Raising Problems or Complaints

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Applies From:	3 years Immediately		

All policies on Waituhi are the current version. Please check date of this hard copy before proceeding.

1 Introduction

1.1 Purpose

The purpose of this policy is to enable learners and members of the public to raise problems or make complaints about Ara courses/programmes, services, employees/colleagues, other learners or administrative systems so Ara Institute of Canterbury (Ara) can maintain and enhance its provision of high-quality products and services.

Ara encourages complainants to raise such concerns with those directly involved first and will endeavour to resolve the problem/complaint at that level, as soon as possible. The rights of all concerned will be respected throughout the process, and no learners is disadvantaged academically or otherwise as a consequence of raising a problem or complaint. Confidentiality will be applied to all matters with regards to problems and complaints.

This policy supports Ara in the processes of self-assessment and evaluation. The intent is to support the organisation to learn from problems and complaints raised, and for Ara to continuously improve.

1.2 Scope and Application

a This policy applies to any issue, problem, or complaint raised by an current, prospective or former learner; a learner's parents or legal guardian (if under 18 years); or a member of the public.

b The problem or complaint may apply to courses/programmes, colleagues, learners, services or administrative systems or decisions.

c This policy does not apply to problems or complaints raised by an Ara colleague regarding another colleague, as these are handled according to standard management procedures as referenced in CPP208 Resolving Employee Performance or Conduct Issues.

d If an Ara colleague has a problem or complaint regarding a learner, they should refer to the CPP208b Staff Complaints about Students Flowchart.

e Complaints about the performance or conduct of an identified colleague of Ara, raised via this policy and through CPP117a Notification of Problem or Complaint Form are logged by the Policy and Complaints Lead, but are investigated by the most appropriate line managers and People and Culture Division (P&C). The outcome of these investigations is between the colleague involved, the most appropriate line manager and P&C. The outcomes and any determined actions will not be communicated to the complainant.

f Concerns related to bullying, harassment and discrimination are covered by CPP222 Addressing Bullying, Harassment and Discrimination

g Concerns related to learner misconduct, colleague performance or behaviour, assessment, and enrolment decisions are covered by one or more of the following –

i APP301 Learner Responsibilities and Rights

ii APP304 Academic Misconduct

iii APP504 Regulations Governing Admission and Enrolment

iv APP505 Assessment

v APP506 Learner Behaviour Management

vi APP511 Academic Support and Progression

vii APP512 Suspension and Refusal/Cancellation of Enrolment

viii APP514 Withdrawals, Refunds and Compassionate Consideration

ix CPP208 Resolving Employee Performance or Conduct Issues

x CPP211 Code of Professional Practice

xi CPP222 Addressing Bullying, Harassment and Discrimination

h The Ara Board manages any complaint against the Chief Executive(CE).

1.2 Formal Delegations

Responsibilities are set out in associated policies (refer 'Related Policies' at end of this section). The Policy and Complaints Lead has delegated authority from the CE to vary provisions set out in this policy (e.g., the number of days a complainant has to raise a problem/complaint), in consultation with either the Director – Strategy, Planning, Performance; or the Director – People & Culture, depending on the nature of the problem/complaint.

1.3 Definitions

a **Academic Decision:** A decision which causes a learner an academic disadvantage.

b **Advocate:** Person(s) who is appointed to speak or act on behalf of the complainant or respondent (e.g., colleague; an appointed associate or professional person; whanau member).

c **Anonymous Disclosures** (https://informus.ara.ac.nz/) is a tool where individuals can make an anonymous disclosure to Ara. The purpose of this report is to allow Ara to collect statistical and thematic information on the nature of events that occur on campus, or which involve our colleagues and learners.

d **Bullying:** repeated and unreasonable behaviour directed towards a person or a group of people that creates a risk to their mental or physical health and safety. Examples of actions that may be regarded as bullying can be found in CPP222 Addressing Bullying, Harassment and Discrimination.

e **Complaint:** is an expression of dissatisfaction with: The quality of an action taken, decision made, or service provided by Ara. A delay or failure in providing a service, taking an action, or making a decision by Ara.

f **Complainant:** The person(s) raising the problem or making the complaint.

g **Policy and Complaints Lead:** The person delegated by the CE to manage complaints (other than those involving colleague performance), academic appeals, and appeals against cancellation and/or refusal of enrolment.

h **Formal complaint:** a complaint made by an Ara learner, or member of the general public. Formal complaints are investigated and substantiated to understand the context of the complaint. These complaints are logged in the complaints register and are provided a reference number.

i **Frivolous, Trivial or Vexatious Complaint:** A complaint which –

- i Is without merit.
- ii Has already been considered by Ara and satisfactory measures have been taken to resolve the matter.
- iii Is dishonest or contains intentionally misleading information.
- iv Is pursued with undue persistence, or
- v Is pursued in a manner that threatens, menaces, or harasses a colleague or fellow learner.

j **Harassment:** unwelcome, unsolicited, and unreciprocated behaviour by a person or group that may reasonably be expected to offend, humiliate, or intimidate another, and may interfere with a person's right to work or study in a non-threatening environment.

k **Informal complaint:** for quick problem solving rather than investigating and substantiating claims. They seek agreement and shared understanding of how to avoid problems in the future. Informal complaints are most appropriate in cases where the allegations are less serious, or the problem is based on miscommunication or a misunderstanding.

l **Natural Justice:** Ara will uphold the principles of fair, ethical, and honest natural justice, ensuring that any complaint or breach of learner Code of Conduct is fully investigated. Giving all parties involved the right to be heard and the right to respond prior to a decision being reached.

m **Problem:** A situation where a learner considers appropriate standards have not been met. The impact on the learner has not been large and it is likely that resolution can be obtained by direct, informal discussion with the colleague/s concerned.

n **Racial Harassment:** unwelcome, unsolicited behaviour that denigrates, humiliates, or intimidates a person or group based on their race, colour, ethnic or national origins, culture or ethno-religious background. It is unlawful for any person to use language (whether written or spoken), visual material, or physical behaviour that expresses hostility against, or brings into contempt or ridicule, any other person on the grounds of the colour, race, or ethnic or national origins, of such a significant nature that is has a detrimental effect on that other person's ability to engage in work or study activities.

o **Raising Problems or Complaints:** This policy (CPP117) applies to any issue, problem, or complaint raised by an Ara learner or member of the general public. The problem or complaint may apply to courses/programmes, colleagues, other learners, services or administrative systems or decision.

p **Respondent:** The person/s about whom the complaint is made or who has responsibility for the course/programme, service or management practice identified in the problem or complaint.

q **Responsible Manager:** A person, to whom a complaint is referred for consideration or investigation on behalf of Ara, typically being a Head of Department, Executive Director, Director or similar.

r **Sexual Harassment:** is unwelcome conduct of a sexual nature that could be offensive, humiliating or intimidating to any other person and is either repeated, or of such a significant nature, that it has a detrimental effect on the person, their performance, or

their work and study environment. This includes a request for sexual activity of any sort that contains an implied or overt promise of preferential treatment or overt threat of detrimental treatment. It is unlawful to sexually harass another person even if there was no intention to harass the person.

i It is also unlawful for any person to use language of a sexual nature (whether written or spoken), visual material of a sexual nature, or physical behaviour of a sexual nature to subject any other person to behaviour that is unwelcome or offensive to that person and is either repeated, or of such a significant nature, that it has a detrimental effect on that person's ability to engage in work or study activities.

s **Colleague:** for the purposes of this policy, the definition of "colleague" extends to cover all persons working at, for, or on behalf of, Ara (whether paid or unpaid), including but not limited to, contractors, subcontractors and their employees, adjunct appointees, visitors, consultants, guest lecturers, interns, and volunteers.

t **Learner:** A person who is enrolled in at least one course at Ara, either directly or indirectly or through official arrangements with another organisation. The term learner in this context may include prospective learners or former learners.

u **Support Person:** Person(s) who provides support or advice to the complainant or respondent. 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.

v **Victimisation:** treating people worse than others, dismissing them, offering them different terms and conditions of employment, and failing to offer promotion or other benefits because they have honestly and in good faith supported or participated in a complaint of bullying or harassment.

w **Working Day:** A weekday in which Ara is fully open, which excludes Saturdays and Sundays, public holidays, relevant regional anniversary days and Ara holidays.

Related Ara Procedures	**Related Ara Policies**
• CPP117a Notification of Problem or Complaint form • CPP117b Disputes Resolution Scheme Information Handout • CPP117c Ara Learner Complaints Procedure • CPP117d Student Complaint Flowchart • CPP208a Staff complaints about staff process flowchart • CPP208b Staff complaints about students process flowchart • CPP222a Guidelines to Assist with Addressing Bullying, Harassment and Discrimination • CPP222b Examples of Bullying • CPP222c Examples of Harassment • CPP222d Unlawful Discrimination • CPP222e Examples of Victimisation	• APP301 Learner Responsibilities and Rights • APP304 Academic Misconduct • APP504 Regulations Governing Admission and Enrolment • APP505 Assessment • APP506 Learner Behaviour Management • APP511 Academic Support and Progression • APP512 Suspension and Refusal/Cancellation of Enrolment • APP514 Withdrawals, Refunds and Compassionate Consideration • CPP208 Resolving Employee Performance or Conduct Issues • CPP211 Code of Professional Practice • CPP222 Addressing Bullying, Harassment and Discrimination
Related Legislation or Other Documentation • NZQA • Education and Training Act 2020 • International Student Complaints • Office of the Ombudsman • Office of the Privacy Commissioner • Health and Disability Commissioner	**Good Practice Guidelines**

• Education (Pastoral Care of Tertiary and International Learners) Code of Practice 2021 • Human Rights Commission	
References	

2 Principles

2.1 The rights of both the complainant and respondent are protected, and both parties are treated fairly.

2.2 The provisions of the New Zealand Privacy Act 2020 apply.

2.3 Personal information related to complaints is strictly confidential on a 'need to know' basis.

2.4 All problems and complaints are handled as quickly as possible and according to the most appropriate procedure.

2.5 Support is available to all parties involved.

2.6 Problems/complaints are resolved by negotiation between parties where possible.

2.7 A complaint may be withdrawn at any stage.

2.8 Ara reserves the right not to take action related to –

a Anonymous or malicious complaints, complaints based on hearsay or if the complainant does not provide sufficient information or does not respond within 30 calendar days.

b Issues raised more than 30 calendar days after an alleged incident/problem occurred (if being raised by a member of the general public) or more than 90 calendar days (if being raised by an Ara learner).

2.9 Ara also reserves the right to investigate/resolve a problem or complaint even if the complainant subsequently decides not to proceed with the complaint.

2.10 As a signatory to the Education (Pastoral Care of Tertiary and International Learners) Code of Practice 2021, Ara will ensure learners are advised and have prompt access to transparent and fair internal procedures for dealing with complaints. Plus, access to support for wellbeing, including but not limited to independent advocacy.

2.11 Reporting standards –

a All formal complaints reported under this policy are documented.

b All formal complaints reported under this policy are registered in the complaints database at the time of the complaint being received, and the outcomes of the complaints are recorded once a decision has been reached.

c All formal complaints are reported (anonymously) to TKM and the Ara Board and a high-level report of complaints and enquiries is available on the Ara website.

3 Associated Procedures for Ara Corporate Policy on: Raising Problems or Complaints

Contents:

3.1 Raising a Problem or Complaint
3.2 Appeals
3.3 External Complaints and Appeal Options

3.1 Raising a Problem or Complaint

a Learners and members of the public are able to raise problems or make complaints about Ara courses/programmes, colleagues, other learners or administrative systems or decisions, either informally, via written notification or according to procedures set out in CPP117c Ara Learner Complaint Procedures and in specific associated policies.

b The most appropriate procedure for raising a problem or complaint should be used in the first instance (refer CPP117c Ara Learner Complaint Procedures). This includes a direct approach to the person most directly involved and/or the manager responsible for the area of concern, with reference to the relevant policy.

c Learner problems and complaints should be raised as soon as practicable. Any colleague approached by a learner with a problem or complaint will take action by either resolving the problem or referring the learner to the most suitable person to address the concern or complaint (as per CPP117c Ara Learner Complaint Procedures). Confidentiality will be applied to all matters with regards to concerns and complaints. If the complainant feels unable to go directly to those involved, they will be supported and guided through the complaints process. A complaint can be submitted via the CPP117a Raising Problems or Complaints Form, or by printing and completing the form and sending this to complaints@ara.ac.nz

d The information provided via the notification form (CPP117a Raising Problems or Complaints Form) is used as the basis for Ara to determine the most appropriate procedure to follow in the specific case. Please see section 8 of CPP117c Ara Student Complaint Procedures for the outline of the procedures and timelines.

3.2 Appeals

a Some decisions made at Ara provide for a right of appeal or review. These include academic and behavioural matters. In other cases, the decision reached is final.

b Ara and the learner should endeavour to resolve the complaint or dispute through the processes described in this policy. However, a learner can raise an external complaint or dispute –

i Ara does not accept the learner's complaint.

ii The learner or Ara perceives that Ara does not have the cultural competency to deal with the complaint.

iii The learner is not satisfied that Ara has made adequate progress towards resolving the complaint, or

iv The learner is not satisfied with Ara's internal complaints process or outcome.

3.3 External Complaint and Appeal Options

a A learner can seek resolution of a dispute from the following agencies, depending on the subject matter of the dispute. External agencies are likely to expect that a learner should first attempt to resolve their grievances internally, using the procedures of Ara, unless there are exceptional circumstances.

Financial and Contractual Disputes	**Financial and Contractual Disputes Resolution Scheme:** The *Education (Pastoral Care of Tertiary and International Learners) Code of Practice 2021* provides for the establishment of a dispute resolution scheme for financial and contractual disputes between learners and the institution. For more information and updates on the dispute resolution scheme, visit the *NZQA website*. **International Learners Contractual and Financial Disputes:** *iStudent Complaints* is a dispute resolution service set up for international learners. International learners can escalate unresolved complaints about a contract (for example an enrolment or accommodation contract) or a financial dispute to iStudent Complaints. **Disputes Tribunal:** The *Disputes Tribunal* is a small claims court that can hear claims about unresolved disputes for up to $30,000. If a claim is for over $30,000, then this would usually need to go to the District Court. For more information: • *Download this brochure about the Disputes Tribunal* • Read *this information* about the Disputes Tribunal from Community Law
Pastoral Care Code	**NZQA:** If there is a belief that the institution is failing to meet the outcomes or requirements of the *Education (Pastoral Care of Tertiary and International Learners) Code of Practice 2021*, and the institution is unable to resolve the concerns, escalate a complaint using *NZQA's complaints procedure*.
Privacy	**Privacy Commissioner:** If there is an unresolved complaint about how personal information has been stored or used, contact the *Office of the Privacy Commissioner*.
Discrimination and Human Rights	**Human Rights Commission:** If there is an unresolved complaint of discrimination, hateful speech, or denial of human rights, contact the *Human Rights Commission* for information, support or to make a complaint.
Delivery or Quality of a Course or Study	**Tertiary Education Commission (TEC):** If there is concern that Ara is not delivering the appropriate amount of teaching hours through a course or study, or about Ara's performance against its commitments, performance standards, or compliance against the TEC's funding conditions, *make a complaint to the TEC.* **NZQA:** If there are concerns about a tertiary education organisation that it is believed NZQA should investigate, *this page* provides information about how to advise NZQA of these concerns. NZQA is responsible for the quality assurance of non-university tertiary education organisations. *Advising NZQA of concerns about a tertiary education organisation » NZQA*
Ombudsman	If there is a belief that Ara has made a decision that is unreasonable, unfair, or wrong (for example that Ara's complaints process has been conducted incorrectly or that the outcome is unreasonable in relation to the evidence), complainants have the right to *raise the matter for external and independent review by the Ombudsman.*
Tertiary Education Learner Dispute Resolution	Helping Domestic Learners & Providers Resolve Disputes TEC provides a free independent service – they don't represent learners or education providers. Instead, they use their expertise differently to resolve contractual and financial disputes between

	domestic tertiary learners and education providers. https://tedr.org.nz/