

# Appeals Policy (Learners)

## 1. PURPOSE

To outline Holmesglen's commitment to accessible, timely, respectful and fair review of specified Institute decisions that may adversely affect learners and the principles to be followed for determining such appeals.

## 2. SCOPE

Applies to all appeals raised by prospective, current and former learners of [reviewable decisions](#) made by Holmesglen or a third-party acting on Holmesglen's behalf related to:

- admission or enrolment into a Holmesglen course
- deferment or intermission, if available in the learner's course of study
- credit, including credit transfer, advanced standing and exemptions to requirements to undertake a unit/subject
- a final assessment decision/result for a unit/subject, including recognition of prior learning decision
- withdrawal, suspension or cancellation of enrolment due to unsatisfactory progress or assessment performance, including performance on placement
- misconduct or disciplinary outcomes, including penalties imposed for general misconduct (including misconduct while on placement) and academic misconduct
- complaint outcomes
- deferment, suspension, cancellation or transfer of an overseas learner's enrolment either requested by the learner or in response to non-payment of fees, breaches of progress and attendance requirements or misconduct
- reporting an overseas learner for unsatisfactory progress or attendance.

This policy does not apply to reviews of decisions relating to recredit/refunds of HELP or VET Student Loans, which are administered in accordance with the relevant legislation and provider manuals.

## 3. POLICY STATEMENT

Holmesglen is committed to providing learners with a supportive, fair and positive learning experience. As part of this commitment, Holmesglen recognises that it may make decisions that have an adverse effect on learners and that learners who are dissatisfied with such decisions may wish to appeal.

Holmesglen will respond to appeals in a respectful, timely and responsible manner, at no cost, and consistent with the principles of fairness, equal opportunity and natural justice.

## 4. PRINCIPLES

### Reviewable decisions

- 4.1 Appeals may be lodged against decisions made under certain Holmesglen policies or procedures (refer to [Appendix 1](#) for reviewable decisions). Holmesglen will notify the learner if a right of appeal exists for a decision made under the relevant policy or procedure.
- 4.2 This Policy aims to streamline and aid learners in their pursuit of decision reviews. Learners may appeal reviewable decisions without a prerequisite need to submit a formal complaint.

Nothing in this Policy prevents learners expressing dissatisfaction or making a complaint regarding other determinations and, therefore, may lodge complaints concerning decisions that are not identified as a reviewable decision under this Policy.

## **Appeal conduct**

- 4.3 At all times during the appeal process, Holmesglen is committed to ensuring:
- (a) privacy and confidentiality
  - (b) timely resolution at the earliest possible stage
  - (c) transparency and consistency
  - (d) impartiality, fairness and equity.
- 4.4 Appeals are dealt with promptly and sensitively and are assessed on merit. Parties to an appeal will be kept informed of the progress of the appeal and are provided with written advice of the determination(s) within specified timeframes.
- 4.5 All learners and employees are expected to engage in the appeal process with openness and transparency with the aim of reaching a fair and equitable resolution. Holmesglen will close an appeal and take no further action where there is evidence that the appeal is false, malicious, frivolous or vexatious.

## **Lodging a valid appeal**

- 4.6 Appeals must be lodged in writing by fully completing the prescribed application form and include all required supporting documentation including evidence of the grounds for appeal.
- 4.7 Appeals must be lodged within the prescribed timeframe following notification of the original decision unless an exemption is granted.
- 4.8 An appeal must satisfy one or more of the following grounds:
- (a) There is new evidence that was not known or available at the time of the original decision and is likely to have affected the outcome of that decision.
  - (b) There is evidence that Institute policy was not followed in recommending or making the original decision and that procedural irregularity has materially disadvantaged the learner, including that the original decision-making process lacked procedural fairness.
  - (c) There is evidence that the outcome determined by the original decision maker was manifestly wrong, excessive, inappropriate or not available given the context and circumstances of the original decision.
  - (d) There was a bias or a conflict of interest on the part of the original decision maker/s.
- 4.9 Holmesglen will review a learner's appeal application and determine if the appeal is valid or invalid. Appellants will be notified in writing of the decision of the appeal's validity.
- 4.10 For an appeal to be valid all the following conditions must be met:
- (a) an adverse effect or outcome arising from the original decision must be demonstrated
  - (b) if Holmesglen policy or procedure requires the learner to request an initial review prior to appealing the decision (for example requesting assessment re-mark or re-appraisal), these review opportunities have been exhausted
  - (c) the appeal must be lodged within the prescribed timeframe or an extension granted
  - (d) the appeal documentation must be complete
  - (e) sufficient evidence must be provided to demonstrate that the grounds for appeal are satisfied
  - (f) there is no other more appropriate process to review the decision.
- 4.11 Holmesglen will support appellants to make a valid appeal application. This may include clarifying the appeal application, requesting further supporting documentation and ensuring all procedural requirements are understood by appellants. An application may be dismissed as invalid and no further action taken, where an appellant does not take the opportunity to make their appeal valid.

## Reviewing and determining appeals

- 4.12 Accountability to review appeals, determine if an appeal is valid and oversee the appeal process is allocated to the relevant executive director or senior manager according to the type of reviewable decision (refer to [Appendix 1](#) for Accountable Reviewers). The Accountable Reviewer may appoint a nominee, including where the incumbent was involved in making the original decision or if there is a perceived, potential or actual conflict of interest.
- 4.13 International Student Programs will be notified and consulted in determining overseas learner appeals to ensure compliance with requirements under the *National Code of Practice for Providers of Education and Training to Overseas Students 2018*.
- 4.14 The Accountable Reviewer will ensure the appeal is determined independently from the person that made the original decision. This may include:
- requesting a further internal investigation and review by the department responsible for the original decision, but ensuring the review is conducted independently from the original decision-maker
  - review the matter themselves and reconsider the decision on the basis of that review
  - forming and referring a learner's appeal to a committee, including a Learner Appeals Committee or other management committee as relevant (for example the Privacy Committee).
- 4.15 The Accountable Reviewer may elect to undertake a further internal investigation and then refer the appeal to a committee, if the internal investigation recommends that this is warranted and in the interests of procedural fairness.
- 4.16 The Accountable Reviewer or Chair of a committee formed to determine the appeal has the discretion to extend the timeframe to determine the appeal where necessary. This includes in circumstances where further internal investigation of the appeal recommends referral to a committee or where the complexity of the appeal requires further review. The learner must be notified of any extension to the timeframe to determine the appeal.
- 4.17 Appellants may seek the assistance of a support person in preparing and submitting an appeal and presenting their case at any meeting or hearing called to determine the appeal. Any support person must not be a legal practitioner or be a party to the matter being appealed. Where an appellant does not attend a meeting or hearing without cause, the matter may be determined in their absence.
- 4.18 If the appeal relates to a decision to suspend or cancel a learner's enrolment, Holmesglen will maintain the enrolment until the internal appeals process is completed.
- 4.19 Where an appeal is upheld, learners are given the opportunity to rectify their progress within their course of study so far as practicable, which may include waiving of tuition fees for affected units/subjects.
- 4.20 The decision of the Accountable Reviewer or committee formed to hear the appeal is final and all internal avenues of appeal will have been exhausted on determination of the appeal.
- 4.21 Learners have the right to access an external complaint and/or appeal process under this Policy and they will be informed of the availability of this option.

## Communication, recordkeeping and reporting

- 4.22 Appellants will be informed in writing of:
- the decision to accept or decline the appeal application
  - the process to determine the appeal including attendance at meetings or hearings held
  - any required extension of time to determine the appeal
  - the outcome of the appeal process.
- 4.23 All records relating to an appeal are kept centrally, monitored and reviewed to ensure effective implementation of this policy.

4.24 Appeals data is analysed and reported to relevant Holmesglen committees on regular basis to identify systemic issues, opportunities for improvement and appropriate actions to improve Holmesglen operations and services.

## 5. ACCOUNTABILITIES

Action	Accountability
<ul style="list-style-type: none"> <li>▪ Oversee the implementation, monitoring and reporting requirements of this policy.</li> <li>▪ Report to the Board on appeals with potential risk to the Institute's reputation or compliance with regulatory requirements and the actions taken in response.</li> <li>▪ Appoint an alternative Accountable Reviewer where required to ensure impartiality of review process.</li> </ul>	Chief Executive
<ul style="list-style-type: none"> <li>▪ Establish procedures and resources to ensure effective implementation of this policy.</li> <li>▪ Ensure appeal records are kept securely and oversee the establishment and maintenance of a register of appeals.</li> <li>▪ Provide annual analysis and reporting of appeals data.</li> <li>▪ Monitor, review and improve effectiveness of appeals handling within Holmesglen.</li> </ul>	Executive Director, Engagement and Support
<ul style="list-style-type: none"> <li>▪ Coordinate appeals investigation, determination, communication and reporting processes.</li> <li>▪ Consult with and support appellants to make a valid appeal including clarifying the evidence of the grounds for appeal and ensuring all other review processes have been exhausted.</li> <li>▪ Communicate decisions relating to the acceptance of the appeal, appeal process, and appeal outcome and reason for the determination to the learner within prescribed timeframes.</li> <li>▪ Register appeals and ensure all records relating to the appeal are held in Holmesglen's Document Management System.</li> <li>▪ Analyse learner appeals data on regular basis to identify systemic issues, opportunities for improvement and appropriate action to improve Holmesglen operations and services.</li> </ul>	Complaints and Appeals Coordinator
<ul style="list-style-type: none"> <li>▪ Review the appeal application to determine if the appeal is valid and can be accepted.</li> <li>▪ Determine if the appeal will be referred for further internal review, determined by the Accountable Reviewer themselves or if the matter will be heard by a committee.</li> <li>▪ Form a Learner Appeals Committee or refer the matter to an alternative committee as appropriate to the decision being appealed.</li> <li>▪ Determine to uphold or dismiss the appeal based on findings from internal review processes or own review.</li> <li>▪ Document the appeal investigation outcome, reasons for the determination, and recommendations.</li> <li>▪ Consult with the Associate Director, International Student Programs where the appellant is an overseas learner and the original decision relates to the suspension or cancellation of the learner's enrolment.</li> </ul>	Accountable Reviewer (or nominee)

Action	Accountability
<ul style="list-style-type: none"> <li>▪ Provide information and training to employees in relation to the appeals policy and procedure, and effective response/management.</li> <li>▪ Consider learner appeals as directed and make recommendations to the Accountable Reviewer to uphold or dismiss the appeal.</li> <li>▪ Document and report the review outcome, reasons for the determination, and internal improvement recommendations.</li> <li>▪ Act in accordance with appeal processes within relevant Holmesglen procedures.</li> <li>▪ Implement any actions to be taken as a result of the investigation and determination of appeals within nominated timeframe.</li> <li>▪ Analyse appeals data on regular basis to identify systemic issues, opportunities for improvement and appropriate action to improve Holmesglen operations and services.</li> </ul>	<p>Executive Director Dean</p> <p>Associate Dean Associate Director Head of Department Relevant Manager</p>
<ul style="list-style-type: none"> <li>▪ Hear and determine learner appeals.</li> <li>▪ Make recommendations to improve operations, services and employee practices where appeal determinations indicate opportunities for improvement.</li> <li>▪ Report appeal outcomes to the Accountable Reviewer.</li> </ul>	Learner Appeals Committee or another committee as relevant
<ul style="list-style-type: none"> <li>▪ Perform periodic quality audits on appeals management processes to ensure compliance and report findings.</li> </ul>	Manager, Internal Audit or Executive Officer, Quality and Educational Compliance

## 6. DEFINITIONS

Term	Meaning
Accountable Reviewer	The incumbent of the position identified as the accountable person to determine the validity of the appeal and oversee its determination.
Appeal	A process to seek reconsideration of a reviewable decision under Holmesglen policies and procedures where the learner is dissatisfied with an adverse decision or perceives an adverse outcome. This term covers both internal appeals and external appeals.
Appellant	Person lodging an appeal.
Confidentiality	An assurance that information will only be shared with those persons critical to the investigation and determination of an issue.
International learners	<p>Includes:</p> <p>i) Overseas learners or 'overseas students' (as defined within the ESOS Act). This includes the enrolment of a person, (whether inside or outside Australia) who holds a 'student visa' to undertake study in a course that is registered on the CRICOS Register. Persons with the following visa are excluded (as defined in regulation 1.03 of the Migration Regulations 1994):</p> <ul style="list-style-type: none"> <li>▪ a Subclass 576 (Foreign Affairs and Defence Sector) visa, or</li> </ul>

Term	Meaning
	<ul style="list-style-type: none"> <li>▪ a person who satisfies the secondary criteria, but not the primary criteria, under the Migration Regulations 1994 for the grant of the visa, or</li> <li>▪ a secondary exchange student within the meaning of the Migration Regulations 1994, or</li> <li>▪ an overseas student who has been approved under a scholarship scheme, or an exchange scheme, sponsored by the Commonwealth to undertake a course of study or training in Australia.</li> </ul> <p>ii) Offshore learners who undertake programs while remaining in their country of origin.</p>
Natural justice	<p>Natural justice, also known as procedural fairness, is concerned with the procedures used by a decision-maker, rather than the decision reached. It requires a fair and transparent procedure be used when making a decision.</p> <p>Natural justice requires that all:</p> <ul style="list-style-type: none"> <li>▪ people affected by a disputed matter are given the right to present their case including the opportunity to be heard, be provided with adequate notice of the appeal and the reviewable decision, and the procedures to be used</li> <li>▪ hearings or meetings held to investigate and/or determine the appeal are fair and conducted with transparency</li> <li>▪ members of the review body are free of bias and perceived bias or other personal interest in the outcome.</li> </ul>
Managers	<p>The person who is responsible for the operations of a faculty, department, centre, unit or another functional area within Holmesglen.</p>
Overseas learners	<p>Is an 'overseas student' (as defined within the ESOS Act). This includes the enrolment of a person, (whether inside or outside Australia) who holds a 'student visa' to undertake study in a course that is registered on the CRICOS Register.</p> <p>Persons with the following visa are excluded (as defined in regulation 1.03 of the Migration Regulations 1994):</p> <ul style="list-style-type: none"> <li>▪ a Subclass 576 (Foreign Affairs and Defence Sector) visa, or</li> <li>▪ a person who satisfies the secondary criteria, but not the primary criteria, under the Migration Regulations 1994 for the grant of the visa, or</li> <li>▪ a secondary exchange student within the meaning of the Migration Regulations 1994, or</li> <li>▪ an overseas student who has been approved under a scholarship scheme, or an exchange scheme, sponsored by the Commonwealth to undertake a course of study or training in Australia.</li> </ul>
Procedural fairness	<p>Is present when processes ensure all parties</p> <ul style="list-style-type: none"> <li>▪ have a reasonable opportunity to have their viewpoint heard fairly, by impartial reviewers</li> <li>▪ are well informed about the processes</li> <li>▪ have a reasonable time-frame in which to follow those processes and the opportunity to review and respond to all evidence and submissions that are considered by the reviewers.</li> </ul>

Term	Meaning
Reviewable decision	A decision made by a Holmesglen employee in accordance with Institute policy and procedures, which includes the right for learners to appeal that decision. Appendix 1 of this policy references the reviewable decisions within Holmesglen policy and procedures.
Support person	A non-legally trained observer who accompanies the Appellant during any stage of the appeal process. This may be a Holmesglen Student Wellbeing Officer, friend, family member or health professional. The support person must not: <ul style="list-style-type: none"> <li>▪ have a conflict of interest in relation to the decision being appealed. This includes being involved in, associated with, or alleged to be involved in the original decision being reviewed.</li> <li>▪ speak or make arguments on behalf of the Appellant unless they are assisting an appellant with disability to present their case.</li> </ul>

## 7. CONTEXT AND/OR REFERENCED DOCUMENTS

### Internal

Admissions and Enrolment Policy  
Academic Integrity Policy  
Assessment and Moderation Policy (Higher Education)  
Assessment Policy (VET)  
Complaints Policy (Learners)  
Conduct Rule  
Conduct and Discipline Policy (Learners)  
Code of Conduct  
Child Safety and Wellbeing Policy  
Privacy Policy

### External

Standards for Registered Training Organisations (2015)  
Higher Education Standards Framework 2021  
The National Code of Practice for Providers of Education and Training to Overseas Students 2018  
Victoria's Charter of Human Rights and Responsibilities Act 2006  
Privacy and Data Protection Act 2014 (Vic)  
Equal Opportunity Act 2010 (Vic)  
Freedom of Information Act 1982 (Vic)

## 8. REVIEW

- 8.1 This policy must be reviewed no later than three years from the date of approval.
- 8.2 The policy will remain in force until such time as it has been reviewed and re-approved or rescinded. The policy may be withdrawn or amended as part of continuous improvement prior to the scheduled review date.

## 9. VERSION HISTORY

Version number	Date	Summary of changes
1	December 2023	New policy to separate appeals processes from the learner complaint resolution policy.
2	July 2024	Update to reviewable decisions to include admission and enrolment related decisions, amendment to appeal ground 4.8 (b) and other minor updates including titles of accountable reviewers in alignment with the organisational chart.

## APPENDIX 1 – REVIEWABLE DECISIONS

Decision	Accountable Reviewer <sup>1</sup>	Criteria that must be satisfied for a decision to be appealed (in addition to the criteria to determine if the appeal is valid)	Related policy and procedure
Admission or enrolment related decision	Executive Director Engagement and Support	Nil	Admission and Enrolment Policy
Assessment decisions (VET) – final outcome for a unit/subject <sup>2</sup> <i>Refer to the note 2 below</i>	Dean or Associate Director	<ul style="list-style-type: none"> <li>An error has occurred in the calculation of the final result/mark</li> <li>The assessment did not comply with the criteria and description in the course guide and/or unit outline and/or assessment task outline</li> <li>The assessment criteria did not meet the requirements of the relevant training package or accredited course, or differs from the agreed assessment criteria</li> <li>The assessment did not comply with Holmesglen policies on assessment (ie an error in process has occurred)</li> <li>Inappropriate penalties have been applied</li> <li>Other reasonable grounds exist</li> </ul>	Assessment Policy (VET) Training and Assessment System Policy
Assessment decisions (HE) - final outcome for a unit/subject <i>Refer to note 2 below</i>	Dean	<ul style="list-style-type: none"> <li>An error has occurred in the calculation of the result/mark</li> <li>The assessment did not comply with the criteria and description in the course and/or subject guide and/or assessment task description</li> <li>The assessment criteria did not meet the requirements of the course, or differs from the agreed assessment criteria</li> </ul>	Assessment and Moderation Policy (HE) Assessment and Moderation Procedure (HE)

<sup>1</sup> Where the appellant is an overseas learner and the appeal relates to a decision to suspend or cancel their enrolment or that would impact the learner's course progress, the Accountable Reviewer must consult with the Associate Director, International Student Programs.

<sup>2</sup> Reviews of assessment decisions under this Policy are for the final assessment decision/result for a unit/subject, including recognition of prior learning decision. Prior to appealing, learners must consult with their teacher or the relevant Education Manager/Course Leader as soon as possible after receiving the result to discuss any concerns. Reviews of assessment decisions for a discrete assessment task or multiple assessment tasks within a unit/subject must first follow the re-mark/re-appraisal process. Once these processes have been exhausted, a learner may appeal the final assessment decision.

Decision	Accountable Reviewer <sup>1</sup>	Criteria that must be satisfied for a decision to be appealed (in addition to the criteria to determine if the appeal is valid)	Related policy and procedure
		<ul style="list-style-type: none"> <li>• The assessment did not comply with Holmesglen policies on assessment (ie an error in process has occurred)</li> <li>• Inappropriate penalties have been applied</li> <li>• Other reasonable grounds exist</li> </ul>	
Withdrawal, suspension or cancellation of enrolment due to unsatisfactory progress or assessment performance, including performance on placement	Dean or Associate Director	Nil	Assessment Policy (VET) Assessment and Moderation Policy (Higher Education) Progression Procedure (Higher Education) Overseas Learners Policy
Complaint outcomes	Executive Director Engagement and Support	Nil	Complaints Policy (Learners) Complaint Resolution Procedure (Learners) Overseas Learners Policy
Discipline/general misconduct outcome (not including academic misconduct)	Executive Director Education and Applied Research	Penalties for misconduct must be imposed by the Chief Executive, Chief Financial Officer, or Executive Directors. Penalties imposed by other positions with disciplinary powers are not a reviewable decision under this policy, however, learners may utilise the complaints process to seek resolution of a disciplinary outcome.	Conduct and Discipline Policy (Learners) General Misconduct Procedure (Learners) Overseas Learners Policy
Academic misconduct outcome	Executive Director Education and Applied Research	Nil	Academic Integrity Policy Academic Misconduct Procedure (Learners) Overseas Learners Policy
Credit, advanced standing, exemptions, deferment or intermission (where available)	Dean or Associate Director	Nil	Articulation and Credit Policy (Higher Education) Assessment Policy (VET)

Decision	Accountable Reviewer <sup>1</sup>	Criteria that must be satisfied for a decision to be appealed (in addition to the criteria to determine if the appeal is valid)	Related policy and procedure
Intention to suspend or cancel overseas learners enrolment for non-payment of fees, breach of course progression or attendance requirements or misconduct	Associate Director, International Student Programs in consultation with the CFO/relevant Executive Director/Dean/Associate Director	Nil	Overseas Learners Policy
Denied request to defer, suspend or cancel overseas learner enrolment and/or transfer enrolment	Associate Director, International Student Programs	Nil	Overseas Learners Policy