

## 1. Aim

AVANTE is committed to ensuring that its appeals processes are fundamentally based on the requirements of the Standard for Registered Training Organisations (SRTOs 2015) and the Victorian Standard Funding Contract and AVANTE's core values in relation to ensuring learner's rights to appeal a decision made by AVANTE.

The Appeals Policy seeks to comply with Standard 6, Clauses 6.2,6.3,.6.4 and 6.5, Standard 1, clause 1.8 of the SRTOs 2015 and the VET Standard Funding Contract in relations to complaints and appeals processes.

Where there is a change to the legislation, regulations or contractual agreements AVANTE is bound by it ensures the Appeals Policy is updated to meet the requirements of the change and to continue meeting the aims of this Policy and guiding principles.

## 2. Purpose

The purpose of the Appeals Policy is to outline AVANTE processes in dealing with appeals that may arise and ensuring the processes established satisfies the aims of this policy and guiding principles.

## 3. Scope

The scope of this Appeals Policy is relevant to all current and prospective learners, employers, staff and other stakeholders of AVANTE. Individual roles are specified within the AVANTE Responsibilities of this Policy.

## 4. Policy Statement

It is a requirement of this Policy to have procedures in place that support the guiding principles of the Appeals Policy which have been formed based on AVANTE's obligations with respect to regulatory, legislative and contractual agreements and AVANTE's core values in relations to providing learners with an opportunity to challenge a decision made by AVANTE through services it has provided when required.

## 5. Definitions

**The following words and expressions have the following specific meaning:**

**ASQA** means the Australian Skills Quality Authority, the national VET regulator and the registering body who regulate registered training organisations against the SRTOs 2015.

**Appeal** is a term used to describe a formal request to have a decision be reversed or reviewed for an alternate outcome.

**Assessment** means the process of collecting evidence and making judgements on whether competency has been achieved, to confirm that an individual can perform to the standard required in the workplace, as specified in a training package or VET accredited course.

**Assessment Policy** refers to AVANTE's Assessment Policy in relation to how AVANTE conducts assessment in accordance with legislation, regulations and contractual agreements and therefore the Appeals Procedure must ensure it is conducted and considers assessment decisions in accordance with the Assessment Policy.

**Assessment System** is a coordinated set of documented policies and procedures (including assessment materials and tool (s) that ensure assessments are consistent and are based on the Principles of Assessment and the Rules of Evidence as defined in the Assessment Policy.

**Appeals Procedure** is a written procedure which outlines the steps of the appeals process including how an individual can lodge an appeal and how relevant staff must operate within the Appeals Procedure.

**Appeals Register** is a register used to lodge each Appeals case and outcome.

**Appeals Lodgement Form** is a form used by the appellant to request an appeal and initiate the appeals process.

**Appeals Progress Form** is a form used by the Compliance Officer to record the progress of each step of the appeals process as well as additional information to have on record and support the Appeals case.

**Appeal is upheld** refers to the outcome satisfying the request of the Appellant and the provisions must provide the learner with at least the following options dependant on the circumstances:

- The outcome of a decision made is reconsidered to the favour of the learner
- The original assessment must be re-assessed by another assessor in the event the appeal has been made against an assessment decision
- Appropriate recognition must be granted where an appeal is made against an assessment decision
- A new assessment must be conducted/arranged in the event the appeal is made in regards to as assessment decision

**Appeal not upheld** refers to the appeal being rejected and the initial assessment decision stands. In accordance with the AVANTE Assessment Policy, the options must be dependent on the assessment decision and the provisions must provide the learner with one of the following options dependant on the circumstances:

- The initial decision outcome remains in place
- undertake further training or experience prior to further assessment; or re-submit further evidence; or submit/undertake a new assessment is the appeal relates to an assessment decision

**Continuous Improvement Policy** refers to the requirements of AVANTE to implement continuous improvement initiatives systematically across its operations to comply with legislation, regulatory and contractual agreement requirements as a registered training organisation. In relations to the Appeals Policy, the Standards require the review of all appeals outcomes to determine current practice and identify continuous improvement opportunities.

**External Mediator Representative** is a professional representative external to the internal appeals process and staff involved to review an appeal in the event the appellant is not satisfied with the outcome of the internal stages of the appeals process and has escalated the appeals process externally.

**Grounds for Appeal** refers to the valid grounds for an appeal against a decision made by AVANTE (where the learner feels decision is incorrect or unfair) could include the following:

- a) The outcome of an application to enrol (Pre-Enrolment and Enrolment Procedure)
- b) The outcome based on disciplinary action (Learner Discipline Policy)
- c) The outcome based on a refund decision (Fees, Charges and Refunds Policy)
- d) The outcome of a request made by a learner including course extension, deferral)
- e) The outcome of a withdrawal made by AVANTE due to absence and/or overdue payment of fees
- f) The outcome of LLN assessment and judgement
- g) The judgement as to whether competency has been achieved and demonstrated was made incorrectly;
- h) The judgement was not made in accordance with the Assessment Plan;
- i) Alleged bias of the assessor;
- j) Alleged wrong information from the assessor regarding the assessment process;
- k) Alleged inappropriate assessment process for the particular competency;
- l) Faulty or inappropriate equipment; and/or
- m) Inappropriate conditions.

**Independent Assessor** is a nominated qualified AVANTE Trainer and Assessor who acts as an independent assessor during the internal stages of the appeals review and resolution process in the event that the appeal is based on an assessment decision made who is separate from the initial assessment decision made and raised in the Appeal whose role is to review the appeals case and consider where the assessment decision made is fair and accurately supports toe evidence to make an assessment judgement and determines the outcome of the assessment decision.

**Independent Panel** is a number of nominated independent assessors separate from the initial assessment decision made and raised in the Appeal whose role is to review the appeals case in the event the case is based on an assessment decision made and consider where the assessment decision made is fair and accurately supports to evidence to make an assessment judgement and collectively determine the outcome of the assessment decision.

**In-House Training Policy** refers to AVANTE's policy in relation to implementing in-house training processes to satisfy the requirements of the SRTOs 2015 Standard 8 which require AVANTE to inform its staff in the event there is a change in legislation and/or regulations that impact its operations and thus have affected its internal policies and procedures. As the aim of the Appeals Policy is to comply with legislation, regulatory and contractual agreements which dictate its requirements and provisions for an Appeals Process, the In-House Training Policy and Appeals Policy are interlinked to incorporate the need for in-house training to address any changes that have been embedded in the Appeals policy and underlining procedure.

**Legislation Compliance Policy** refers to AVANTE's policy in relation to ensure all legislations, regulations and contractual agreements are reviewed and continue to align with AVANTE's internal policies and procedures. As the aim of the Appeals Policy is to comply with legislation, regulatory and contractual agreements which dictate its requirements and provisions for an Appeals Process, the Legislation Compliance Policy and Appeals Policy are interlinked to incorporate any changes required in the Appeals policy which informs the procedure.

**Principles of Natural Justice** recognises the duty to accord a person natural justice when a decision is being made that affect the person's rights, reasons or legitimate expectations.

**Principles of Assessment** refers to the principles of fairness, flexibly, validity and reliability which must be implemented in the conduct of assessment. In the context of appeal, the principle of fairness imposes the need for an appeals process in order for a learner to challenge an assessment decision and have the decision reviewed objectively.

**Record Management Policy** refers to AVANTE's Policy on how it maintains and adopts recordkeeping protocols in order to meet legislation, regulatory and contractual agreements which dictate the need for effective record keeping control procedures across all its operation and the services it provides.

## 6. Policy Principles

### ***Guiding Principles***

AVANTE identifies the following moving parts as the guiding principles which form this Appeals Policy and provide a frame for the procedure:

- 6.1 Adopting Principles of Natural Justice
- 6.2 Appeals Commitment
- 6.3 Notification of the Appeals Process
- 6.4 Appeals System
- 6.5 Lodging an Appeal
- 6.6 Informal Appeals
- 6.7 Appeal Review & Resolution Process
- 6.8 Appeal Escalation
- 6.9 Recordkeeping
- 6.10 Confidentiality
- 6.11 Regulations, Contractual Agreements & Legislation

### 6.1 Adopting the Principles of Natural Justice

- a) A procedure must be designed and implemented that aids good decision making that has a liberal justification as a principle and justice that gives due dignity and the learner given the opportunity of replying to any appeals decision.
- b) It is a requirement of this Policy to develop and implement a procedure that adopts the Principles of Natural Justice and ensures the decision maker and the decision-making process must not be bias in any way.
- c) The procedure must ensure learners must have access to a fair and equitable process for lodging an appeal against an assessment decision and that it adheres to the Principles of Natural Justice at every stage of the Appeals process.

### 6.2 Appeals Commitment

- a) It is an expectation of this Policy, that the procedure must acknowledge the individual's right to appeal a decision made by AVANTE through any of the services it has provided to the learner, based on valid grounds for appeal and including the following:
  - i. Must adhere to all requirements under the Principles of Natural Justice.
  - ii. AVANTE must utilise appeal outcomes to review current practices which may potentially lead to continuous improvement (refer to Continuous Improvement Policy).
  - iii. All appeals must be treated seriously and dealt with promptly, fairly and only within the provision of the Appeals Procedure.
  - iv. Appeals must be reviewed on an individual case by case basis as they arise.
  - v. In the event, the appellant is not satisfied with their appeals outcome, the use of an external mediator representative is incorporated while acknowledging in some instances formal procedures, training packaging rules and requirements under laws, regulations and contractual agreements apply.
  - vi. Access and Equity principles must be applied throughout every stage of the appeals process. Victimization of appellants, trainers and assessors and anyone else involved in the appeals case will not be tolerated.
- b) AVANTE does not have any third-party arrangements in place to ensure that assessment decisions can be made in accordance with AVANTE's Assessment Policy and reduce the potential risk of the number of appeals raised. In the event a third-party arrangement was in place, AVANTE must ensure it has control mechanisms in place to minimise the potential risk of the number of appeals and direct learners to the internal AVANTE Appeals Policy and Procedure should a need for an appeal be required.

### 6.3 Notification of the Appeals Process

- a) The Appeals process must be made publicly available and a process must be established to ensure:
  - i. In support of clause 6.3 (a), a verification process is conducted to satisfy that the appeals process has been made publicly available and is done so on a frequent basis to avoid doubt that the appeals process is not publicly available at any given time.
  - ii. Each prospective learner must be directed to or provided with the appeals process prior to enrolment.
  - iii. Each new and current staff must be directed to the Appeals Policy and underlining procedure to informs them of their rights and responsibilities.
  - iv. 'Refresher' training must be provided to all staff in regards to the Appeals Policy and Appeals Procedure in accordance with the In-House Training Policy.

### 6.4 Appeals System

- a) The Appeals Policy requires that there is a process implemented within the assessment system to provide an avenue to the appeals process and satisfy the requirements of the Principles of Assessment (refer to Assessment Policy).

- b) The Appeals Policy requires that there is a process implemented within the pre-enrolment and enrolment process to provide an avenue to the appeals process in the event a decision is made in operation of this process in which the individual is not satisfied with (refer to Pre Enrolment and Enrolment Policy).
- c) The Appeals Policy requires that there is a process implemented within the learner discipline process to provide an avenue to the appeals process in the event a decision is made in operation of this process in which the individual is not satisfied with (refer to Learner Discipline Policy).
- d) The Appeals Policy requires that there is a process implemented within the fees, charges and refund process to provide an avenue to the appeals process in the event a decision is made in operation of this in which the individual is not satisfied with (refer to Fees, Charges and Refunds Policy).

### 6.5 Lodging an Appeal

- a) An Appeals procedure must establish a process to provide clear instructions to the individual on how to request an Appeal and must include the following:
  - i. A request for an appeal is received in 'real time' by authorised personnel to resolve the appeal promptly.
  - ii. In support of clause 6.5(a) request for appeals must be done within seven (7) days from the date the decision outcome.
  - iii. Only the Director can allow the acknowledgment of an appeal request if it exceeds seven (7) days.
  - iv. A submitted Appeals form must constitute as a formal appeal from the appellant. Appellant can provide details verbally, however AVANTE must uphold its requirements under clause 6.8 Recordkeeping of this Policy.
  - v. Appellant must be acknowledged that the formal appeal is received within two (2) working days of receipt and be informed of the next stages of the appeals process and be provided with regular updates of the progress of their appeal.

### 6.6 Informal Appeals

- a) A decision that is appealed verbally and is resolved must constitute as an informal appeal.
- b) All staff personnel must strive to resolve all informal appeals as they arise with due respect and dignity and within the parameters of AVANTE's Quality Management System.
- c) All informal appeals must be reported to authorised personal.
- d) if an informal appeal is not resolved, a process must be established to direct individuals to the appeals process to make a formal appeal.
- e) Under no circumstances can staff personnel prohibit the disclosure of the access to the appeals process.

### 6.7 Appeal Review & Resolution Process

- a) A procedure must be established that aims to deal with issues as soon as they emerge and in 'real time' in order to avoid further disruption or further stress to the individual and include the following:
  - i. Where an appeal is made against an assessment decision the appeal must be reviewed by a suitably qualified independent assessor or assessor panel.
  - ii. Appeals, where possible, must be resolved within twenty-eight (28) calendar days of the initial application.
  - iii. In the event, the appeal will take in excess of sixty (60) calendar days to finalise, the appellant is informed with reasons why more than sixty (60) calendar days is required to finalise the appeal and provided with regular updates.
  - iv. All appeal outcomes must be approved by the Director or an approved authorised delegate nominated by the Director.
  - v. The appellant must be advised of the outcome in writing, within seven (7) days of the final approved outcome.
  - vi. An investigation into an Appeal must result in an outcome where the appeal is upheld or the appeal is not upheld.

### 6.8 Appeal Escalation

- a) A procedure must be established to outline the steps to take should the appellant remain unsatisfied and include the following:
  - i. The appellant is internally escalated to a secondary Appeal Review and Resolution Process.
  - ii. In the event, the appellant remains unsatisfied with the appeal outcome upon the internal processes the appellant has the right to have their appeal reviewed by an appropriate party independent from AVANTE.
  - iii. AVANTE must provide the Appellant with the option to access an external mediatory service provided by AVANTE or of their choice.
  - iv. The costs associated with the use of an external mediatory service must be outlined within the procedure.
  - v. AVANTE must be bound by the External Reviewer's recommendations and must ensure any recommendations made are given due consideration and are implemented within ten (10) working days of being notified of the recommendations.

### 6.9 Recordkeeping

- a) All documentation from the Appeals process must be stored securely and maintained in accordance with the Records Management Policy and include the following:
  - i. Records of all appeals and their outcomes must be recorded on the Appeals Register and satisfy the requirements of the SRTOs 2015 standard 6, clause 6.5.
  - ii. The appeals process must ensure each appeal and the information collected and used to determine the outcome are documented.
  - iii. Records of appeals must include:
    - How the appeal was dealt with;
    - The outcome of the appeal;
    - The timeframes for resolution of the appeal;
    - The potential causes of the appeal; and
    - The steps taken to resolve the appeal.

### 6.10 Confidentiality

- a) The Appeals process must ensure appeals are handled in confidence and must not affect or bias the progress of the learner in any current or future training and include the following:
  - i. Steps must be established to protect all parties involved and ensure the gathering of information is conducted with honest and integrity.
  - ii. Further to clause 6.10 (a)i, the number of individuals involved must be minimal to uphold the values of confidentiality.

### 6.11 Regulations, Contractual Agreements & Legislation

- a) A procedure and process must be established to identify all regulations, contractual agreements and legislation and guidelines to govern and inform the foundation blocks of the Appeals Policy namely:
  - The Standard for Registered Training Organisations (SRTOs2015)
  - The VET Standard Funding Contract
  - Privacy Act 1988
- b) Regulations, contractual agreements and legislation must inform the requirements of the Appeals Policy at all times in accordance with the Legislation Compliance Policy.

### 7. AVANTE Responsibilities

- a) Process and procedures must be established to identify the responsibilities of this policy within the Organisation Chart and at minimum include the following:

#### **Director**

- Responsible for monitoring appeals made and reviewing appeals for continuous improvement opportunities.
- Responsible for the final approval of an appeals outcome.
- Responsible for undertaking a secondary review and decision making process in the event the appellant was not satisfied with the outcome in the first stage of the appeals process.

#### **Compliance Officer**

- Responsible for receiving appeals and ensuring the appeal undergoes the Appeals Procedure.
- Responsible for coordinating the initial review and resolution process and nominating independent assessors and/or an independent panel.
- Responsible for reviewing and determine an outcome of an appeal where the decision is not based on an assessment judgement.
- Responsible for seeking approval of an all appeals outcomes by the Director.
- Responsible for maintaining the Appeals Register.

#### **AVANTE Staff**

- Responsible for and reporting informal appeals to the Compliance Officer.
- All AVANTE staff including its administration, trainers or assessors have a responsibility to adhere to the Appeals policy and procedure.

#### **Independent Assessor/Assessor Panel**

- Responsible for determining the assessment decisions initially made was in accordance with the Assessment Policy where an appeal has been lodged on an assessment decision.
- Responsible for conducting re-assessment as required.

#### **In-House Training Manager**

- Responsible for ensuring the Appeals Policy and Procedure is incorporated into the in-house training processes.