

## **LEARNING AND SKILLS COUNCIL**

### **PROCEDURE FOR DEALING WITH COMPLAINTS ABOUT LEARNING PROVIDERS FUNDED BY THE LEARNING AND SKILLS COUNCIL**

#### **Key Principles**

- 1 The Learning and Skills Council (LSC) and Learning Providers (Provider) should be receptive to genuine expressions of dissatisfaction.
- 2 Complaints should be dealt with promptly, fairly and proportionately.
- 3 Action taken as a result of complaints should help to improve the quality of post 16 education and training.
- 4 In dealing with complaints, the LSC will take account of its duty to promote equality and diversity.

#### **Learning Providers**

- 5 Providers are required to have published procedures for complaints handling. These procedures should contain a process by which a learner or other organisation can make a complaint, have it investigated, reviewed and resolved. The procedure should also outline the process, timescales and named individuals.
- 6 Providers should ensure learners understand all details of the complaints procedure and make complaints information available in other formats (Braille, large print, other languages etc).
- 7 Providers should have an appeals process to deal with any challenges to the decision reached.
- 8 Providers should ensure that learners or other organisations are given relevant information about such procedures and that they are provided with relevant contact details for the LSC when complaints cannot be resolved within the Provider.
- 9 The LSC will not usually investigate complaints until the Providers procedure, including the appeal, has been exhausted. When the LSC has reason to believe that the Provider is not dealing with a complaint

appropriately or effectively, the LSC may decide to intervene before the Provider's procedure has been exhausted.

## **Procedure for dealing with complaints about Providers**

### **Who will investigate:**

- 10 Local learning and skills councils (LLSC) will investigate complaints about their local Providers. Where a complaint concerns a national Provider of learning, complaints will be referred to the National Contract Service (NCS).
- 11 Complaints about specialist colleges providing education and training for learners with learning difficulties or disabilities will be investigated by Structural and Learner Support Funds Division in the Operations Directorate of the National Office (SLSF).
- 12 Every LLSC and the NCS and SLSF shall appoint a named individual who will be responsible for complaints ("the appropriate officer").
- 13 If the LLSC, NCS or SLSF consider that a particular complaint is complex, requires specific expert advice or will be hard to resolve it may appoint an external investigator to investigate the complaint and provide a report.
- 14 If the LSC receives an allegation of fraud or financial irregularity, these will be passed to the LSC's Review and Compliance Unit ("RCU") for investigation.

### **When the LSC will investigate:**

- 15 **We must investigate** all allegations of irregularity (unlawful or unethical conduct, financial malpractice, equality and diversity issues and health and safety risks to staff, learners or the public).

The only exception is complaints that involve the rights of an individual under an employment or other contract or matters for which there is a more appropriate remedy through the courts or other tribunal or body.

- 16 **We can investigate** complaints about:
  - a. the quality or management of learning provision;
  - b. undue delay or non-compliance with published procedures;

- c. poor administration by the Provider;
- d. equality and diversity issues (except where there is a more appropriate mechanism for dealing with the matter through the court or tribunals or other organisations);
- e. health and safety concerns (unless these are matters for the Health and Safety Executive).

### **When the LSC will not investigate**

17 **We will not investigate** complaints about:

- a. exam results or curriculum content where a more appropriate form of redress would be the examining body or the Qualifications and Curriculum Authority;
- b. individual employment issues, (not in the wider public interest) which are a matter for the employer and the employee where employment law provides appropriate remedies;
- c. contractual disputes;
- d. school sixth forms, or local education authority external institutions, where the complaint should be directed to the local education authority;
- e. matters that are the subject of legal action, or where legal proceedings are the most appropriate way of resolving the dispute.

18 Except in relation to complaints about irregularity, we will not usually investigate complaints more than 3 months after the decision or action was taken.

19 We reserve the right not to investigate complaints considered to be vexatious or malicious.

### **What the LSC will do:**

20 On receipt of a complaint the appropriate officer should check:

- a. the matter is one which the LSC can investigate;

- b. if the decision or action complained about occurred more than 3 months ago. Where this is the case the LSC will not normally investigate, unless the complainant has good reason for the delay in making the complaint;
  - c. whether the allegations relate to fraud or irregularity. In these cases, the appropriate officer shall notify the Executive Director of the LLSC and the Head of RCU or the Director if the NCS or SLSF to discuss appropriate investigation procedures.
- 21 Within 5 working days of receipt of a complaint the appropriate officer should acknowledge receipt and send a copy of this procedure to the complainant. The complainant should be told whether the complaint is one which the LSC will investigate. In cases alleging fraud or irregularity the complainant should be informed of the involvement of the RCU and the procedures which will be followed. It should be noted that RCU's procedures are different, timescales vary and investigations usually take longer.
- 22 If the LSC is to investigate the matter, the complainant should be asked to provide:
  - a. Details of their complaint in writing, by email or fax (if this has not already been provided);
  - b. Confirmation that the Provider's complaints procedures have been exhausted;
  - c. Permission to disclose details of their complaint to the Provider concerned.
- 23 If the complainant has difficulties in providing details in writing, the appropriate officer should consider alternative ways of receiving the information.
- 24 Within 5 working days of receipt of the written complaint the appropriate officer should prepare a summary of the complaint to be sent to the complainant for approval. The complainant should be given 5 working days to provide any response to this document.
- 25 The appropriate officer should consider any response from the complainant and, if appropriate, amend the summary of complaint before sending this to

the Provider. The Provider should be asked to provide within 10 working days:-

- a. Details and copies of the relevant procedures where appropriate;
- b. Confirmation that their procedures have been exhausted;
- c. A response to the summary of complaint together with relevant documentation;
- d. Confirmation that the information provided can be shown to the complainant. With regard to investigations by RCU, anonymity will be respected as long as it does not impede any investigations.

26 If, at any stage, the appropriate officer is satisfied that procedures at the Provider have not been properly exhausted they should usually write to the parties to indicate that they will not investigate the matter further. Where the appropriate officer judges that the provider has unduly delayed in resolving the complaint, or that there is no prospect of the Provider resolving the complaint within a reasonable timescale, the LSC may continue to investigate.

27 On receipt of documentation and response from the Provider the appropriate officer shall provide the Provider's response to the complainant and seek confirmation within 5 working days as to whether the complainant remains dissatisfied.

28 The appropriate officer should consider whether the complaint may be resolved by mediation and, if the parties agree, should arrange for a mediation meeting.

29 If the matter has not been resolved within 20 working days of agreeing the summary with the complainant, the appropriate officer should consider each aspect of the summary of complaint and determine whether, on the balance of probabilities, the complaint should be upheld.

30 If the appropriate officer cannot resolve the position on the information available, he or she shall arrange for the parties to be contacted to obtain such further information as is required. If necessary the appropriate officer can arrange to meet with either or both of the parties. The information received and notes of any meeting should normally be disclosed to both parties.

- 31 Once a provisional decision has been made in relation to the complaint, draft findings should be sent to the parties providing them with an opportunity to respond within 5 working days.
- 32 Responses should be considered before the appropriate officer confirms the findings. The findings shall be considered and approved by the Executive Director, or Director in the case of the NCS and SLSF, who shall add details of any action she or he determines is necessary to take in relation to the provider. This document should be finalised within 5 working days and sent to the parties. This concludes the investigation.

**What action the LSC can take:**

- 33 If a complaint is upheld, the Executive Director or Director (NCS, SLSF) shall consider taking action against the Provider in accordance with the key principles. The Executive Director may:
- a. ask the Provider to review its procedure to ensure non-recurrence;
  - b. ask the Provider to review its decision in the individual case;
  - c. where the Provider is a further education college, require the college to provide appropriate education to a named individual between 16-18;
  - d. where the Provider is a further education college impose additional conditions of funding;
  - e. consider the eligibility of provision for funding;
  - f. where the Provider is a further education college, appoint additional governors to the governing body;
  - g. where the Provider is a further education college, make a recommendation to the Secretary of State that he should intervene in the management of the college;
  - h. invoke the clauses in the contract between the Provider and the LSC relating to breach;
  - i. terminate the contract;
  - j. recommend to the Secretary of State that the Provider be inspected;

- k. in cases of financial irregularity, recover funds and refer matters to the police (where there is evidence of a crime).

### **If the complainant remains dissatisfied**

- 34 If a complainant is dissatisfied with the way a local Council have dealt with their complaint against a Provider, they should write to the Council Solicitor, Learning and Skills Council National Office, Cheylesmore House, Quinton Road, Coventry, CV1 2WT.
- 35 It should be noted that the Council Solicitor will **not** investigate the original complaint against the Provider but will look at whether the local Council appropriately handled the complaint. Any queries about this can also be sent to [complaints@lsc.gov.uk](mailto:complaints@lsc.gov.uk)

**Timetable for LLSC or NCS complaints procedure. Excluding complaints about fraud or irregularity.**

