

POLICY

Complaints about training providers

Policy for managing complaints about training providers



Australian Government

Australian Skills Quality Authority

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1. Purpose

This document outlines the Australian Skills Quality Authority's (ASQA) policy on managing and responding to complaints received about training providers.

This policy outlines ASQA's statutory roles and responsibilities as prescribed under the *National Vocational Education and Training Regulator Act 2011* (NVR Act) and the *Standards for VET Regulators 2015*. The policy also relates to ASQA's functions as an ESOS Agency under the *Education Services for Overseas Students Act 2000* (ESOS Act).

ASQA applies a risk-based approach to all aspects of its regulation by focussing its efforts on areas of greatest risk. One primary source of information in identifying risks is reports received from students and other stakeholders about their adverse experiences with training providers by way of a complaint.

A copy of this policy on *Managing complaints about training providers* is published on ASQA's website.

2. Complaints overview

Complaints about training providers are an important source of information utilised by ASQA in its risk-based approach to regulation.

All complaints received by ASQA are recorded, acknowledged and assessed to determine the appropriate response. ASQA's response to a complaint depends on the seriousness of the alleged breach of the provider's regulatory obligations. In the most serious cases ASQA may undertake a compliance audit or instigate an investigation of the training provider. For lower-risk matters ASQA responds in different ways, such as seeking (and subsequently reviewing) information from the provider about its practices, and requiring the provider to remedy any identified shortcomings.

It is important to understand that ASQA's role is to regulate training providers. ASQA does not have any consumer protection powers and therefore does not act as an advocate for individual students, nor is it responsible for resolving disputes between students and training providers (there are other complaint handling bodies available to assist individual students – further details are provided in Section 5 of this policy).

2.1. Defining a complaint about a training provider

For the purposes of this policy a complaint about a training provider is defined as information provided to ASQA that alleges non-compliance by a provider with its regulatory obligations under either the NVR Act or the ESOS Act.

2.2. Advice to students and other stakeholders about complaints

ASQA provides advice to students and other stakeholders on its website on how to proceed in resolving a problem with a training provider. ASQA also publishes information on how to contact relevant complaint handling bodies where the substance of a complaint suggests ASQA is not the appropriate agency to respond.

ASQA's website provides guidance on when to lodge a complaint about a training provider with ASQA, and what to expect after lodging a complaint. ASQA has published a [complaint filtering tool](#) to help students and stakeholders determine whether ASQA, or another agency, can consider a particular complaint.

2.3. Accepting a complaint about a training provider

Complaints about training providers should be lodged using ASQA's online complaints portal unless referred by another agency through agreed alternative communication protocols.

All complaints received about training providers are recorded and undergo an initial test to determine whether they warrant further action by ASQA.

A person lodging a complaint about a training provider to ASQA is asked to disclose their identity to ASQA, however they can request their identity not be disclosed to the training provider concerned. Where ASQA receives anonymous complaints or is unable to disclose the identity of the person to the training provider concerned, ASQA's ability to effectively examine the complaint may be limited.

ASQA ensures that all complaints received about training providers are processed in accordance with the principles of natural justice and procedural fairness.

2.4. Responding to a complaint about a training provider

Complaints that are accepted by ASQA for action are risk assessed to determine the appropriate action to be taken by ASQA. Actions may include one or more of the following:

- using the information to inform the provider's risk profile and the focus of future regulatory activity;
- contacting the provider to request a specific action; and/or
- in certain cases undertaking a compliance audit or investigation, having taken the nature of the alleged breach and the level of risk into consideration.



For those complaints referred for compliance audit or investigation, ASQA will seek to establish whether the provider has breached its regulatory obligations. If the provider's practices are identified as not compliant, ASQA will take regulatory action which may include one or more of the following:

- requiring the provider to rectify the non-compliance and the impact caused to current and past students;
- making a decision to cancel, suspend or place a condition on a provider's registration; and/or
- imposing an infringement notice or civil penalty.

Regulatory action taken and remedial action requested will be proportionate to the seriousness of the non-compliance. If ASQA makes a decision to impose a sanction on a provider, this information is published on ASQA's website.

2.5. What to expect when submitting a complaint to ASQA

ASQA will formally respond to a person lodging a complaint about a training provider:

- acknowledging receipt of the complaint
- advising whether or not any action will be taken by ASQA, and if so,
- notifying of the action taken and the outcome of that action.

ASQA may contact a person lodging a complaint to seek further information.

Where ASQA decides to take action based upon receipt of a complaint, ASQA will (unless exceptional circumstances exist), notify the training provider concerned to advise that it has been named as the subject of a complaint and provide the provider with an opportunity to respond to the allegations made. Exceptional circumstances could be where ASQA views the matter so seriously that prompt action is taken, for example, by executing a warrant to enter the provider's premises.

2.6. Timeframes for responding to complaints

For complaints lodged using ASQA's online complaints portal, ASQA will acknowledge receipt of the complaint, in writing, within 5 working days. For complaints lodged through other channels, ASQA will respond as quickly as practicable.

For complaints that are accepted by ASQA for action, the person lodging the complaint will be advised of the outcome of that action within 4 months of receipt of the complaint. It should be noted that where a complaint triggers a compliance audit or investigation it may take ASQA longer to conclude that action.

2.7. What to do if dissatisfied with ASQA's management of a complaint about a training provider

ASQA's Governance, Policy and Quality team has responsibility for investigating complaints about ASQA. Should a person believe that ASQA has not managed a complaint about a training provider in accordance with this policy, they can raise their concerns by lodging a complaint about ASQA. The Complaints about ASQA form, and lodgement instructions, are available on the [ASQA website](#).

3. Charge for compliance audits

Where a complaint about a training provider regulated under the NVR Act triggers a compliance audit, a charge (payable by the training provider) for the audit may apply. For details of the charge rate, see the [ASQA Schedule of Charges](#).

4. Authority

The legislation establishing ASQA as the National VET Regulator recognises the importance of protecting students undertaking or proposing to undertake Australian VET, by ensuring the provision of quality VET ('Objects of the Act' - section 2A, NVR Act).

To enable its objects to be achieved, the NVR Act describes the functions of the National VET Regulator (section 157). These functions are designed to ensure the effective regulation of the Australian VET sector. Section 157 (5), requires ASQA to have regard to any reports or information it receives about matters relating to the NVR Act. This includes information ASQA receives through complaints about training providers.

In addition, the NVR Act provides that, with the agreement of the Ministerial Council, the Minister may make standards which apply to VET Regulators. The *Standards for VET Regulators 2015* (the Regulator Standards) require the VET Regulator to establish and maintain effective communication with stakeholders, including communicating clear and accurate information and advice. The Regulator Standards (Standard 3.5) also set the requirements for the VET Regulator to implement a policy to manage and respond to reports of an RTO's non-compliance with the *Standards for Registered Training Organisations 2015*, as well as complaints about its regulatory practices.

In consideration of those provisions, and the benefit of the intelligence gained through the receipt and management of complaints about training providers, ASQA has determined that it is appropriate to receive and manage complaints about training providers using a risk-based approach.

5. Alignment with other complaint handling bodies

There may be some uncertainty, and potential cross-over of responsibility, between the functions of ASQA and other complaint handling bodies in relation to the management of complaints about training providers. ASQA will consult and collaborate with other statutory bodies to identify matters of concern and discuss which agency is best-placed to deal with the matter and where a joint response might be appropriate.

ASQA's website will also provide information on other complaint handling bodies and provide guidance on the most appropriate agency for dealing with particular issues. This information will help to delineate between the responsibilities of ASQA in managing complaints and those of other agencies, such as Fair Work Ombudsman, Overseas Students Ombudsman, the VET Student Loans Ombudsman, and State and Territory Ombudsmen.

The website will also advise students seeking a refund from their training provider that contractual disputes with providers over fees and refunds are not dealt with by ASQA, but are the responsibility of consumer protection agencies. The website provides a link to the Australian Competition and Consumer Commission and other State and Territory consumer protection agencies.

Complaints from students whose enrolment is assisted by VET FEE-HELP (under *the Higher Education Support Act 2003*) or VET Student Loans (under the *VET Student Loans Act 2016*) may be the responsibility of ASQA or the VET Student Loans Ombudsman. Generally, complaints or reports relating to standards of training are managed by ASQA whereas the VET Student Loans Ombudsman investigates complaints in relation to VET student loan schemes.

The National Training Complaints Hotline within the Australian Government Department of Education and Training receives complaints and queries about the Australian training sector and, where considered to be within ASQA's regulatory jurisdiction, refers complaints to ASQA for response.

6. Reporting on management of complaints about training providers

ASQA provides a report to the Minister on at least a quarterly basis in relation to its handling of complaints about training providers.

7. Responsible position within ASQA

ASQA's Commissioner, Regulatory Operations has overall responsibility for managing complaints about training providers.