Nelson Marlborough Institute of Technology
Te Whare Wānanga o Te Tau Ihu o Te Waka a Maui

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FORMAL COMPLAINTS RESOLUTION PROCEDURE

Section	Problem Resolution		
Approval Date	16.01.2018	**Approved by**	Executive Team
Next Review	16.11.2019	**Responsibility**	Chief Executive
Last Reviewed	02.11.2017	**Key Evaluation Question**	5

PURPOSE

To ensure that formal complaints received from students and members of the public are resolved in a timely, fair and equitable way and are part of a continuous process to improve NMIT services.

SCOPE

The Formal Complaints Resolution Procedure applies to formal complaints by students and members of the public about NMIT services, facilities, programmes, other students or staff at all locations and work areas of the institute, including all NMIT training partners.

Not in Scope: This procedure does not apply to:

1. Complaints raised by staff regarding employment relationship issues, including such things as personal grievances, disputes, claims of unpaid wages, allowances or holiday pay. In these cases the *Employment Relationship Problem Resolution Process* will apply.
2. ***Student Academic Appeals***
3. ***Student Misconduct***
4. Concerns/informal complaints (refer to Principles below).

NMIT reserves the right not to progress:

- Anonymous complaints or complaints based on hearsay;
- Complaints which are vexatious in nature;
- Complaints lodged by habitual complainants;
- Complaints made more than 90 days after an alleged incident.
- Complaints where the complainant is not willing to cooperate.

PRINCIPLES

Wherever possible before engaging in the formal complaints resolution procedure, attempts should be made to resolve concerns/complaints informally. Resolution may also be reached through mediation. These procedures are for quick problem solving rather than investigating and substantiating claims. They seek agreement and shared understanding of how to avoid problems in the future. **Resolution through informal means is encouraged and is an available option at any time during the resolution process.**

The Principles of natural justice are incorporated throughout this formal complaints resolution procedure as outlined below.

The respondent and complainant will be provided:

- all relevant information regarding the allegation, including a copy of the complaint (excluding the complainant's or respondent's contact details);
- an opportunity to prepare and present evidence;
- the full opportunity to read/see and respond to all evidence collected in an investigation before a decision is made; and
- communication about progress of the complaint process and final resolution.

The Resolution Facilitator, i.e. person(s) deciding on the allegations, will be impartial and make decisions based on a balanced and considered assessment of the information. Decisions regarding allegations are based on logical proof or evidence.

All parties are to keep all interactions, meetings, discussions and outcomes on the issue confidential to the parties involved.

As part of the investigation process, the Resolution Facilitator may disclose information about the complaint as appropriate. This may be for the purpose of gathering additional information, verifying details/facts and ensuring normal business activities continue and the health, safety and wellbeing of others is protected.

A complaint may be withdrawn prior to step 6 in the *Complaint Identification Procedure*, although NMIT reserves the right to progress complaints when it considers it appropriate.

Complaints are to be resolved as quickly as possible.

Complainants and respondents need to be prepared to assist the resolution process (e.g. attend meetings and provide information requested).

Every effort will be made to minimise the impact on students' learning when they are involved in the complaint resolution procedure.

DEFINITIONS

Advocate	A person who speaks on behalf of a complainant or a respondent. e.g. a suitably qualified member of SANITI
Appeals Committee	A committee convened to consider an appeal of a complaint outcome. The grounds of the appeal is to be on procedural fairness only and shall not revisit the original complaint. The Appeals Committee comprises the Head of Academic and Quality, one member of Institute Leadership Team and one student representative, all of whom have been independent of the appeal in question to date.
Complaint	A complaint is a formal account in writing (using the Complaint Form) stating that something is unsatisfactory or unacceptable. Where it is deemed that a concern cannot be resolved through informal resolution with the parties directly, a formal complaint resolution procedure may be initiated.
Complainant(s)	The person who makes a complaint.

Complaints Coordinator	A dedicated Institute Leadership Team member who monitors, coordinates and tracks progress of complaints, whilst supporting the Resolution Facilitator.
Complaint Summary	A summary sheet used throughout the resolution process by the Resolution Facilitator involved in the complaints resolution process to document all dates, correspondence, actions and the outcome of any formal complaint. At the end of the process it is filed internally together with all the relevant documentation.
Mediation	A process by which a neutral, impartial and acceptable third party helps the disputing complainant and respondent to identify the issues in their dispute; to generate options; and consider alternatives so both parties can reach a mutually acceptable solution. The focus of mediation is on the future relationship between the parties, not on allocating blame for past differences. A mediator will respond quickly and confidentially when asked to act and the aim of the process is to minimise disruption and stress.
Resolution Facilitator	An Institute Leadership Team member assigned by the Chief Executive or Director (in consultation with the Complaints Coordinator) to investigate and manage individual complaints.
Respondent(s)	The person/s about whom a complaint is made or a representative/s of the service about which the complaint is made.
Support Person	Person or group able to provide support or advice to the complainant or respondent (e.g. student association (SANITI); staff association/union member; friend or family member). A support person's role is to empower the complainant or respondent to speak for themselves with knowledgeable support. A support person cannot speak on behalf of the complainant or respondent**,** unless the complainant or respondent chooses the support person to move into the role of advocate**.**
Training Partner(s)	Organisation(s) or individual(s), with whom NMIT has a contracted arrangement, who provides delivery of training on behalf of NMIT, to NMIT students.

RESPONSIBILITIES

ADVOCATE

If it is not practicable to achieve resolution through support, a complainant and/or respondent may seek advocacy. An advocate speaks on behalf of the complainant or respondent and must have signed authority to speak for the person they represent.

Examples of those who may be asked to be an advocate:

- A member of the student association (SANITI) or staff association/union;
- A chosen associate or professional person;
- A colleague, friend, member of family or whānau.

CHIEF EXECUTIVE*

- Assign the Resolution Facilitator to manage individual complaints.
- Summarise information quarterly or as required from all complaints relating to the institute to facilitate regular reporting to the NMIT Council.
- Supply statistical information as appropriate to Directorate and Academic Board.
- Initiate training in the Complaint Procedure for relevant roles/staff positions as required.

**Responsibilities may be delegated*

COMPLAINTS COORDINATOR

- In consultation with the Chief Executive or delegate, assign a Resolution Facilitator to manage the Complaints Resolution process.
    - Assign each complaint a reference number and lodge the complaint on the Complaints Register.
    - Send complainant a written acknowledgment, including the complaint reference number, the Complaints Resolution Procedure, name of Resolution Facilitator and the next step in the process.
    - Monitor the progress of the procedure and provide process guidance to the Resolution Facilitator.
    - Where recommendations result from the findings of a complaint, the Complaints Coordinator will pass these onto the HOD of the Department/Business Support Area.
    - Provide six monthly thematic reporting to Directorate regarding NMIT Complaints activity.

DIRECTORATE

- Offer support during the complaints resolution process
- Manage complaints that have been appealed externally

RESOLUTION FACILITATOR

- Provide advice on support options.
- Offer and arrange mediation when requested by the complainant or respondent.
- Arrange meetings and keep both parties informed.
- Ensure procedure timeframes are followed. Where deviations occur, record why timelines have varied from those indicated in the procedure.
- Communicate steps and status of the procedure throughout to all parties.
- Clarify in advance the meeting purpose and the roles of those attending.
- Manage the roles during the meeting.
- Record relevant information e.g. dates, people attending, dates of telephone or email conversations.
- Make a decision on the outcome of the complaint.
- Notify both parties of the outcome of the complaint in writing.
- Ensure all documentation relating to the complaint process is returned to the Complaints Coordinator.

STAFF, CHIEF EXECUTIVE (CE) AND COUNCIL MEMBERS:

- Encourage a culture where it is safe for people to voice their concerns and have them resolved in a timely, professional manner.

SUPPORT PERSON(S)

- Listen to the complainant or respondent's concerns and explain the informal and formal resolution processes.
- Discuss options but allow them to make their own decisions.
- Discuss possible outcomes and consequences.
- Where English is a complainant's or respondent's second language ensure they are given the option of an interpreter.
- A support person cannot speak on behalf of the complainant or respondent**,** unless the complainant or respondent chooses for the support person to move into the role of advocate**.**

During meetings, a support person might:

- Ask for clarification from other attendees.
- Remind the complainant or respondent of questions to ask or points to make.
- Observe if the process is fair.
- Request breaks.
- Request that the discussion stop and recommend that a mediator be appointed.
- Take notes and de-brief the complainant or respondent after the meeting.

PROCEDURE

Wherever possible concerns should be resolved by negotiation between the parties directly involved, with support, or through mediation prior to escalating to the formal complaints resolution procedure.

Where a resolution cannot be achieved through informal means the following complaints resolution procedure applies.

COMPLAINT IDENTIFICATION			
STEP	**ACTION**	**TIMEFRAME***	**WHO**
Optional Step -	Seek advice from available support options e.g. Complaints Coordinator; Student association (SANITI), union member; assigned Resolution Facilitator; or manager, and consider mediation as a way of resolving the problem.	At any time during the resolution process	Complainant and Respondent
1	Send Complaint Form to the Office of the CE.	Within 90 days of incident	Complainant
2	On receipt of Complaint Form, identify the relevant procedure, (including verifying with the POD Manager to ensure it is not a staff procedure) assess for seriousness, legal or other implications, and assign a Resolution Facilitator.	Within 2 working days of receipt of complaint	CE or delegate
3	Send **Letter to Complainant - Acknowledgement** to the complainant giving details of: ⇨ Complaint reference number ⇨ Name of Resolution Facilitator who will be responsible for mediation and managing the complaint ***NB: Preferred option is to start with mediation***	Within 2 working days of receipt of complaint	Complaints Coordinator
4	Where a formal complaint is about a staff member, inform the staff member's line manager in order to support the staff member.	Within 5 working days of receipt of complaint	Resolution Facilitator
5	Send **Letter to Complainant - Meeting notification** to the complainant advising of initial meeting date, stating that the respondent will be informed of the complaint made against them, and enclosing a copy of the Formal Complaint procedure. ⇨ Start the Complaint Summary document NB: The complainant may withdraw the complaint at this stage or choose mediation.	Within 5 working days of receipt of complaint	Resolution Facilitator
6	Send **Letter to the Respondent** providing all relevant information relating to the complaint,	2 working days after providing	Resolution Facilitator

	including a copy of the complaint* (unless the complaint has been withdrawn – see 5, above). *excluding contact details of all parties	information to complainant	

*these are ideal timeframes. If a timeframe cannot be met, alternative timing will be set and communicated to the complainant and respondent by the Resolution Facilitator. However all possible attempts will be made to keep to timeframes indicated.

STEP	ACTION	TIMEFRAME	WHO
NEGOTIATION			
7	Meet with Complainant, identify and agree on specific issues. Consider mediation as an option. Record interactions on the Complaint Summary Document. *Note:* Additional issues should not subsequently be incorporated as part of the same complaint.	At the first meeting with complainant	Resolution Facilitator
8	Meet with Respondent to discuss the issues outlined in the complaint. Record information on the Complaint Summary Document.	Within 3 days of meeting with the complainant	Resolution Facilitator
9	Liaise with both parties and if necessary source additional information. Record information on the Complaint Summary Document. ***Note:*** Several meetings may be needed before a resolution acceptable to both parties is found.	Within 10 days of the first meeting with the complainant	Resolution Facilitator
10	Consult and seek advice from the Complaints Coordinator in deciding the outcome of the complaint.	Within 10 days of the first meeting with the complainant	Resolution Facilitator
11	If the complaint is **resolved** the decision is communicated to both parties in writing (go to Step 12). If the complaint remains **unresolved** then move to FURTHER INVESTIGATION Steps 12 - 15.	Within 5 days of the last meeting	Resolution Facilitator

STEP	ACTION	TIMEFRAMES	WHO
FURTHER INVESTIGATION			
12	Investigate the complaint further, if necessary. Seek advice from the Complaints Coordinator where needed. Advise both Complainant and Respondent in writing of the investigation process to be followed. Record all decisions on the Complaint Summary Document. NB: Investigation process should be carried out as quickly as possible to avoid delays in reaching resolution and to minimise impact on student learning.	Within 10 days of the last meeting or alternative timeframe agreed by both parties	Resolution Facilitator
13	Once consulted with Complaints Coordinator, make a binding decision and communicate decision to both parties in writing. Include a summary of the outcome of the complaint (using Complaint Summary template).	Within 10 days of concluding the investigation	Resolution Facilitator
14	Send the Complaint **Summary** and all relevant documentation to the Complaints Coordinator. Where recommendations result from the complaints process, the Complaints Coordinator will address these with the HOD/Business Support areas involved.	Within 10 days of concluding the investigation	Resolution Facilitator
15	File Complaint **Summary** and relevant documentation for minimum of 7 years after date of last action, as per ITPNZ GDA 2.1.2	Within 10 days of concluding the investigation	Complaints Coordinator
APPEAL			
16	The Complainant or Respondent has the right to appeal to the CE or delegate who may convene an Appeal Committee to consider the appeal. (The grounds of appeal is to be on **process only**, and shall not include rehearing the complaint). The finding of the appeal is final.	Within 10 working days of the written decision being received by the Complainant/ Respondent	HOD, Academic and Quality
17 (cont. over)	If not resolved following NMIT procedures, the Complainant or Respondent may choose to follow external procedures:	In accordance with external organisation's guidelines	A member of NMIT Directorate

STEP	ACTION	TIMEFRAMES	WHO
17 (cont.)	• Domestic and International Students may contact NZQA who provide an independent assessment of the complaint and will either investigate their concerns or advise them what they can do next. Complaint queries can be submitted to the NZQA website, or emailed to qadrisk@nzqa.govt.nz 0800 697 296 Other agencies that may be able to help: • Human Rights Commission procedures (as an alternative, not in addition to grievance procedures) • Privacy Commissioner • Office of the Ombudsman		
REPORTING			
18	Summarise information from all student complaints and misconduct to facilitate regular reporting to the Chief Executive and NMIT Council. Provide thematic reports to Directorate regarding complaints activity.	Quarterly or as required February and July	Complaints Coordinator

REFERENCES

INTERNAL

Complaint Form
Harassment (Prevention and Management)
Protected Disclosures
Staff Charter
Student Charter
Student Problem Resolution leaflet
Staff Misconduct Procedure
Student Misconduct Procedure

- Complaint Summary [Template]*
- Letter to Complainant – Acknowledgement [Template]*
- Letter to Complainant - Meeting notification [Template]*
- Letter to the Respondent [Template]*

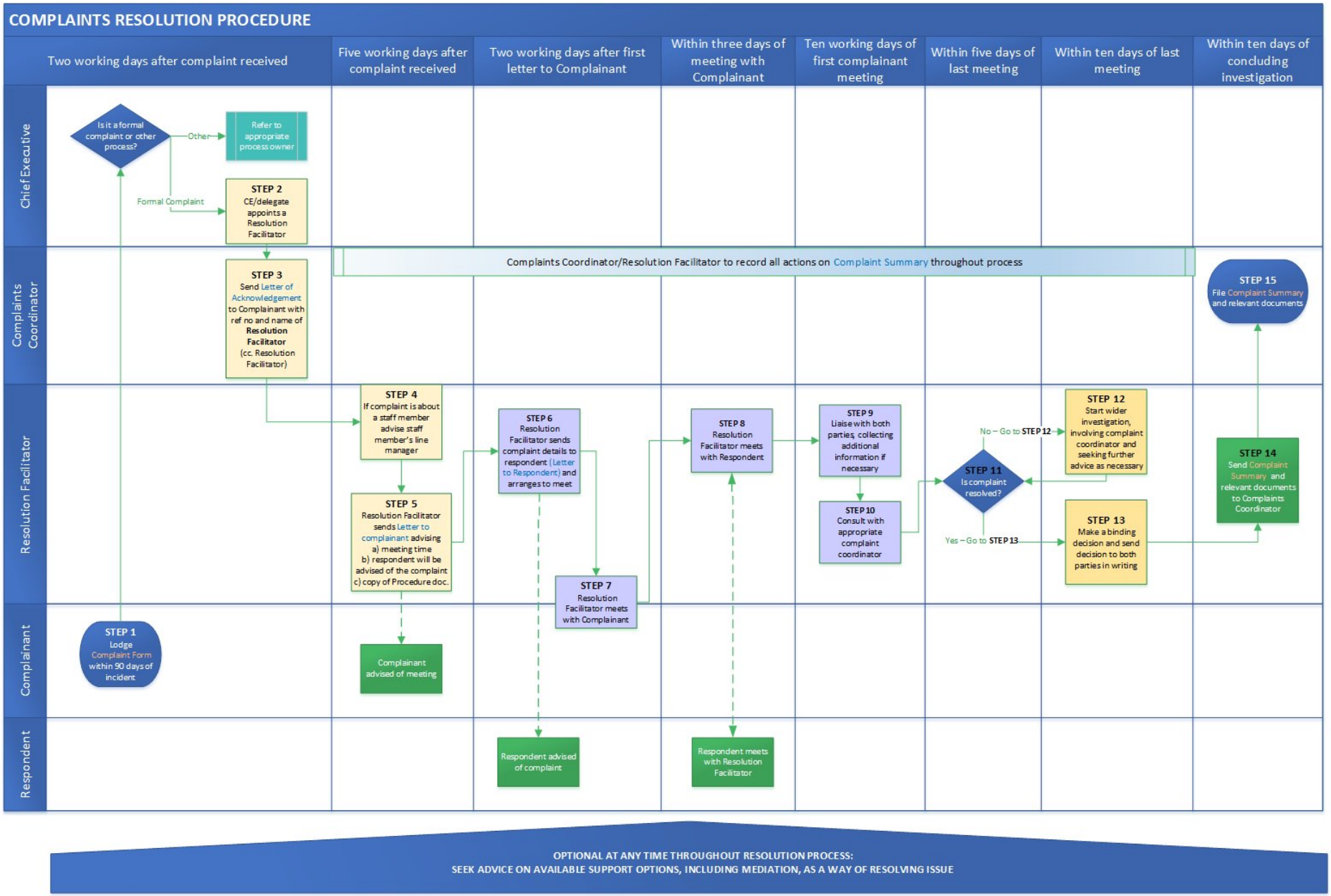
*available for internal use only

EXTERNAL

Official Information Act 1982
Guidelines for the Education (Pastoral Care of International Students) Code of Practice 2016
Privacy Act 1993
Human Rights Act 1993
The Bill of Rights – Principles of Natural Justice
Vulnerable Children Act 2014
State Services Commission Resources

APPENDICES

APPENDIX ONE: Process Map


COMPLAINTS RESOLUTION PROCEDURE
Two working days after complaint received
Five working days after complaint received
Two working days after first letter to Complainant
Within three days of meeting with Complainant
Ten working days of first complainant meeting
Within five days of last meeting
Within ten days of last meeting
Within ten days of concluding investigation
Chief Executive
Complaints Coordinator
Resolution Facilitator
Complainant
Respondent
Is it a formal complaint or other process?
Other
Refer to appropriate process owner
Formal Complaint
STEP 2 CE/delegate appoints a Resolution Facilitator
STEP 3 Send Letter of Acknowledgement to Complainant with ref no and name of Resolution Facilitator (cc. Resolution Facilitator)
Complaints Coordinator/Resolution Facilitator to record all actions on Complaint Summary throughout process
STEP 15 File Complaint Summary and relevant documents
STEP 4 If complaint is about a staff member advise staff member's line manager
STEP 5 Resolution Facilitator sends Letter to complainant advising a) meeting time b) respondent will be advised of the complaint c) copy of Procedure doc.
STEP 6 Resolution Facilitator sends complaint details to respondent (Letter to Respondent) and arranges to meet
STEP 7 Resolution Facilitator meets with Complainant
STEP 8 Resolution Facilitator meets with Respondent
STEP 9 Liaise with both parties, collecting additional information if necessary
STEP 10 Consult with appropriate complaint coordinator
STEP 11 Is complaint resolved?
No – Go to STEP 12
Yes – Go to STEP 13
STEP 12 Start wider investigation, involving complaint coordinator and seeking further advice as necessary
STEP 13 Make a binding decision and send decision to both parties in writing
STEP 14 Send Complaint Summary and relevant documents to Complaints Coordinator
STEP 1 Lodge Complaint Form within 90 days of incident
Complainant advised of meeting
Respondent advised of complaint
Respondent meets with Resolution Facilitator
OPTIONAL AT ANY TIME THROUGHOUT RESOLUTION PROCESS:
SEEK ADVICE ON AVAILABLE SUPPORT OPTIONS, INCLUDING MEDIATION, AS A WAY OF RESOLVING ISSUE