

## Complaints and Appeals Procedure

<b>Document Name</b>	<b>Complaints and Appeals Procedure</b>		
<b>Approved by</b>	<b>PEO or delegate</b>	<b>Date</b>	<b>29/05/19</b>
<b>Responsible Officer</b>	<b>Director of Studies Student Services Manager</b>		
<b>This procedure applies to</b>	<b>ECA College</b> (RTO Code 45012; CRICOS Provider Code 02644C) <b>Australasian College of Care Leadership and Management</b> (RTO Code 40829, CRICOS Provider Code 03637E) <b>ECA Graduate Institute</b> (RTO Code 91423, CRICOS Provider Code 03865D)		
<b>Related Documents</b>	Complaints and Appeals Policy Continuous Improvement Policy and Register Student Enrolment Policy Student Handbook Assessment Policy Fees and Refund Policy and Procedure		
<b>References and Legislation</b>	Standards for RTOs 2015 – Clauses 6.1, 6.2, 6.3, 6.4, 6.5 The National Code of Practice for Providers of Education and Training to Overseas Students 2018 Standard 10		
<b>Version</b>	<b>Change description</b>	<b>Approved</b>	<b>Effective Date</b>
v19.0	Updated for new logo and alignment with ECA Group.	PEO	01/06/19
v19.1	Update for ESOS act requirements	PEO	18/07/19
v19.2	Review and update	PEO	11/11/19
v20.0	Add compassionate and compelling circumstances and adjust external appeal	PEO	20/02/20
v20.1	Correction of definitions	PEO	12/10/2020
v21.0	Update of CRICOS code	PEO	18/05/21
v22.0	Add Re-admission after appeal for ITR unsatisfactory course progress (point 8.4)	PEO	13/04/22

### 1. Purpose

At any point of time during their study a student (International or Domestic) may find themselves in a situation in which they feel they have a justified grievance relating to the policies and procedures of ECA Group, or in circumstances in which they have been wrongly represented and that ECA Group has acted in a manner contrary to their best interests without full and fair consideration of all circumstances, and in which they have found it impossible to resolve their grievance informally.

This procedure provides opportunity for complaints and appeals to be investigated and responded to by ECA Group management in a timely and confidential manner.

### 2. Scope

This procedure applies to international and domestic student (potential or actual) who are enrolled in Education Centre of Australia Pty Ltd (ECA Group) educational institutions including ECA Graduate

Institute (EGI), ECA College (ECAC) and Australasian College of Care Leadership and Management (ACCLM), regardless of the location of the campus, the student's place of residence or the student's mode of study.

### 3. Definitions

Item	Definition
<b>Appeal</b>	<p>An Appeal can be initiated when a decision made by an CA Group staff in relation to a student is seen by that student as being against their interests and in some way contestable. Such decisions potentially include:</p> <ul style="list-style-type: none"> <li>• a grade given for an assessment judgement by a Trainer</li> <li>• a rejection of an application to study at ECA Group</li> <li>• a complaint investigation outcome</li> <li>• an Intention to Report for an international student for unsatisfactory attendance or unsatisfactory academic progress;</li> <li>• an intention to suspend or terminate a student's enrolment for breaching the ECA Group Student Code of Conduct;</li> <li>• not being able to secure an acceptable resolution (from the student's perspective) of a complaint through the informal and formal complaints procedures;</li> <li>• an application for a refund of tuition fees rejected;</li> <li>• an application for a change of course rejected</li> <li>• a rejection of an application for a release letter to transfer to another registered provider for an international student; or</li> <li>• a student having a PRISMS entry made which they believe is unjustified on grounds such as the compliance and/or implementation of ECA Group policies and procedures.</li> </ul>
<b>Compassionate and Compelling Circumstances</b>	<p>Circumstances which are generally beyond the control of the student and which have an adverse impact on the student's capacity and/or ability to commence their course on the scheduled start date or to attend scheduled classes for a significant period of time during the study period.</p> <p>Generally, those circumstances beyond the control of the learner which have an impact upon the learner's course progress or wellbeing. These could include, but are not limited to:</p> <ol style="list-style-type: none"> <li>a) serious illness or injury, where a medical certificate states that the learner was unable to attend classes for a noted period of time;</li> <li>b) bereavement of close family members such as parents or grandparents;</li> <li>c) major political upheaval or natural disaster in the home country requiring emergency travel and this has impacted on the learner's studies; or</li> <li>d) a traumatic experience which could include: <ul style="list-style-type: none"> <li>• involvement in, or witnessing of a serious accident;</li> <li>• witnessing or being the victim of a serious crime and this has impacted on the learner for a (these cases should be supported by police or psychologists' reports);</li> </ul> </li> <li>e) where ECA Group was unable to offer a pre-requisite unit; or</li> <li>f) inability to begin studying on the course commencement date due to delay in receiving a student visa.</li> </ol>
<b>Complaint</b>	A complaint can be initiated when:

	<ul style="list-style-type: none"> <li>a student or staff member believes they have a legitimate concern relating to some aspect of ECA Group's facilities, and/or administrative, educational and/or student services procedures and/or delivery; and/or</li> <li>a student or staff member believes that there has been a breach of the ECA Group Code of Conduct by another party, and wishes to raise it as a complaint, notwithstanding the possibility to that matter being considered and treated as a "serious incident".</li> </ul>
<b>Course</b>	A full-time registered program of education or training registered on CRICOS for the attainment of a testamur or certificate. Defined as course in the ESOS Act.
<b>DHA</b>	Department of Home Affairs
<b>Grievance</b>	Behaviour or action which has or is likely to have an unreasonable negative impact on the student in relation to their learning.
<b>International Student</b>	A person who holds an Australian Student Visa and is an 'international student' as defined by the ESOS Act.
<b>Respondent</b>	The person(s) against whom the grievance/complaint has been lodged.
<b>RTO</b>	A Registered Training Organisation (RTO) is a vocational education organisation that provides learners with training that results in qualifications and statements of attainment that are recognised and accepted by industry and other educational institutions throughout Australia.
<b>Staff Member</b>	Any person who is an employee of the ECA Group RTO's at the time of the grievance/complaint. This includes full time, part time, sessional, casual, contracted or volunteer staff.
<b>Support Person</b>	An observer who accompanies the complainant or respondent during the informal or formal procedure.
<b>Study Period</b>	A discrete period of study within a course, namely term, semester, short course, or as otherwise defined by ECA Group as long as that period does not exceed six months. At ECA Group, a VET study period refers to an approximate 10-week period of study and is generally labelled as "term".

#### 4. Procedure

- 4.1. Apart from situations in which circumstances prevent it, the process of assessing student internal complaints and appeals will begin within 10 working days, be finalised as soon as practicable and the outcome of the appeal will be conveyed to the student by email from the Student management system.
- 4.2. Students with a grievance or complaint are encouraged to first seek an informal resolution by directly raising the matter with the individual. If desired, the persons involved may also seek the informal advice of appropriate third parties such as the welfare officer, a trainer or other staff member. Where these informal approaches resolve the grievance, the agreed adjustments and changes will be implemented at that level.
- 4.3. Where informal resolution is either unsuccessful or inappropriate, students can initiate the formal complaints procedure by reporting the matter in writing to the Lead Trainer, Director of Studies or any staff member. The formal complaints process is free and requires the student to include clear documentation, for example using the complaint form (found on the ECA Group RTO website) to record their complaint or appeal.
- 4.4. On receipt of a complaint, the ECA Group's Lead Trainer, Director of Studies or delegate will investigate the details and any attached documentation, complete the complaint form documentation and refer it and the associated materials to an appropriate investigating officer (varies depending on the nature/subject of the complaint). This must commence within 10 working

days of the formal lodgement of the complaint or appeal and supporting information, all reasonable measures are taken to resolve the process as soon as practicable.

4.5. In all cases, and especially in complaints relating to the conduct of staff, trainers and/or students, the investigation of complaints will be undertaken by the ECA Group Director of Studies or higher position and removed from the person identified in the complaint, either directly or indirectly. The Investigating Officer will:

- Examine the complaint and associated documentation;
- Interview the complainant and any other relevant people who are involved with the complaint (with all parties able to nominate an appropriate support person);
- Where appropriate, facilitate negotiation and conciliation between the parties;
- Allow the student to formally present their case verbally at which they may be accompanied or assisted by a support person;
- Make a recommendation for resolving the complaint; and
- Clearly document the complaint and pass all information on to the ECA Group's Management staff to make a decision and respond to the student's complaint in writing.

4.6. On receipt of the complaint and the investigating officer's recommendations, the ECA Group's Director of Studies or Management staff will review the case and recommendations and make a decision to:

- Endorse a conciliated/negotiated resolution;
- Resolve the complaint in favour of the complainant
- Dismiss the complaint on the basis that it is unsupported by the evidence provided and as such unfounded.

4.7. The appropriate person (as above) will notify the complainant of their decision in writing, providing:

- The reasons for the decision;
- Information relating to any actions to be taken by all parties as a result of the decision; and
- Information informing them of the right of either the complainant or respondent to make a formal Internal appeal against the decision.

4.8. The ECA Group's Director of Studies or Management staff will also identify potential causes of the complaint and will take appropriate corrective action to eliminate or mitigate the likelihood of reoccurrence. It is expected that this process will be completed in a timely fashion, normally within ten (10) working days.

4.9. Where the appropriate person (as above) considers that more than 60 calendar days are required to process and finalise the complaint, they will:

- Inform the complainant in writing, including the reasons why more than 60 calendar days are required, and will
- Regularly update the complainant on the progress of the matter.

4.10. All formal complaints and decisions made by ECA Group staff or their partnering organisations will be documented and recorded in the student's file and stored in a secure location within ECA Group's environment. The record will include the reasons for the decisions.

## **5. Unsatisfactory Complaint Resolution – External appeal process**

5.1. The ECA Group respondent will inform the student within 10 working days:

- That if they are dissatisfied with the decision/outcome, they have a right to appeal and enter the external appeals process within twenty (20) working days from the receipt of the letter;
- Of the possible grounds for an external appeal
- For an International Student, their right to submit an external appeal to the Overseas Students Ombudsman;
- Domestic students may complain to the National Training Complaints Hotline on 13 38 73 or by email <https://www.education.gov.au/email-complaints>
- Domestic students in Queensland may appeal a decision to the Queensland Training Ombudsman <https://trainingombudsman.qld.gov.au/>

- Domestic students in all other states can contact ECA Group staff who will arrange for a mediator through the Australian Mediation Association. ECA College agrees to pay half the cost of one mediation session of up to two hours and advises that, should the matter require further mediation, it will be at the cost of the complainant or appellant
- 5.2. Where the external appeal process results in favour of the student and against an ECA Group decision, ECA Group will immediately implement the decision and take preventative action required by the decision and inform the international student of the actions.
- 5.3. Where the external appeal process results in favour of ECA Group, ECA Group will determine whether to implement its original decision after the internal appeal outcome is determined.

## **6. Breach of Code of Conduct**

- 6.1. When a student is sent information or a decision that the ECA Group intends to either suspend or cancel their enrolment due to the student breaching the ECA Group's Student Code of Conduct that letter will inform them of:
- The reasons for this;
  - Their right to appeal within twenty (20) working days from the receipt of the letter;
  - How to enter the appeal process; and of
  - The possible grounds for an appeal, namely that:
    - The ECA Group has not made the relevant policies and procedures and requirements available to the students; and/ or
    - The ECA Group has not measured/recorded the relevant requirements correctly, and had thereby made a demonstrably wrong decision; and/or
    - The ECA Group has not implemented its procedures in accordance with its published policies and procedures; and/or
    - Demonstrable and previously unconsidered compassionate and/or compelling reasons significantly contributed to the student's situation.
- 6.2. Depending on the severity of the breach of the Code of Conduct, ECA Group will either:
- Hold any implementation of its original decision/outcome for the period of any Internal and, if that process ends in a decision against the student, any subsequent external appeals process; or
  - Immediately implement the intended suspension/cancellation of enrolment.
- 6.3. A student who enters the appeals process and whose enrolment is not immediately suspended/cancelled will be expected to continue to meet all course attendance and progress requirements throughout the appeals processes.
- 6.4. If a student fails to submit an appeal within 20 working days of receiving the Intention to Suspend/Cancel Enrolment letter or appeals and then withdrawals from the Internal Appeals process before its resolution, ECA Group will implement its original intention.

## **7. Rejection of Application**

- 7.1. When a student's application for:
- Leave of Absence
  - Course Withdrawal and Release Letter
  - Refund of Tuition Fees
  - Change of Course Preference, or
  - Application for Course Credit-
- is rejected, the student is sent notification informing them of the decision and:
- The reasons for the decision;
  - Their right to appeal against the decision;
  - The possible grounds for an Internal Appeal; and
  - The procedure for lodging an Internal Appeal by submitting a completed Student Appeal Form along with relevant supporting documentation.

- 7.2. If a student fails to submit an internal appeal within 20 working days of receiving complaint outcome letter or appeals and then withdraws from the appeals process before its resolution, or if the appeal is rejected, the ECA Group will maintain it the original decision/outcome.
- 7.3. If a student appeals against the decision/outcome, and the appeal is successful, the ECA Group will reverse its original decision and act in accordance with the determination.  
Students will be expected to continue to meet all course attendance and progress requirements throughout the appeals processes.

## **8. Processing Internal Appeals**

- 8.1. The internal appeals process will commence within 10 working days of receipt of the complaint or appeal form and be processed within 20 working days wherever possible, with the appellant being informed by the close of business on the twentieth day. If, for unavoidable reasons, the investigation of an internal appeal is delayed due to lack of information or other, and the appeal cannot be resolved within twenty working days, the appellant will be notified of this and advised when the outcome will be communicated to him/her.
- 8.2. The ECA Group General Manager is responsible for the coordination and management of all internal appeals.
- 8.3. All internal appeal forms will be submitted by the student to the ECA Group Student Services Officer for initial registration and referral for investigation. This entails:
  - Attaching an Appeal Form, entering the student's name, student number, the date lodged and the type of appeal;
  - Informing the student that they have a right to make a personal representation of their case to the responsible officer, and that they have a right to be accompanied by a support person at such a meeting;
  - Referring the appeal along with the form to the responsible investigation officer to complete the Complaint and Appeal second section of the form.
- 8.4. The designated responsible investigating officer will be the appropriate staff member for the area in which the complaint has been made. The responsible investigating officer will:
  - Gather relevant information and documents;
  - Make a preliminary evaluation of the materials (for example, checking the validity of medical certificates);
  - Enter the relevant information in the Complaint and Appeal Registration Form;
  - Refer the appeal to the ECA Group Director of Studies or other appropriate staff member;
  - Where necessary, the investigating officer will source information from other staff; and
  - Send all documentation to the appropriate staff member.
  - Where the student appeals against being reported for unsatisfactory course progress compassionate and compelling reasons with evidence is required. The Director of Studies will review the case on academic merit and compassionate and compelling evidence and decide whether the student can be re-admitted to the course and continue their studies.
- 8.5. If a student decides to take up the opportunity to make an in-person presentation of their case (with or without a support person being present), the ECA Group Director of Studies (or the appropriate staff member) will:
  - Facilitate that meeting at a time and place mutually agreeable to both parties;
  - Conduct the meeting, ensuring that minutes are taken;
  - Document all relevant information and insert it in the student's file and/or on the student management system;
  - Forward relevant documentation and the meeting minutes to the ECA General Manager where applicable.
- 8.6. The responsible staff member will then:



- In conjunction with the ECA Group Quality Assurance team, formulate a recommended outcome and related action;
  - Document the action appropriately; and
  - Refer the appeal to the appropriate senior manager for final resolution.
- 8.7. For Code of Conduct related appeals, the appropriate staff member's (as above) recommended decisions and supporting reasons will be referred to the ECA Group's General Manager who carries responsibility for determining the outcome of internal appeals relating to breaches of the Code of Conduct.
- 8.8. The ECA Group General Manager will:
- Confirm that all necessary steps have been taken;
  - Evaluate the available material pertaining to the appeal;
  - Decide on the final determination;
  - Document the decision and the reasons for the decision appropriately; and
  - Refer the appeal documents to the ECA Group's Student Services.
- 8.9. The ECA Group's Student Services Officer will:
- Inform the student appropriately and make an entry in the student's file and/or student management system;
  - Make soft copies of all the appeal documents and save them in electronic format in the appropriate location; and
  - File hard copies of all the appeal documents in the student's file.
- 8.10. If the internal appeal is successful, documentation must be provided to indicate that the appeal has been successful and advise the student to maintain satisfactory attendance and academic performance and requiring them to make an appointment with the ECA Group's Director of Studies to sign an agreement/plan designed to ensure that the student maintains satisfactory attendance, maintains satisfactory academic progress and completes their course in the normal time.
- 8.11. If a student's internal appeal is approved, the reason for the approval will be conveyed by the Student Services officer to both the ECA Group Director of Studies and the responsible investigating Officer so that any required corrective action/s can be identified and implemented.
- 8.12. If the internal appeal is rejected, documentation must be provided to advise the student of the grounds for the rejection and advise them of their right to an external appeal to the Overseas Students Ombudsman and indicating that if nothing is heard from the student within 10 working days of student being informed, the original/intended decision/action will be implemented. The student will be requested to inform the ECA Group's Student Services Officer if they decide to make an external complaint/appeal, with attached documentary evidence of their lodging the complaint/appeal.
- 8.13. If a student lodges an external appeal against a decision made by ECA Group implementation of the original/intended decision/action will be deferred for as long as the external appeal process takes, and the student will be informed of his/her obligations to maintain attendance and academic performance for that period.
- 8.14. In all matters not related to attendance or academic progress where the ECA Group decides against a student's internal appeal, the student will have the same right to an external appeal, but ECA Group will implement its decision as soon as the student is notified.
- 8.15. At all times through any appeals procedures the student's file and electronic record will be promptly updated to include the outcome of any appeals process, and any subsequent actions. International students who are reported via PRISMS will be sent a letter to their last known address notifying them that they have been reported and advising them to contact DHA in relation to possible implications for their student visa.

## **9. Compassionate and compelling circumstances**

- 9.1. On application, and with sufficient professional documentary and professional evidence, students may be professionally judged as having compassionate and/or compelling reasons for their failure to enrol on time and/or attend scheduled classes.
- 9.2. When determining whether or not compassionate and/or compelling circumstances exist, the ECA Group will consider documentary evidence provided to support the claim, and copies of such documents will be kept, together with a record of the decision and the basis for the decision, in the student's file, and recorded in the student management system and reported to ECA Group for recording in PRISMS.
- 9.3. In determining whether or not compassionate and/or compelling circumstances exist, ECA Group will follow ECA Group's Policies and Procedures relating to those requirements (see definitions above).

## **10. Appealing an academic result**

- 10.1. ECA Group acknowledges that students have the right to appeal an assessment decision, based on valid grounds for appeal. ECA Group has provision for students to appeal against assessment decisions and ensures that students have access to a fair and equitable process for lodging an appeal against an assessment decision. Valid grounds for an appeal against an assessment decision (where the client feels the assessment decision is incorrect) could include the following:
  - The judgement as to whether competency has been achieved and demonstrated was made incorrectly
  - The judgement was not made in accordance with the Assessment Plan
  - Alleged bias of the assessor;
  - Alleged lack of competence of the assessor;
  - Alleged wrong information from the assessor regarding the assessment process;
  - Alleged inappropriate assessment process for the particular competency;
  - Faulty or inappropriate equipment; and/or
  - Inappropriate conditions.
- 10.2. Students wishing to appeal a grade need to meet with the Trainer and Assessor in the first instance as outlined within the Complaints and Appeals Policy and Procedure. If you are still unhappy with the result you may submit an Appeal Application within 5 working days of the result being issued. The Appeal Application Form is available on ECA Group College websites.
- 10.3. An investigation into an appeal may result in one of the following outcomes:
  - (a) Appeal is upheld. In this event the following options will be available:
    - (i) The original assessment will be re-assessed, potentially by another assessor
    - (ii) Appropriate recognition will be granted
    - (iii) A new assessment shall be conducted/arranged
  - (b) Appeal is rejected/ not upheld; in accordance with ECA Group's policy the student will be required to:
    - (i) undertake further training or experience prior to further assessment; or
    - (ii) re-submit further evidence; or
    - (iii) submit/undertake a new assessment.
- 10.4. Students will be advised of the outcome in writing. If the student is still unhappy with the result of the appeal process, they are advised of the right to external assistance. A fee may apply.

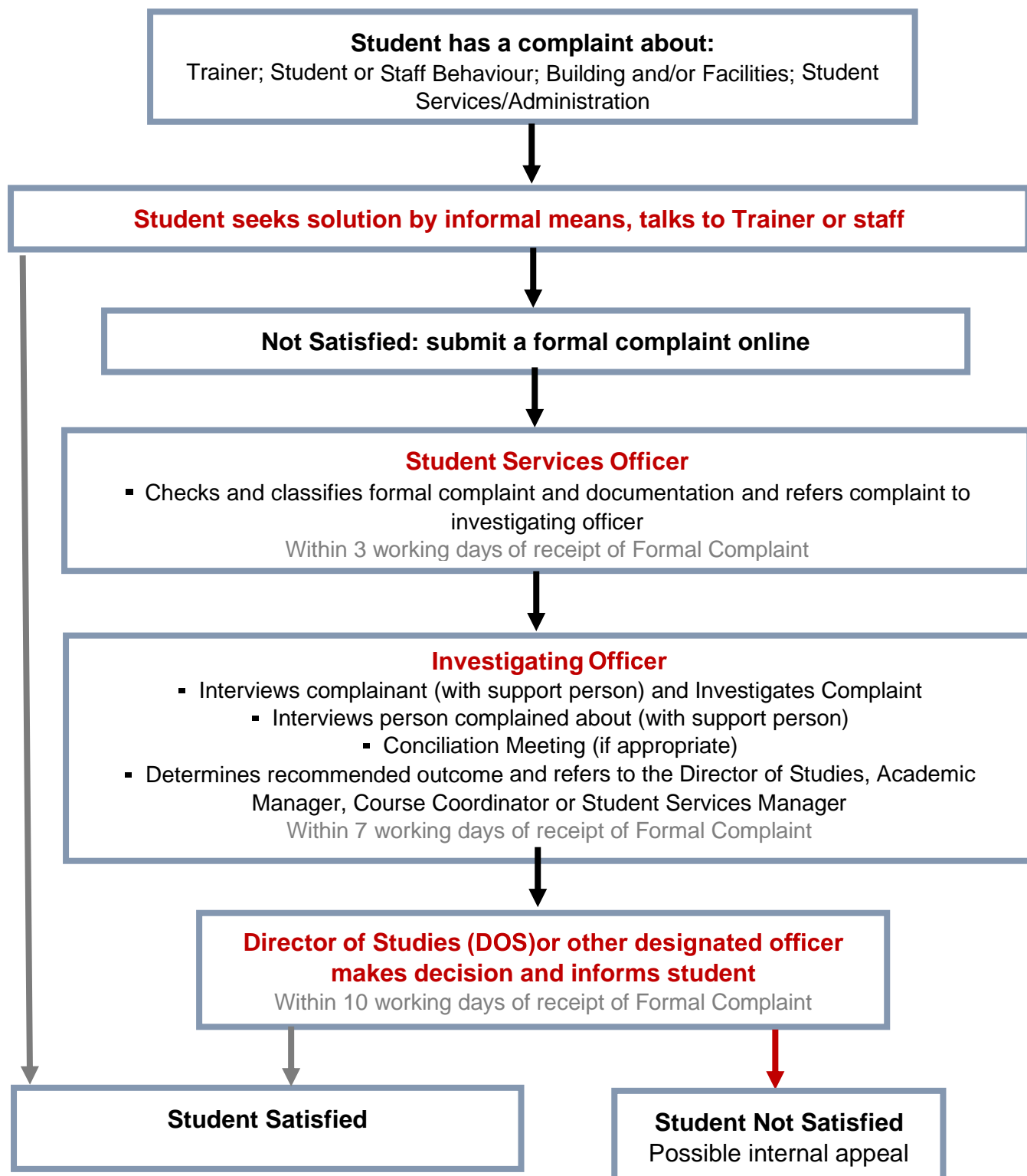
## **11. Review and Continuous Improvement**

- 11.1. The ECA Group is committed to ongoing monitoring and improvement of its policies and procedures, and to this end has an integrated strategy including:
  - The ECA Group Management Team can conduct a review of specific elements of the appeals policy and procedures when an appeal is upheld and thereby indicating a possible problem to be addressed. This will then be referred to the ECA Group General Manager and the Quality Assurance Manager.



- Staff at the College with responsibilities relating to the managing of appeals being encouraged to submit any concerns about, and suggestions for making improvements to the appeals policies and procedures to the General Manager who is responsible for ensuring that appropriate responses are reported to the ECA Group for development.
- The Management Team will review and debrief after the complaint and/or appeal concludes. All information will be documented to provide ways of continuous improvement within ECA Group to prevent similar complaints and appeals from reoccurring. The ECA Group will look at additional training to staff and implement support mechanisms if required.
- The Management Team conduct and manage an annual review of all ECA Group's policies and procedures relating to the ESOS National Code, RTO Standards and any other related legislation any of which may lead to modifications and improvements.
- The ECA Group Quality Assurance team monitor legislative and regulatory changes to ensure that policies and procedures are kept up to date and are compliant with the National Code and the Standards for RTOs 2015.

## Student Complaints Flowchart



## Student Internal Appeal Flowchart

