

APPEALS POLICY

NUMBER : POL014_13 PAGES : 12

VERSION : V1.4 CREATED : 27/04/2013
LAST MODIFIED : 15/05/2020
REVISION DATE : 3/01/2021

PRIMARY ROLE : GM Apprentice Employment Services
Field Officer

SPECIAL NOTE : Appeals process is the responsibility of all MTA GTS staff and
forms part of the Apprentice/Trainee support framework.

SPECIAL REQUIREMENTS :

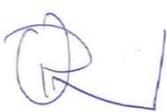
ATTACHMENT :

REFERENCES : Children’s Protection Act 1993
Children’s Protection Policy
Access, Equity & Fairness Policy
Complaint Policy
GTS Privacy Procedure
Motor Trade Association of SA Inc. Privacy Statement
Records Management Policy
Apprentice/Trainee Handbook

DOCUMENTS : Complaint/ Appeal Report Form
Complaint/ Appeal Register

EQUIPMENT & RESOURCES :

QUALIFICATIONS, TRAINING OR
SPECIALIST KNOWLEDGE : Experience in managing Appeals process

AUTHORISED :  _____ DATE : 12/06/2020
CHIEF EXECUTIVE OFFICER



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PURPOSE

The purpose of this document is to give clear direction as to the responsibility and manner in which apprentice/trainees, Host Employers, employees and contractors

- are to have their appeal process conducted;
- manage the rights and responsibilities afforded to individuals involved in an appeal.

RESPONSIBILITY

Appellant

It is the responsibility of the Appellant to ensure that they commence the appeal process within the specified period and that their appeal is supported with a genuine argument and/or evidence.

CEO through MTA Staff

It is the responsibility of MTA to ensure that the appeal process is open, fair, equitable and accurate at all times; well documented and that the Appellant signs off and is provided with a copy of each stage of the process.

SCOPE

This policy encompasses:

- current and past apprentice/trainee;
- apprentice/trainee candidates;
- host employers (past and present);
- regulatory authorities.

This policy does not cover complaints. Please refer Complaint Process.

POLICY

It is the policy of Motor Trade Association Group Training Scheme Group Training Organisation (MTA GTS) to manage its process in a fair and equitable manner that ensures all stakeholders are provided with a timely and transparent framework to lodge appeals.

Guiding Principles

MTA provides a process for advocacy, internal mediation and external independent mediation to resolve disputes and appeals.

An apprentice/trainee and/or MTA GTS may nominate;

- an advocate to accompany and support them

or

- an external independent mediation process
- minors to be accompanied by their parent/guardian

at any stage of the appeal process.

MTA commits to an appeal process with the following guiding principles:

1. **Confidentiality**

Only the parties directly involved in lodging or investigating or mediating an appeal will have access to information about the appeal.

Either party in the appeal may seek external advice/discussion.

At all times confidentiality is to be respected in association with the Australian Privacy Principles. Refer to the MTA Privacy Policy POL033_13.

2. **Impartiality**

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

MTA reserves the right to seek expert advice as to the appropriate action to be taken in regards to the outcome of an investigation.

Apprentice/Trainees may have an advocate or support person present throughout the process. Minors to be accompanied by their parent/guardian.

3. **Free from Repercussion**

No action will be taken against any individual or entity for lodging a bona fide appeal or assisting someone to lodge or manage a bona fide appeal.

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

MTA GTS will take all necessary steps to ensure that victimisation does not occur against anyone who lodges or is involved in an appeal.

MTA reserves the right to take appropriate action against an individual or entity who lodges a Frivolous or Malicious appeal, or knowingly lodges a false appeal.

4. Timely & Transparent

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

An abbreviated description of the appeals process is included in the Apprentice Handbook and Apprentice/Trainees will be informed of the appeals procedure as part of their induction process.

DEFINITIONS

Advocate	: Individual who accompanies an appellant 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 MTA GTS.
Appeal Event	: Actual instance of decision that occurred for which the appeals being lodged.
Appellant	: Person or entity that lodges an appeal
Apprentices	: Individuals directly employed by MTA under a Contract of Training whether undertaking work for MTA or being hosted by an alternate employer.
Contractor	: Individual or entity engaged by MTA GTS under contract to deliver specified work on its behalf e.g. WHS Specialist, Field Officer, Student Support Officer, Child Protection Officer/s.
Child Protection Officer/s	: Is either the GTO Administrator or Payroll Supervisor.
Complaint	- A complaint arises when a stakeholder is dissatisfied with by an action or event or thing under the control of or within the environment or activities of MTA GTS.
Complaint Event	- Actual instance that occurred for which the complaint is being lodged.
Complainant	- Person or entity that lodges a complaint.
Employee	: Person employed by MTA on a full or part time or casual basis. Includes apprentice/trainees. Does not include Contractors.
Frivolous Appeal	:- Fictitious appeal or one made intentionally without foundation or to cause detriment or mischief.

- Knowingly lodging a false appeal. (without truth or foundation).
- Host Employer** : An individual or entity qualified and if applicable licensed in the trade specific to the engagement of an MTA GTS Apprentice or Trainee under an agreement similar to a Labour Hire Agreement excepting that the Host Employer agrees to provide appropriate on-job-training and release the Apprentice or Trainee for off-job-training as per the Apprentice/Trainee's Training Plan.
- Legal Representation** : A lawyer or similar who is engaged by the appellant or MTA GTS to represent them in a formal and legal process which may be initiated if the appeal process including external mediation fails.
- Malicious Appeal** : Fictitious appeal or one made intentionally without foundation or to cause detriment or mischief. Knowingly lodging a false appeal (without truth or foundation).
- Mediation Event** : Meeting, intervention or other event specifically designed and arranged with the goal of a satisfactory outcome.
- MTA GTS Representative** : For the purposes of the Appeal Process this will normally be the Field Officer or the GTO Manager.
- Non Employee Stakeholder** : Individual or Entity who is not legally employed by MTA GTS e.g. Host Employer, Contractor.
- Parties to the Appeal** : All individuals and/or entities who are directly involved in lodging or investigating or mediating an appeal.
- Stakeholder** : General term inclusive of any individual or entity with whom MTA GTS has a relationship including but not limited to employees, apprentice/trainees, contractors and host employers.
- Trainee** : Individuals directly employed by MTA GTS under a Contract of Training whether undertaking work for MTA GTS or being hosted by an alternate employer.
- Zero Tolerance** : MTA will not under any circumstances tolerate behaviours that breach the fundamental principles of access, equity and fairness. MTA GTS will take action to the extent of termination of employment or contract, or removal of apprentice/trainees from hosting against

any individual or group of individuals proven to have breached these principles.

PROCEDURE

Record Keeping & Documentation

The process must:

- be documented at each step using the Complaint/Appeal Report Form;
- be registered in the Complaint/Appeal Register;
- ensure that all parties sign and receive hardcopy of the record within 5 working days of the completion of each step;
- a copy is filed in line with the Australian Privacy Principles.

Once the process has been completed all documentation must be scanned and uploaded into the Apprentice/Trainee's JobReady electronic file.

Where the appeal relates to another individual or entity a copy of the scanned documents are to be filed as follows:

- Employee – placed in the employee's personnel file;
- Board Member – placed in the Board Member's file;
- Host Employer – placed in the Host Employer file;
- Contractor – placed in the Contractor's file.

Appellant Support

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

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

MTA GTS will provide assistance throughout the process.

Children

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

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

If the appeal does not relate to an allegation of abuse the staff member will support and assist the child Apprentice/Trainee and their parent(s) through the appeal process as documented below.

Apprenticeship/Traineeship Issues

The process for Apprenticeship/Traineeship issues will be:

1. Appellant lodges a verbal or written appeal to their delegated Field Officer within five working days of the date of the decision.

*Note: **all** verbal appeals (telephone or face to face) must also be formalised in writing within the same five working day period.*

Appeal details are to be documented on the Complaints/Appeal Form and the original appeal letter from the Appellant is to be attached;

Within 5 working days of receipt of the appeal a meeting will be arranged with the appellant and Field Officer and at which they will:

- Discuss with and attempt to resolve the Appellant's issue;
- document the meeting in the Complaint/Appeal Register;
- advise that a decision will be provided within 5 working days.

The discussion is recorded by the Field Officer and signed off by both the Field Officer and the Appellant.

Within 5 working days of the meeting the Field Officer will inform the Appellant of the 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 the Appellant supporting verbal advice.

2. If the Appellant is dissatisfied with the decision, they may make an appeal to the General Manager Apprentice Employment Services. This appeal must be in writing stating the reasons why the Appellant is dissatisfied with the decision and lodged within 5 working days of receipt of the decision.

The General Manager Apprentice Employment Services, will meet with both the Field Officer and the Appellant within 5 working days of receiving the appeal notice. The meeting is to be documented, signed and copied to all parties.

Within 5 working days of the meeting the General Manager Apprentice Employment Services will inform the Appellant of their decision to either uphold or set aside the Field Officer's 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 the Appellant supporting verbal advice.

3. If the Appellant is dissatisfied with the decision, they may make an appeal directly to the CEO who will, within 5 working days, assess all of the evidence and inform the Appellant in writing of their decision.

Within 5 working days of the meeting the Appellant will be informed of their decision to either uphold or set aside the previous 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 the Appellant supporting verbal advice.

4. If the Appellant remains dissatisfied with the process or the decision they may contact:

- Traineeship and Apprenticeship Services 1800 673 097 or
Email workready@sa.gov.au

National Training Complaints Hotline

Phone: 13 38 73, Monday–Friday, 8am to 6pm nationally.

- Email: skilling@education.gov.au
- Office of the Training Advocate 1800 006 488
- SafeWork SA 1300 365 255
- Workplace Ombudsman – 1300 724 200
- Union Representative
- Or other relevant regulatory body related to the specific issue.

Service or Other Operational Practice Appeal

The process for appeal for any decision related to service provision or operational practice is as follows:

1. Appellant (person who is appealing the decision) lodges a verbal or written appeal to General Manager Apprentice Employment Services within five working (5) days of the date of the decision;

Within 5 working days of receipt of the appeal a meeting is arranged by General Manager Apprentice Employment Services, with the Appellant to discuss the Appellant's concerns. The discussion is recorded by the General Manager Apprentice Employment Services and signed off by the Appellant who is provided with a copy.

Within 5 working days of the meeting MTA informs the Appellant of the decision. The decision may be given verbally or in writing, however, a written notification must be provided to the Appellant supporting a verbal advice.

2. If the Appellant is dissatisfied with the General Manager Apprentice Employment Services decision they may appeal to the CEO in writing within 5 days of the date of the written notification.

The CEO will meet with both the General Manager Apprentice Employment Services and the Appellant within 5 working days of receiving the appeal notice. The meeting is to be documented, signed by all parties and a copy provided to the Appellant.

3. The CEO will advise the Appellant in writing of their decision within 5 working days of the meeting.

Operational Policy

In relation to operational policy the General Manager Training and Employment Centre decision will be final.

Legislated Policy

In relation to decisions taken for areas for which legislation or regulatory authority standards apply those standards will apply.

The Appellant may access an external appeal process.

External Facilitator

Where it is felt appropriate MTA GTS may engage the services of an appropriate external facilitator to assist the process.

MTA generally uses the services of

ACCESS Programs.
Australia Wide Tel: 1300 364 277

Unsuccessful Appeal Process

If all MTA avenues of appeal process are not successful the General Manager Apprentice Employment Services should advise the appellant in writing of their right to seek external appeals process as follows:

- Traineeship & Apprenticeship Services 1800 673 097 or
Email workready@sa.gov.au
- National Training Complaints Hotline
Phone: 13 38 73, Monday–Friday, 8am to 6pm nationally.
Email: skilling@education.gov.au
- SafeWork SA 1300 365 255
- The Office of the Training Advocate 1800 006 488
- Workplace Ombudsman – 1300 724 200
- Union Representative
- Or other relevant regulatory body may be available related to the specific issue
- or legal intervention.

The GM Training & Employment Centre must immediately advise the CEO of the Appellant's intention to seek external appeal process.

ACCESS

All MTA stakeholders have the right to access the appeal process and be treated in a fair and equitable manner.

The Appellant has the right to access their personal records as per Records Management Policy.

All records access will be in line with Australian Privacy Principles.

PRIVACY

All discussions, records and information related to an apprentice/trainee and other parties must be kept confidential and recorded and filed in line with the GTS Privacy Procedure, the Motor Trade Association of SA Inc. Privacy Statement, MTA GTS Record Management Policy and the Privacy Act 1988 and Australian Privacy Principles. 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 employees, termination of contract for contractors, cancellation of training contract for RTOs and potential discontinuance of Hosting arrangements for Host Employers.

ACCESS AND EQUITY

It is the policy of MTA GTS to ensure an environment that is, as a minimum, aligned with State and Federal legislation:

MTA GTS commits to providing a safe and equitable environment through zero tolerance of any form of harassment, bullying, discrimination and/or racial vilification.

For further information refer to [MTA GTS Access, Equity & Fairness Policy POLO13_13](#).