

# Reconsideration, Review and Appeal of Decisions Policy

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## 1. Purpose

The purpose of this policy is to establish a process for the reconsideration, review and appeal of certain decisions made by the Royal Australasian College of Medical Administrators (**College**)<sup>1</sup>.

## 2. Scope

### 2.1 Applicant

- 2.1.1 An Applicant means a person, organisation or body corporate who has formally requested a reconsideration, review or appeal of a decision (as the case may be) in line with section 4.
- 2.1.2 Hospitals or employers may apply for reconsideration, review or appeal on behalf of overseas trained doctors in medical administration/medical leadership when they are seeking to employ Specialist International Medical Graduates (**SIMG**) they are sponsoring.

### 2.2 Decisions able to be reconsidered, reviewed and appealed

The following College decisions can be subject to a reconsideration, review or appeal under this Policy:

- 2.2.1 Decisions in relation to applications or nominations for admission as a Member or reinstatement of membership of a person whose membership has ceased.
- 2.2.2 Decisions in relation to the assessment and progression of Candidates. This includes but is not limited to decisions relating to:
- recognition of prior learning and experience (RPLE).
  - approval of a training period, or time in supervised practice, or progression between phases of training.
  - the outcome of an assessment.
- 2.2.3 Decisions in relation to the cessation or suspension of, or the imposition of conditions on, membership. This includes but is not limited to decisions relating to:
- the financial status of the Member.
  - compliance with training requirements (for Candidates).
  - compliance with continuing professional development (**CPD**) requirements (for Fellows, Associate Fellows and Affiliates).
  - professional standards or conduct of the Member.

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<sup>1</sup> Policy adapted from the Australasian College For Emergency Medicine (ACEM) Reconsideration, Review and Appeals Policy (June 2022) with ACEM's permission.

- 2.2.4 Decisions in relation to requests for special considerations, exemptions and exceptions.
- 2.2.5 Decisions in relation to applications from Specialist International Medical Graduates (**SIMGs**) for assessment for recognition on behalf of the Australian Health Practitioner Regulation Agency / Medical College Council of Australia through the Australian Medical Council or the New Zealand Medical Council:
- a) Assessment of comparability against the criteria for Australian-trained specialist medical administrators.
  - b) Examination, assessments or training required to be undertaken by the SIMGs in order to demonstrate substantial comparability.
  - c) The outcome of an assessment.
- 2.2.6 Decisions in relation to the accreditation of training posts:
- a) Provisional accreditation of a training post.
  - b) The granting of accreditation or reaccreditation to a training post.
  - c) The outcome of a desktop review triggered by changes to Candidates, training post or supervision.
  - d) The imposition of new or change of existing condition(s) on the accreditation or reaccreditation of a training post.
  - e) The refusal to change or remove a condition imposed on the accreditation or reaccreditation of a training post.
  - f) Suspension of accreditation of a training post.
  - g) Withdrawal of accreditation of a training post.
- 2.2.7 Decisions in relation to the recognition of University Masters programs and subjects.
- 2.2.8 Decisions in relation to the outcome of an application to a Management for Clinicians or Leadership for Clinicians program.
- 2.2.9 Such other decisions as the Board may determine from time to time.

### **2.3 Matters that are not in scope of this Policy**

This Policy is not intended to provide an avenue for:

- a) seeking an exemption or exception from an approved policy or regulation.
- b) any person to contest results awarded, decisions of assessors taken in or about any assessment, allegations of poor training or supervision or general grievances.
- c) person(s) to be exempted from any requirements or components of any training program on the basis of ignorance of relevant published regulations and/or policies.
- d) allegations of misconduct or breaches of the Code of Conduct.

### 3. Policy statement

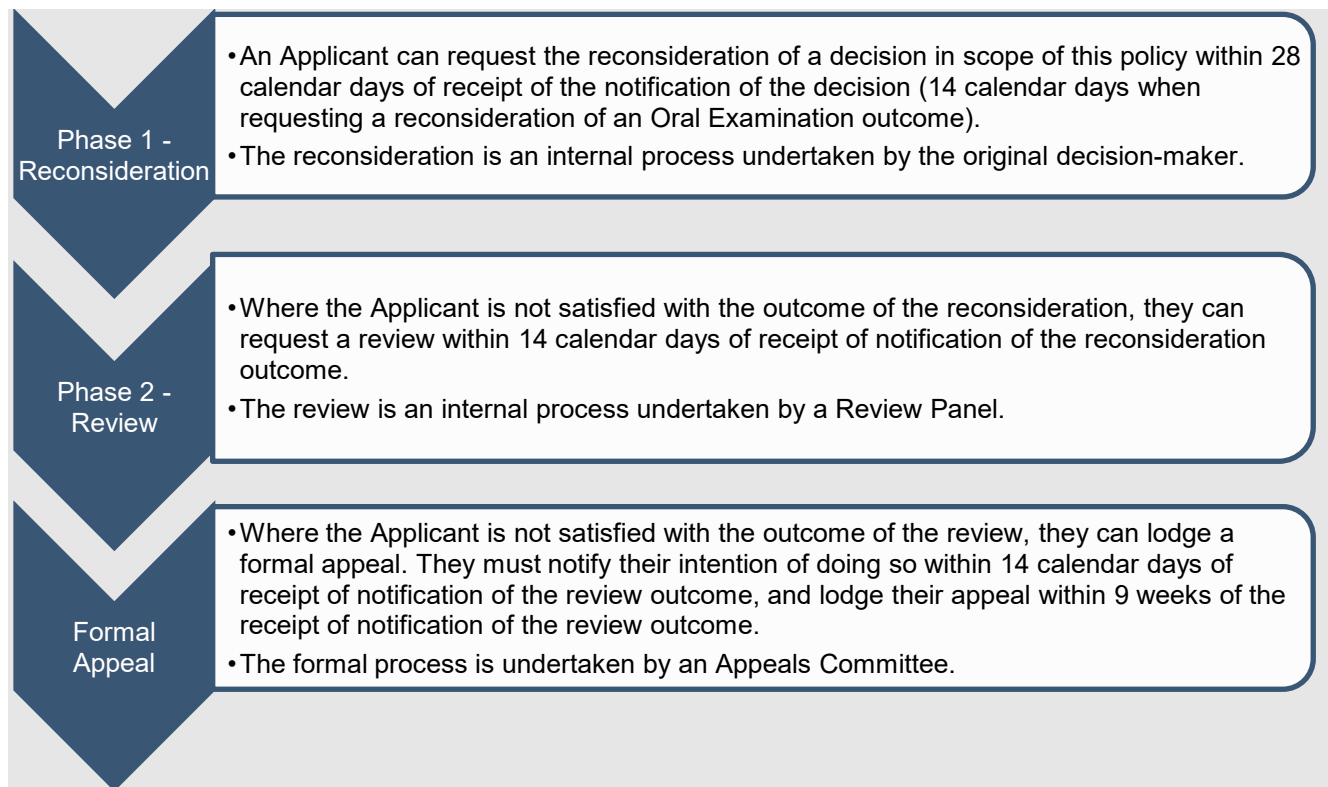
#### 3.1 Intent

Where an Applicant has been subject to a decision of the College that they consider unsatisfactory, and the decision is in scope of this Policy, this Policy establishes processes to ascertain whether the College:

- a) followed its processes in reaching and reviewing its decisions.
- b) gave proper consideration to evidence presented and available in relation to those decisions and any reconsideration, review and appeal of those decisions.

#### 3.2 Approach

3.2.1 The diagram below outlines the 3 phases and their key specificities and timelines:



3.2.2 Only one application for each of reconsideration, review or appeal may be made in respect of an original decision.

3.2.3 If the outcome of a phase is acceptable to an Applicant, then the matter will not proceed any further. It is anticipated that many concerns will be resolved through the reconsideration and review phases.

3.2.4 An Applicant must first go through the processes of reconsideration and review in accordance with this Policy before lodging an application for formal appeal, except where otherwise allowed under section 4.4. Whether initiated by an Applicant, or by the College in response to the decision by the Chief Executive to proceed directly to an appeal, the reconsideration phase and the review phase will be conducted in the same manner and within the same timelines.

- 3.2.5 The reconsideration phase and the review phase may provide information which can be used in a Formal Appeal. Their conduct and findings, however, are explicitly “without prejudice” in the conduct of a Formal Appeal.
- 3.2.6 The reconsideration and review of a decision also assists the College in undertaking quality assurance assessment of the manner and processes by which decisions are made and advised.

## 4. Provisions applicable to all requests

### 4.1 Application

#### 4.1.1 Any Applicant:

- a) whose interests are directly and adversely affected by an original decision (as detailed in section 2.2) that is inconsistent with an approved regulation or policy; and
- b) who is dissatisfied with that original decision

may, within the specified timeframe, apply in writing to have the original decision reconsidered, reviewed and/or considered at a hearing of the Appeals Committee where there is demonstrable evidence of one or more grounds as listed in section 4.2.

- 4.1.2 The onus of establishing the relevant grounds of a request falls upon the Applicant.
- 4.1.3 Applications submitted under this policy will not be accepted where the Applicant is seeking an exemption from an approved policy or regulation.
- 4.1.4 A reconsideration, review or appeal application related to a Candidate's assessment, performance and/or outcome of training:
  - a) must demonstrate clearly prima facie grounds as described in 4.2 a) – h).
  - b) will not be accepted where the application relates to matters that fall under the remit of the Special Consideration for the Oral Examination Policy<sup>2</sup>, and where that policy was not utilised within the timeframe outlined therein and results of the assessment have been published, regardless of the reasons cited for not submitting an application under that policy.
  - c) will not be accepted where the basis of the application is a belief by an Applicant that they should have been successful in an assessment or component thereof based on their recall of a response provided in the assessment in question.
  - d) will not be accepted where the basis of the application is that the Applicant was, or was not, supplied with specific information in the course of the conduct of a component of an assessment that is perceived to be in conflict with that provided to other Candidate(s), unless verifiable evidence is supplied to support the application.
  - e) will not be accepted where the basis of the application is the provision of additional information following receipt of feedback from the College on their performance in an assessment.
  - f) will not, in the absence of clear evidence of a marking error, result in a re-examination or a reassessment, or a change in the published outcome.

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<sup>2</sup> Soon to be replaced by the Exceptional Circumstances and Special Consideration Policy

- 4.1.5 In the case of a reconsideration, review or appeal application related to the process followed in the conduct of an Oral Examination<sup>3</sup> or other assessment being accepted, an investigation may be undertaken to establish whether all steps in the Oral Examination marking or assessment process were correctly executed.

## 4.2 Grounds for application under this policy

For any application made under this policy to progress to reconsideration, review or appeal, there must be demonstrable evidence, provided at the time of the application, of one or more of the following grounds relating to the decision that is the subject of the application<sup>4</sup>:

- a) that an error in law or in due process occurred in the formulation of the original decision.
- b) that the relevant approved regulation or policy was not correctly applied.
- c) that procedures required by approved College policies or regulations to be observed in connection with the making of the original decision were not observed.
- d) that relevant and significant information, existing at the time of the original decision and which should have been known to the decision-maker, was not considered or not properly considered in the making of the original decision<sup>5,6</sup>.
- e) that irrelevant information was considered by the original decision-maker in the making of the original decision.
- f) that the original decision was made for a purpose other than a purpose for which the power was conferred, or by a body that was not empowered to make the decision.
- g) that the original decision was made in accordance with a rule or policy without regard to the merits of the particular case.
- h) that the original decision was clearly inconsistent with the evidence and arguments put before the body making the original decision.

## 4.3 Acceptance of applications

- 4.3.1 The College reserves the right not to accept an application for reconsideration, review or appeal where the Applicant is unable to produce any reasonable or relevant evidence in support of the stated grounds on which the application is based.
- 4.3.2 If the Chief Executive determines in their absolute discretion that there are insufficient grounds for an application or that the information provided by the Applicant falls outside of the grounds and terms contained in this Policy or other College policies, the College will not be obliged to consider the application or the further information provided (as the case may be).

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<sup>3</sup> The Medical Management Practice Oral Examination will be replaced by the Oral Examination under the Fellowship Program Training renewal. For ease, this Policy refers to both as Oral Examination.

<sup>4</sup> The grounds for seeking a reconsideration, review or appeal of decisions align with the Australian Medical Council Standards for accreditation requirements.

<sup>5</sup> Evidence of any further training or experience by an Applicant during the period between the making of the original decision and the reconsideration, review or appeal of that decision, shall not be considered as that information became available subsequent to the original decision.

<sup>6</sup> Evidence of a lack of awareness or understanding of a College regulation, policy, process or other requirement, whether by the Applicant or a support person, including by a Supervisor, will not be considered as relevant and significant information for the purposes of this ground of application.

- a) The Chief Executive will inform the Applicant in writing stating the reasons for not accepting the application.
- b) The Applicant has 14 calendar days to provide a final submission addressing the deficiencies notified by the Chief Executive. If in the opinion of the Chief Executive a prima facie case is still not established, the right to reconsideration, review and appeal in accordance with this Policy will be denied.

#### **4.4 Discretion of the Chief Executive**

- 4.4.1 The Chief Executive has the discretion to allow the process to commence at the 'review' stage or to proceed directly to the Appeals Committee where they are satisfied that there are exceptional circumstances which make it justifiable and appropriate to do so.
- 4.4.2 A request for the Chief Executive to exercise their discretion under this section may also be made by the Applicant at the time of submission of any application pursuant to section 5.1 of this Policy.

#### **4.5 Fees**

- 4.5.1 The College may require that the Applicant pay an application fee for an application for reconsideration, review and appeal. The application fees are such amount as the Board may determine from time to time and will be published on the College website.
- 4.5.2 Fees are to be paid upon receipt of an invoice from the College. Fees must be paid before an Appeals Committee is convened.
- 4.5.3 The College will refund the application fee if the application has been successful (i.e., original decision set aside or revoked under appeal, Oral Examination attempt voided, Oral Examination outcome overturned). The Applicant will be requested to provide bank details for the refund to be processed.
- 4.5.4 The Chief Executive may waive or refund all or part of an application fee and costs if they consider it appropriate.
- 4.5.5 A request for the Chief Executive to waive all or part of an application fee may also be made by the Applicant at the time of notification of their intention to request a reconsideration, review or appeal.
  - a) The Applicant must send the request in writing to the Chief Executive and provide justification for their request (e.g., financial hardship).
- 4.5.6 The request for the waiver of fees will be reviewed and the Applicant will be notified of the outcome before the due date of lodgement of their application for reconsideration, review or appeal.

#### **4.6 Delegation**

The Chief Executive may delegate their powers and duties in respect of any reconsideration, review or appeal to such person as they determine.

#### **4.7 Adverse consequences**

The College is committed to a fair and impartial process and will not tolerate any form of retaliatory action or threats of retaliatory action against anyone who has applied for a reconsideration, review or appeal of a decision under this Policy.

## 5. Phase one – reconsideration

### 5.1 Initiation of Reconsideration

- 5.1.1 Any Applicant who is dissatisfied with an original decision may apply to the Chief Executive to have the original decision reconsidered by the person or entity responsible for the original decision (**original decision-maker**).
- 5.1.2 Any application to initiate the reconsideration process must:
- be made in writing, using the prescribed form sent to the prescribed email address,
  - specify the particular original decision that is being contested, including a brief outline of the matter in issue,
  - specify the relevant ground(s) for the application (see section 4.2),
  - provide documented and verifiable evidence in support of the ground(s) specified by the Applicant, and
  - include payment of the prescribed fee (if any, see section 4.5).
- 5.1.3 The properly constituted application for reconsideration of an original decision must be received by the Chief Executive within 28 calendar days of the date the original decision was communicated to the Applicant in writing<sup>7</sup> or where the decision they wish to be reconsidered is the outcome of an Oral Examination, within 14 calendar days of the date they were notified in writing of the outcome of the Oral Examination.

### 5.2 Conduct of Reconsideration

- 5.2.1 Where an original decision is referred back to the original decision-maker by the Chief Executive for reconsideration, the original decision-maker shall conduct the reconsideration on the basis of:
- all the original material and documentation,
  - all additional material and documentation supplied by the Applicant (if any),
  - the relief previously afforded<sup>8</sup> to the Applicant for the circumstances relevant to the ground(s) on which the application is made (if any), and
  - any additional material and documentation considered relevant by the Chair of the entity responsible for the original decision.
- 5.2.2 The Applicant does not have the right to attend any meetings of the original decision-maker or to make any oral submissions to it, either personally or through any other party.
- 5.2.3 Applications for reconsideration of a decision will be considered by the entity responsible for making the original decision or a subgroup of that entity as deemed appropriate by the Chair of the entity in question and having regard to the circumstances of the matter at issue. The Chair may elect to consider the request without reference to any other member of the applicable entity. Where this occurs, the matter shall be reported to the entity at the next scheduled meeting following

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<sup>7</sup> Communication of the decision in writing may be via email, letter or notification in MyRACMA. Where several communication channels are used (e.g. email and letter), the date of the first notification will be used for the purpose of this Policy.

<sup>8</sup> For example special consideration, exemption or exception decisions.

the reconsideration.

- a) The Censor in Chief is the original decision-maker for Oral Examination outcomes and will be the person conducting the reconsideration.

5.2.4 The Chair, subgroup or entity reconsidering the decision in question may exercise all of the powers and discretions that the entity was able to exercise when it made the original decision and is not subject to the rules of evidence. Subject to the rules of procedural fairness and except where otherwise provided by 5.2.5, the Chair, subgroup or entity reconsidering the decision in question as the original decision-maker may inform itself as it sees fit.

5.2.5 Where applicable, the original decision-maker must not take into account evidence of further training and experience by the Applicant obtained during the period between the making of the original decision and the reconsideration of that decision.

### 5.3 Outcome of Reconsideration

5.3.1 The original decision-maker may make any one of the following reconsideration decisions:

- a) Affirm its original decision.
- b) Vary its original decision.
- c) Set its original decision aside and make a new decision.

5.3.2 Where the request is a reconsideration of an Oral Examination outcome, the Censor in Chief may take any one of the following actions:

- a) Uphold the Oral Examination outcome.
- b) Void the examination attempt and grant another attempt to the Applicant.
- c) Subject to the provisions of this Policy, overturn the Oral Examination outcome based on the paper or electronic record of the examination and with reference to the advice of the relevant censor/s involved and upgrade the outcome in the case of a calculation error.

5.3.3 The original decision-maker must notify the CEO in writing of the reconsideration decision, including reasons for the decision.

5.3.4 The College will keep records of any deliberations and the decision.

### 5.4 Notification of outcome

5.4.1 The College aims to complete the reconsideration process within 6 weeks of acceptance of an application by the Chief Executive.

5.4.2 The Chief Executive will notify the Applicant of the reconsideration decision in writing as soon as practicable. Subject to obligations of privacy and confidentiality that may apply, the notification of the outcome of the application should include:

- a) the reason(s) for the reconsideration decision and
- b) advice about the opportunity for review, should the Applicant remain dissatisfied with the original decision and reconsideration decision.

5.4.3 On receipt of the notification from the Chief Executive of the reconsideration decision, the Applicant may:



- a) accept the original decision and the result of the reconsideration or
- b) within 14 calendar days, submit an application in writing to have the original decision reviewed.

If no application for review is received from the Applicant within 14 calendar days, they will be deemed to have accepted the reconsideration decision.

## 6. Phase two – review

### 6.1 Initiation of Review

- 6.1.1 Any Applicant who remains dissatisfied with the original decision and/or any reconsideration decision may apply to the Chief Executive to have the original decision reviewed by a Review Panel.
- 6.1.2 A review may only be sought in relation to the ground(s) considered in the original application for reconsideration. New or additional grounds may not be raised at this stage.
- 6.1.3 The request for review must:
  - a) be made in writing, using the prescribed form sent to the prescribed email address,
  - b) include any additional material or documentation not previously considered (if applicable), and
  - c) include payment of the prescribed fee (if any, see section 4.5).
- 6.1.4 The properly constituted request for review of a reconsideration decision must be received by the Chief Executive within 14 calendar days of the date of notification of the reconsideration decision.

### 6.2 Where special leave is granted

Where the Chief Executive has exercised their discretion for a matter to proceed directly by way of review (rather than by reconsideration), the application for review must:

- a) include all the information and documentation required for the reconsideration of an original decision and
- b) be received by the Chief Executive within the timeframe stipulated in writing by the Chief Executive.

### 6.3 Review Panel

- 6.3.1 The Chief Executive shall convene a Review Panel, which shall comprise 3 people chosen by the Chief Executive for this purpose (one of whom shall be nominated as Chair).
- 6.3.2 The Review Panel shall not include any member who participated in the original decision or the reconsideration decision or who otherwise has or is perceived to have a conflict of interest.

### 6.4 Conduct of Review

- 6.4.1 The Chief Executive refers the request to a Review Panel constituted as above.
- 6.4.2 The Review Panel shall consider, and conduct the review on the basis of:

- a) all the original material and documentation considered by the original decision-maker,
- b) all additional material and documentation supplied by the Applicant for the purposes of the review (if any),
- c) any additional material and documentation considered relevant by the Chair of the Review Panel,
- d) whether the principles of procedural fairness were followed when the original decision was made and (if relevant) when it was reconsidered,
- e) the relief previously afforded to the Applicant for the circumstances relevant to the ground(s) on which the application is made (if any), and
- f) any College regulations, policies and procedures relevant to the decision.

6.4.3 Where applicable, the Review Panel must not take into account evidence of further training, supervised practice or experience by the Applicant obtained during the period between the making of the original decision and the review of that decision.

6.4.4 The Applicant does not have the right to attend any meetings of the Review Panel or to make any oral submissions to it, either personally or through any other party.

6.4.5 The Review Panel may exercise all of the powers and discretions that the original decision-maker was able to exercise and is not subject to the rules of evidence. Subject to the rules of procedural fairness and it may inform itself as it sees fit.

## **6.5 Outcome of Review**

6.5.1 The Review Panel may make any one of the following review decisions:

- a) Affirm the original decision or reconsideration decision.
- b) Vary the original decision or the reconsideration decision.
- c) Set aside the original decision or reconsideration decision and refer the matter to the original decision-maker for further consideration in accordance with any directions or recommendations it may make.
- d) Set aside the original or reconsideration decision and make any further decision it thinks appropriate.

6.5.2 Minutes of the meeting of the Review Panel shall be confined to a list of all persons present, a report listing the documentation presented and a report of the review decision, including reasons for the decision.

6.5.3 The Review Panel must notify the Chief Executive in writing of its decision, including reasons for the decision.

## **6.6 Notification of outcome**

6.6.1 The College aims to complete the review process within 12 weeks of acceptance of request for review by the Chief Executive.

6.6.2 The Chief Executive will notify the Applicant in writing of the review decision as soon as practicable. Such notification should include:

- a) the reasons for the review decision and

- b) instructions on how the Applicant can apply to formally appeal should they remain dissatisfied with the original decision and/or any reconsideration and/or review decision following the reconsideration and review processes.

6.6.3 The Chief Executive will notify the Chair of the original decision-maker in writing of the review decision, including the reasons for that decision, as soon as practicable. The Chair of the applicable governing body and other College entities considered relevant to the decision may, at the discretion of the Chief Executive, also be notified of the review decision, including the reasons for the decision.

6.6.4 On receipt of notification from the Chief Executive of the review decision, the Applicant may:

- a) accept the original decision and the result of the review, or
- b) within 14 calendar days of the date of notification, advise the College whether they wish to formally appeal the decision.

If no correspondence is received from the Applicant within 14 calendar days, they will be deemed to have accepted the review decision.

## 7. Formal appeal

### 7.1 Initiation of Appeal

7.1.1 Any Applicant who remains dissatisfied with an original decision or decision of any reconsideration / review after review may submit an application to appeal the decision.

7.1.2 The application for appeal must:

- a) be made in writing be made in writing, using the prescribed form sent to the prescribed email address,
- b) outline the decision in respect of which the appeal is made, the grounds for the appeal, a brief outline of the matters in issues and the remedy sought,
- c) be accompanied by all relevant information upon which the Applicant seeks to rely in respect of the appeal, and
- d) include payment of the prescribed fee (see section 4.5).

7.1.3 Subject to section 6.6.4 of this policy, the properly constituted application for appeal must be received by the Chief Executive within 9 weeks of the date of notification of the review decision.

7.1.4 Before convening an Appeals Committee, the Chief Executive will ensure that both a reconsideration and review of the decision to be appealed have been conducted unless determined otherwise by the Chief Executive. Such reconsideration and review do not constitute an appeal under section 7.

7.1.5 Where the Chief Executive has exercised their discretion for a matter to proceed directly by way of appeal (rather than by reconsideration and/or review), the application for appeal must:

- a) include all the information and documentation required for the reconsideration of an original decision and
- b) be received by the Chief Executive within the timeframe stipulated in writing by the Chief Executive.

## 7.2 Appeals Committee

7.2.1 The Appeals Committee is an ad hoc committee of the Board, convened by the Chief Executive as required to hear appeals in accordance with the terms of this Policy.

7.2.2 An Appeals Committee shall consist of 5 members, comprising:

- a) a Chair who is considered an appropriately qualified person for the role and who is not a College Member
- b) 2 other persons who are not College Members
- c) 2 College Members with knowledge and expertise relevant to the matter that is the subject of the appeal

none of whom participated in the original decision, the reconsideration decision or the review decision, or who otherwise has or is perceived to have a conflict of interest.

7.2.3 The Chief Executive or their delegate will be the Secretary to the Appeals Committee but is not a member of the Appeals Committee.

7.2.4 The Chair of the Appeals Committee (**Chair**) may, at their discretion, invite a solicitor appointed by the College (**College Solicitor**) to act as legal adviser to an Appeals Committee. The College Solicitor is not a member of the Appeals Committee.

7.2.5 A quorum for meetings of the Appeals Committee will be the Chair and 2 other members, at least one of whom shall be a College Member. All members shall be entitled to vote on decisions, with decisions of the Committee being decided by a simple majority of those members present. In the event of an equality of votes, the Chair may exercise a casting vote.

7.2.6 Applicants will be advised in writing of the composition of the Appeals Committee and advised that should they believe any member to have a conflict of interest that may impair that individual's ability to impartially consider the matter, they have the right to have the matter considered by the Chair of the Appeals Committee or the Chief Executive where the conflict is believed to be associated with the Chair. The Applicant will be advised that any such request, including any relevant supporting documentation or other material(s) should be provided not less than 14 calendar days prior to the scheduled date of the appeal hearing and that, depending on the availability of a suitable replacement should the Chair or Chief Executive believe that such a conflict does exist, the appeal hearing may need to be delayed or rescheduled in order to obtain a suitable replacement member, or that the appeal may proceed with a reduced membership of the Appeals Committee. Such decision being at the discretion of the Chair or Chief Executive as applicable. Any costs incurred by the Applicant as a result of any delay(s) or changes or previously advised arrangements will be borne by the Applicant.

7.2.7 The Chair of the Appeals Committee may request that the original decision-maker be asked to attend and address the Appeals Committee on matters relevant to the appeal. They will be given opportunity to comment on submissions of the Applicant and the original decision-maker.

7.2.8 The decisions which may be appealed to an Appeals Committee are those listed in section 2.2 of this Policy.

## 7.3 Notification of hearing and submissions

7.3.1 At least 21 calendar days before an Appeals Committee hearing, the Chief Executive will advise the Applicant in writing of:

- a) the date, time and place of the hearing

- b) the Applicant's right to appear, at their own cost, before the Appeals Committee
- c) the Applicant's right to have a support person present
- d) the Applicant's right to request to have legal representation, at their own cost.

7.3.2 In any appeal, the Applicant will have the onus of proof to establish the grounds of the appeal.

7.3.3 An Applicant may make written submissions to an Appeals Committee. The Applicant must give any written submissions and provide any relevant information in support of their submission to the Chief Executive at least 14 calendar days before the Appeals Committee hearing.

7.3.4 The Applicant's submissions and the original decision-maker's submissions will be provided to the Appeals Committee.

## **7.4 Attendance of the Applicant**

7.4.1 The Applicant has the right to appear before the Appeals Committee and to advocate the merits of the appeal themselves as set out in their written submissions.

7.4.2 The Applicant has the right to be accompanied by a support person, who may not act as an advocate for the Applicant.

7.4.3 The Applicant is not entitled to be accompanied by a legal representative (or any other person who shall act as an advocate) before the Appeals Committee unless the Appeals Committee Chair has given prior consent where it is felt that an Applicant could not present or would be disadvantaged in their appeal if required to present in person. Any request for such representation must:

- a) be made by the Applicant,
- b) specify the reasons on which the request is made, and
- c) be received by the Chief Executive at least 14 calendar days prior to the date of the relevant Appeals Committee hearing.

7.4.4 If the Applicant has approval, the Applicant's legal advisor may not act as an advocate for the Applicant but they may be invited to address the Appeals Committee regarding any particular legal issue that the Appeals Committee believes cannot adequately be addressed by the Applicant. In such cases the College Solicitor may be invited to attend meetings of the Appeals Committee to assist the Committee in the hearing of the appeal.

## **7.5 Conduct of the appeal**

7.5.1 Subject to this Policy, an Appeals Committee has full power to regulate its conduct and operation as it thinks appropriate.

7.5.2 An Appeals Committee will:

- a) conduct its affairs with as little formality and technicality, and with as much expedition, as a proper consideration of the matters before the Appeals Committee permits.
- b) to the extent it thinks appropriate – conduct the hearing in accordance with the Conduct of Appeals Committee Meetings Procedure.
- c) act according to procedural fairness.
- d) decide each appeal on its merits.

7.5.3 An Appeals Committee:

- a) is not bound by the rules of evidence but may inform itself on any matter in such manner as it thinks appropriate.
- b) may consider all relevant information that it thinks appropriate.
- c) may invite any person to appear before it or to provide information.

7.5.4 The Appeals Committee must keep confidential:

- a) any transcript of a hearing of the Appeals Committee
- b) any other information relating to an appeal that the Appeals Committee receives.

7.5.5 Notwithstanding section 7.5.4, the Appeals Committee may disclose the above matters:

- a) if required to do so by law or a government body, or
- b) in a report prepared under section 7.5.6.

7.5.6 An Appeals Committee will prepare minutes of the hearing setting out:

- a) a report of its decision and
- b) its recommendations, if any, to the Board.

7.5.7 The Appeals Committee may give the Board a copy of the minutes. The Board may publish all or any part of the minutes if it thinks such publication is appropriate.

## 7.6 Outcome of Appeal

7.6.1 An Appeals Committee may, upon considering all submissions and subject to the restrictions of section 7.6.2, do any one or more of the following as the circumstances permit:

- a) Confirm the original decision that is the subject of the appeal.
- b) Revoke the original decision under appeal (except in the case of Oral Examination outcomes).
- c) Revoke the original decision under appeal and refer the decision to an appropriate College body for further consideration in accordance with the Appeals Committee's directions.
- d) Revoke the original decision under appeal and make recommendations to the Board on an alternative decision.
- e) Revoke the original decision under appeal and refer the original decision to an appropriate external body or authority.
- f) Recommend to the Board whether part or all of the costs associated with the Appeals Committee should be refunded.
- g) Make suggestions to Chief Executive and to the Board with regards to matters covered by the appeal.

7.6.2 An Appeals Committee may not:

- a) make any decision that the original decision-maker could not have made or was not empowered to make.

- b) revoke any Oral Examination or assessment of any Applicant and replace the assessment with an assessment of its own.
- c) recommend a pathway to Fellowship for an SIMG without reference to a new SIMG assessment panel.
- d) elevate an Applicant above others in a competitive assessment or selection process.
- e) award fellowship or other College membership to any Applicant.

7.6.3 In all cases, the decision of the Appeals Committee is final.

## 7.7 Notification of outcome

7.7.1 The Appeals Committee will issue a written decision (**report of the decision**), with reasons for the decision, as soon as practicable after completion of the appeal hearing to enable communication of the decision to the Applicant and to other relevant parties within 5 weeks of the appeal hearing or within 3 weeks of receiving any requested further written submissions after the appeal hearing, whichever is the later.

7.7.2 The report of the decision shall be:

- a) submitted to the next meeting of the College Board scheduled to occur after communication of the decision to the Applicant.
- b) conveyed to the Chair of the governing body that oversees the entity responsible for the original decision, as well as the Executive Manager or Executive Director of the College unit responsible for the coordination of that governing body, and the Chair of such other entity(ies) as the Board or relevant governing body may determine, to enable facilitation of any further processes required as a result of the decision, as well as review of processes surrounding the original decision. The Chair may choose to share the report of the decision with members of the governing body and/or entity(ies) identified.

7.7.3 The Appeals Committee's decision takes effect from the date of forwarding of the decision to the Applicant and any College body.

7.7.4 Upon receipt of a recommendation of the Appeals Committee, the Board may accept and act upon all or part of such a recommendation as it sees fit, subject to the provisions of the College Constitution.

7.7.5 The decision of the Board following a recommendation of the Appeals Committee will be provided to the Applicant within a reasonable timeframe of the Board's decision.

7.7.6 Where an appeal decision is determined by the College President and/or Chief Executive to have direct relevance and ramifications beyond the entity that made the original decision, and where it is considered necessary for College processes to be altered as a result of the decision of an appeal, and with the agreement of the entity Chair, the decision of the Appeals Committee, along with information relating to the summary of the reason(s) for the decision that is considered to be of direct relevance, may be conveyed to such other bodies or staff as is considered necessary, provided that the information conveyed is first de-identified to protect the confidentiality of the appeal proceedings.

7.7.7 Minutes of hearings of the Appeals Committee shall be confined to a report of the decision forwarded to the Board.

7.7.8 Save for section 7.6.1 f) the Applicant shall bear all costs incurred by them in connection with the Appeal, including any legal, travel or accommodation costs.

## 8. Definitions

Key term	Definition
Member	Means a person whose name is entered in the Register of Members as a Member of the College. The membership of the College is divided into five classes: Candidates, Fellows, Associate Fellows, Affiliates and Honorary Members. Definition of those classes is as per section 5 of the Constitution.
Original decision	means the decision of the College entity which gave rise to the processes described in this policy.
Original decision-maker	means the College entity that made the original decision
Reconsideration decision	means the decision of the original decision-maker on reconsideration of an original decision.
Review decision	means the decision of the review panel on review of a reconsideration decision or original decision.
Appeal decision	means the decision of the Appeals Committee on appeal of a review or reconsideration decision or original decision.

## 9. Related documents

- Conduct of Appeals Committee Meetings Procedure
- Constitution
- Privacy Policy
- Confidentiality Policy
- Any policy relevant to the original decision-making process.
- Australian Medical Council Standards for Assessment and Accreditation of Specialist Medical Programs 2023, specifically 1.3 and 9.1

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