

# **New Zealand Association of Private Education Providers**

## **Best Practice Grievance Procedure**

### **Responsibility**

It is the responsibility of all PTEs to provide a study environment for students which is physically safe, free from harassment of any kind and conducive to the achievement of good learning outcomes.

### **Grievance definition and scope**

There are many factors outside the control of PTEs which can adversely affect the well-being of students and staff. While it is important for PTEs to be considerate, sympathetic and, where possible, helpful in their response to the distress these can cause, grievance procedures are limited in their scope to addressing the following: inappropriate policies and procedures of institutions, failure to act in accordance with appropriate policies and procedures, and actions by staff or students which cause upset to others.

### **Terminology**

Complaint – expression of dissatisfaction

Complainant – person making the complaint

Object – matter about which complaint is made

Respondent – person(s) alleged to have committed the action giving rise to the complaint

Facilitator – person receiving the complaint who has the responsibility to facilitate resolution

### **Principles**

The following principles are important in dealing with grievances:

- Staff and students are given full information about the process through induction and orientation procedures (staff handbooks, student handbooks).
- Staff and students can raise issues of concern in an environment free from fear of retribution or breach of confidentiality. (There will be times when the only way to deal with a complaint involves identifying the complainant to the respondent. Where this is deemed to be the case, the facilitator should secure the agreement of the complainant beforehand.)
- Attempts to solve problems should be focused at the level closest to the problem itself and should only be referred to a higher level if this fails.
- The respondent has as much right to fair and just treatment as the complainant (innocent until proven guilty).
- Solutions should focus on conflict resolution or solving the problem rather than taking punitive action (although punitive action may sometimes be necessary).

- Possible outcomes may include: doing nothing, mediation, referral to counseling, taking disciplinary action, revising policies, referral to the police, providing compensation, etc.

## **Procedures**

Complaints may be dealt with either informally or formally.

### *Informal Complaints*

Examples of informal complaints might include the following:

- minor classroom irritations (other students break concentration by always talking in class, teacher fails to keep order)
- concerns arising from miscommunication or misunderstanding
- minor disagreements over academic matters (teacher didn't accept my late assignment, when I felt I had a good excuse)
- resource difficulties (e.g. internet connection keeps crashing)

The complainant should be directed to the person best situated to address their complaint and facilitate a speedy resolution (i.e. facilitator). The facilitator should ensure that the complainant understands and is comfortable with the process. The following points are helpful in reaching a resolution:

- Ask the person to express their concerns.
- Restate the problem as you have understood it and seek confirmation that your understanding is correct. Try to encourage the complainant to focus on the object rather than the respondent (unless the object is the behaviour of the respondent).
- Ask them what they would regard as a satisfactory resolution.
- If they are unsure, suggest a satisfactory outcome which you feel is achievable.
- Agree on a plan for resolution.
- Facilitate the implementation of the plan.
- If their expectations are unreasonable, naïve or based on misunderstanding of institutional policy, help them to understand this in a tactful manner.
- If they wish to pursue the complaint against advice to the contrary, then explain the possible consequences of proceeding, but help them to understand the next step,

Resolution of an informal complaint is achieved by complainant verbally expressing satisfaction with the outcome, or at least verbally accepting the decision reached by the facilitator.

Informal complaints will normally be able to be dealt with at the lowest operational level relevant to the situation and result in a satisfactory outcome, or at least one which is acknowledged to be fair. If the outcome is unsatisfactory, the complainant is entitled to appeal the decision, at which time it should be put in writing and submitted to the internal appeals process of the institution. It then becomes a formal matter which needs to be recorded in the complaints register.

## *Formal Complaints*

Examples of formal complaints might include the following:

- harassment\* by staff or other students
- inappropriate treatment by staff or other students
- unfairness in a formal assessment situation
- unfairness of institutional policies
- unsafe learning situation

- \* NB Most institutions have a list of contact people for harassment, and may choose to have a designated facilitator for dealing with referrals under their anti-harassment policy.

The complainant should be directed to the person best situated to address their complaint and facilitate a speedy resolution. The person receiving the complaint should ensure that the complainant understands and is comfortable with the process.

The following points are helpful in reaching a resolution:

- Formal complaints should be made in writing.
- If necessary, the facilitator may need to help the complainant in articulating their complaint in written form and in a manner which is helpful to its satisfactory resolution. Where such help is given the complainant should sign the complaint to indicate agreement with its final form.
- When formal complaints are received they should be entered into a complaints register and progress towards resolution should be tracked.
- If complainants are uneasy about discussing a complaint with someone whom they see as an authority figure, they should be given reassurances about the integrity of the process and offered the opportunity to bring a friend/colleague in support. Options for alternative facilitators may also be given if appropriate.
- Meet with complainant and discuss nature of complaint.
- Ask the person to explain their concerns.
- Restate the problem as you have understood it and seek confirmation that your understanding is correct. If necessary and appropriate seek corroborating evidence.
- Ask them what they would regard as a satisfactory resolution.
- If they are unsure, suggest a satisfactory outcome which you feel is achievable.
- Explain what further steps you must take in order to reach a decision. (This may often result in adjournment until the respondent has an opportunity to give their side, or until further evidence can be gathered.)
- Agree on a plan for resolution.
- Facilitate the implementation of the plan.
- If their expectations are unreasonable, naïve or based on misunderstanding of institutional policy, help them to understand this in a tactful manner.
- Prepare an outcome statement which is communicated to both complainant and respondent outlining the resolution.
- If they wish to pursue the complaint against advice to the contrary, then explain the possible consequences of proceeding, but help them to understand the next step.

Resolution of a formal complaint is achieved by an outcome statement being prepared by the facilitator which the complainant signs expressing satisfaction with the outcome, or at least accepting the decision reached by the facilitator. Notes should be kept by the facilitator throughout the process to facilitate effective follow-up. Once the outcome statement has been completed and signed, these should be destroyed. The outcome statement is the only documentation that needs to remain on file.

## **Appeal**

Where a facilitator has reached a decision which is not agreed to or accepted by the complainant (or the respondent) the facilitator should explain that they are closing the file, but if dissatisfied they have the right to appeal to an appeal committee. Usually the appeal committee will be comprised of the senior manager/director and such other officers of the organisation as deemed appropriate and who have not been a party to the original facilitation/decision-making process. Where an appeal is expected the notes taken during the facilitation should be retained until the appeal process has run its course.

The appeals committee has the authority to investigate the process and the outcome and if they consider the complainant has been treated unfairly or inappropriately, to overturn or modify the decision. If the complainant is still dissatisfied with the outcome they should be informed of their right to appeal to the NZAPEG Quality Commissioner (provided the provider is a signatory to the NZAPEG Quality Commission Scheme). The appeal committee process is a formal one and requires the same level of documentation as a formal complaint process.

The appeal process should be completed in good time so that the further appeal to the Quality Commissioner or NZQA, both of which have a six month cut off point from the date when the act or omission complained about took place, is not compromised.

If complainants are still not satisfied, their final recourse is to the NZQA Student Complaints Process (<http://www.nzqa.govt.nz>).

## **Documentation**

The institution will maintain a complaints register, and all formal complaints will be entered in the register. For each complaint the register will include such information as is necessary to allow for easy identification of the documents relating to the complaint and should be cross-referenced to the original document containing the written formal complaint and the outcome statement. The complaints procedures are explained in both student and staff handbooks.