Complaints or appeals are also able to be made via the Berry Street internet page, located at <https://www.berrystreet.org.au/contact-us/feedback>
- When making a complaint or appeal, provide as much information as possible to enable Berry Street Victoria to investigate and determine an appropriate solution. This should include:
 - The issue you are complaining about or the decision you are appealing – describe what happened and how it affected you.
 - Any evidence you have to support your complaint or appeal.
 - Details about the steps you have already taken to resolve the issue.
 - Suggestions about how the matter might be resolved.
- Complaints and appeals will be acknowledged in writing via email or post. Acknowledgement should be received within 7 days of lodgement.

6. Resolution of Complaints and Appeals

- Some or all members of the Governance Group of Berry Street Victoria will be involved in resolving complaints and appeals as outlined in the procedures.
- Where a third party delivering Services on behalf of the RTO is involved, they will also be included in the process of resolving the complaint or appeal. Additionally, where a complaint or appeal involves another individual or organisation, they will be given the opportunity to respond to any allegations made. They will also be advised in writing of any allegations made against them.
- In the case of an assessment appeal, an assessor who is independent from original decision will assess the original task again. The outcome of this assessment will be the result granted for the assessment task.

7. Independent parties

- Berry Street Victoria acknowledges the need for an appropriate independent party to be appointed to review a matter where this is requested by the complainant or appellant and the internal

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processes have failed to resolve the matter. Costs associated with independent parties to review a matter must be covered by the complainant/appellant unless the decision to include an independent party was made by Berry Street Victoria.

- The independent party recommended by Berry Street Victoria is Melbourne Commercial Arbitration and Mediation Centre (www.mcamh.com.au) who have a cost of \$950 per matter (as at 2016), however complainants and appellants are able to use their own external party at their own cost.
 - Berry Street Victoria will provide complete cooperation with the external mediator investigating the complaint/appeal and will be bound by the recommendations arising out of this process.
 - The RTO Manager will ensure that any recommendations made are implemented within twenty (20) days of being notified of the recommendations. The complainant or appellant will also be formally notified in writing of the outcome of the mediation.

8. External complaint avenues

- Berry Street Victoria agrees to respond to and cooperate in good faith with any complaints handling mechanism or process established by ASQA or the Department from time to time for the purpose of resolving student complaints or other issues in relation to the delivery of services.
- Complaints can also be made via the following avenues:
 - **National Complaints Hotline:** The National Training Complaints Hotline is a national service for consumers to register complaints concerning vocational education and training. The service refers consumers to the appropriate agency/authority/jurisdiction to assist with their complaint. Consumers can register a complaint with the National Training Complaints Hotline by:
Phone: 13 38 73 (option 4), Monday–Friday, 9am to 6pm (Canberra time).
Email: NTCH@education.gov.au
For more information about the National Complaints Hotline, refer to the following webpage: <https://www.education.gov.au/frequently-asked-questions-12>
 - **Australian Skills Quality Authority (ASQA):**
Complainants may also complain to Berry Street Victoria’s RTO’s registering body: Australian Skills Quality Authority (ASQA).
However, ASQA’s will only use the information you provide to inform its regulatory approach and will not contact us on your behalf or act as your advocate. For more information, refer to the following webpage: <http://www.asqa.gov.au/complaints/make-a-complaint---domestic-students/make-a-complaint---domestic-students1.html>
 - **Department of Education and Training**
Complaints relating to the government subsidised training under Skills First Funding Contract can also be made to The Department of Education and Training. The Department is principally concerned with complaints regarding RTO misconduct including unethical and fraudulent practices. If a party wishes to make a complaint to the Department, they can do so by:
Downloading the Department’s complaint form, available at <http://www.education.vic.gov.au/about/contact/Pages/compliancecomplain.aspx>; and

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returning the completed form to the following email address vtg.feedback@edumail.vic.gov.au; or

- Alternatively the party can post the completed complaint form to:
Deputy Secretary, Higher Education and Skills Group
c/- Executive Director, Training Market Operations
GPO Box 4367
Melbourne, Victoria 3001

9. Publication

This policy and procedure will be published in the *Learner Handbook*, *Learner Agreement* and on the Berry Street Victoria website.

Procedure

1. Complaints

Procedure	Responsibility
<p>A. Receive and acknowledge complaint</p> <ul style="list-style-type: none"> • As per policy, complaints are to be made in writing by the complainant, attention to the RTO Manager. • The RTO Manager should review all complaints upon receipt. • Acknowledge receipt of complaint in writing by sending a correspondence to complainant within 5 working days of receipt. • Record details of the complaint on the <i>RTO Complaints Register</i>. 	RTO Manager and Administration Team
<p>B. Investigate the complaint</p> <ul style="list-style-type: none"> • Upon receiving the complaint, the matter is to be investigated to ensure all relevant information is available and it is accurate and complete. • Update any involved persons/parties of the nature of the complaint without disclosing the identity of the complainant. Give them a chance to respond and record their side of the story on the complaints register. • Further details from the complainant, respondent or other involved parties may be requested during this stage. This may be in writing, over the phone, or face-to-face. • If the matter is in relation to a third party delivering Services on behalf of the RTO, the third party should be involved in the resolution of the complaint. • The CEO will review the information and decide on an appropriate response. Where deemed necessary by the CEO, the matter may be reviewed by other members of the management team to arrive at an appropriate resolution. 	RTO Manager

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Procedure	Responsibility
<ul style="list-style-type: none"> Note: The complaint must be completely resolved within 60 calendar days of receipt of the original complaint. If the matter is particularly complex and it is going to take longer to resolve, the complainant is to be advised in writing along with reasons for the extra time. They must be provided with updates on progress on a weekly basis thereafter until the matter is resolved. 	
<p>C. Advise of the outcome and update records</p> <ul style="list-style-type: none"> Provide a written response to the complainant outlining: <ul style="list-style-type: none"> The RTO's understanding of the complaint The steps taken to investigate and resolve the complaint Decisions made about resolution, with reasons for the decisions made Areas that have been identified as possible causes of the complaint and improvements to be recommended Their right to access the appeals process if they are not satisfied with the outcome of the complaints process. Update the <i>Complaints Register</i> so it includes the outcome of the complaint. Update the <i>Continuous Improvement Register</i> if applicable for any improvements to be made as an outcome. Keep a copy of the complaint and supporting documents in the Complaints file and in the learner or staff file (where relevant). Discuss the complaint and its outcome at the next Governance Group meeting. 	RTO Manager or their delegate

2. Appeals

Procedure	Responsibility
<p>A. Receive and acknowledge appeal</p> <ul style="list-style-type: none"> As per policy, appeals are to be made in writing by the appellant, attention to the RTO Manager The RTO Manager should review all appeals upon receipt. Acknowledge receipt of appeal in writing to appellant within 5 working days of receipt. Record details of appeal on the <i>RTO Appeals Register</i>. 	RTO Manager or delegate
<p>B. Respond to assessment appeals</p> <ul style="list-style-type: none"> In the case of appeals against assessment decisions, the original 	RTO Manager or their delegate

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Procedure	Responsibility
<p>assessment decision will be reviewed by having an assessor independent of the original decision, mark the assessment task again.</p> <ul style="list-style-type: none"> The assessment decision made during the appeals process will be considered the actual assessment outcome for the task. Advise the learner of the outcome of the appeal as per point G below. 	
<p>C. Respond to appeals against non-academic decisions</p> <ul style="list-style-type: none"> Upon receiving the appeal, the matter is to be investigated to identify the original decision made and the reasons for the decision. Further details from the appellant, respondent, the person who made the original decision, or other involved parties may be requested during this stage. This may be in writing, over the phone, or face-to-face. If the matter is in relation to a third party delivering Services on behalf of the RTO, the third party should be involved in the resolution of the appeal. The appellant may request for an independent party (mediator) to be involved in the process. Where this is requested by the appellant, they will bear the costs associated. Additionally, Berry Street Victoria may decide to call upon an independent mediator to assist to resolve the issue where a decision cannot be reached internally. This will be at Berry Street Victoria's cost. At the next meeting the RTO Manager will table the complaint/appeal for consideration and actioning by the Governance Group Note: The appeal must be resolved within 60 calendar days of receipt of the original appeal. If the matter is particularly complex and it is going to take longer to resolve, the appellant must be advised in writing along with reasons for the extra time. They must be provided with progress updates on a weekly basis thereafter until the matter is resolved. 	<p>Governance Group & RTO Manager</p>
<p>D. Advise appellant of the outcome and update records</p> <ul style="list-style-type: none"> Provide a written response to the appellant outlining: <ul style="list-style-type: none"> The RTO's understanding of the reasons for the appeal The steps taken to investigate and resolve the appeal Decisions made about resolution and reasons for the decisions Areas that have been identified as possible causes of the appeal and improvements to be recommended Update the <i>RTO Appeals Register</i> so it includes the outcome of the appeal. Update the <i>RTO Continuous Improvement Register</i> if applicable for any 	<p>RTO Manager or delegate</p>

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Procedure	Responsibility
<p>improvements to be made as an outcome.</p> <ul style="list-style-type: none"> Keep a copy of the appeal and supporting documents in the Complaints file and in the learner or staff file (where relevant). Discuss the appeal and its outcome at the next Governance Group meeting. 	

3. Independent Reviews by External Party

Procedure	Responsibility
<p>A. Appoint and cooperate with mediator/ independent party</p> <ul style="list-style-type: none"> If dissatisfied with the internal processes, the complainant/appellant may initiate an external complaint or appeal. If requested, Berry Street Victoria will respond as necessary. Berry Street Victoria agrees to respond to and cooperate in good faith with any complaints handling mechanism or process established by ASQA or the Department from time to time for the purpose of resolving student complaints or other issues in relation to the delivery of services. Additionally, a complainant or appellant who has been through the internal processes may request Berry Street Victoria to appoint an independent party to review the matter. An independent party that may be used in this case is Melbourne Arbitration and Mediation Centre who have a cost of \$950 per matter (at 2016), however complainants and appellants are able to seek their own external parties at their own cost. Berry Street Victoria will co-operate fully in the process of the external party to investigate and review the matter. This will include and not be limited to providing full access to the relevant learner file/s and the internal complaints records where permitted to do so by law. All staff will be instructed to cooperate in such instances and to give an accurate account of the events as they understand them. 	Staff as required

4. External complaint or appeal

Procedure	Responsibility
<p>A. External complaint or appeal</p> <ul style="list-style-type: none"> If dissatisfied with the internal processes, the complainant/appellant may initiate an external complaint or appeal. If requested, Berry Street Victoria will respond as necessary. Berry Street Victoria agrees to respond to and cooperate in good faith with any 	Staff as required

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Procedure	Responsibility
<p>complaints handling mechanism or process established by ASQA or the Department from time to time for the purpose of resolving student complaints or other issues in relation to the delivery of services.</p> <ul style="list-style-type: none"> All records will be kept on file. Fully co-operate with external party to respond to the complaint as required. Discuss the external process and its outcome at the next management meeting to consider whether there are any improvements to be made to prevent recurrence. 	

Supporting Documents

LC14.1 - Complaints Register V1.1 (ID 2273)

LC14.2 - Appeals Register V1.1 (ID 2269)

LC14.3 - Complaints and Appeals Flowchart V1.0 15-10-2015

LC14.4 - Complaints and Appeals Form V1.0 15-10-2015

Other QMS Documents

LC16.1-SF RTO Learner Handbook

LC16.5-SF - Learner Agreement & Statement of Fees (*Template*)

CG3.3 - Continuous Improvement Register V1.0 (ID 2125)

Other Berry Street Policies & Procedures

Feedback and Complaints Procedure with Form

Above at:

<http://berrynet.berrystreet.org.au/PoliciesForms%20%20Templates/Feedback%20and%20Complaints%20Procedure%20and%20Form.pdf>

Handling Misconduct Allegations

Above at:

<http://berrynet.berrystreet.org.au/PoliciesForms%20%20Templates/Forms/AllItems.aspx?FilterField1=Document%5Fx0020%5FType&FilterValue1=Policy>