



Appeals Policy and Procedure



1. Definitions

Appeals	An application for reconsideration of an unfavourable decision or finding
Working Day	Monday to Friday, 9:00 am to 5:00 pm, except for public holidays.
Complaint	Generally negative feedback about services or people which has not been resolved locally.
Complainant	A person who makes a formal complaint
Counselling	A process to discuss concerns and obligations and to devise strategies to meet them.
CRICOS	The Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) is a web-based portal of Australian institutions and their courses that are approved to be offered to overseas students.
Domestic Students	A Domestic student can be one of the following an Australian citizen, a New Zealand citizen (including a diplomatic or consular representative of New Zealand, a member of the staff of such a representative or the spouse or dependent relative of such a representative), holder of an Australian permanent residency visa, holder of an Australian permanent humanitarian visa.
ESOS Act	Education Services for Overseas Students Act (2000) and its amendments. The ESOS Act protects the interests of both the overseas student and the provider.
ESOS Framework	Education Services for Overseas Students Act (2000), ESOS Regulations 2001, ESOS Registration Charges Act 1997 and The National Code of Practice for Providers of Education and Training to Overseas Students 2018.
DHA	The Commonwealth Department of Home Affairs previously the Department of Immigration and Border Protection.
National Code 2018	The National Code of Practice for Providers of Education and Training to Overseas Students 2018 (the National Code 2018) provides nationally consistent standards for the conduct of registered providers and the registration of their courses. The standards set out specifications and procedures to ensure that registered providers of education and training courses can clearly understand and comply with their obligations under the National Code 2018 and ESOS Act 2000.
Overseas (International) student	A student who is enrolled, or prospective student planning to enrol, at ATQ College who is an 'overseas student' by virtue of being a holder of a Student Visa (subclass 500) and studying in a CRICOS registered course.



Policy

This Appeals Policy and procedure should be read in conjunction with the Complaints Policy and Procedure. ATQ College is committed to providing a fair and transparent appeals handling process.

Scope

This policy applies to and may involve issues concerning the conduct of:

- ATQ College as an organisation, its trainers, assessors or other staff;
- Third party services provided on behalf of ATQ College, its trainers, assessors or other staff; or
- A learner of ATQ College

Throughout this policy we refer to the person making an appeal as simply the appellant.

Procedures

What is an Appeal?

An appeal is an application by a learner for reconsideration of an unfavourable decision or finding during their time with ATQ College. An appeal must be made in writing and specify the particulars of the decision or finding in dispute. Appeals must be lodged within 20 working days of the decision or finding being informed to the learner.

It is important to note that a learner may appeal any decision made by ATQ College or a third party providing services on ATQ College's behalf. Contrary to the popular belief that appeal relates only to assessment decisions, appeals can relate to administrative decisions that ATQ College may make. Examples of this include an appeal of a decision to deny a refund or to deny an application for credit transfer. As the process for handling assessment appeal compared with an appeal of an administrative decision is slightly different, this difference has been catered for within this policy with adjusted processes for both situations.

Early Resolution of Appeals

In all cases, issues that arise during training and assessment that are the source of frustration or are in dispute should be resolved at the time they occur between the persons involved. It is often the case that the learner's decision to make an appeal can be avoided by proper communication and consultation with learners at the time a decision is made.



Relationship to Continuous Improvement

Frequently, the appeals handling process will expose weakness in the training and assessment or administrative system that can flow into the continuous improvement system as opportunities for improvement. This outcome of appeals handling is very positive and should be actively applied by all persons involved. It is for this reason that appeals received from stakeholders should be seen in a positive light and as opportunities for improvement

Making an Appeal

An appeal may be received by ATQ College in writing using the specified form within 20 working days of the decision or finding being informed to the person.

To appeal a decision, the person is required to complete the ATQ College– Request for an Appeal form. This form is available via our website www.atqcollege.edu.au

The completed Request for an Appeal form is to be submitted to the Office Manager either in hard copy or electronically via the following contact details:

Level 1, 372 Chapel Road Bankstown

admin@atqcollege.edu.au

If a person seeking an appeal has any difficulty assessing the required form or submitting the appeal to ATQ College, they are advised to contact ATQ College immediately at the following phone number:

1300 687 287

A written record of all appeals is to be kept by ATQ College including all details of lodgement, response and resolution. The appeals register within the student management system is to be used to record the details of the appeal and to maintain a chronological journal of events during the appeal handling process. Records relating to appeal handling must be stored securely to prevent access to unauthorised personnel.

The appeal is referred to the CEO; whereby the CEO reviews the appeal and determines if re-assessment, investigation or consultation is required; or if the matter can be solved internally.

Appeals are to be handled in the strictest of confidence. No ATQ College representative is to disclose information to any person without the permission of ATQ College CEO. A decision to release information to third parties can only be made after the appellant has given permission for this to occur. This permission should be given using the Information Release Form.



Appeals Handling Timeframe

- Appeals must be lodged within **20 working days** of the decision or finding being informed to the person. An appeal must be submitted using the ATQ College– Request for an Appeal of a Decision form.
- Written acknowledgement by ATQ College **no later than 48 hours** from the time the appeal is received. This acknowledgement is intended to provide the appellant assurance that ATQ College has received the appeal and will review the relevant issues and provide a response as soon as practical. The acknowledgement must inform the person that they will receive a written response.
- The handling of an appeal is to commence within **seven (7) working days** of the lodgement of the appeal and all reasonable measures are taken to finalise the process as soon as practicable.
- A written response must be provided to the appellant within **fourteen (14) working days** of the lodgement of the appeal, including details of the reasons for the outcome.
- As a benchmark, ATQ College should attempt to resolve appeals as soon as possible. A timeframe to resolve an appeal within **thirty (30) calendar days** is considered acceptable and in the best interest of ATQ College and the appellant.
- An appellant should also be provided with regular updates to inform them of the process of the appeal handling. Updates should be provided to the appellant at a minimum of **two (2) weekly intervals**.
- Appeals must be resolved to a final outcome within **sixty (60) calendar days** of the appeal being initially received. Where ATQ College Chief Executive Officer considers that more than 60 calendar days are required to process and finalise the appeal, the CEO must inform the appellant in writing, including reasons why more than 60 calendar days are required.

Principles of Natural Justice and Procedural Fairness



An appellant is to be provided an opportunity to formally present his or her case at no cost. Each appellant may be accompanied and/or assisted by a support person at any relevant meeting. The principles of Natural Justice and Procedural Fairness must be incorporated into every stage of the appeals handling process to ensure that decision-making is fair and reasonable. Natural justice must be observed when it affects the rights, interests or legitimate expectations of individuals. The following principles are to be applied:

- **CEO bias.** Where the Chief Executive Officer of ATQ College feels that they may have bias or there is a perception of bias process or where the person making the appeal is not satisfied with how the matter has been handled, the appellant is to be referred directly to an independent third-party for consideration and response. This means that the appellant is entitled to have their appeal heard by a person that is without bias and may not be affected by the decision. The decision must be made on logical evidence and the decision-maker must take account of relevant considerations, must act for a proper purpose and must not take into account irrelevant considerations.
- **Third Party Review.** Where the appellant is not satisfied with the handling of the matter by ATQ College, they have the opportunity for a body or person that is independent of ATQ College to review his or her appeal following the internal completion of the appeal handling process. Before a person seeks a review by an independent third party, they are requested to first allow ATQ College to fully consider the nature of the appeal and to respond to the person in writing. If after this has occurred, the person is not satisfied with the outcome, they have the right then seek a review by an independent third party. To request a review by an independent third party, the appellant should inform the General Manager of their request who will initiate the process with the Chief Executive Officer.

In these circumstances, the ATQ College Chief Executive Officer will advise of an appropriate party independent of ATQ College to review the appeal outcome (and its subsequent handling) and provide advice to ATQ College in regards to the recommended outcomes. The independent third-party is required to respond with their recommendations within **fourteen (14) working days** of their review being requested. This advice is to be accepted by ATQ College as final, advised to the person making a appeal in writing and implemented without prejudice.

Where the ATQ College appoints or engages an appropriate independent person to review an appeal the ATQ College will meet the full cost to facilitate the independent review.



Unresolved Appeals

Once the appeals handling process has concluded; where the person seeking an appeal of a decision remains not satisfied with the outcome of the appeals handling procedure, the person is to be advised that they have the right to refer the matter to any external authority/agency that may be relevant to their appeal. The following external agencies are nominated in the first instance as relevant points of referral the person may consider:

For Domestic Students

-In relation to consumer related issues, the person may refer their complaint to the **Office of Fair Trading**.

-In relation to the delivery of training and assessment services, the person may refer their complaint to the **National Training Complaints Service** via the following phone number: 13 38 73 or visit the website at <https://www.education.gov.au/NTCH>

-In relation to matters relating to privacy, the person may refer their complaint to the **Office of the Australian Information Commissioner** via the following details: <https://www.oaic.gov.au/individuals/how-do-i-make-a-privacy-complaint> or call on 1300 363 992

This guidance is also communicated to learners within the student handbook and also within the publicly available policies and procedures on ATQ College website. It is expected that the above agencies will investigate the persons concerns and contact the ATQ College for information. External agencies will typically request a copy of any record of how the complaint was handled from the person. ATQ College is to ensure that the person is provided with a written response that they may use for this purpose.

The ATQ College is to cooperate fully with agencies such as the National Training Complaints Service, the Office of Fair Trading or ASQA that may investigate the handling of a complaint. ATQ College considers that it would be extremely unlikely that a complaint is not able to be resolved quickly within ATQ College internal arrangements.

Overseas Students

Students may contact the Overseas Students Ombudsman to externally pursue a complaint or appeal. The Overseas Students Ombudsman investigates complaints about problems that overseas students or intending overseas students may have with private education and training in Australia.

The Overseas Students Ombudsman provides a free, independent and impartial service. The Ombudsman does not represent either overseas students or private education providers and can make recommendations arising out of investigations.



Students who access the external appeal process should be aware that the College may be requested to disclose information that is private and personal to the student and, by accessing the external appeal process, the student consents to the disclosure of such private and personal information by the College.

Students may also take action under Australia's consumer protection laws and, where a student does so, the student is deemed to have accessed the College's external complaints and appeals process. This can be done through the Department of Fair Trading or the Australian Skills Quality Authority.

External review agencies include the Overseas Student's Ombudsman (1300 362 072), the Anti-Discrimination Board (02 9268 5555) or the Department of Fair Trading (13 3220). Further information may be obtained from the Department of Fair Trading's website www.fairtrading.nsw.gov.au.

It is expected that the above agencies will investigate the persons concerns and contact ATQ College for information. External agencies will typically request a copy of any record of how the appeal was handled from the person. ATQ College is to ensure that the person is provided with a written response that they may use for this purpose.

Students who access the external complaints and appeals process will need to follow the procedure set out by the relevant external body.

Record Management of Appeals Records

Records relating to appeals will present in two formats. There will be electronic records in the form of email correspondence and other documents which are communicated electronically and hard copy records which are submitted by the appellant or generated by ATQ College. There is also a record of the appeal maintained within the ATQ College student management system. This includes the details about the appeal and a diary log which records the progress of the appeal handling and closure. This record also records identified opportunities for improvement that result from appeals handling.

All records regardless of their format will be saved in a digital format into a secure folder located on the ATQ College file storage. Each file is to be clearly labelled with the document title or subject and the date of which the document was received or generated. This folder must only be accessible to persons authorised by the Chief Executive Officer. Records stored on the student management system are to be accessible only to administrators and managers.

To ensure records are maintained in a safe and suitable condition, the following is to apply:

- Records must be kept securely to prevent them being accessed by any non-authorised personnel.
- Records must be kept confidential to safeguard information and to protect the privacy of complainants.



- Records must be kept to avoid damage by fire, flood, termites or any other pests.
- Electronic data storage must be safe from destruction by fire or flood and should take account of the risk of component failure of a single storage device. Electronic data is also to be backed-up off site.

Period of retention of Appeals Records

ATQ College is to retain records relating to appeals handling for a minimum of five (5) years.

Destruction of Appeals Records

ATQ College CEO is the only person who can authorise (in writing) the destruction of appeals handling records. Records are only to be authorised for destruction after the retention period has lapsed. Documents identified for destruction are to be shredded before being recycled.

Appeals Handling Procedure

ATQ College will apply the following procedure to its appeals handling:

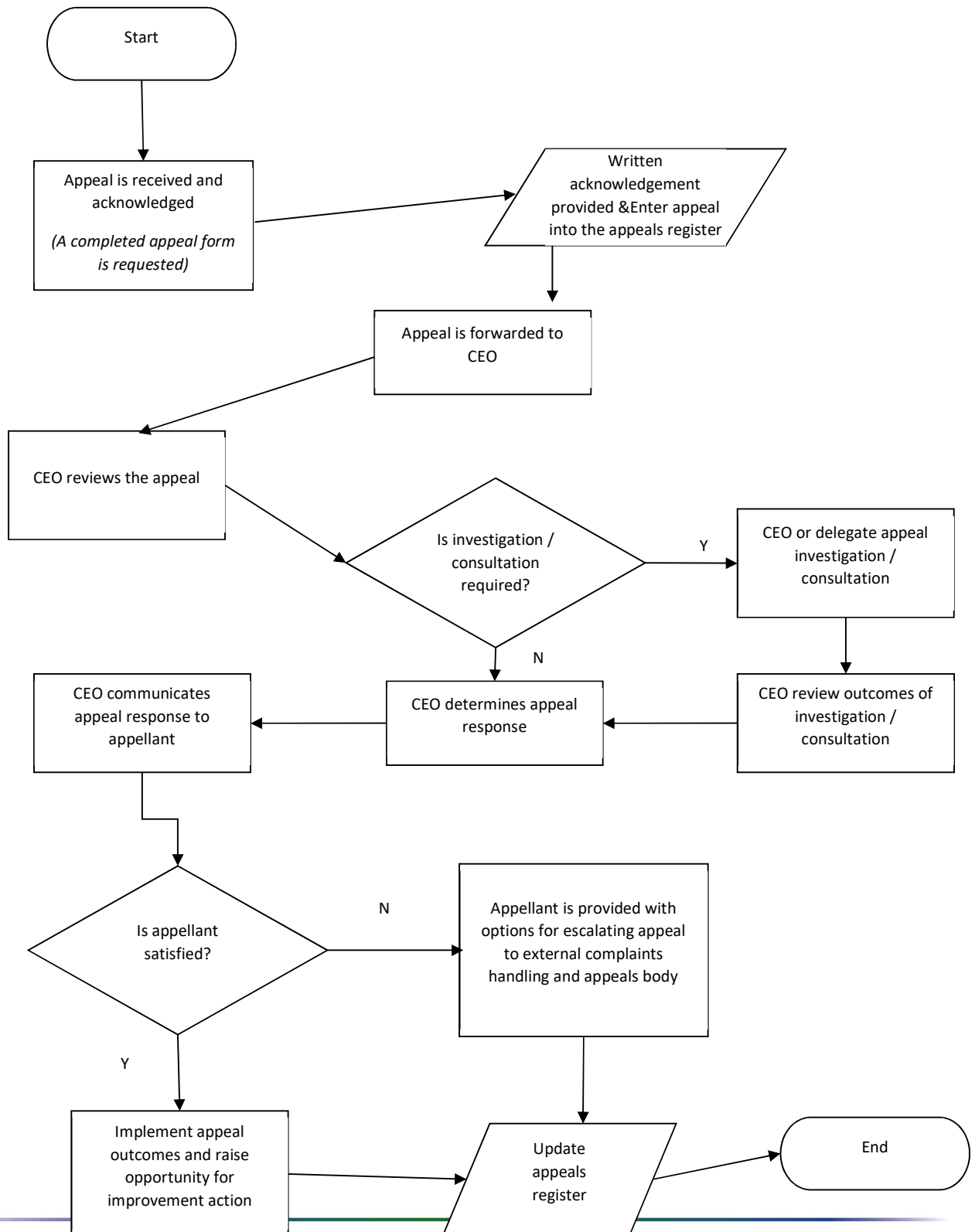
- An appeal must be received in writing using the Request an Appeal of a Decision form. Appeals must be lodged within 20 working days of the decision or finding being informed by the person.
- The complainant must be provided a written acknowledgement as soon as possible and no later than 48 hours from the time the appeal is received using the appeals written acknowledgment email template. The acknowledgement must inform the appellant that they will receive a written response within 14 days to explain the appeals handling process and the person's rights and obligations.
- The appeal must be entered into the complaints and appeals register. The complaints and appeals register identifies the appellant, relation with ATQ College nature of appeal, findings/outcomes, any links with the Continuous Improvement report and the dates received & closed. Prior to entering the appeals form into the register, check if the person has not already submitted an appeal, if it is accurately recorded or if it has been recorded as a subsequent contact.



- d) The appeal is forwarded to the Chief Executive Office for review. The CEO will determine if the appeal requires further investigation or consultation (administrative appeal) or if the appellant is offered re-assessment with the option of additional training (assessment appeal).
- e) The CEO reviews the outcomes of the investigation/consultation and determines the appeal response within an acceptable timeframe. The CEO is to use the appeals response letter template to advise the appellant of the findings and outcomes.
- f) ATQ College shall maintain the enrolment of the appellant during the appeals handling process.
- g) Decisions or outcomes of the appeals handling process that find in favour of the learner shall be implemented immediately. If this is an assessment appeal, the candidate may agree to additional training whereby ATQ College must provide this to the candidate and re-assessment must be completed. If the candidate is deemed not competent after re-assessment they must meet with the ATQ College Chief Executive Officer to discuss the assessment process and outcome.
- h) The appellant is entitled to be heard with access to all relevant information and with the right of reply ensuring natural justice and procedural fairness is applied at every stage of the appeals process. If the appellant is dissatisfied with the appeal decision they are to be referred to the complaints handling process.
- i) ATQ College must request written acknowledgement from the appellant once the appeal has been determined.
- j) Appeals handling procedures should conclude with an analysis of the circumstances to identify any opportunities for improvement.
- k) The appellant must be accurately updated and recorded in the Complaints and Appeals Register.



Administrative Appeals handling Process





Assessment Appeals Handling Process

