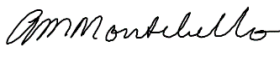


NUMBER : POL017\_17 PAGES : 18

VERSION : V1.0 CREATED : 15/11/2017  
LAST MODIFIED : 15/11/2017  
REVISION DATE : 15/11/2018

DOCUMENTS : Complaints & Appeals Report Form  
Complaint Appeal Register  
Complaint Appeal Schematic

REFERENCES : Appeals Policy  
Complaints Policy  
Fit & Proper Persons Policy  
Children and Vulnerable People's Protection  
Privacy Policy  
Age Discrimination Act Cwlth. (2004)  
Australian Human Rights Commission Act Cwlth. (1986)  
Australian Qualifications Framework  
Disability Discrimination Act Cwlth. (1992)  
Equal Opportunity Act SA (1984)  
Fair Work Act Cwlth. (2009)  
Fair Work Regulations Cwlth. (2009)  
Fit & Proper Persons Requirements (2011)  
Freedom of Information Act Cwlth. (1982)  
Privacy Act Cwlth. (1988)  
Racial Discrimination Act Cwlth. (1975)  
Racial Vilification Act SA (1996)  
Racial Discrimination Act Cwlth. (1975)  
Sex Discrimination Act Cwlth. (1984)  
VET Quality Framework  
Standards for Registered Training Organisations (RTOs) 2015 Cwlth.  
National Vocational Education and Training Regulator Act 2011

AUTHORISED :  DATE : 15/11/2017  
EXECUTIVE OFFICER

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## PURPOSE

It is the purpose of this policy to clarify Southern Grampians Adult Education Inc's (SGAE) ethical and legal position in regards to the provision of open access and equity to all stakeholders of the organisation.

## DEFINITIONS

Advocate

Individual who accompanies an appellant for the purposes of support throughout the complaint or appeal process. An advocate for the purposes of this policy does not include Legal Representation.

Access Equity & Fairness

Refers to the policies, procedures and approaches that ensure that SGAE's training programs are responsive to the diverse needs of all employees, students and other stakeholders.

Being accessible and equitable means ensuring that people with differing needs and abilities have the same opportunities to successfully gain skills, knowledge and experience through education and training irrespective of their age, disability, colour, race, gender, religion, sexuality, family responsibilities, or location.

It includes:

- Providing and promoting non-discriminatory, inclusive practices and processes; and
- Ensuring equal opportunities for all students to achieve their learning outcomes through reasonable adjustment of services, learning and assessment; and
- Commitment to treating all students or prospective students fairly.

Appeal

An appeal arises when a stakeholder is not satisfied with a decision taken by SGAE.

Bullying

The [Fair Work Act \(2009\)](#), defines bullying as:

- a person or a group of people who **repeatedly** behave unreasonably towards a worker or a group of workers at work; and
  - the behaviour creates a risk to health and safety.

Unreasonable behaviour includes victimising, humiliating, intimidating or threatening. Whether a behaviour is unreasonable can depend on whether a

reasonable person might see the behaviour as unreasonable in the circumstances.

Examples of bullying include;

- behaving aggressively;
- teasing or practical jokes;
- pressuring someone to behave inappropriately;
- excluding someone from work-related events or;
- unreasonable work demands.

Bullying does not include **reasonable management action** carried out in a rational manner with the intention to assist. (See: s.789FD of the [Fair Work Act 2009](#)).

Children’s Protection Officer	The Children’s Protection Officers role is to provide and/or facilitate appropriate support services and protections for minor children. The CPO is the VCAL Coordinator
Contractor	Individual or entity engaged by SGAE under contract to deliver specified work on its behalf and who is not employed as an employee within the ATO definition e.g. Sessional trainer/assessor.
Diversity	Is the variety of differences between people from differing cultural, religious and educational backgrounds
Discrimination	A person is treated less favourably than others due to the person’s circumstances, characteristics or beliefs.
Employee	Person employed by SGAE on a full or part time or casual basis as defined by the ATO. Does not include Contractors.
Fairness	Reasonable, impartial just manner in the treatment of individuals or groups.
False or Fictitious Allegation	False allegation made intentionally and without foundation or to cause detriment or mischief. Knowingly lodging a false allegation. (without truth or foundation).
Harassment	Unwelcome and unwarranted behaviour that offends, intimidates, humiliates or embarrasses another person.  This behaviour can be written, physical, verbal or visual in nature. Harassment is not necessarily

	deliberate or intentional and can be one incident or several incidents occurring over a period of time. Harassment may be accompanied by an expressed or implied threat.
Student Support Officer	The Student Support Officers are the Children's Protection Officer and the Vulnerable People's Protection Officer and their role is to provide and/or facilitate appropriate support services for SAGE students.
Malicious Allegation	Fictitious allegation made intentionally and without foundation or to cause detriment or mischief. Knowingly lodging a false appeal (without truth or foundation).
Minor Child	A child under the age of 18 years.
Sexual Harassment	Sexual propositions or advances, verbal or written requests of a sexual nature, sexually explicit conversations, sexual suggestions or innuendos, gender-based insults and taunting, invasive questioning, physical contact and the display of offensive material (e.g. posters, cartoons, jokes, graffiti, magazines, screensavers, email).
Stakeholder	Individual or Entity who is not legally employed by SGAE e.g. Supplier, Contractor, Regulatory Authority.
Vulnerable People's Protection Officer	The VPPO is the Learning Executive and their role is to provide and/or facilitate appropriate support services and protections for Vulnerable People.
Zero Tolerance	Zero tolerance means that SGAE will not accept <b>any</b> form of discriminatory behaviour and will impose automatic suspension from education or employment during investigation for breach of our Access, Equity & Fairness policy. Where allegation is proven disciplinary action will be taken.

## **POLICY**

It is the policy of SGAE to ensure the learning environment and workplace are safe and equitable through:

- zero tolerance of any form of harassment, bullying, discrimination and/or racial vilification which is, as a minimum, aligned with State and Federal legislation; and;
- an inclusive learning environment with support mechanisms to ensure the success of all students.

SGAE's Access and Equity is based in the following principles:

- All employees, contractors, students or potential students and other stakeholders will be treated with respect in a workplace and learning environment free of harassment and intimidation; and
- All decisions will be fair, reasonable, non-discriminatory and based on merit; and
- No individual or group will be treated less favourably than another; and
- All communications and interactions will be free of bias, prejudice and discriminatory language; and
- All stakeholders will be encouraged to participate in the development and improvement of services.

### **ZERO TOLERANCE APPROACH**

1. Where an allegation of discriminatory behaviour is made:
  - 1.1. in the first instance SGAE will discuss the allegation with all parties immediately;
  - 1.2. the perpetrator will be placed on suspension from employment, study or service provision;
  - 1.3. an investigation will be conducted and completed within 5 working days of the allegation having been made;
  - 1.4. all parties will receive a copy of the investigation report.
2. Where the allegation is proven to be true SGAE will:
  - 2.1. where the misconduct is of a lesser degree (e.g. inappropriate humour) and the complainant is willing to enter into mediation, SGAE will:
    - 2.1.1. in the case of employee or student;
      - 2.1.1.1. arrange mediation; and
      - 2.1.1.2. place the perpetrating employee, subcontractor (trainer/assessor) or student on probation; and
      - 2.1.1.3. require the perpetrator to undertake appropriate anti-discrimination training, at their own cost;
    - 2.1.2. require other stakeholders to provide written guarantee that:
      - 2.1.2.1. the individual(s) have been reprimanded; and
      - 2.1.2.2. the individual(s) have undertaken appropriate anti-discrimination training; and

- 2.1.2.3. either the individual(s) providing the service will be replaced or that they will not perpetrate any type of discriminatory behaviour in the future.
3. If the perpetrator refuses to participate as indicated above:
  - 3.1. students will be expelled and a ban placed on future re-enrolment until they evidence SGAE' requirements;
  - 3.2. employee will be terminated from employment until they evidence SGAE' requirements;
  - 3.3. sub-contractor and contractor contracts will be terminated with a ban placed for all future all contracted services unless they can evidence SGAE' requirements.
4. where the misconduct is of a significant type or level SGAE will implement:
  - 4.1. Employee - termination of employment from SGAE.
  - 4.2. Contractors and other stakeholders – termination of current contract or services and ban on all future contracts or services;
  - 4.3. Students – expulsion from current and ban on future enrolments with SGAE.

#### **FALSE OR MALICIOUS ALLEGATIONS**

Anyone found to have made a false or misleading allegation will face disciplinary action as per 4.1 to 4.3 above.

#### **SCOPE**

SGAE's EO and Managers are responsible for client equity.

The EO and Learning and Training Executives are to ensure staff act according to this policy and all clients are made aware of their rights and responsibilities pursuant to this policy.

Information regarding the Access and Equity Policy is contained in the SGAE **Code of Practice** and is displayed throughout the organisation.

The scope of this policy encompasses all:

1. candidates for enrolment in any SGAE courses or qualifications
2. students of SGAE
3. candidates for employment with SGAE
4. employees of SGAE
5. sub-contractors of SGAE

6. Third Parties in partnership with SGAE
7. other stakeholders
8. on and off-job and work placement learning and all qualifications and courses and services delivered by SGAE
9. All employees, contractors, students or potential students and other stakeholders.

Anti-Discrimination, Human Rights, Equal Opportunity & Disability Discrimination legislations are all covered by this policy.

## **ACCESS**

Access, Equity and Fairness are a right for all SGAE stakeholders.

All stakeholders are strongly encouraged to discuss any issues and/or request further information regarding access and equity by speaking with any SGAE employee.

## **PROCEDURE**

### **Procedure for Reporting**

#### ***Minor Children & Vulnerable People***

Children and Vulnerable People in the first instance should report any concerns to any SGAE employee they feel most comfortable with.

The employee will report the issue to the Child Protection or Vulnerable People Protection Officer, whichever may be the most appropriate, who will commence investigations immediately.

The employee will concurrently with the Child Protection Officer or Vulnerable People Protection Officer's investigation assist the student and their parent/guardian(s) to access and complete the Complaints Process.

The Children & Vulnerable People's Protection Policy should be followed.

#### ***Adults***

Concerns regarding Equal Opportunity, Harassment, Discrimination or other inappropriate conduct should be reported **immediately** to the EO.

Where the EO is not available or the complainant prefers they may report to the Training Executive and/or Learning Executive, Trainer/Assessor or other SGAE personnel with whom they feel most comfortable.

Please refer to *Complaint Process Policy* and associated documentation for detailed information on the handling of all complaints.

### **Delegated Authority**

SGAE employees and contractors are delegated with the authority to determine whether an individual should be immediately removed from a harmful situation.



Employees and stakeholders are authorised to remove a student, employee or other stakeholder from a harmful situation without prior consultation with senior management.

All actual or suspected harmful situations must be reported **immediately** to the EO.

## **Zero Tolerance Classified Behaviours**

### ***Abuse of Children or Vulnerable People***

SGAE is committed to a child and vulnerable people safe environment for all of our students and all allegations of inappropriate behaviours towards children or vulnerable people are zero tolerance behaviours and will immediately be reported to police as is required by law and the alleged perpetrator placed on suspension pending an investigation. Where an allegation is proven to be true this will result in immediate expulsion, termination of employment or contract.

All employees, contractors, students and other stakeholders should note that children accessing SGAE's services will be provided with greater supervision and support than adults.

Abuse of children and vulnerable people incorporates physical or mental harm of any kind and neglect and may include but not be limited to:

- any of the behaviours listed as Zero Tolerance below;
- inappropriate physical contact of any kind;
- sexual contact of any kind;
- verbal abuse;
- exploitation;
- intimidation;
- ostracising.

Any person or persons making a report under Mandated Notification will be supported and will not be victimised.

### ***Bullying & Harassment***

SGAE recognises that ignoring harassment and bullying can have serious consequences for all parties. Given that SGAE seeks to attract and retain talented personnel and students from all backgrounds and to maintain safe and positive work and learning conditions, it is determined to provide an environment free of harassment, victimisation and bullying and to uphold of State and Federal laws pertaining to any form of harassment or discrimination.

The boundaries of what constitutes harassment, victimisation and bullying may vary from person to person and these may vary dependent upon the relationships.

Bullying and harassment should not be confused with legitimate comment and advice (including positive feedback) given appropriately by management or trainers and assessors.

Note: Some types of bullying and harassment may be classified as "assault" and may be prosecutable under law.

SGAE is committed to a safe environment for all employee and students and specifically will not condone, encourage or tolerate inappropriate interpersonal behaviours such as bullying or harassment.

SGAE will respond quickly in the event that incidences of bullying and / or harassment are reported during on or off the job training. SGAE will manage a bullying complaint via its current *Complaint Process Policy*.

All bullying and harassment behaviours are zero tolerance behaviours and may immediately result in expulsion, termination of employment or contract. Serious cases of bullying or harassment may constitute a criminal offence. In such cases SGAE will notify police immediately especially if any bullying or harassment includes incidents of physical assault.

From 1 January 2014, a worker in a [constitutionally covered business](#) who reasonably believes that he or she has been bullied at work can apply to the Fair Work Commission for an order to stop the bullying.

A **worker** includes:

- an employee
- a contractor or subcontractor
- an employee of a contractor or subcontractor
- an employee of a labour hire company who has been assigned to work in a particular business or organisation
- an outworker
- an apprentice or trainee
- a student gaining work experience
- a volunteer.

The Commission can only make an order if there is a risk that the worker will continue to be bullied at work by the particular individual or group nominated in their application.

Any person experiencing bullying or harassment should immediately advise the EO or an employee with whom they feel most comfortable.

Any person or persons making a report under the Fair Work Act will be supported and will not be victimised.

### **Sexual Harassment**

Harassment of a sexual nature (e.g. sexual propositions or advances, sexually explicit conversations, suggestions or innuendos etc.) are illegal if in circumstances in which a reasonable person would be able to have anticipated that the person harassed would be offended, humiliated or intimidated.

SGAE is committed to a safe environment for all employee and students and sexual harassment of any form will be dealt with immediately. Serious cases of harassment may constitute a criminal offence.

SGAE will notify police immediately if harassment includes incidents of physical assault which may include inappropriate touching.

Any person or persons making a report under the relevant legislation will be supported and will not be victimised

### ***Discrimination***

Note: Serious cases of discrimination may constitute a criminal offence. Any person or persons making a report under the relevant legislation will be supported and will not be victimised.

Discrimination is broadly defined as treating one person or a group of people unfairly over another based on factors that are unrelated to their ability or potential. State and Federal legislation protects people from discrimination and from being treated unfairly because they have complained about discrimination.

Direct or indirect discrimination on the basis of one or more of the following attributes is unlawful:

- Age
- Gender identity
- Breastfeeding
- Physical, psychiatric or intellectual illness or impairment
- Lawful sexual activity / sexual orientation
- Physical features
- Political affiliation
- Pregnancy
- Nationality and/or cultural background
- Religious affiliation
- Status as a parent or carer
- Marital status

### **Fairness & Equity**

#### ***Students***

1. SGAE's student selection process is fair, equitable and transparent. No candidate for training selection will be discriminated against and reasonable adjustment and support mechanisms will be adopted where required to ensure a student's success; and
2. SGAE's assessment system and its processes will not disadvantage any student or candidate. All students or candidates are guaranteed access to assessment, which does not discriminate on any basis. Assessment guidelines include flexibility and reasonable adjustment for working with candidates and students who have special needs; and
3. SGAE's assessment process evidences the following characteristics:
  - The standards, assessment processes and all associated information are straight forward, understandable and accessible; and

- The characteristics of potential candidates are identified, to enable flexibility and reasonable adjustment of delivery and assessment where required; and
  - The chosen processes and materials within the system of assessment do not disadvantage candidates or students; and
  - Appropriate and effective complaints and appeal resolution mechanisms, linked to a proactive continuous improvement, are in place to address and remediate any unintentional issue of unfairness or disadvantage identified; and
  - Where potential disadvantages are identified, remedial actions are taken as a matter of priority to ensure there is no repetition of the situation.
4. All candidates applying for course entry will be informed of and provided with the Access and Equity Policy via the SGAE website, included in the application pack and at induction.
  5. All students and candidates will be afforded the confidential opportunity to disclose any situation they believe may impede their ability to successfully complete without support or assistance. This will be done via the Disability Disclosure Form and a consequent meeting with SGAE's Trainer/Assessor for the qualification applied for.

The Trainer/Assessor will discuss and negotiate with the individual an appropriate support plan which may include both internal and external support strategies. The Trainer/Assessor will clearly identify in writing that referral to external support services will be free and that any cost for the support service is not covered by the course fees and will be at the expense of the individual.

### ***Employee Selection & Recruitment***

SGAE is an equal opportunity employer and values the diversity of its workforce. This means that without discrimination on any grounds:

1. the most capable person for placement in a position will be selected;
2. within SGAE's capacity all stakeholders will be assisted to participate, maintain and develop personally and professionally;
3. does not grant favouritism or special favours to any candidate or employee in selection or promotion.

### **AWARENESS & RIGHTS**

1. Employees, students and other stakeholders of SGAE are expected to be conscious of actual and potential difference and to actively recognise and respect the boundaries directly or indirectly set by others.
2. All people associated with SGAE may expect the following rights to;
  - be treated with respect and fairly;
  - be emotionally and physically safe in the environment;

- have all reports of harassment treated respectfully, seriously, impartially, sensitively and with reasonable confidentiality and for those issues to be addressed immediately and appropriately;
  - where ever possible, have complaints resolved by a process of discussion, cooperation and conciliation; and
  - receive information, support and assistance in resolving the issue for all parties involved in the complaint.
3. No person lodging a complaint, or assisting in the investigation of a complaint, will be victimised or treated unfairly.
  4. Timely access to their student or personnel records/files.
  5. All employees and students are expected to participate in the complaint resolution process in good faith.

## **RESPONSIBILITY**

### **Executive Officer**

The EO is the Responsible Officer for legislative compliance including but not limited to:

- Corporate e.g. ASIC;
- Occupational Health Safety & Welfare;
- Industrial Relations
- VET Quality Framework including Australian Qualifications Framework;
- Education Services for Overseas Students Framework;
- Discrimination & Human Rights.

It is the EO's responsibility to ensure that SGAE and all of its stakeholders are afforded and provided open access to this policy and related legislation.

The EO is responsible for compliance to legislative requirements in relation to development and delivery of all learning and assessment including but not limited to:

- VET Quality Framework including Australian Qualifications Framework
- Workplace Health & Safety
- Discrimination & Human Rights

and for setting an example by appropriate behaviour at all times.

Additionally, they are responsible for ensuring, directly and through the Executive Team, that:

- all employees, contractors and students are conversant with and correctly action this policy and procedure

- all students are fully informed of the policy and procedure as part of the pre enrolment information and induction process
- appropriate monitoring/auditing of Trainer/Assessor activities in relation to this policy and procedure is conducted effectively and regularly
- intervention options are made available to students with supportable issues in a timely and appropriate manner
- fair and equitable decisions are taken in relation to this policy and procedure.

The EO is responsible for ensuring access, equity and fairness through;

- establishing open lines of communication with all stakeholders to ensure reporting of incidents
- treating any reporting of unacceptable behaviour in a confidential, sensitive, and serious manner
- treating the alleged perpetrator impartially pending a fair and open investigation
- acting on any allegations, complaints or appeals swiftly following SGAE's procedures as outlined in this policy and the *Complaint or Appeal Policies/Procedures*
- continuously monitoring, educating, informing and supporting all employees, contractors, visitors and students to reinforce a safe and equitable workplace and learning environment
- the currency of and ease of access to relevant legislation, policy and support in relation to access, equity and fairness for all stakeholders
- support services are available and accessible to stakeholders
- this policy is incorporated at SGAE website, is including in application packs and the induction process for both students and employees

### **Training Executive and/or Learning Executive**

The Training and Learning Executives are accountable for quality of training and assessment and student completion. In particular, in collaboration with trainer/assessors:

- actively monitor student progress
- intervene immediately it becomes apparent a student is not progressing satisfactorily and provide mentoring and intervention supports to students experiencing supportable issues

The Training Executive and Learning Executive are responsible for:

- Ensuring that stakeholders are aware that harassment is unlawful, unacceptable and will not be tolerated.

- Setting an example by appropriate behaviour at all times.
- Establishing open lines of communication with all stakeholders to ensure reporting of incidents.
- Treating any reporting of unacceptable behaviour in a confidential, sensitive, and serious manner.
- Treating the alleged perpetrator impartially pending a fair and open investigation.
- Acting on any complaints swiftly following SGAE's procedures as outlined in the Complaints Policy.
- Continuously monitoring, educating, informing and supporting all stakeholders to reinforce a safe and equitable workplace.

### **Student Support, Children's Protection & Vulnerable People's Protection Officers**

The Student Support Officers, Children's Protection and Vulnerable People's Protection Officers are responsible for the welfare of students, Children's Protection and Vulnerable People's Protection throughout the student's period of study with SGAE.

### **Trainer/Assessors**

It is the responsibility of Trainer/Assessors to:

- Ensuring that stakeholders are aware that harassment is unlawful, unacceptable and will not be tolerated.
- Setting an example by appropriate behaviour at all times.
- Establishing open lines of communication with all stakeholders to ensure reporting of incidents.
- Treating any reporting of unacceptable behaviour in a confidential, sensitive, and serious manner.
- Treating the alleged perpetrator impartially pending a fair and open investigation.
- Acting on any complaints swiftly following SGAE's procedures as outlined in the Complaints Policy.

### **Employees & Stakeholders**

All stakeholders and staff have a responsibility for ensuring the workplace and learning environments are free of discrimination and harassment. Each employee has the responsibility to ensure that SGAE's culture is one of respect for others and:

- to ensure that they avoid committing harassment or discrimination in any form
- offer support to anyone affected by harassment or discrimination
- report any example of harassment or discrimination to the EO

- if harassed, take action to stop it, not only for self-protection, but to prevent others suffering the same form of discrimination
- treat alleged perpetrators fairly
- if they believe that they have been harassed or denied equality in employment should contact EO
- request the assistance of another person in raising a complaint and in any resultant interviews
- setting an example by appropriate behaviour at all times

Employees, contractors and students are required to be aware of the intent and be compliant with the relevant legislations in regards to access, equity and antidiscrimination including:

[National Vocational Education & Training Regulator Act 2011](#)

Standards for Registered Training Organisations (RTOs) 2015

[Fit & Proper Persons Requirements 2011](#)

[Australian Human Rights Commission](#)

Australian Human Rights Commission Act 1986

Sex Discrimination Act 1984

Racial Discrimination Act 1975

Age Discrimination Act 2004

Disability Discrimination Act 1992

**(Australian Government)** <http://www.comlaw.gov.au>.

Fair Work Act 2009

Fair Work Regulations 2009

Freedom of Information Act 1982

Privacy Act 1988 – Privacy Amendment (Enhancing Privacy Protection) Act 2012 –

Australian Privacy Principles

Workplace Relations Act 1996

Equal Opportunity for Women in the Workplace 1999

### **Trans Border**

All State, Territory and Commonwealth Government legislation, regulations, Acts that may be ratified or updated and as may be relevant from time to time related to Access Equity and Fairness.

### **Vocational & Industry Sectors**

Legislation unique to the vocational sector.

### **Additional Legislative Information and Updates**

Can also be accessed at

- <http://www.austlii.edu.au>
- [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au)
- <http://www.comlaw.gov.au>



Employees and students should not make false or malicious complaints.

### **Students**

All students have the responsibility to:

- ensure that they avoid committing harassment or discrimination in any form
- if harassed, take action to stop it, not only for self-protection, but to prevent others suffering the same form of discrimination
- make themselves aware of and act within the confines of relevant legislation and this policy
- enhance the learning experience by allowing others to learn without compromise of the learning environment through poor or distracting behaviours
- exhibit positive behaviour at all times
- follow instructions at all times
- request the assistance of another person in raising the complaint and in any subsequent resultant interviews.

### **Third Parties**

All Third Parties will operate under a MoU arrangement that will include agreement to meet SGAE policy as a minimum.

All Third Parties will be required to meet SGAE's Access, Equity and Fairness requirements.

## **APPLICABLE STANDARDS**

### **Standards for Registered Training Organisations (RTOs) 2015 (Domestic Students)**

Made under the *National Vocational Education and Training Regulator Act 2011*:

#### **Standard 1 - training & assessment strategy**

##### **Clause 1.3:**

The RTO has, for all of its scope of registration, and consistent with its training and assessment strategies, sufficient:

- c) learning resources to enable learners to meet the requirements for each unit of competency, and which are accessible to the learner regardless of location or mode of delivery; and
- d) facilities, whether physical or virtual, and equipment to accommodate and support the number of learners undertaking the training and assessment.

**Clause 1.7:**

The RTO determines the support needs of individual learners and provides access to the educational and support services necessary for the individual learner to meet the requirements of the training product as specified in training packages or VET accredited courses.