



**RTO Code 2293  
COMPLAINT PROCESS  
POLICY & PROCEDURE**

**COMPLAINT PROCESS**

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National Vocational Education and Training Regulator Act 2011  
GTS Privacy Procedure  
Motor Trades Association of SA Inc Privacy Statement  
Privacy Act 1988 & Australian Privacy Principles  
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## **PURPOSE**

The purpose of this document is to give clear direction as to the responsibility and manner in which employees and contractors of the MTA Group Training Scheme Inc.'s Registered Training Organisation (MTA RTO) are to conduct themselves if a complaint arises.

For the purpose of this document the term 'stakeholders' encompasses internal and external clients including but not limited to students, employees, contractors, industry representatives.

## **STANDARDS**

### **Standards for Registered Training Organisations 2015**

Made under the National Vocational Education and Training Regulator Act 2011 Standard

#### **Standard 6**

Complaints and appeals are recorded, acknowledged and dealt with fairly, efficiently and effectively.

##### **Clause 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
- c) a learner of the RTO.

##### **Clause 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.

### **Clause 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
- b) regularly updates the complainant or appellant on the progress of the matter.

### **Clause 6.5**

The RTO:

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

### **Context:**

RTOs must implement a transparent complaints and appeals policy that enables learners and clients to be informed of and to understand their rights and the RTO's responsibilities under the Standards.

## **POLICY**

It is the policy of the MTA RTO that all stakeholders will:

- be treated in a fair and equitable manner at all times.
- receive quality service at all times.

### **Guiding Principles**

The MTA RTO provides a process for advocacy, internal complaints and external independent mediation to resolve disputes and external formal concerns.

A stakeholder and/or the MTA RTO may nominate;

- an advocate to accompany, represent and support them

or

- an external independent mediation process

at any stage of the complaints process.

The MTA RTO commits to a complaints process with the following guiding principles:

### **Completely Confidential**

Only the people directly involved in making or investigating a complaint will have access to information about the complaint.

Should the complaint be made against a person, this person must be informed of the complaint and given the opportunity to present their case.

Discussion of the matter with other MTA RTO stakeholders, apart from the investigative discussion, may hamper the effectiveness of the process and will breach Privacy legislation and ethics.

### **Impartial**

All parties will be provided with equal opportunity for discussion. No assumptions will be made and no action will be taken until all relevant information has been collected and considered.

Stakeholders may be represented by an advocate or have a support person involved in the process.

### **Free from Repercussions**

No action will be taken against anyone for lodging a complaint or assisting another individual to lodge or manage a complaint.

No action will be taken against anyone for complying with Child Safe Environments requirements.

Management will take all necessary steps to ensure that victimisation does not occur against anyone who lodges or is involved in a complaint.

### **Timely & Transparent**

All complaints will be dealt with as quickly and transparently as possible.

## **SCOPE**

This policy encompasses:

- current and past students;
- student candidates;
- employees;
- contractors;
- suppliers and providers;
- regulatory authorities.

This policy does not cover Appeals. Please refer Appeals Process.

## **DEFINITION**

- |                            |   |
|----------------------------|---|
| MTA RTO Representative     | - For the purposes of the Appeal Process this will normally be the RTO Manager/Accountable Officer or their delegate for non-student complaints and the Student Support Officer for student complaints. |
| Advocate                   | - Individual who accompanies a Complainant for the purposes of support throughout the process. An advocate for the purposes of this policy does not include Legal Representation.                       |
| Appeal                     | - An appeal arises when a stakeholder is not satisfied with a decision taken by the MTA RTO.  |
| Child Protection Officer   | - is Accountable Officer or their delegate  |
| Complaint                  | - A complaint arises when a stakeholder is dissatisfied with or aggrieved by an action or event or thing under the control of or within the environment or activities of the MTA RTO.                   |
| Complaint Event            | - Actual instance that occurred for which the complaint is being lodged.  |
| Complaint/Appeal Committee | - A number of persons nominated by the CEO to review complaints.  |
| Complainant                | - Person or entity that lodges a complaint.   |

Contractor	- Individual or entity engaged by the MTA RTO under contract to deliver specified work on its behalf e.g. Sessional trainer/assessor.
Employee	- Person employed by the MTA RTO on a full or part time or casual basis. Does not include Contractors.
False Complaint	- Fictitious complaint or one made intentionally without foundation or to cause detriment or mischief. Knowingly lodging a false complaint (without truth or foundation).
Legal Representation	- A lawyer or similar who is engaged by the Complainant or the MTA RTO to represent them in a formal and legal process which may be initiated if the complaint process including external mediation fails.
Malicious Complaint	- Fictitious complaint or one made intentionally without foundation or to cause detriment or mischief. Knowingly lodging a false complaint (without truth or foundation).
Mediation Event	- Meeting, intervention or other event specifically designed and arranged with the intention of negotiating a solution.
Non Employee Stakeholder	- Individual or Entity who is not legally employed by the MTA RTO e.g. Supplier, Contractor, Regulatory Authority.
Parties to the Complaint	- All individuals and/or entities who are directly involved in lodging or investigating or mediating a complaint.
Stakeholder	- General term inclusive of any individual or entity with whom the MTA RTO has a relationship including but not limited to employees, students, contractors and suppliers.
Zero Tolerance	- The MTA RTO will not under any circumstances tolerate or condone behaviours that breach the fundamental principles of access, equity and fairness or are illegal or immoral. The MTA RTO will take action against any individual or group of individuals proven to have breached these



principles and that action may be to the extent of termination of employment or contract or removal of students from hosting or reporting to SA Police.

## **PROCEDURE**

### **Children**

Children will in the first instance be encouraged to address all complaints by verbally advising the Child Protection Officer or any staff member with whom they feel most comfortable doing so.

If the complaint relates to an allegation of abuse the staff member is to immediately advise the Child Protection Officer and/or RTO Manager. The Children's Protection Policy is to be followed.

If the complaint does not relate to an allegation of abuse the staff member will support and assist the child student and their parent(s) through the complaints process as per Non Employee Stakeholders below.

### **Non Employee Stakeholders**

A complaint in relation to the MTA RTO services requires the following the steps to be undertaken.

If for whatever reason the stakeholder is unable to undertake any of the following steps, they should speak with a senior member of staff with whom they are most comfortable.

**NB:** The stakeholder is encouraged, at any stage of the process, to invite an advocate or support person to participate.

Children must be accompanied by a parent or legal guardian at each step of the process.

The MTA RTO will provide assistance throughout the process.

The process will be:

1. Verbal, telephone, facsimile, email or letter advice detailing the complaint event is to be lodged with the MTA RTO within 10 working days of the complaint event. Verbal advice (face to face or via telephone) will need to be supported in writing as well within the specified time limit;
2. Within 5 working days of receipt of complaint and in conjunction with the MTA RTO representative the complainant is to complete the

Complaint/Appeal Report Form. For complaints that do not involve children the MTA RTO representative will be the RTO Manager/Accountable Officer, for all complaints involving children this will be the Child Protection Officer;

3. Within 5 working days of receipt of the complaint, a meeting is also held with the person in which the complaint is raised against. The MTA RTO must provide the opportunity for them to present their case. The MTA Group must take into account all presenting facts when investigating the complaint.
4. Within 5 days of receipt of request for mediation the MTA RTO Representative will:
  - a. meet with the complainant and other relevant parties;
  - b. document the complaint in the Complaint/Appeal Register;
  - c. manage the Complaint/Appeal Report Form which will be updated and co-signed throughout the process. This will include setting of timeframes and provision of copies of all documents and agreements to all parties throughout the process;
5. If resolution is not reached, the complainant should, within 5 working days, request referral to the RTO Manager for further action/determination;
6. Within 5 working days the RTO Manager is to meet with all parties.
7. Within 5 working days of the meeting the RTO Manager is to provide their decision in writing to all parties.
8. If MTA RTO believes the appeal will take more than sixty (60) days to resolve, they will advise the appellant within five (5) working days of this and the reason for this.
9. If resolution is not reached the complainant should request referral to the Complaint/Appeal Committee for further action/determination. Referral to the Complaint/Appeal Committee must be in writing clearly stating the reasons why the Complainant is dissatisfied with the decision and lodged within 5 working days of receipt of the decision.
10. The Complaint/Appeal Committee will meet with the MTA RTO representative, the Complainant and other parties within 5 working days of receiving the appeal notice. The meeting is to be documented.
11. Within 5 working days of the meeting the Complaint/Appeal Committee will inform the Complainant of their decision to either uphold or set aside the MTA RTO representative's initial decision. The decision may be given

verbally or in writing, however, written notification within the specified 5 working days of the decision must be provided to all parties.

12. If resolution is not reached the complainant should request referral to the CEO in writing clearly stating the reasons why the Complainant is dissatisfied with the decision.
13. The CEO will meet with all parties to the complaint within 5 working days of receiving the appeal notice. The meeting is to be documented.
14. Within 5 working days of the meeting the CEO will provide in writing their decision.
15. Where the complaint relates to a MTA RTO policy matter which does not breach legislative or regulatory compliance the CEO's decision will be final.
16. Where the complaint relates to matters that are not governed by the MTA RTO policy and do not align with legislation or regulatory compliance the complainant may request that the complaint be heard by the MTA RTO Board.
17. Once the complainant has lodged a request in writing for the MTA RTO Board to hear their complaint the MTA RTO Board will consider all evidence and documented reports and will meet with the parties to the complaint.
18. Within 5 working days of the Board's consideration of the complaint the Board will provide in writing their decision to all parties of the complaint.
19. If the Complainant is dissatisfied with the MTA RTO Board's decision or they consider that the complaint process was unsatisfactory they may:
  - a. Lodge an Appeal with the MTA RTO (please refer Appeal Process)
  - b. request that an external mediator agreeable to all parties be engaged. The MTA RTO utilises the services of:

ACCESS Programs  
Australia Wide: 1300 667 700
  - c. depending on the issue contact:
    - Training Advocate 1800 006 488
    - The National Training Complaints Hotline on 13 38 73

- Australian Skills Quality Authority  
<http://asqa.gov.au/forms.html#complaintforms>
- SA Office of Consumer & Business Affairs (08) 8204 9777
- SafeWork SA  
  
Website: [www.safework.sa.gov.au](http://www.safework.sa.gov.au)  
Telephone: 1300 365 255
- Union Representative – refer Auto Manufacturing Workers Union
- Or other relevant regulatory body may be available related to the specific issue.

20. If all MTA RTO avenues of the complaint process are not successful the CEO should advise the Complainant, in writing, of their right to seek legal intervention;

21. All issue, negotiation/mediation, outcome details and agreements;

- a. are recorded in writing;
- b. a copy is provided to all parties within seven (5) days of completion of each event;
- c. are signed by all parties;
- d. a copy is filed in line with Privacy Principles.

### **Employees**

In the event that an employee has a complaint the following process should be undertaken.

If the complainant finds, for whatever reason, that they are unable to undertake any of the following steps, they should speak with a senior member of staff with whom they are most comfortable.

#### **If the complaint relates to the conduct of another employee:-**

1. Dependent on the nature of the complaint in the first instance attempt to discuss and negotiate a solution with the person concerned;
2. Where the complainant is not satisfied with the outcome the employee is to request mediation/intervention from the RTO Manager or other trusted senior member of staff;

3. The mediator will document the complaint in the Complaint/Appeal Register and manage the Complaint/Appeal Report Form which will be updated, co-signed and copies provided to all parties throughout the process;
4. If resolution is not reached the complainant may request mediation of the RTO Manager for action within 5 working days of receiving the complaint;
5. Within 5 working days RTO Manager to provide decision in writing.
6. If resolution is not reached the complaint should be referred to the CEO for action within 5 working days of receiving the complaint;
7. Within 5 working days CEO to provide decision in writing.
8. If resolution is not reached and within 5 working days of the meeting with the RTO Manager the complainant may request for the complaint be heard by the Board at the next Board Meeting;
9. Within 5 working days of the Board Meeting where the Board considers all evidence and discussion with all parties to the complaint the Board will provide a decision in writing.
10. If MTA RTO believes the appeal will take more than sixty (60) days to resolve, they will advise the appellant within five (5) working days of this and the reason for this.
11. If a resolution is not reached with the intervention of the Board an external facilitator agreeable to all parties should be engaged.
  - a. the MTA RTO will normally utilise the services of:  
  
ACCESS Programs  
Australia Wide: 1300 667 700
  - b. Other legislative authority as may be available in each state related to the specific issue.
12. If the external facilitator is unable to assist with an acceptable resolution the complainant should be advised of their right to seek legal intervention.

**If the complaint relates to a policy/procedure or system issue;**

The complainant should initially avail themselves of the Quality Assurance and Continuous Improvement Process.

1. If the complainant is not satisfied with the outcome of the QA & CI process they should discuss directly with their Supervisor.
2. Employee and Supervisor to complete a Complaint/Appeal Report Form;
3. Should the Supervisor not be able to reach a resolution the complaint should be referred to the RTO Manager within 5 working days;
4. The RTO Manager will meet with the employee within 5 working days and if resolution cannot be reached a request for the CEO to hear the complaint should be made within 5 working days.
5. CEO will meet with the employee within 5 working days and if a resolution cannot be reached with the intervention of the CEO and
  - 5.1. the issue relates to a possible *breach of legislation*, an external facilitator specialising in the relevant legislation and agreeable to all parties should be engaged.

If the external facilitator is unable to assist with an acceptable resolution in regards to a breach of legislation;

- 5.1.1. the CEO should be advised by the complainant in writing of the intention to notify the relevant Legislative Body and/or The National Training Complaints Hotline on 1800 000 674, and/or of possible legal intervention;
- 5.1.2. the complainant should be advised by the CEO of their right to seek legal intervention and/or advise The National Training Complaints Hotline on 1800 000 674.

or

- 5.2. If the issue relates to an internal policy or procedure which does not breach legislative, moral or ethical obligations, the CEO's decision will be final.
2. If MTA RTO believes the appeal will take more than sixty (60) days to resolve, they will advise the appellant within five (5) working days of this and the reason for this.

The issue, negotiation details, outcome and signed agreement by all parties:

1. are recorded in writing;

2. a copy is provided to the employee within seven (7) days of completion of each event;
3. a copy is filed in line with Privacy Principles.

## **GUIDELINES FOR HANDLING A COMPLAINT**

On receiving a complaint, the person who received the complaint must determine if they are the appropriate person to resolve the matter. Where they consider it would be inappropriate for them to handle the matter, or if the matter is outside the scope of their responsibility, they will discuss this with the complainant within 24 hours of receiving the complaint. The person receiving the complaint is responsible for assisting the complainant to a more appropriate person. This may require escalation to the next level of responsibility.

Where the person receiving the complaint believes that they are the appropriate person to deal with the matter, they should arrange to discuss the complaint with the complainant at a time convenient to both parties, but as soon as practical after the matter is first raised. Action to resolve the complaint should commence as soon as possible.

### **Important Steps for Investigation and Resolution**

#### **Complaints**

Where possible, minor interpersonal issues and misunderstandings should be resolved quickly and with minimal formality. In such cases, the emphasis is on ensuring that individual needs and expectations are met without deterioration to the relationship.

#### **Progress to Resolution**

All parties should be consulted throughout the investigation, and no action is to be taken toward resolving their complaint without their prior knowledge and agreement. At a minimum, the parties will be given regular reports on the progress towards resolution of their complaint. The timeframe should be agreed by all parties dependent upon the nature of the complaint.

The person investigating the complaint should establish with the parties the options for resolution they perceive as satisfactory. These are initial ideas and may change or be further developed after more detailed investigation.

If at any stage of the process it becomes apparent that the matter is more complex or serious than originally considered the matter should be referred to a more appropriate person.

## **Resolution**

If the parties are satisfied with the proposed resolution, all agreed actions should be documented, implemented as soon as is reasonably possible and the complaint considered resolved.

Where resolution is not achieved, the matter should be escalated to the next level of responsibility.

The complaint process does not intend to preclude recourse to other avenues of resolution including Industrial Relations Commission for conciliation or arbitration purposes, or State Authorities, but rather to facilitate an agreeable and speedy resolution.

## **Guidelines for Negotiating Solution of a Complaint**

- Negotiation should focus on 'win – win' situation
- Outcome should aim for the preservation of long term relationship
- Process, activities and outcomes should provide benefits for all parties.

## **Preparation**

- Date & Time that is suitable to all parties
- Ensure that venue is private, neutral and comfortable
- Prepare meeting agenda commencing with a positive opening statement
- Clearly articulate the guidelines for negotiation of solution e.g. Demands are not acceptable, blame and justification will not contribute to a positive and outcome focussed discussion/negotiation, etc.

## **Clarify Issue**

- Identify what the issue is
- Focus discussion on the issue
- Listen carefully and empathise
- Identify shared/common needs



### **Identify & Document Solution(s)**

- What are the individual and shared needs for outcome
- Ensure solutions are achievable for both parties
- Discuss and prioritise identified solutions
- Negotiate final and most appropriate and satisfactory solution
- Develop action plan and timeframe for the implementation of the solution ensuring all tasks are achievable for all parties within nominated timeframe(s)

### **Formal Agreement**

- Agreement should include:
  - Identification of all parties to the agreement
  - Goal/outcome(s) to be achieved
  - Non negotiable items
  - Expectation each parties input/action
  - Realistic timeframe(s)
  - Evaluation process
  - Communication process
  - Date and Sign off by all parties.
- Agreement and copy of the finalised Complaint/Appeal Report Form are to be:
  - are recorded in writing;
  - copied to all parties within seven (7) days of completion of each event;
  - a copy is filed in line with Privacy Principles.
- Complaint/Appeal Register & Form
- The Complaint/Appeal Register is to be updated with Agreement details.

- The Complaint/Appeal Report Form is to be updated throughout the process and details of the Agreement to be recorded.

### **WITHDRAWING A COMPLAINT**

An individual has the right to withdraw a complaint at any stage. However, where the complaint concerns:-

- proven misconduct and/or breach of law or regulatory compliance on the part of any individual or entity;
- or
- where the failure to resolve the complaint would adversely affect other individuals or the MTA RTO ,

The MTA RTO reserves the right to finalise the investigation of the original complaint and take the necessary recourse.

### **FALSE OR MALICIOUS COMPLAINTS**

A 'False or Malicious Complaint' is a fictitious complaint or one made intentionally without foundation or to cause detriment or mischief.

Complainants found to have made a 'False or Malicious Complaint' will face disciplinary action.

### **RECTIFICATION AND CONTINUOUS IMPROVEMENT**

At the completion of any complaint or appeal the RTO Manager will provide a summary to (not including personal details) the Chief Executive Officer and General Manager TEC for review. Apart from reviewing the case involved, the summary will also identify and promote possible rectifications and improvements to processes and/or procedures to mitigate future similar issues arising. The CEO and GM TEC will review and support or advise other improvements that can be adopted to the RTO Manager.

The RTO Manager will be responsible for the Quality Assurance & Continuous Improvement process for evaluation and actioning of improvements.

### **RESPONSIBILITIES**

#### **Chief Executive Officer**

It is the overall responsibility of the CEO to:

- ensure that the MTA RTO operations policy, process and standards mitigate opportunity for complaint;
- respond as a matter of priority to any issue identified as a potential 'complaint' and therefore an opportunity for improvement.

### **Stakeholders**

It is the responsibility of, predominantly, all the MTA RTO personnel but also all stakeholders to immediately report potential risks for complaint to the Training Centre Manager.

### **RTO Manager**

It is the responsibility of the RTO Manager to:

- manage operations and compliance in a manner that mitigates the risk of complaint from any the MTA RTO stakeholder;
- address and satisfactorily bring to conclusion any and all complaints;
- utilise the learning from complaints in the continuous improvement process as a key strategy to ensure that the complaint is repeated.

### **PRIVACY**

All discussions related to an apprentice/trainee or other stakeholder must be kept confidential and records and information must be recorded and filed in line with this policy and procedure, the Motor Trade Association of SA Inc Privacy Statement, MTA RTO Privacy Procedure and Records Management Policy and the Australian Privacy Principles of the Privacy Act 1988. Where there is a difference between any of these the greater level of privacy will be implemented.

Breaches of privacy will be subject to disciplinary action for MTA RTO employees, termination of contract for contractors, cancellation of services for other stakeholders.



# **RTO Code 2293 COMPLAINT PROCESS POLICY & PROCEDURE**

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# RTO Code 2293 COMPLAINT PROCESS POLICY & PROCEDURE

## Appendix 1

COMPLAINT / APPEAL REPORT			
<b>COMPLAINT</b> <input type="checkbox"/>		<b>APPEAL</b> <input type="checkbox"/>	
<b>People Details</b>			
<b>Complainant/Appellant</b>			
Name			
	Employee <input type="checkbox"/>	Student <input type="checkbox"/>	Employer <input type="checkbox"/>
	Other <input type="checkbox"/>	?	
<b>Supervisor</b>			
Name			
Position			
<b>Individual(s) Complaint/Appeal Raised Against</b>			
	1	2	
Name			
	Employee <input type="checkbox"/>	Employer <input type="checkbox"/>	Employee <input type="checkbox"/> Employer <input type="checkbox"/>
	Student <input type="checkbox"/>	Other <input type="checkbox"/>	Student <input type="checkbox"/> Other <input type="checkbox"/>
Supervisor			
Position			
<b>Complaint/Appeal Details</b>			
<b>Type of Complaint/Appeal</b>			
	<input type="checkbox"/> HR - Administrative	<input type="checkbox"/> HR - Award Act or Legislation	
	<input type="checkbox"/> Unlawful Discrimination	<input type="checkbox"/> OHS & Welfare	
	<input type="checkbox"/> Interpersonal	<input type="checkbox"/> Other _____	
<b>Reporting Details</b>			
Date Reported			
Reported to			
<b>Description of Complaint/Appeal</b>			
Date(s) of Incident(s)			
Signed	Complainant/Appellant		Date
	Supervisor/HR		
Complainant's Name:			



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