

## **Learner Appeals & Complaints Policy**

### **Part 1 - Policy**

#### **1. Introduction**

1.1 Cultural Capital Consulting Ltd is committed to providing a high-quality service to all its learners. The Learner Complaints Procedure sets out how you can make a complaint about our services.

1.2 Cultural Capital Consulting Ltd's Learner Charter is the framework for the learning experience of learners, stating what learners can expect from Cultural Capital Consulting Ltd (and what Cultural Capital Consulting Ltd expects from them). Learner complaints should be based on Cultural Capital Consulting Ltd's associated policy statements on equality and harassment and bullying. The Charter is provided to enrolled learners in the Learner Handbook. It is also available from the resource centre, the Reception Desk and on Cultural Capital Consulting Ltd's website.

1.3 Cultural Capital Consulting Ltd expects learners to use the procedure in a positive spirit, as it will itself. Cultural Capital Consulting Ltd reserves the right not to proceed with a complaint where the complaint does not directly concern the learner as the person making the complaint or where initial investigation shows that there is insufficient evidence to justify further action.

1.4 It is expected that the majority of complaints will be resolved as part of normal, informal communication.

#### **2. Principles**

2.1 The Learner Complaints Procedure is for the use of learners on official company courses and activities.

2.2 Complaints will be handled sensitively and with full confidentiality for both learners and staff. Anyone named in a complaint will be informed of the substance of the complaint and will have the right to reply to the complaint. Information contained within the complaint will be made available to those members of staff involved in the investigation. The relevant line managers will also be informed. Beyond this, complaints are confidential.

2.3 It is expected that, except in exceptional circumstances, a learner who wishes to make a complaint will do so within two calendar months of the incident which is the cause for complaint.

2.4 No learner bringing any complaint, whether successfully or otherwise, will be treated less favourably as a result of complaining. The exceptions to this are complaints that are found to be malicious or vexatious.

2.5 There are separate procedures which exist for the following:

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2.5.1 Appeals regarding assessment outcomes are covered by Cultural Capital Consulting Ltd's Assessment Policy and Procedure.

2.5.2 Disciplinary issues are covered by the Learner Disciplinary Code and the Staff Disciplinary Policy.

### **3. Definition**

3.1 A complaint is defined as an oral or written expression of dissatisfaction with an aspect of Cultural Capital Consulting Ltd service.

### **4. Different Types of Complaint and How They Are Handled**

4.1 Individual Complaints made by individual learners are dealt with according to the guidance set out in this document.

#### **4.2 Group Complaints**

Where a complaint is brought by a group of learners, one person should be prepared to identify him/herself as spokesperson and correspondent for the purposes of the Formal Procedure. All members of the group must express their permission to the member of staff investigating that the spokesperson may discuss their case. Each member of the group must be able to demonstrate that he/she has been personally affected by the matter which is the subject of the complaint.

#### **4.3 Anonymous Complaints**

Complaints require investigation to enable resolution; where a complaint is made anonymously, it will not be possible to undertake such an investigation. For practical reasons, therefore, no action will normally be taken in the event of complaints made anonymously. There may, however, be exceptional circumstances where Cultural Capital Consulting Ltd judges it appropriate to investigate a complaint received from an anonymous complainant, but this is at the discretion of Cultural Capital Consulting Ltd.

#### **4.4 Third Party Complaints**

No investigation of a complaint made on behalf of a learner will be undertaken without that learner's written agreement to the concerns raised and written consent for an investigation to be carried out. This includes complaints made by a carer or relative of the learner concerned.

#### **4.5 Vexatious or Malicious Complaints**

Cultural Capital Consulting Ltd may consider invoking the disciplinary procedures under the Learner Disciplinary Procedure in cases where complaints are found to be vexatious or malicious. A vexatious complaint is defined as a complaint which is clearly unsustainable. A malicious complaint is defined as an attempt to defame the name or character of someone connected with Cultural Capital Consulting

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Ltd or Cultural Capital Consulting Ltd as a whole. Please refer to Annex 1 for further information on vexatious complaints.

### 4.6 Access to Information

Learners pursuing a complaint through the Learner Complaints Procedure will be entitled to apply for access to personal data in accordance with the policies and procedures of Cultural Capital Consulting Ltd under the provisions of the Data Protection Act 1998 and other legislation. Applications should be made in writing to the Directors. Cultural Capital Consulting Ltd will not normally charge the complainant for providing this information.

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### **Part 2 - Procedure**

#### **5. Informal Procedure**

5.1 Informal complaints should be made to the member of Cultural Capital Consulting Ltd's staff who is directly responsible for the problem. This may be the tutor, or the Head of Department. It is the responsibility of the person to whom the complaint has been made to deal with the situation promptly and, if the complaint is justified, to try to put things right as soon as is reasonably practicable.

5.2 It is hoped that most complaints will be resolved informally.

5.3 If a complaint concerns discriminatory behaviour, harassment, or matters of a sensitive nature which you feel cannot be raised with the member of Cultural Capital Consulting Ltd's staff concerned, the matter should be treated as a formal complaint.

#### **6. Formal Procedure - Complaint to Quality Manager**

6.1 If a learner is not satisfied with the steps taken to resolve the problem informally, or if 5.3 applies, or if they feel that the matter of the complaint is too grave to be dealt with informally, a formal complaint should be made.

6.2 A formal complaint must be written down, preferably by the learner themselves, but if not, with the assistance of a member of Company staff. Formal complaints can be made by email, letter or by completing a Complaints Form which can be obtained from the Reception Desk, the resource centre or Administrator.

6.3 The complaint should explain the problem that has arisen and set out what outcome the learner would like from Cultural Capital Consulting Ltd.

6.4 The complaint should be sent to the Quality Manager.

6.5 Complaints will normally be acknowledged within 5 working days followed by a response in writing from the within 15 working days. If resolution is not possible within 15 working days, you will be kept informed of progress.

6.6 Responsibility for the investigation of complaints lies with the department which has been complained about. The Quality Manager will inform the department of the complaint and the Head of School or Head of Service, as appropriate, should investigate the complaint thoroughly and then report the findings back to the Quality Manager, who will assist them in drawing up a response. The Quality Manager will check that the reply is fair and consistent with company policy. The Directors will be copied into the reply as appropriate.

6.7 If the complaint is upheld, the reply will contain a formal apology and indicate the actions

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Cultural Capital Consulting Ltd intends to take to prevent a recurrence, together with an appropriate timescale for such action.

### **7. Appeals**

7.1 If the learner finds the reply to the complaint unsatisfactory, they may appeal in writing to the Directors. This appeal must be made within ten working days of receiving Cultural Capital Consulting Ltd's original reply. The Directors will acknowledge the complaint within five working days of receipt of the appeal.

7.2 In order for an appeal to be considered, a learner must either:

- provide new evidence which was not available for consideration in the original investigation
- be able to demonstrate that the investigation was not carried out in accordance with this procedure or the commitments of the Learner Charter.

7.3 In the event of the complaint being against a Director, all the procedures outlined shall apply. The Directors's role shall be taken by the other Director or his/her nominated deputy.

7.4 If grounds for appeal are accepted the Directors may hear the complaint or convene a Complaint Hearing to investigate the matter further. The Chair of the Complaint Hearing will be a Head of School or Head of Service (academic or support) not involved with the complaint. The other members of the Hearing panel will be a member of Cultural Capital Consulting Ltd staff, similarly from a department not involved in the complaint but also from a different department from the Chair, and a member of the Learner Council.

7.5 The Complaint Hearing will normally take place within 20 working days (excluding holidays) of receipt of the appeal.

7.6 Learners may be accompanied at the Complaint Hearing by a friend for the purposes of support. The friend may not put forward the case except in exceptional circumstances. If the learner is unable to attend, the Complaint Hearing will be rescheduled. If they cannot attend on the second scheduled date the hearing will be held in the learner's absence.

7.7 The Chair of the Hearing panel will report the findings of the panel to the Directors. The Directors will then decide upon a resolution of the complaint. The resolution will be communicated in writing to the learner and the Head of Department concerned within 20 working days of the hearing (excluding Company holidays). The Directors's letter will set out the reasons for the resolution. If the complaint is upheld, the Directors's letter will contain a formal apology and indicate how Cultural Capital Consulting Ltd intends to prevent a recurrence.

7.8 A report will be prepared by the Quality Manager for the Senior Management Team, to assist in

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monitoring the effectiveness of the Learner Complaints Procedure and to identify relevant quality issues.

7.9 The Directors's resolution will be final. There are no further rights of appeal under this Procedure within Cultural Capital Consulting Ltd Procedures. If still dissatisfied the learner may appeal to the Education & Skills Funding Agency (ESFA). The SFA will check that Cultural Capital Consulting Ltd's procedures have been fully used before taking any appeal forward.

### **8. Monitoring and Evaluation**

8.1 Cultural Capital Consulting Ltd monitors and tracks complaints made in order to improve the quality of its offer. The Quality Manager will ensure that records show the nature of the complaint, how it was dealt with, the time taken for a resolution to be reached and the outcome.

8.2 The Learner Complaints Procedure is one aspect of Cultural Capital Consulting Ltd's quality assurance system and complaints are considered an important source of feedback on the quality of Cultural Capital Consulting Ltd's service. Where appropriate, complaints will be used to improve services and facilities. Termly complaints reports will be made to the Quality Manager.

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### **APPENDIX 1: VEXATIOUS COMPLAINTS POLICY**

#### **1. Introduction**

1.1 Cultural Capital Consulting Ltd understands that making a complaint can be a stressful experience for learners, and if a learner makes a complaint in good faith, which is not confirmed by subsequent investigation, no action will be taken against them. However, if the investigation of the complaint reveals the allegation to be vexatious, malicious, frivolous or unsubstantiated (*see Appendix 3: Definitions*) Morley Company reserves the right to dismiss the complaint and take disciplinary action against the learner.

1.2 Vexatious Complaints can result in significant resource issues for Company staff when handling complaints of this nature and we also have a duty to ensure the safety and welfare of our staff. This Policy sets out Cultural Capital Consulting Ltd's approach to the relatively few complainants whose actions or behaviour it considers to be unacceptable or unreasonable.

#### **2. What do we mean by a Vexatious Complaint?**

2.1 Cultural Capital Consulting Ltd considers unreasonably persistent or vexatious complainants as those complainants who, because of the frequency or nature of their contacts with Cultural Capital Consulting Ltd, hinder our investigation of their or other people's complaints. Vexatious complainants may be characterised as trying to make life difficult for Cultural Capital Consulting Ltd rather than genuinely seeking to resolve a grievance.

2.2 Examples of unreasonably persistent and/or vexatious complainant's can be seen below. Please note (the list is not exhaustive, nor does one single feature on its own necessarily imply that the person will be considered as being in this category:

- refuse to co-operate with the complaints investigation process while still wishing their complaint to be resolved
- insist on the complaint being dealt with in ways which are incompatible with the complaints procedure or with good practice
- make what appear to be groundless complaints about the staff dealing with the complaints, and seek to have them dismissed or replaced
- make persistent and unreasonable demands or expectations of staff and/or the complaints process even after the unreasonableness has been explained to the complainant
- harass or verbally abuse or otherwise seek to intimidate staff dealing with their complaint, in relation to their complaint by use of foul or inappropriate, offensive or racist language
- introduce trivial or irrelevant new information whilst the complaint is being investigated and expect this to be taken into account and commented on

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- change the substance or basis of the complaint without reasonable justification whilst the complaint is being addressed
- deny statements he or she made at an earlier stage in the complaint process
- refuse to accept the outcome of the complaint process even after its conclusion, repeatedly arguing the point, complaining about the outcome, and/or denying that an adequate response has been given
- make the same complaint repeatedly, perhaps with minor differences, after the complaints procedure has been concluded, and insist that the minor differences make these 'new' complaints which should be put through the full complaints procedure

### **3. Imposing Restrictions**

3.1 Where a complainant behaves unacceptably during a telephone conversation, we may as a last resort and after sufficient warning terminate the call.

3.2 If the unacceptable behaviour persists despite previous warnings, the Quality Manager, or Directors may decide to take action to restrict their contact with Cultural Capital Consulting Ltd in connection with the complaint. Any restrictions imposed will be appropriate and proportionate. Cultural Capital Consulting Ltd will take account of any reasonable adjustments as a consequence of any declared disability. The options which will be considered are:

- asking the complainant to enter into an agreement about their conduct;
- requesting contact in a particular form only e.g. letters only;
- requiring contact to take place with a named person only;
- restricting telephone calls to specified days, times and duration;
- asking the complainant to appoint a representative to correspond with Cultural Capital Consulting Ltd;
- requiring any personal contact to take place in the presence of an appropriate witness
- letting the complainant know that we will not reply to or acknowledge any further contact from them on the specific topic of that complaint (in this case, a designated member of staff should be identified who will read any future correspondence) unless we determine that it is necessary for the completion of the investigation.

3.3 When the decision has been taken to apply this policy to a complainant, the Quality Manager, or Directors will contact the complainant in writing (and/or as appropriate) to explain why we believe their behaviour is unacceptable, what action we are taking and the duration of that action (typically

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three months) along with a copy of this policy.

3.4 Where a complainant continues to behave in a way which is unacceptable, the Quality Co-ordinator, or Directors may decide to refuse all contact with the complainant and stop any further investigation into his or her complaint.

### **4. Disciplinary Actions**

4.1 If the investigation of the complaint reveals the allegation to be vexatious, frivolous or untrue in nature Cultural Capital Consulting Ltd reserves the right to dismiss the complaint. The complainant will be notified of this decision in writing as soon as possible. The complainant will be informed that such a complaint is deemed to be an abuse of the procedure and disciplinary action may be taken against them.

#### **New complaints...**

- refuse to accept the outcome of the complaint process even after its conclusion, repeatedly arguing the point, complaining about the outcome, and/or denying that an adequate response has been given
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### **5. Imposing Restrictions**

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### **7. New complaints**

7.1 New complaints from learners who have come under this policy will be treated on their merits. The Quality Manager or Directors will decide whether any restrictions which have been applied before are still appropriate and necessary in relation to the new complaint. We do not support a "blanket policy" of ignoring genuine service requests or complaints where they are founded.

### **8. Review of restrictions**

8.1 The status of a complainant judged to be unreasonably persistent or vexatious will be reviewed by the Quality Manager, or Directors after three months and, if extended, at the end of every subsequent three month period, even if this means crossing into the following academic year. The complainant will be informed of the result of this review if the decision to apply this policy to them has been changed or extended.

- refuse to accept the outcome of the complaint process even after its conclusion, repeatedly arguing the point, complaining about the outcome, and/or denying that an adequate response has been given
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complaints which should be put through the full complaints procedure

### **9. Imposing Restrictions**

9.1 Where a complainant behaves unacceptably during a telephone conversation, we may as a last resort and after sufficient warning terminate the call.

9.2 If the unacceptable behaviour persists despite previous warnings, the Quality Manager, or Directors may decide to take action to restrict their contact with Cultural Capital Consulting Ltd in connection with the complaint. Any restrictions imposed will be appropriate and proportionate. Cultural Capital Consulting Ltd will take account of any reasonable adjustments as a consequence of any declared disability. The options which will be considered are:

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9.3 When the decision has been taken to apply this policy to a complainant, the Quality Manager or Directors will contact the complainant in writing (and/or as appropriate) to explain why we believe their behaviour is unacceptable, what action we are taking and the duration of that action (typically three months) along with a copy of this policy.

9.4 Where a complainant continues to behave in a way which is unacceptable, the Quality Co-ordinator or Directors may decide to refuse all contact with the complainant and stop any further investigation into his or her complaint.

### **10. Disciplinary Actions**

10.1 If the investigation of the complaint reveals the allegation to be vexatious, frivolous or untrue in nature Cultural Capital Consulting Ltd reserves the right to dismiss the complaint. The complainant will be notified of this decision in writing as soon as possible. The complainant will be

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informed that such a complaint is deemed to be an abuse of the procedure and disciplinary action may be taken against them.

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### **12. Review of restrictions**

12.1 The status of a complainant judged to be unreasonably persistent or vexatious will be reviewed by the Quality Manager or Directors after three months and, if extended, at the end of every subsequent three-month period, even if this means crossing into the following academic year. The complainant will be informed of the result of this review if the decision to apply this policy to them has been changed or extended.

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### Appendix 2

### Summary of Candidate's Access to Complaints/Appeals

Candidate Name: .....

Assessment Centre Name

1. My Assessment Centre Number is:

2. My Assessor is:

Telephone:

Email:

3. My Internal Verifier is:

Telephone:

Email:

4. The Lead IV is:

5. The Centre Manager is

6. The Assessments Centre's External Verifier is

7. My Awarding Body is...and they can be contacted by:

Telephone:

Email:

If I am unhappy about my assessment process these are the people to whom I can complain.

Please sign this form with your assessor as evidence that the appeals process has been explained to you and to indicate that you have received and understood how to use the Complaints/Appeals Procedure.

Candidates Signature .....Date: .....

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### **APPENDIX 3: DEFINITIONS**

#### **Complaint**

A complaint is defined as an oral or written expression of dissatisfaction with an aspect of Cultural Capital Consulting Ltd service.

#### **Vexatious Complaints**

A complaint may be considered to be vexatious when it may or may not be the latest in a series of requests and it:

- clearly does not have any serious purpose or value;
- is designed to cause disruption or annoyance, or gives rise to disproportionate inconvenience or expense;
- has the effect of harassing Cultural Capital Consulting Ltd and/or its staff;
- can otherwise fairly be characterised as obsessive or manifestly unreasonable.

#### **Frivolous Complaints**

A complaint may be considered to be frivolous where:

- it is clear that is not serious or sensible in content, attitude or behaviour;
- there is an absence of clear desire for a sensible or reasonable form of redress.

#### **Malicious Complaints**

A complaint may be considered to be malicious where:

- there is evidence of intention to do harm or mischief;
- it is reasonable to assume that the complainant intended to do harm or mischief;
- malice may be implied where e.g. it is clear that no redress is sought.

#### **Unsubstantiated Complaints**

A complaint may be considered to be unsubstantiated where:

- after investigation of the complaint where during the course of which the complainant was given full opportunity to provide evidence in support of the complaint, no prima facie evidence has been provided to Cultural Capital Consulting Ltd.