APPEAL POLICY

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DOCUMENTS : Complaint/Appeal Report Form
             Complaint/Appeal Register

REFERENCES : Access, Equity & Fairness Policy
             Domestic Student Handbook
             International Student Handbook
             Student Support Services Policy
             Complaint Policy
             VET Quality Framework
             Standards for Registered Training Organisations (RTOs) 2015 Cwlth.
             National Vocational Education and Training Regulator Act 2011
             Education Services for Overseas Students Act 2000
             National Code of Practice for Registration Authorities and Providers of
             Education and Training to Overseas Students 2007
             Working with Children (Criminal Record Checking) Act 2004
             Children’s Protection Act SA (1993)

AUTHORISED : MANAGING DIRECTOR

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PURPOSE

This policy is to ensure that 4Life stakeholders and in particular Students are aware of the Appeals Process and the rights and responsibilities afforded to everyone.

It provides guidance and direction regarding legislative and 4Life requirements in the management of the Appeals Process.

POLICY

It is the policy of 4Life 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.

4Life provides a process for advocacy, internal mediation and external independent mediation to resolve disputes and appeals.

A stakeholder and/or 4Life may nominate;

- an advocate to accompany, represent and support them
- an external independent mediation process

at any stage of the appeal process.

GUIDING PRINCIPLES

CONFIDENTIALITY

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

Discussion of the matter by parties to the appeal with other 4Life stakeholders, or other parties either internal or external is not permitted and will breach Australian Privacy Principles. Such discussion may also hamper the effectiveness of the process.

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.

4Life reserves the right to seek expert advice as to the appropriate action to be taken in regards to the outcome of an investigation.

Stakeholders may have an advocate present throughout the process.

FREE FROM REPERCUSSIONS

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.

4Life will take all necessary steps to ensure that victimisation does not occur against anyone who lodges or is involved in a bona fide appeal.

4Life reserves the right to take appropriate action against an individual or entity that lodges a False or Malicious appeal, or knowingly lodges a false appeal.
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 Students Information Booklet and Students will be verbally informed of the appeals procedure as part of their induction process.

SCOPE

This policy encompasses:

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

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

DEFINITION

4Life Representative  For the purposes of the Appeal Process this will normally be the Operations or Education Director or Accountable Officer or their delegate.

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 4Life.

Appeal Event  Actual instance of decision that occurred for which the appeals being lodged.

Appellant  Person or entity that lodges an appeal.

Complaint/Appeal Committee  A number of persons nominated by the CEO to review decisions that an Appellant does not accept as satisfactory.

Contractor  Individual or entity engaged by 4Life under contract to deliver specified work on its behalf e.g. Sessional trainer/assessor.

Children’s Protection Officer  The Children’s Protection Officers are the Operations Director in South Australia and General Manager in NSW and their role is to provide and/or facilitate appropriate support services and protections for minor children.

Employee  Person employed by 4Life on a full or part time or casual basis. Does not include Contractors.
False Appeal  Fictitious appeal or one made intentionally without foundation or to cause detriment or mischief. Knowingly lodging a false appeal. (without truth or foundation).

Legal Representation  A lawyer or similar who is engaged by the appellant or 4Life 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.

Minor Child  A child under the age of 18 years.

Non Employee Stakeholder  Individual or Entity who is not legally employed by 4Life e.g. Supplier, Contractor, Regulatory Authority.

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 4Life has a relationship including but not limited to employees, students, contractors and suppliers.

Student Support Officer  The Student Support Officer for both domestic and international students is the Operations Director in South Australia, General Manager in NSW and their role is to provide and/or facilitate appropriate support services for international students.

Zero Tolerance  4Life will not under any circumstances tolerate behaviours that breach the fundamental principles of access, equity and fairness. 4Life 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.

PROCEDURE

DOCUMENTATION

The process must:

- be documented at each step using the Complaint/Appeal Report Form;
- 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 Australian Privacy Principles
APPELLANT SUPPORT

If for whatever reason the stakeholder 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 stakeholder is encouraged, at any stage of the process, to invite an advocate or support person to participate.

4Life will provide assistance throughout the process.

MINOR CHILDREN

All minor children should initially discuss an Appeal with a staff member they feel most comfortable with. The staff member will advise the Children's Support Officer who will proceed with the appeal.

Where a minor child indicates that they wish to lodge an appeal their parent/guardian will be contacted prior to the process commencing and the process will be deemed to have commenced once the parent/guardian has been engaged in the process.

APPEAL PROCESS

The process will be:

LEARNING & ASSESSMENT APPEAL

The process for appeal for a learning or assessment decision made by 4Life is as follows:

- Appellant (person who is appealing the decision) lodges a verbal or written appeal to 4Life within twenty (20) days of the date of the decision;
- An appeal in relation to a learning or assessment outcome should be directed to the Trainer/Assessor concerned;
- 4Life documents details of the appeal attaching the original appeal letter from the Appellant if provided;
- Within 5 working days of receipt of the appeal a meeting is arranged by 4Life, with the Appellant to discuss the Appellant's concerns. The discussion is recorded by the 4Life Trainer/Assessor and signed off by the Appellant.
- Within 5 working days of the meeting 4Life’s Trainer/Assessor 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.
- If the Appellant is dissatisfied with the decision, they may make an appeal directly to the Accountable Officer. This appeal must be in writing clearly stating the Appellant's concerns.
- The Accountable Officer will meet with both the Trainer/Assessor and the Appellant within 5 working days of receiving the appeal notice. The meeting is to be documented.
- The Accountable Officer will advise the Trainer/Assessor and the Appellant within 5 working days of the meeting of the decision.

In the case of an assessment appeal the Accountable Officer may determine:
a. that a Student should be reassessed by an alternate assessor;
b. that the original decision is correct and will stand;
c. that an adjustment to the original decision is warranted.

If the Appellant is dissatisfied with the Accountable Officer’s decision they may appeal to the Managing Director in writing within 5 days.

- The Managing Director will meet with both the Accountable Officer and the Appellant within 5 working days of receiving the appeal notice. The meeting is to be documented.
- The Managing Director will advise the Accountable Officer and the Appellant within 5 working days of the meeting of the decision.

If the Appellant remains dissatisfied with the process or the decision they may request referral to the Complaints/Appeals Committee.

- Complaints/Appeals Committee will meet with all parties within 5 working days of receipt of referral.
- Complaints/Appeals Committee will provide their decision in writing within 5 working days.

**If the Appellant remains dissatisfied with the process or the decision they may**

a. request than external mediator agreeable to all parties be engaged. 4Life generally uses the services of Access OCAR Australia.

   Australia free call number: 1300 66 77 00

b. contact:
   - Training Advocate 188 006 488
   - National Training Complaints Hotline on 13 38 73
   - Australian Skills Quality Authority (ASQA) via the online complaint form at http://asqa.gov.au/forms.html#complaintforms
   - SA Office of Consumer & Business Affairs (08) 8204 9777
   - Victoria Consumer Affairs Victoria 1300 558 181
   - WA Dept of Commerce 1300 304 054
   - NSW Fair Trading Tel 13 32 20
   - NT Consumer Affairs Tel: 08 8999 1999
   - Tasmania Office of Fair Trading – Consumer Affairs & Fair Trading Tel: 03 6233 4567
   - QLand Office of Fair Trading Tel: 13 74 68
   - WorkSafe ACT
     
   Website: www.worksafe.act.gov.au
Email: worksafe@act.gov.au  
Telephone: (02) 6207 3000

- WorkCover NSW  
  Website: www.workcover.nsw.gov.au  
  Telephone: 13 10 50

- NT WorkSafe  
  Website: www.worksafe.nt.gov.au  
  Email: ntworksafe@nt.gov.au  
  Telephone: 1800 019 115

- Workplace Health and Safety Queensland, Office of Fair and Safe Work Queensland, Department of Justice and Attorney-General  
  Website: www.worksafe.qld.gov.au  
  Telephone: 1300 369 915 or (07) 3225 2000

- SafeWork SA  
  Website: www.safework.sa.gov.au  
  Telephone: 1300 365 255

- Workplace Standards Tasmania  
  Website: www.wst.tas.gov.au  
  Telephone: 1300 366 322 (inside Tasmania) or (03) 6233 7657 (outside Tasmania)

- WorkSafe Victoria  
  Website: www.worksafe.vic.gov.au  
  Email: info@worksafe.vic.gov.au  
  Telephone: 1 800 136 089 or (03) 9641 1444

- WorkSafe WA Part of the WA Department of Commerce  
  Website: www.worksafe.wa.gov.au  
  Telephone: 1300 307 877

- Workplace Ombudsman Tel: 13 13 94 or www.fairwork.gov.au

- Union Representative – refer relevant Union

- Or other relevant regulatory body may be available 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 made by 4Life is as follows:

- Appellant (person who is appealing the decision) lodges a verbal or written appeal to Operations Director within twenty (20) days of the date of the decision;
- 4Life documents details of the appeal attaching the original appeal letter from the Appellant if provided;
- Within 5 working days of receipt of the appeal a meeting is arranged by 4Life, with the Appellant to discuss the Appellant’s concerns. The discussion is recorded by the 4Life representative and signed off by the Appellant.
Within 5 working days of the meeting 4Life 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.

If the Appellant is dissatisfied with the Operation Director’s decision they may appeal to the Managing Director in writing within 5 days of the date of the written notification.

- The Managing Director will meet with both the Operations Director and the Appellant within 5 working days of receiving the appeal notice. The meeting is to be documented.
- The Managing Director will advise the Operations Director and the Appellant within 5 working days of the meeting of the decision.

OPERATIONAL POLICY

In relation to operational policy the Managing Director’s decision will be final.

LEGISLATED POLICY

In relation to decisions taken for areas for which legislation or regulatory authority standards apply the Appellant may access an external appeal process.

EXTERNAL FACILITATOR

Where it is felt appropriate 4Life may engage the services of an external facilitator to assist the process.

4Life generally uses the services of Access OCAR Australia.

Australia free call number: 1300 66 77 00

UNSUCCESSFUL APPEAL PROCESS

If all 4Life avenues of appeal process are not successful the Operations Director should advise in writing:

- the appellant of their right to seek external appeals process as follows:

  **Students**
  - Training Advocate 1800 006 488
  - The National Training Complaints Hotline on 1800 000 674
  - or legal intervention;

  **Employees**
  - Workplace Ombudsman - 1300 724 200
  - Union Representative
  - or
Other appropriate regulatory body

Other non employee stakeholders

- Australian Skills Quality Authority (ASQA) via the online complaint form at http://asqa.gov.au/forms.html#complaintforms
- The National Training Complaints Hotline on 1800 000 674
- Office of Consumer & Business Affairs (08) 8204 9777
- Safe Work SA 1300 365 255 or as may be relevant in the State/Territory
- legal intervention;

or

- Other appropriate regulatory body

the Managing Director of the Appellant’s intention to seek external appeal process.

PROCESS SCHEMATIC

A schematic of the above appeals process is attached.

INTERNATIONAL STUDENTS

Where an International Student chooses not to access the Complaint or Appeal process, withdraws from the process, or the process is completed and results in a decision supporting 4Life then 4Life is required to notify the Secretary of Department of Education via the PRISMS system as soon as is practicable.

- are signed by all parties;
- a copy is filed in line with Australian Privacy Principles;
- Complaint/Appeal Register is to be updated throughout and at the completion of the process;
- Complaint/Appeal Report Form is to be updated and copied to all parties throughout and at the completion of the process.

FALSE OR MALICIOUS APPEALS

A ‘False or Malicious Appeal’ is a fictitious complaint or one made intentionally without foundation or to cause detriment or mischief.

4Life maintains a Zero Tolerance policy in regards to False or malicious appeal.

Appellants found to have made a ‘False or Malicious Appeal’ will face disciplinary action and dependent upon the appeal the consequences may include termination of employment or contract or expulsion from further studies.
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.

MANAGING DIRECTOR THROUGH 4LIFE STAFF

It is the responsibility of 4Life to ensure that the appeal process is open, fair 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.

EDUCATION DIRECTOR

In the capacity of Compliance Officer to meet the requirements of the Compliance Officer Policy and in particular Children’s Protection in collaboration with the Children’s Protection Officers.

STUDENT SUPPORT & CHILDREN’S PROTECTION OFFICERS

The Student Support Officers and Children’s Protection Officers are responsible for the welfare of students and Children’s Protection throughout the student’s period of study with 4Life.

At the time of publication of this policy the Student Support Officers and Children’s Protection Officers are the Operations Director in South Australia and the General Manager in NSW.

ACCESS

All 4Life stakeholders have the right to access the appeal process fairly and equitably.

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

APPLICABLE STANDARDS

STANDARDS FOR REGISTERED TRAINING ORGANISATIONS 2015 – DOMESTIC STUDENTS

Made under the National Vocational Education and Training Regulator Act 2011

STANDARD 6 - COMPLAINTS AND APPEALS ARE RECORDED, ACKNOWLEDGED AND DEALT WITH FAIRLY, EFFICIENTLY AND EFFECTIVELY.

Clause 6.2:

The RTO has an appeals policy to manage requests for a review of decisions, including assessment decisions, made by the RTO or a third party providing services on the RTO’s behalf.

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.

STANDARDS FOR REGISTERED TRAINING ORGANISATIONS 2015 – INTERNATIONAL STUDENTS

Made under the Education Services for Overseas Students Act 2000:

STANDARD 3 – FORMALISATION OF ENROLMENT

Written agreements between registered providers and students set out the services to be provided, fees payable and information in relation to refunds of course money.

Clause 3.2 (d)

The registered provider must include in the written agreement the following information, which is to be consistent with the requirements of the ESOS Act, in relation to refunds of course money in the case of student and provider default:

- amounts that may or may not be repaid to the student (including any course money collected by education agents on behalf of the registered provider)
- processes for claiming a refund
- a plain English explanation of what happens in the event of a course not being delivered, and
- a statement that “This agreement, and the availability of complaints and appeals processes, does not remove the right of the student to take action under Australia’s consumer protection laws”.

STANDARD 6 – STUDENT SUPPORT SERVICES

Registered providers support students to adjust to study and life in Australia, to achieve their learning goals and to achieve satisfactory progress towards meeting the learning outcomes of the course.

Clause 6.1 (e)

The registered provider must assist students to adjust to study and life in Australia, including through the provision of an age and culturally appropriate orientation programme that includes information about:

- student support services available to students in the transition to life and study in a new environment
- legal services
- emergency and health services
- facilities and resources
- complaints and appeals processes, and
- any student visa condition relating to course progress and/or attendance as appropriate.
STANDARD 7 – TRANSFER BETWEEN REGISTERED PROVIDERS

Registered providers assess requests from students for a transfer between registered providers prior to the student completing six months of the principal course of study in accordance with their documented procedures.

Clause: 7.5

Where the registered provider does not grant a letter of release, the student must be provided with written reasons for refusing the request and must be informed of his or her right to appeal the registered provider’s decision in accordance with Standard 8 (Complaints and appeals).

STANDARD 8 – COMPLAINTS & APPEALS

Registered providers’ complaints and appeals processes are independent, easily and immediately accessible and inexpensive for the parties involved.

Clause: 8.1

The registered provider must have an appropriate internal complaints handling and appeals process that satisfies the following requirements, or can use its existing internal complaints and appeals processes as long as it meets these requirements:

a. a process is in place for lodging a formal complaint or appeal if the matter cannot be resolved informally, which requires a written record of the complaint or appeal to be kept

b. each complainant or appellant has an opportunity to formally present his or her case at minimal or no cost to him or herself

c. each party may be accompanied and assisted by a support person at any relevant meetings

d. the complainant or appellant is given a written statement of the outcome, including details of the reasons for the outcome, and

e. the process commences within 10 working days of the formal lodgement of the complaint or appeal and supporting information and all reasonable measures are taken to finalise the process as soon as practicable.

Clause: 8.2

The registered provider must have arrangements in place for a person or body independent of and external to the registered provider to hear complaints or appeals arising from the registered provider’s internal complaints and appeals process or refer students to an existing body where that body is appropriate for the complaint or appeal.

Clause: 8.3

If the student is not satisfied with the result or conduct of the internal complaint handling and appeals process, the registered provider must advise the student of his or her right to access the external appeals process at minimal or no cost.

Clause: 8.4

If the student chooses to access the registered provider’s complaints and appeals processes as per this standard, the registered provider must maintain the student’s enrolment while the complaints and appeals process is ongoing.
Clause: 8.5

If the internal or any external complaint handling or appeal process results in a decision that supports the student, the registered provider must immediately implement any decision and/or corrective and preventative action required and advise the student of the outcome.

STANDARD 10 – MONITORING COURSE PROGRESS

Registered providers systematically monitor students’ course progress. Registered providers are proactive in notifying and counselling students who are at risk of failing to meet course progress requirements. Registered providers report students, under section 19 of the ESOS Act, who have breached the course progress requirements.

Clause 10.6

Where the registered provider has assessed the student as not achieving satisfactory course progress, the registered provider must notify the student in writing of its intention to report the student for not achieving satisfactory course progress. The written notice must inform the student that he or she is able to access the registered provider’s complaints and appeals process as per Standard 8 (Complaints and appeals) and that the student has 20 working days in which to do so.

Clause 10.7

Where the student has chosen not to access the complaints and appeals processes within the 20 working day period, withdraws from the process, or the process is completed and results in a decision supporting the registered provider, the registered provider must notify the Secretary of DEEWR through PRISMS of the student not achieving satisfactory course progress as soon as practicable.

STANDARD 11 – MONITORING ATTENDANCE

Registered providers systematically monitor students’ compliance with student visa conditions relating to attendance. Registered providers are proactive in notifying and counselling students who are at risk of failing to meet attendance requirements. Registered providers report students, under section 19 of the ESOS Act, who have breached the attendance requirements.

Clause: 11.6

Where the registered provider has assessed the student as not achieving satisfactory attendance for the courses identified in 11.1, the registered provider must notify the student in writing of its intention to report the student for not achieving satisfactory attendance. The written notice must inform the student that he or she is able to access the registered provider’s complaints and appeals process as per Standard 8 (Complaints and appeals) and that the student has 20 working days in which to do so.

Clause: 11.7

Where the student has chosen not to access the complaints and appeals processes within the 20 working day period, withdraws from the process, or the process is completed and results in a decision supporting the registered provider, the registered provider must notify the Secretary of DEEWR through PRISMS that the student is not achieving satisfactory attendance as soon as practicable.
STANDARD 13 – DEFERRING, SUSPENDING OR CANCELLING THE STUDENT’S ENROLMENT

Registered providers may only enable students to defer or temporarily suspend their studies, including granting a leave of absence, during the course through formal agreement in certain limited circumstances.

Clause: 13.4

The registered provider must inform the student of its intention to suspend or cancel the student’s enrolment where the suspension or cancellation is not initiated by the student and notify the student that he or she has 20 working days to access the registered provider’s internal complaints and appeals process as per Standard 8.1. If the student accesses the registered provider’s internal complaints and appeals process, the suspension or cancellation of the student's enrolment under this standard cannot take effect until the internal process is completed, unless extenuating circumstances relating to the welfare of the student apply.