



Reconsideration, Review and Appeals Policy

1. Purpose

- 1.1. The purpose of the Reconsideration, Review and Appeals Policy (**Policy**) is to define College decisions that can be reconsidered, reviewed, or appealed. The policy defines the processes and timeframes and the possible outcomes.
- 1.2. The policy aims to facilitate the resolution of disputed decisions at the lowest level without recourse to formal appeal.

2. Decisions for Reconsideration, Review or Appeal

- 2.1. The decisions which may be reconsidered or reviewed or appealed are:
 - 2.1.1. Decisions in relation to the assessment of progress of registrars of the College (including admission, dismissal or recognition of training).
 - 2.1.2. Decisions in relation to applications for admission to Fellowship.
 - 2.1.3. Decisions in relation to applications from international medical graduates (IMGS) for assessment for recognition on behalf of the Australian Medical Council or any applicable State or Territory Medical Board (or other appropriate purposes).
 - 2.1.4. Decisions in relation to examinations or training required to be undertaken by IMGS for assessment as set out above.
 - 2.1.5. Decisions in relation to participation in the Professional Development Program, in relation to recognition of suitable activities, verification of activities completed and awarding of the Certificate of Compliance.
 - 2.1.6. Decisions in relation to accreditation of training organisations, supervisors and teaching posts (including general practices, hospital departments, or other organisations).
 - 2.1.7. Decisions in relation to the financial status of Fellows, registrars or other persons.
 - 2.1.8. Such other decisions of the College or Committees, as the Board may permit or determine from time to time.

3. Policy

- 3.1. Certain decisions made by or on behalf of ACRRM may be referred for reconsiderations, review or appeal.

4. Reconsideration of Decisions

- 4.1. Matters pertaining to disputed decisions should in the first instance be addressed to the Chairperson of the originating body for reconsideration by the same committee or body which made the disputed decision. Where questions exist as to the relevance of this policy for the reconsideration of a specific decision, guidance should be sought from the Chief Executive Officer.
- 4.2. The processes of reconsideration of a decision allow an applicant to present additional information relevant to a decision, and to ensure that the Committee/Group has had the opportunity to receive and consider all relevant information.
- 4.3. Any person who is dissatisfied with, and adversely affected by a decision referred to below may, within 28 days of receipt of notice of such decision, apply to have the decision reconsidered.
- 4.4. A reconsideration of a decision is undertaken by the same Committee or person who made the original decision.
 - 4.4.1. The applicant for a reconsideration should lodge the application with the Chief Executive Officer using the prescribed form and outlining the reasons for the request and the remedy sought. The applicant should provide any additional material considered relevant to the decision being considered.
 - 4.4.2. The CEO will cause the Committee to convene as the Reconsideration Committee either at its next scheduled meeting, or by special arrangement.
 - 4.4.3. The Reconsideration Committee will consider:
 - 4.4.3.1. all the original material and documentation;
 - 4.4.3.2. all additional material and documentation supplied by the applicant considered relevant to the decision; and
 - 4.4.3.3. any additional material and documentation considered relevant by the Chair.
 - 4.4.4. Minutes of the Reconsideration Committee deliberations, whether as part of a scheduled meeting or specially convened, will be kept in accordance with the normal Committee practice.
 - 4.4.5. Decisions of the Reconsideration Committee.
 - 4.4.5.1. The decision made by the Reconsideration Committee will be conveyed to the applicant in writing following the meeting.
 - 4.4.5.2. Where possible, the Reconsideration Committee should endeavour to provide the applicant with reasons for the decision.
 - 4.4.5.3. The applicant should be advised of the opportunity to request a review of the decision should he/she be dissatisfied and adversely affected by the decision.

5. Review Procedures

- 5.1. Requests for review, where potential appellants seek a review of a decision by the committee or body which has oversight of the disputed decision, or other body, as

determined by the Chief Executive Officer, must be addressed in writing to the Chief Executive Officer using the prescribed form within 28 days of the date of the original decision being made or the decision of reconsideration, whichever is the later, accompanied by any further information not previously provided in relation to the matter under review. A review will not be undertaken where the Chief Executive Officer considers the matter should first be considered by the originating body pursuant to Clause 3 above. Any review made pursuant to this Clause shall not, and does not, constitute an appeal under this policy.

- 5.2. The review will consider material available to the College, including in relation to adherence to College regulations, policies and procedures, and whether the principles of natural justice / procedural fairness were followed in relation to the decision, including in relation to any reconsideration of an original decision.
- 5.3. Where a request for review is accompanied by additional material deemed by the individual to be relevant and significant, but not previously considered by the body from which the decision originated, the material may, at the discretion of the Chief Executive Officer and prior to the Review Committee being convened, be forwarded to the Chairperson of the originating body for possible comment, regardless of whether the matter has been previously considered pursuant to this policy and the relevant policy.
- 5.4. The Chief Executive Officer shall refer a request for Review to the committee or body which has oversight of the disputed decision, or where otherwise appropriate a Review Committee constituted as follows:
 - Two (2) ACRRM Fellows;
 - The College Chief Executive Officer or nominee; and
 - A Fellow with expertise or experience in the area of practice in relation to which the disputed decision arose.

The Review Committee will accept information, whether written or oral, from the Chair of the Committee involved in making the original decision and its reconsideration.

The powers of a Review Committee are the same as those for the Appeals Committee as set out below.

- 5.5. The Review Committee will consider:
 - 5.5.1. All the original material and documentation.
 - 5.5.2. All additional material and documentation supplied by the applicant.
 - 5.5.3. Any additional material and documentation considered relevant by the Chair.
 - 5.5.4. Whether the principles of natural justice were followed when making the original decision, or reconsidering that decision.
 - 5.5.5. Whether the original decision was correct and should be upheld, or overturned and a new decision substituted.
- 5.6. Minutes of the hearing of the Review Committee will be confined to a report listing the documentation presented and a report of the decision to the Committee making the original decision, if any.
- 5.7. Decisions of the Review Committee.

- 5.7.1. The decision made by the Review Committee will be conveyed to the applicant in writing following the meeting.
- 5.7.2. The decision made by the Review Committee will be conveyed to the original Committee in writing following the meeting.
- 5.7.3. The Review Committee is not required to furnish the applicant with reasons for the decision but, where changing the decision, should endeavour to provide reasons to the original Committee.
- 5.7.4. The applicant should be advised of the availability of Appeal.
- 5.8. The College will endeavour to provide the potential appellant with the outcome of the review by the Review Committee in writing within four weeks of the request, the document being subject to any obligations of privacy and confidentiality that may apply.
- 5.9. Following the conclusion of the review process, the Chief Executive Officer must be satisfied that all other avenues to resolve the issues of concern to the potential appellant have been exhausted before a formal appeal can be lodged and an Appeals Committee constituted.

6. Formal Appeals

- 6.1. Formal appeals must be lodged in writing to the Chief Executive Officer within 28 days of the original decision being made (or any Review decision, whichever is the later).
- 6.2. The formal appeal lodged in writing must:
 - state the decision in respect of which the appeal is made;
 - clearly state the grounds for the appeal;
 - provide a brief outline of the matters in issue;
 - state the remedy sought; and
 - provide payment of the applicable appeal fee.

7. Grounds for Appeal

- 7.1. A person who is aggrieved by a College decision may request an appeal in respect of the decision on one or more of the following grounds:
 - 7.1.1. that an error in law or in due process occurred in the formulation of the original decision;
 - 7.1.2. that relevant and significant information, whether available at the time of the original decision or which became available subsequently*, was not considered or not properly considered in the making of the original decision;
 - 7.1.3. that irrelevant information was considered in the making of the original decision;
 - 7.1.4. that procedures that were required by College policies to be observed in connection with the making of the decision were not observed;
 - 7.1.5. that the original decision was made for an improper purpose;
 - 7.1.6. that the original decision was made in accordance with a rule or policy without regard to the merits of the particular case;

- 7.1.7. that the original decision was clearly inconsistent with the evidence and arguments put before the body making the original decision.

* Note: evidence of further training and experience by the appellant during the period between the making of the original decision, the subject of the appeal, and the date of the hearing of the appeal, shall not be considered as information that becomes available subsequently.

8. Appeals Committee Composition

8.1. The Appeals Committee will comprise:

- Three (3) persons (one (1) of whom shall be the Chairperson) who are not College members; and
- Two (2) College Fellows who were not party to any decision to which the appeal relates (in the event of an appeal involving a subspecialist, one of the Fellows should be a subspecialist from that particular subspecialty).

8.2. The Chief Executive Officer of the College, or nominee, shall be in attendance at the hearing of the appeal but shall not be part of the Appeals Committee.

8.3. A quorum for meetings of the Appeals Committee will be the Chairperson and three (3) other members. All members of the Appeals Committee shall be entitled to vote on decisions. Decisions of the Appeals Committee shall be decided by a majority of votes of members. In the event of an equality of votes, the Chairperson may exercise a casting vote.

9. Appeal Proceedings

9.1. After determining that the appeal will proceed, the Chief Executive Officer or nominee shall:

9.1.1. Acknowledge receipt of the appeal, including receipt of payment of the appeal fee.

9.1.2. Convene the Appeals Committee.

9.1.3. Determine the date of the appeal hearing, which shall be held within three (3) months of the lodging of a formal appeal.

9.1.4. At least 21 days prior to the hearing date the Chief Executive Officer or nominee will advise the appellant in writing:

- the date, time and location of the appeal;
- the membership of the Appeals Committee;
- the right of the appellant to present his or her case to the Appeals Committee in person; and
- the right of the appellant to have a personal advocate, colleague or mentor present at the hearing in an observer capacity, but who may, only with the consent of the Appeals Committee, act as advocate in accordance with this policy.

9.2. Appellants are required to lodge all written submissions and copies of any documents and records upon which he/she wishes to rely to the Appeals Committee 14 days prior to an appeal hearing. Additional information provided after the submission will only be considered if the Chair of the Appeals Committee considers that the material is of

significance to the matter.

- 9.3. A personal advocate, colleague or mentor may represent the appellant in those cases where the Appeals Committee considers that an appellant could not present, or would be disadvantaged in his/her appeal if required to present in person. Such a request for an appellant to be so represented must be made in writing to the Chairperson of the Appeals Committee no later than seven (7) working days prior to the date of the appeal hearing. In those cases where the appellant is granted leave to be so represented by an advocate, the Appeals Committee may appoint a person to act as counsel assisting in the hearing of the appeal.
- 9.4. Sponsoring hospitals or general practice may appeal on behalf of Specialist IMGs they are seeking to employ.
- 9.5. The Appeals Committee must act according to the rules of procedural fairness / natural justice and decide each appeal on its merits. The Appeals Committee is not bound by the rules of evidence and, subject to the rules of procedural fairness / natural justice, may inform itself on any matter and in such a manner as it thinks fit.
- 9.6. The Appeals Committee shall be entitled to consider all relevant information which it thinks fit, and may invite any person to appear before it or to provide information.
- 9.7. All proceedings shall remain confidential, save for information relating to decisions distributed as outlined below.
- 9.8. The Appeals Committee may:
 - 9.8.1. Confirm the decision which is the subject of the appeal.
 - 9.8.2. Revoke the decision which is the subject of the appeal and refer it back to the appropriate body or committee for the making of a fresh decision (upon such terms and conditions as the Appeals Committee may determine).
 - 9.8.3. Revoke the decision which is the subject of the appeal and make an alternative recommendation to the Board for final determination by the Board.
- 9.9. In all cases the Appeals Committee's decision is final.
- 9.10. Decisions of the Appeals Committee must be notified to the Board.
- 9.11. The Chief Executive Officer, on behalf of the Appeals Committee, will notify the appellant in writing of the decision, and reasons for the decision, within three (3) weeks of the appeal hearing.
- 9.12. Neither a Review Committee nor the Appeals Committee may make a decision to:
 - 9.12.1. elevate an appellant above others in a competitive selection or assessment process without reference to the scoring process;
 - 9.12.2. recommend a pathway to Fellowship for an IMG without reference to a new IMG assessment by a new assessment panel or committee;
 - 9.12.3. revoke a clinical or examination assessment and replace the assessment with a decision of its own; or
 - 9.12.4. award a Fellowship to any appellant.

10. Fees

- 10.1. The fees for reconsideration and review are detailed on the application form. ACRRM will issue an invoice on receipt of application fee.
- 10.2. The Chief Executive Officer will advise the appellant of the applicable fee prior to lodgement of the formal appeal.
- 10.3. The appellant shall submit payment of the fee with the formal request for appeal.
- 10.4. The College will refund the fee paid to the appellant in the case that an original decision is overturned on the reconsideration, review or appeal.
- 10.5. The Chief Executive Officer of the College has the power to waive the application fee in appropriate circumstances.
- 10.6. An appellant requiring a face-to-face hearing will meet all costs that they incur, including, but not limited to, travel and accommodation, regardless of the outcome of the appeal.

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