



## RECONSIDERATION, REVIEW AND APPEALS POLICY

### 1. Purpose

- 1.1. The purpose of the Reconsideration, Review and Appeals Policy is to define College decisions that can be reconsidered, reviewed, or appealed. The policy defines the application processes, timeframes and possible outcomes for reconsiderations, reviews and appeals.
- 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, reviewed, or appealed are:
  - 2.1.1. Decisions regarding the assessment of progress of registrars of the College (including admission, dismissal, or recognition of training).
  - 2.1.2. Decisions regarding applications for admission to Fellowship.
  - 2.1.3. Decisions regarding 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 regarding examinations or training required to be undertaken by IMGs for assessment as set out above.
  - 2.1.5. Decisions regarding 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 regarding accreditation of training organisations, supervisors, and teaching posts (including general practices, hospital departments, or other organisations) including decisions to:
    - Refuse accreditation or reaccreditation of a training organisation or post.
    - Impose or change a condition on the accreditation or reaccreditation of a training organisation or post.
    - Refuse to change or remove a condition imposed on the accreditation or reaccreditation of a training organisation or post.
    - Suspend accreditation of a training organisation or post.
    - Revoke accreditation of a training organisation or post.
  - 2.1.7. Decisions regarding 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. Any person whose interests are directly and adversely affected by, and who is dissatisfied with certain decisions made by or on behalf of ACRRM may submit an application for reconsideration, review or appeal of that decision.
- 3.2. Except where otherwise permitted in this Policy, an applicant must go through the process of reconsideration and review prior to lodging an application for formal appeal.
- 3.3. The CEO has discretion to allow the process to commence at the reconsideration, review, or appeal stage where he or she is satisfied that to proceed at a particular stage is justifiable and appropriate.

### 4. Reconsideration

#### 4.1 Application for Reconsideration

- 4.1.1 Any person who is dissatisfied with an original decision may apply to the CEO to have the original decision reconsidered by the original decision maker.
- 4.1.2 An application to initiate the reconsideration process must:
  - Be made in writing to the CEO using the prescribed form on the ACRRM website.
  - Outline the reasons for the request and the remedy sought.
  - Include any additional material considered relevant to the decision being considered.
  - Be made within 28 calendar days of the date the original decision was communicated to the applicant.

#### 4.2 Reconsideration Process

- 4.2.1 A reconsideration of a decision is undertaken by the same individual, committee or group who made the original decision (the original decision maker).
- 4.2.2 Where the original decision maker is an individual, the individual will reconsider
  - All the original material and documentation; and
  - All additional material and documentation supplied by the applicant considered relevant to the decision; prior to reaching a decision.
- 4.2.3 Where the original decision maker is a committee or group, the CEO will direct the committee or group to convene as a Reconsideration Committee either at its next scheduled meeting, or by special arrangement. The Reconsideration Committee will consider:
  - All the original material and documentation.
  - All additional material and documentation supplied by the applicant considered relevant to the decision.
  - Any additional material and documentation considered relevant by the Chair.
  - Minutes of the Reconsideration Committee deliberations, whether as part of a scheduled meeting or specially convened, will be kept in accordance with normal Committee practice.



## 4.3 Outcome of Reconsideration

- 4.3.1 The decision made by the original decision maker at reconsideration will be conveyed to the applicant in writing.
- 4.3.2 Where possible, the original decision maker should endeavour to provide the applicant with reasons for the decision.
- 4.3.3 The CEO must be notified of the decision and any reasons for the decision.
- 4.3.4 The applicant must be advised of the opportunity to request a review of the reconsidered decision under Clause 5 of this Policy.

## 5 Review

### 5.1 Application for Review

- 5.1.1 Any person who is dissatisfied with an original decision or a reconsidered decision under Clause 4 may apply to the CEO to have the original decision reviewed.
- 5.1.2 An application to initiate the review process must:
  - Be made in writing to the CEO using the prescribed form on the ACRRM website.
  - Outline the reasons for the request and the remedy sought.
  - Include any additional material considered relevant to the decision being considered including any further information not previously provided in relation to the matter under review.
  - Be made within 28 calendar days of the date the original decision or the reconsidered decision was communicated to the applicant.

### 5.2 Review Process

- 5.2.1 A review of a decision involves bringing a matter relating to a disputed decision to the committee or body which has oversight of the disputed decision, or other body, as determined by the CEO, for their review.
- 5.2.3 Requests for review should ordinarily be made only after reconsideration of the decision has been undertaken in accordance with Clause 4 this policy. A review will not be undertaken where the CEO considers the matter should first be considered by the original decision maker in accordance with Clause 4 above.
- 5.2.3 Requests will be considered where a clear reason has been provided as to why the review process might be justified. 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.
- 5.2.4 Where a request for review is accompanied by additional material deemed by the individual to be relevant and significant, which was not previously considered by the original decision maker, the material may, at the discretion of the CEO and prior to the Review Committee being convened, be forwarded to the Chair of the original decision maker for possible comment. This should occur regardless of whether the matter has been previously considered in accordance with this



Policy.

### 5.3 Review Committee

5.3.1 The CEO shall refer a request for review to the committee or body which has oversight of the disputed decision, or where considered otherwise appropriate by the CEO, a Review Committee.

5.3.2 Where the CEO considers a Review Committee is appropriate, a Review Committee will be constituted as follows:

- Two (2) ACRRM Fellows;
- The College CEO or nominee; and
- A Fellow with expertise or experience in the area of practice in relation to which the disputed decision arose.

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

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

### 5.4 The Review Committee will consider:

5.4.1 All the original material and documentation.

5.4.2. All additional material and documentation supplied by the applicant.

5.4.2 Any additional material and documentation considered relevant by the Chair.

5.4.4 Whether the principles of natural justice were followed when making the original decision or reconsidering that decision.

5.4.5 Whether the original decision was correct and should be upheld or overturned and a new decision substituted.

5.5 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.

### 5.6 Outcome of Review

5.6.1 The decision made by the Review Committee will be conveyed to the applicant in writing following the meeting:

- The College will endeavour to provide the applicant with the decision within four weeks of the request.
- The outcome in writing being subject to any obligations of privacy and confidentiality that may apply.

5.6.2 The decision made by the Review Committee will be conveyed to the original decision maker in writing following the meeting.

5.6.3 The Review Committee is not required to provide the applicant with reasons for the decision but, where changing the decision, should endeavour to provide reasons to the originating body.



- 5.6.4 The applicant must be advised of the availability of Appeal under Clauses 6-9 of this Policy.

## 6 Appeal Process

- 6.1 Any person who remains dissatisfied with an original decision or a decision of any review may submit an application to appeal the decision.
- 6.2 An application for appeal must be lodged in writing with the CEO within 28 days of the date of the original decision or the review decision, whichever is the later.
- 6.3 The application for appeal must:
- 6.3.1 State the decision in respect of which the appeal is made.
  - 6.3.2 Clearly state the grounds for the appeal.
  - 6.3.3 Provide a brief outline of the matters in issue.
  - 6.3.4 State the remedy sought.
  - 6.3.5 Where appropriate, request waiver or reduction of the appeal fee in accordance with Clause 10.6.
- 6.4 On receipt of the application for appeal the CEO will have 14 calendar days to consider whether the application establishes prima facie grounds for an appeal.
- 6.4.1 If grounds for an appeal are established under Clause 7, the CEO will proceed to establish an Appeals Committee in accordance with the provisions in Clause 8 and commence appeal proceedings in accordance with Clause 9.
  - 6.4.2 If grounds for an appeal are not established under Clause 7, the CEO will, communicate his or her decision to the applicant within 14 days of receipt of the application for appeal.

## 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 (Evidence of further training and experience by the applicant 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 which becomes available subsequently).
  - 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.

## 8 Appeals Committee Composition

- 8.1 The Appeals Committee will comprise:
  - 8.1.2 Three (3) persons (one (1) of whom shall be the Chair) who are not College members; and
  - 8.1.3 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 Appeal Committee members will be subject to a rigorous selection process and will:
  - Be of good standing and have appropriate skills and experience related to the Appeal.
  - Disclose any actual, perceived or potential conflicts of interest in relation to their work prior to their appointment and at any time while carrying out their role.
  - Will not assess Appeals from the state or territory where they live or work, and or applications relating to any situation in which they have a known personal or professional connection, including Board memberships and voluntary employment.
- 8.3 The CEO of the College, or nominee, shall be in attendance at the hearing of the appeal for the purpose of hearing all evidence and the Appeals Committee decision, and subsequently notifying the Boar and the appellant of the decision, but shall not be part of the Appeals Committee.
- 8.4 A quorum for meetings of the Appeals Committee will be the Chair and three (3) other members. All members of the Appeals Committee shall be entitled to vote on decisions.
- 8.5 Decisions of the Appeals Committee shall be decided by a majority of votes of members. In the event of an equality of votes, the Chair may exercise a casting vote.

## 9 Appeal Proceedings

- 9.1 After determining that the appeal will proceed, the CEO or nominee shall:
  - 9.1.1 Issue an invoice to the appellant for payment of the appeal fee.
  - 9.1.2 Upon payment of the appeal fee by the appellant, convene the Appeals Committee. The Appeals Committee will not be convened until such time as the appeal fee is paid in full by the appellant.
  - 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 CEO or nominee will advise the appellant in writing:
    - the date, time and location of the appeal hearing;
    - the membership of the Appeals Committee;





- the right of the appellant to present their 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 they wish 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 their appeal if required to present in person. Such a request for an appellant to be so represented must be made in writing to the Chair 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 CEO, 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.
- 9.12.4 Award a Fellowship to any appellant.

## 10 Fees

- 10.1 The fees for reconsideration, review and appeal are detailed on the ACRRM website.
  - 10.1.1 In the case of an application for reconsideration or review, ACRRM will issue an invoice on receipt of a completed application form.
  - 10.1.2 In the case of an application for appeal, ACRRM will issue an invoice once the CEO has determined whether the appeal will proceed in accordance with Clause 6.4.1.
- 10.2 Where an original decision is overturned at reconsideration, review or appeal, the College will refund the application fee to the applicant/appellant in full.
- 10.3 The CEO of the College has the power to waive the application fee in appropriate circumstances. Applicants may request ACRRM waive or reduce an appeal fee in the event that it would cause or would be likely to cause financial hardship. The waiver or reduction of appeal fees is entirely at the discretion of the CEO.
- 10.4 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.

## 11 Document Control

### 11.1 Policy Information

<b>Policy Contact and Author:</b>	Marita Cowie Marita Cowie	<b>Approving Body:</b>	Board
<b>Status:</b>	Approved	<b>Review period:</b>	Every three years
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<b>Responsible Officer:</b>	Chief Executive Officer	<b>Policy System Manager:</b>	Mary Jane Streeton





## 11.2 Document History

Version	Date Approved	Author	Description of revision	Internal Distribution	
				Date	Recipient/s
2.0	May 2024	Policy Team	Amendments to reflect requirements of the National Health Practitioner Ombudsman Review Dec 2022 and recommendations throughout 2023 and 2024 and overall editing and streamlining to improve clarity	May 2024	Managers, General Managers, ELT, CEO, Council and Board
1.0	April 2021	Marita Cowie	New formatting only – no wording changes	Apr 2021	OCEO
Previous system	1 May 2019	Marita Cowie	Reviewed and minor editing to improve clarity	May 2019	OCEO
Previous system	Sep 2017, Sep 2018	Mary Jane Streeton / Marita Cowie	Rewritten as three stage process and renamed as Reconsideration, Review and Appeals Policy	Sep 2017, Sep 2018	OCEO
Previous system	June 2013	OCEO	Appeals Policy	2013	OCEO
Previous system	June 2011	OCEO	Appeals Policy	2011	OCEO