



NKTC P046 Appeal Handling Policy & Associated Procedures

1. Purpose

NKTC is committed to providing a fair and transparent appeals handling process.

2. Scope

This policy is applicable to all NKTC staff.

3. Reference

- Standards for Registered Training Organisations RTOs 2015 – Clause 6.2, 6.3, 6.4, 6.5 and 6.6.
- <https://www.oaic.gov.au/individuals/how-do-i-make-a-privacy-complaint>
- NKTC T099 Complaints and Appeals Register Template V1.0
- NKTC T091 Complaints or Appeals Communications Record Template V1.0
- NKTC T095 Complaints or Appeals Response Template V1.0
- NKTC T092 Complaints or Appeals Update Template V1.0
- NKTC F090 Compliant Form V1.0
- NKTC F091 Request to Appeal a Decision Form V1.0

4. Policy Statement:

An appeal is an application by a learner for reconsideration of an unfavourable decision or finding during their time with NKTC.

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 NKTC or a third-party providing services on NKTC's behalf.

This policy caters to the processes for both the handling of an assessment appeal as well as an appeal of an administrative decision.

Relationship to Continuous Improvement

The appeals handling process generally points towards any gaps or areas of improvement 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 should be actively applied by all persons involved.

Making an Appeal

An appeal may be received by NKTC in writing using the *Request for Appeal of a Decision* 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 NKTC – *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 Operations Manager either in hard copy or electronically via the following contact details:

Address: Ground Level, 43 Hunter Street, Parramatta NSW 2150



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Email: info@nktrainingcentre.com.au

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

0450687220

A written record of all appeals is to be kept by NKTC including all details of lodgement, response and resolution. The appeals register 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 NKTC representative is to disclose information to any person without the permission of NKTC 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 NKTC Website
- Integrated into the NKTC Learner Handbook
- Included in the NKTC Policy and Procedure

Appeals Handling Timeframe

- Written acknowledgement by NKTC **no later than 24 hours** from the time the appeal is received. This acknowledgement is intended to provide the appellant assurance that NKTC 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 NKTC, 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.
- 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 NKTC – Request for an Appeal of a Decision form.
- As a benchmark, NKTC 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 NKTC 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 NKTC 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.



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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 NKTC 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.

Third Party Review

- Where the appellant is not satisfied with the handling of the matter by NKTC, they have the opportunity for a body or person that is independent of NKTC to review his or her appeal following the internal completion of the appeal handling process.
- Before the appellant seeks a review by an independent third party, they are requested to first allow NKTC to fully consider the nature of the appeal and to respond to the appellant in writing. If after this has occurred, the appellant is not satisfied with the outcome, they have the right then to seek a review by an independent third party.
- To request a review by an independent third party, the appellant should inform the Operations Manager of their request who will initiate the process with the Chief Executive Officer.
- In these circumstances, the NKTC Chief Executive Officer will advise of an appropriate party independent of NKTC to review the appeal outcome (and its subsequent handling) and provide advice to NKTC 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 NKTC as final, advised to the person making an appeal in writing and implemented without prejudice.
- Where the NKTC appoints or engages an appropriate independent person to review an appeal the NKTC 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 NKTC website. It is expected that the above agencies will investigate the persons concerns and contact the NKTC for information. External agencies will typically request a copy of any record of how the appeal was handled from the person. NKTC is to ensure that the person is provided with a written response that they may use for this purpose.

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

Record Management of Appeals Records

NKTC ensures all records relating to appeals are retained in a secure manner as electronic records i.e. the evidence of email correspondence and the documents which are communicated electronically, and also maintain hard copy records which are submitted by the complainant or generated by NKTC.

All records regardless of their format will be saved in a digital format into a secure folder located on the NKTC 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.

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 avoiding 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.

A correspondence record must be made for each appellant making an appeal. All email and letter communication should be retained with the appellant correspondence record within the appeals handling file.

Period of retention of Appeals Records

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

Destruction of Appeals Records

NKTC 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

NKTC will apply the following procedure to its appeals handling:



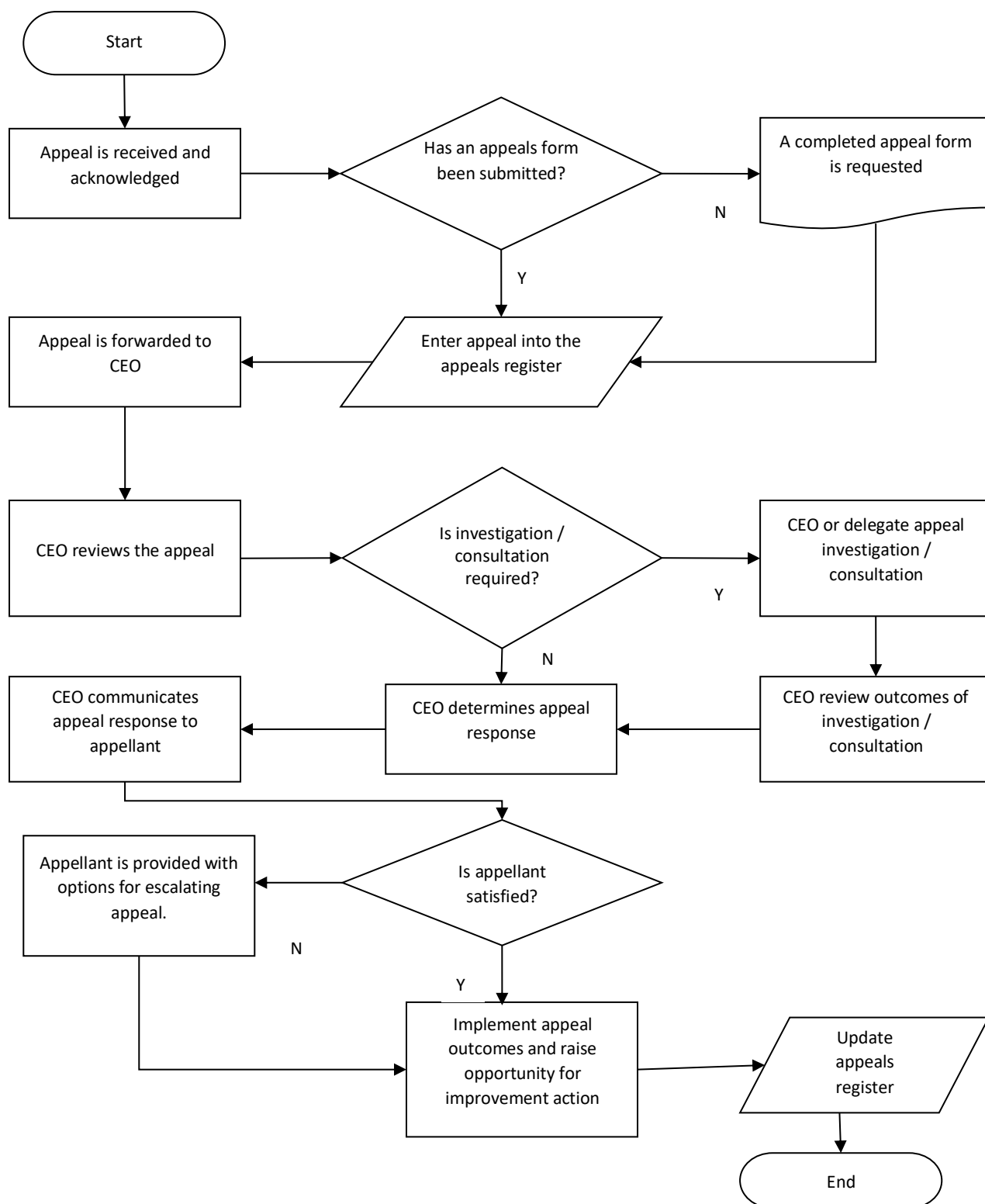
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- a) An appeal must be received in writing using the Request an Appeal of a Decision form. Appeals must be lodged within twenty-eight (28) working days of the decision or finding being informed by the person.
- b) The complainant must be provided a 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 NKTC, nature of appeal, findings/outcomes, any links with the Continuous Improvement report and the dates received & closed.
- 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) NKTC 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 NKTC 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 NKTC 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) NKTC 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



Assessment Appeals Handling Process

