

# APPEALS HANDLING PROCESS

Australian Operator Training is committed to providing a fair and transparent appeals handling process.

## What is an Appeal?

An appeal is an application by a learner for reconsideration of an unfavourable decision or finding during their time with Australian Operator Training. An appeal must be made in writing and specify the particulars of the decision or finding in dispute. Appeals must be lodged within twenty-eight (28) 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 Australian Operator Training or a third-party providing services on Australian Operator Training's behalf. Contrary to the popular belief that appeal relates only to assessment decisions, appeals can relate to administrative decisions that Australian Operator Training 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.

## Who does this policy apply to?

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

- Australian Operator Training as an organisation, its trainers, assessors or other staff;
- Third party services provided on behalf of Australian Operator Training, its trainers, assessors, or other staff: or
- A learner of Australian Operator Training

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

## 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.

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## 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 Australian Operator Training in writing using the specified form within twenty-eight (28) working days of the decision or finding being informed to the person.

To appeal a decision, the person is required to complete the Australian Operator Training – Request for an Appeal of a Decision form. This form is available via our website. 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:

Australian Operator Training, PO Box 1242, Emerald. Qld 4720

[manager@aot.net.au](mailto:manager@aot.net.au)

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

(07) 4982 2541

A written record of all appeals is to be kept by Australian Operator Training 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.

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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 Australian Operator Training representative is to disclose information to any person without the permission of Australian Operator Training 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.

## Communicating the Appeals Handling Policy and Procedure:

The appeals handling policy and procedure must be:

- Publicly available on the Australian Operator Learner Handbook
- Included in the Australian Operator Training Policy and Procedure Handbook

## Appeals Handling Timeframe:

- Written acknowledgement by Australian Operator Training **no later than 24 hours** from the time the appeal is received. This acknowledgement is intended to provide the appellant assurance that Australian Operator Training 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.
- Where an appellant is not satisfied with the handling of the appeal by Australian Operator Training, a body or person from an independent third party can be requested to review the appeal. The third-party is required to respond to with their recommendations within **fourteen (14) working days** of their review being request.
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- Appeals must be lodged within **twenty-eight (28) working days** of the decision or finding being informed to the person. An appeal must be submitted using the Australian Operator Training – Request for an Appeal of a Decision form.
- As a benchmark, Australian Operator Training 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 Australian Operator Training 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 Australian Operator Training 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 Australian Operator Training feels that they may have bias or there is a perception of bias process or where the person making the appellant 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.

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- **Third Party Review.** Where the appellant is not satisfied with the handling of the matter by Australian Operator Training, they have the opportunity for a body or person that is independent of Australian Operator Training 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 Australian Operator Training 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 Office Manager of their request who will initiate the process with the Chief Executive Officer.

In these circumstances, the Australian Operator Training Chief Executive Officer will advise of an appropriate party independent of Australian Operator Training to review the appeal outcome (and its subsequent handling) and provide advice to Australian Operator Training in regard 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 Australian Operator Training as final, advised to the person making a appeal in writing and implemented without prejudice.

Where the Australian Operator Training appoints or engages an appropriate independent person to review an appeal the Australian Operator Training 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:

- In relation to consumer related issues, the person may refer their matter to the **Office of Fair Trading**.
- In relation to the delivery of training and assessment services, the person may refer their matter 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>

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- In relation to matters relating to privacy, the person may refer their matter 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 Learner Handbook and also within the publicly available policies and procedures on Australian Operator Training website. It is expected that the above agencies will investigate the persons concerns and contact the Australian Operator Training for information. External agencies will typically request a copy of any record of how the appeal was handled from the person. Australian Operator Training is to ensure that the person is provided with a written response that they may use for this purpose.

Australian Operator Training 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 an appeal. Australian Operator Training considers that it would be extremely unlikely that an appeal is not able to be resolved quickly within Australian Operator Training internal arrangements.

## 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 Australian Operator Training. There is also a record of the appeal maintained within the Australian Operator Training 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 Australian Operator Training 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.

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## Period of retention of Appeals Records:

Australian Operator Training is to retain records relating to appeals handling for a minimum of five (5) years.

## Destruction of Appeals Records:

Australian Operator Training 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:

Australian Operator Training will apply the following procedure to its appeals handling:

- a) An appeal must be received in writing using the Request an Appeal of a Decision form. Appeals must be lodged within twenty-eight (28) working days of the decision or finding being informed by the person.
- b) The complainant must be provided a written acknowledgement as soon as possible and no later than 24 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.
- c) The appeal must be entered into the complaints and appeals register. The complaints and appeals register identifies the appellant, relation with Australian Operator Training, 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.

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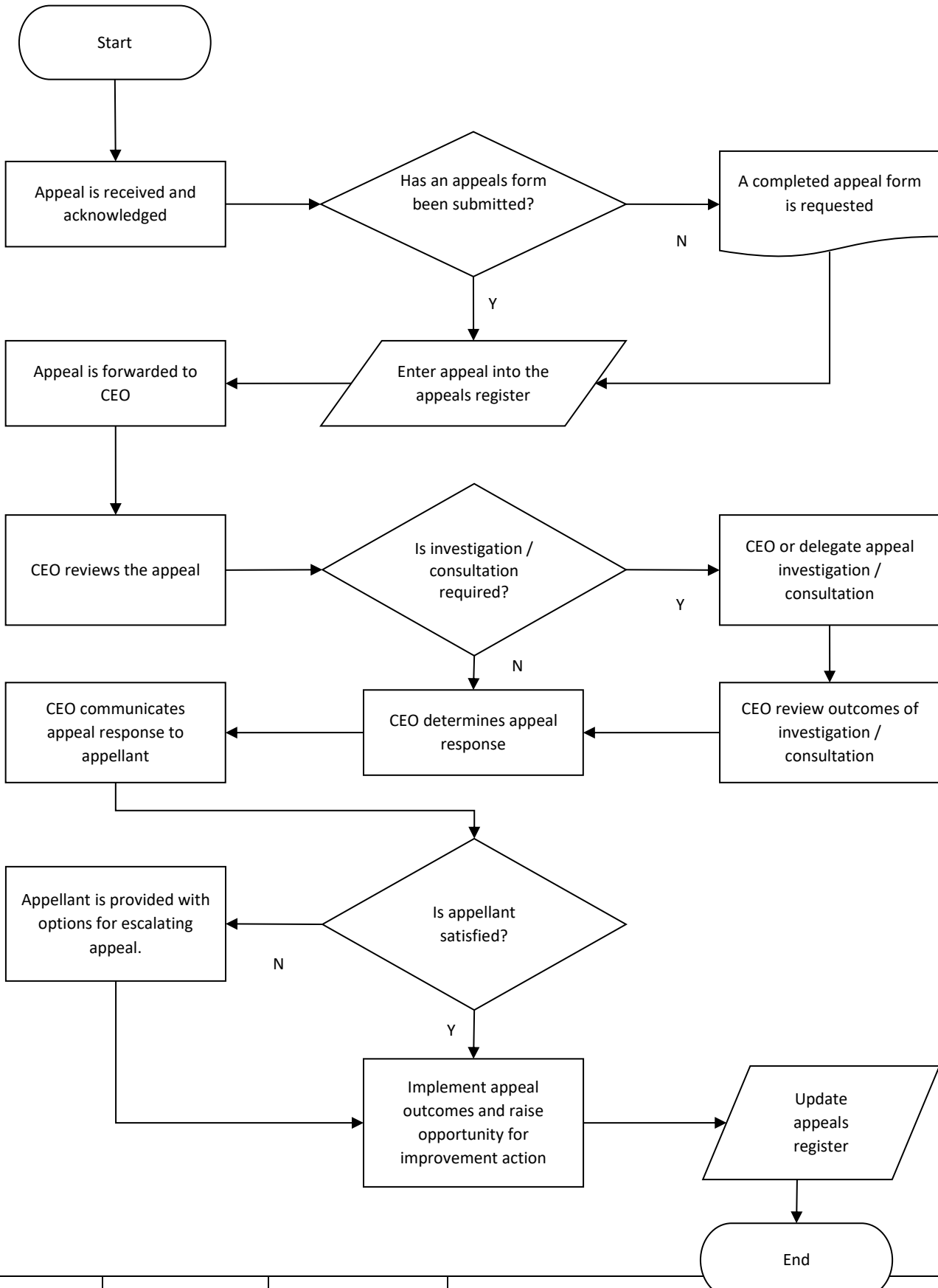
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- f) Australian Operator Training shall maintain the enrolment of the appellant during the appeals handling process.
- g) Decisions or outcomes of the appeals handling process that find in favour of the learner shall be implemented immediately. If this is an assessment appeal, the candidate may agree to additional training whereby Australian Operator Training 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 Australian Operator Training 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) Australian Operator Training 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.



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## Administrative Appeals Handling Process



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## Assessment Appeals Handling Process

