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1. INTRODUCTION AND PURPOSE

- 1.1. The Royal Australian and New Zealand College of Psychiatrists (“College” or “RANZCP”) has established this policy to provide a reconsideration and appeal mechanism to ensure that those affected by decisions of the College are treated reasonably, consistently and objectively at all times.
- 1.2. The RANZCP is committed to the implementation of reasonable, transparent and accountable decision making.

2. BACKGROUND

- 2.1. Any person who is dissatisfied with a decision and contends that it is inconsistent with approved College policy and procedure may, within three (3) months of notice of such decision, apply to the Chief Executive Officer (CEO) to have the decision reconsidered and then heard by the RANZCP Appeals Committee.
- 2.2. Prior to beginning the appeals process, the Applicant can request to the CEO, in writing, that the College provide reasoning for the original decision which is being appealed. The College will endeavor to respond to the Applicant, within four (4) weeks of receiving the request, explaining the reasons for the original decision.
- 2.3. The CEO may delegate any, or all of his or her powers and duties under this procedure to such person or persons as he or she determines, provided there is no personal interest in the outcome of the reconsideration and appeals process.
- 2.4. The CEO may grant leave for the Applicant to bring a matter for Reconsideration or Appeal outside of the time limit if the Applicant demonstrates that there are reasonable grounds to allow the application to be considered out of time. This may include but is not limited to events which may have prevented the Applicant from making the application within the time constraints and the availability of new information.

3. RECONSIDERATION

- 3.1. Before referring the matter to the Appeals Committee, the CEO will advise the Applicant that a Reconsideration of the original decision will be conducted by the College Board or Committee that made the original decision or recommendation(s).
- 3.2. The Applicant must apply to the CEO in writing on the prescribed form provided by the College. The Applicant must set out the details of the decision or recommendation(s), the grounds for the reconsideration and any additional relevant information which may be considered or was unavailable at the time of the original decision.
- 3.3. The Applicant is required to pay a Reconsideration Fee of \$AU/NZ 1,000 (GST inclusive), charged in the applicable currency, at the time of lodgment. The CEO may consider submissions to waive the application fee in certain circumstances (i.e. proven hardship). The onus of proof will be on the Applicant.
- 3.4. The Applicant will be informed in writing of the date of reconsideration at least fourteen (14) days prior to the Reconsideration. The reconsideration will be ex-parte, therefore the Reconsideration will occur without the Applicant present.
- 3.5. The CEO will forward the request for Reconsideration along with all additional documentation to the Chair of the relevant Board or Committee.

- 3.6. The Chair of the Board or Committee will either convene a face to face meeting or teleconference to reconsider the decision or recommendation(s), within two (2) months of receiving the request from the CEO. The Reconsideration will occur in a fair and impartial manner, with regard to College policies and procedures.
- 3.7. The CEO or a representative of the CEO will be present during the Reconsideration.
- 3.8. The relevant Board or Committee will consider among other things, all original information, the reasoning for the decision or recommendation(s), the grounds for the Reconsideration and any additional information. The Board or Committee will also review the procedural steps undertaken during the original decision to ensure that College policies and procedures were adhered to and that due process was followed during the decision making process.
- 3.9. Evidence of further training and experience by the Applicant during the period between making the original decision and the convening of the reconsideration shall not be considered as additional information.
- 3.10. At any time during this process, the CEO may request any information, records or reports from any person, body or institution relevant to the application as he or she thinks fit.
- 3.11. The Board or Committee retains the right to an extension of time within which to make a determination. The Applicant will be notified in writing as soon as practicable by the CEO of any extension required.
- 3.12. Minutes of the Reconsideration process will be taken in accordance with the College's usual governance practices.
- 3.13. Once the Board or Committee reconsiders the decision, the Chair will forward the outcome and its reasoning to the CEO, within seven (7) days of the Reconsideration.
- 3.14. The Applicant will be advised of the outcome by the CEO, in writing, within fourteen (14) days of the Reconsideration.
- 3.15. If the outcome of the Board or Committee is to revoke the original decision or recommendations, or make alternate findings, the CEO will forward Board or Committee's recommendations to their parent committee for consideration, in accordance with the College's governance structure.
 - 3.15.1. The Applicant will be advised of the outcome of the reconsideration in writing, within fourteen (14) days of parent committee considering the matter.
 - 3.15.2. The correspondence will provide information on the implications of the outcome and any further action required by the Applicant.
- 3.16. The Applicant may request copies of information on which the outcome was based. The College will provide such information upon written request, subject to obligations of privacy and confidentiality which may apply.

4. APPEAL

- 4.1. Applications for Appeal will not be accepted, and Appeals will not be heard, unless the College Reconsideration process has occurred and on the basis of the material received, there are prima facie grounds for Appeal.
- 4.2. The Applicant is required to provide a Notice of Intention on the prescribed form setting out the grounds for Appeal and pay an Appeal Fee of \$ AU/NZ 4,000 (GST inclusive) charged in the applicable currency. The CEO will convene the Appeals Committee within two (2) weeks of processing the Appeal Fee.

- 4.3. Details of the Appeals Fee will be published under the Governance Tab of College website. The CEO may consider submissions to waive the Appeal Fee in certain circumstances (i.e. proven hardship). The onus of proof will be on the Applicant.
- 4.4. The Appeal Fee will be determined on an annual basis in accordance with the usual College procedures.

5. GROUNDS FOR APPEAL

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

5.1. Decisions which may be reviewed by the Appeals Committee include but are not limited to:

- 5.1.1. Decisions or recommendations of the College to suspend or terminate membership of the College;
- 5.1.2. Decisions or recommendations by the Boards and Committees in relation to admission to Fellowship of the College;
- 5.1.3. Decisions or recommendations made by the Professional Practice Review Committee to terminate the membership of a member under clause 6.2.1 of the Constitution;
- 5.1.4. Decisions or recommendations by the Board of Education and Committees in relation to the education, training and assessment of trainees of the College, including selection, examination, dismissal or accreditation of training;
- 5.1.5. Decisions or recommendations of Boards and Committees in relation to the assessment of Overseas Trained Psychiatrists seeking a pathway to Fellowship of the College;
- 5.1.6. Decisions or recommendations of the Boards and Committees in relation to participation in the Continuing Professional Development Program and awarding of the Certificate of Continuing Professional Development;
- 5.1.7. Decisions or recommendations by the Committee of Professional Practice, Board of Education and Committees in relation to professional conduct of Fellows and College trainees;
- 5.1.8. Decisions or recommendations in relation to the financial status of College members;
- 5.1.9. Decisions or recommendations by the Board of Education and Committees in relation to accreditation of hospitals, units, teaching centres or supervisors positions for training;
- 5.1.10. Other decisions or recommendations of the College, its Boards or Committees in relation to applications for admission to Fellowship.

5.2. The grounds for Appeal include but are not limited to:

- 5.2.1 An error in law or in due process occurred in the formulation of the original decision;
- 5.2.2 Relevant and significant information which was not considered or not adequately considered in the making of the original decision;
- 5.2.3 The original decision was inconsistent with the evidence and arguments put before the body making the original decision;
- 5.2.4 Irrelevant information was considered in the making of the original decision;

- 5.2.5 Procedures that were required by College policies to be observed in connection with the making of the decision were not observed;
 - 5.2.6 The original decision was made in accordance with a rule or policy without regard to the merits of the particular case;
 - 5.2.7 The original decision was made for an improper purpose.
- 5.3. For the avoidance of doubt, a decision made by General Council is not subject to Reconsideration or Appeal.
- 5.4. Applications that are inactive for longer than two (2) months without adequate reasoning will be deemed to be dormant and the Application will be closed without further consideration. No refund of the Appeal Fee will be provided under these circumstances.

6. APPEALS COMMITTEE

6.1. Appeals Committee Structure

- 6.1.1. The Appeals Committee will be convened by the CEO and will comprise of the Chair; which may include a retired Judge, Tribunal Member, Registrar or any other relevant person, who will be the principal decision maker and two (2) RANZCP Fellows to provide insight and advice. The Appeals Committee will not include any person who has or has had a personal interest in the outcome of the Appeal.
- 6.1.2. The CEO shall be the Secretary of the Appeals Committee but shall not be a member of the Committee.
- 6.1.3. The Appeals Committee will endeavor to achieve appropriate gender balance. The Chair of the Appeals Committee, appointed by General Council, will serve a term of two (2) years. The Appeals Committee will not comprise any individual who was party to the decision of the College, which gave rise to the Appeal.
- 6.1.4. The Chair will solely determine the outcome of the Appeal Hearing but receive recommendations and advice from the other members.

6.2. Appeals Committee Powers and Responsibilities

- 6.2.1. The General Council of the RANZCP has the power to delegate any or all of its functions, powers or discretions to committees comprising such persons as the General Council determines¹.
- 6.2.2. The Appeals Committee is an ad hoc committee of General Council convened as required to hear Appeals by individuals who are dissatisfied with a decision of the College².
- 6.2.3. No decision of the Appeals Committee relating to College policy will be acted on by the Appeals Committee. Nor will any decision by the Appeals Committee be binding on the

¹ Article 16 of the Constitution

² Article 16.2 of the Constitution

College except insofar as it is consistent with the delegated powers of the Appeals Committee, or is first submitted to and approved by the General Council of the College.

- 6.2.4. The Appeals Committee may not, appoint or re-instate a Fellow to the College, elevate an appellant above others in a competitive assessment, or overturn the clinical assessment of a trainee or an International Medical Graduate. In such cases, the Appeals Committee may make recommendations and refer such decisions to the General Council.
- 6.2.5. The Appeals Committee must have regard to the rules of natural justice and decide each Appeal on its merits and in accordance with the rules of procedural fairness.
- 6.2.6. The Appeals Committee is not bound by the rules of evidence and, subject to the rules of natural justice; it is entitled to consider all relevant information and may invite any person to appear before it, or to provide information.
- 6.2.7. The Appeals Committee will be entitled to conduct its affairs with as little formality as possible but otherwise, subject to these rules, will have full power to regulate its conduct and operation.

7. APPEAL APPLICATION

7.1. Contents of Application

- 7.1.1. The Applicant will be given the opportunity to set out any further submissions and additional relevant information which was not considered or was not available at the time of the original decision or the Reconsideration.
- 7.1.2. The application must be in writing on the prescribed form provided by the College and must be accompanied by any relevant documentation. The application must be lodged by the person affected by the decision and must be provided to the CEO within four (4) weeks of the convening of the Appeals Committee.
- 7.1.3. 7.1.2 is subject to the following exceptions:
 - a) in exceptional circumstances, the College may accept an Appeal lodged by a representative if the appellant is unable to, or would be disadvantaged, by lodging the Appeal themselves;
 - b) if the appellant is an Overseas Trained Psychiatrist, the hospital sponsoring the Overseas Trained Psychiatrist may lodge an Appeal on behalf of the doctor.
- 7.1.4. Once all information is received from the Appellant a confidential report will be compiled by the Office of the CEO. The completed report will be forwarded to the Appeals Committee within three (3) weeks of the receipt of any further submissions. The report may include the outcome of reconsideration, all documentary evidence and records relevant to the matter.

8. CONSIDERATION OF THE APPEAL

8.1. Prior to the Appeal

- 8.1.1. At least four (4) weeks prior to the Appeals Committee hearing, the CEO will advise the Appellant in writing of the date, time and place of the hearing, the right of the Appellant to appear before the Appeals Committee and to have legal representation in accordance with these rules and the right of the Appellant to have support personnel attend with the Appellant as observers.

- 8.1.2. At least two (2) weeks prior to the Appeal Hearing, the Appellant will advise the CEO:
- (a) whether a support person will attend. With the consent of the Appeals Committee, the support person may act as an advocate, and/or
 - (b) whether a legal representative will attend
- 8.2.** The Appeals Committee retains the right to an extension of time within which to make a determination. The Applicant will be notified in writing as soon as practicable by the CEO (or his/her nominee) of any extension required.
- 8.3. Operation of the Appeals Committee**
- 8.3.1. Hearings of the Appeals Committee will be held in person.
 - 8.3.2. The Appeals Committee will not, except in exceptional circumstances, consider any additional matters not previously provided.
 - 8.3.3. If required, the Appeals Committee may convene a meeting via teleconference to discuss the application and its contents, prior to the Appeal Hearing.
 - 8.3.4. The Appeals Committee will meet before the commencement of each meeting to review the matter before it.
 - 8.3.5. The CEO or delegate(s) will attend the hearing as Secretary to the Appeals Committee and to provide advice on the aspects of College policy, practice and procedures but it is not a member of the Appeals Committee.
 - 8.3.6. Any legal or other adviser permitted to be present will direct questions only to the Appeals Committee Chair and shall conduct himself/herself in accordance with directions from the Chair.
 - 8.3.7. The College Solicitor may attend to provide legal advice to the Appeals Committee, but is not a member of the Appeals Committee.
 - 8.3.8. The Appeals Committee may request, permit or co-opt additional persons to appear before it strictly in the role of providing information to the Appeals Committee.
 - 8.3.9. In exceptional circumstances and at its discretion, the Appeals Committee may receive written or oral submissions on new material during the course of a hearing.
 - 8.3.10. An Appellant shall have the right to appear and address the Appeals Committee in relation to his/her submissions.

9. APPEAL HEARING PROCEDURES

- 9.1.** The Appeal Hearing will be informal in nature and will adhere to these procedures wherever practicable.
- 9.2.** Each Appeal will be decided on its merits.
- 9.3.** The Chair will first invite the Appellant, then any other party appearing before it, to summarise his or her submission and/or responses to the Appeals Committee prior to his or her formal presentation.

- 9.4. The Chair will then invite the Appellant to present his or her submission. The Chair may, at any time, direct the Appellant to any point of that submission or invite questions on any point of that submission. It also may request the Appellant to bring his or her submissions to a close if the presentation is too protracted.
- 9.5. The Chair may invite members of the Appeals Committee to seek clarification from the Appellant of any matters raised.
- 9.6. The Chair may then invite any person attending to provide information to the Appeals Committee or to comment on the submission of the Appellant.
- 9.7. The Appellant may be asked to respond or make submissions in relation to material presented by other parties or participants.
- 9.8. The Appeals Committee will adjourn to consider the matter before it once they are satisfied all relevant material has been covered. The parties participating in the Appeal will remain available to clarify any further matters following the adjournment of the Appeals Committee.
- 9.9. The parties involved in the Appeal will, if the Appeals Committee requires further clarification, rejoin the meeting and provide the clarification sought.
- 9.10. The Appellant may be given an opportunity to make further written submissions necessary within two (2) weeks of the close of the meeting.
- 9.11. The Chair will close the Hearing.

10. OUTCOME & DECISIONS OF APPEAL

- 10.1. The Appeals Committee may:
 - 10.1.1. Uphold the Appeal (or part thereof). Therefore the Appeals Committee accepts the argument of the Appellant.
 - 10.1.2. Dismiss the Appeal (or part thereof). Therefore the Appeals Committee will confirm the validity of the original decision made by the Committee or Board.
 - 10.1.3. Refer the decision to the relevant Board or Committee for further consideration (upon such terms or conditions of the Appeals Committee may determine);
 - 10.1.4. Make the recommendations to General Council on an alternative decision;
 - 10.1.5. If the Appeal is upheld, the Appeals Committee may make recommendations to General Council to have up to 50% of the fee refunded to the Appellant (one half of the fee is non-returnable to cover the direct administrative costs of the Appeal).
- 10.2. The Appeals Committee will issue a written decision to the CEO, setting out the reasons for the outcome, within four (4) weeks of the Appeal Hearing or within four (4) weeks after the receipt of further submissions by the Appellant.
- 10.3. The CEO will advise the Appellant of the status of the Appeal and that the matter will be tabled at General Council, in writing, within two (2) weeks of receipt of the Appeals Committee decision.
- 10.4. The office of the CEO will ensure the Appeals Committee decision and recommendations is tabled at the next General Council whereby it will review the decision and ratify the recommendations made by the Appeals Committee as they deem appropriate.
- 10.5. The CEO will advise the Appellant of the outcome, after the General Council meeting.

- 10.6. Where decisions that are made by the Appeals Committee have ramifications on College policy and procedure, the office of the CEO will forward the decision and reasoning of the Appeal to the relevant Board or Committee and to the appropriate College staff. If necessary the information will be de-identified to protect the confidentiality of the Appellant and the process.

11. GENERAL COUNCIL

- 11.1. General Council will consider the recommendations of the Appeals Committee on a case by case basis and in a timely fashion, which may include holding an out-of-session vote.
- 11.2. A report of the Appeals Committee hearing will be issued by the Appeals Committee to General Council and/or published by the Council as the Council sees fit.
- 11.3. A report will be submitted to General Council quarterly on the activities of the Appeals Committee, including the number of Appeals lodged and the results of Appeals and any recommendations to General Council from the Appeals Committee.
- 11.4. The relevant College staff will report to the Executive Officers on a weekly basis or as appropriate.

12. REPORTING

- 12.1. All minutes, deliberations and determinations shall be kept in accordance with the College's governance practices.
- 12.2. A report will be provided to General Council as appropriate, summarising the activities of the Reconsideration and Appeals process.
- 12.3. The Appeals Hearing will be recorded and a transcript made of the meeting. Except where required by law the transcript will be kept confidential.
- 12.4. The transcript of the Hearing of the Appeals Committee and other information provided to the Appeals Committee will be kept confidential, except when:
 - 12.4.1. The release of confidential information is required by law, or
 - 12.4.2. The Appellant consents to the release of confidential information.
- 12.5. De-identified information on Appeals heard, including the date, nature of the Appeal, and outcome, will be posted on the College Website.
- 12.6. The College shall publish an annual report on the activities of the Appeals Committee including the number of Appeals lodged and the results of the Appeals.

13. DISCLAIMERS

- 13.1. The decision of the Appeals Committee and General Council will be deemed as final. If the Applicant is successful, his or her sole avenue of recovery against the College for economic loss of any nature is limited to any decision made by the Appeals Committee in relation to costs or refund of fees paid. In no circumstances will any decision maker be liable for damages arising from a decision made which is adverse to the Applicant.
- 13.2. This policy is subject to change.

14. ACCESS

This policy has public access status

15. COMMUNICATION

The most recent version of this policy will be available on the College website.

This policy will be effective from its publication date; such a date will be published on the RANZCP website. All applications received thereafter will be considered under this policy.

16. REFERENCES & ASSOCIATED DOCUMENTS

RANZCP Constitution

RANZCP Regulations

RANZCP Code of Conduct

ACCC/AHWC Report to Australian Health Ministers, Review of Specialist Medical Colleges, July 2005

Appeal Committee Regulation

17. DEFINITIONS

- “Article(s)” means an article or clause of the Constitution.
- “Applicant” means a person who submits an application to the Chief Executive Officer to have a matter reconsidered.
- “Appellant” means a person who appeals a decision of a RANZCP Board or Committee to the Appeals Committee.
- “Appeal” means an application or proceeding for a review of a decision or particular issue to the Appeals Committee.
- “Chief Executive Officer” means the person elected pursuant to Article 18 of the Constitution.
- “Co-opted” means a person that has been co-opted for their area of expertise or knowledge of a particular area. A co-opted member is a non-voting member.
- “College” or RANZCP means The Royal Australian and New Zealand College of Psychiatrists.
- “Constitution”, means the Constitution of The Royal Australian and New Zealand College of Psychiatrists (October 2007).
- “Committee” means the Appeals Committee established under Article 16 of the Constitution.
- “Fellow” means a Member who holds Fellowship of the College pursuant to Article 3.3 of the Constitution.
- “General Council” means the General Council of the College elected under the Constitution, each member of which shall be a Director of the Company.
- “Reconsideration” means a re-examination of the original decision conducted by the College Committee or body that made the original decision or recommendation.

18. APPENDIX 1

Stage	Time Limit	Responsibility
Pre Appeal		
Request reasoning of the original decision	Within 3 months of the original decision	Applicant to CEO
Respond to the Applicant, explaining the reasons for the original decision	Within 4 weeks of receiving the request	CEO to Applicant
Apply to the CEO to lodge request for a Reconsideration and pay fee	Within 3 months of the original decision	Applicant to CEO on prescribed form
Applicant will be informed in writing of the date of reconsideration	Least 14 days prior to the reconsideration	CEO to Applicant
Reconsideration	Within 2 months of receiving the request from the CEO	Chair of Committee or Board that made the original decision.
Forward the determination and its reasoning to the CEO, in writing.	Within 7 days of the reconsideration	Chair to CEO
If there is a change in decision matter will be referred to their Parent Committee for consideration ratification.		CEO to Parent Committee
The Applicant will be advised of the decision by the CEO, in writing.	Within 14 days of the reconsideration or consideration by General Council.	CEO to Applicant
Appeal		
The Applicant is required to pay an Appeal Fee of \$ 4,000 before the Appeals Committee will be convened.		Appellant to CEO
Appeal Committee will be convened	Within 2 weeks of processing the Appeal Fee	CEO to Appeals Committee
Applicant to lodge further submissions on appropriate form	Within four (4) weeks of convening the Appeals Committee	Appellant to CEO
Report to be compiled in relation to all material surrounding the Appeal and referred to the Appeals Committee	Within three (3) weeks of the receipt of any further submissions	CEO to Appeals Committee
CEO will advise the Appellant in writing of the date, time and place of the hearing and rights	Within four (4) weeks prior to the Appeal Hearing	CEO to Appellant
The Appellant will advise the CEO whether a support person will attend and/or whether a legal representative will attend	At least two (2) weeks prior to the Appeal Hearing	Appellant to CEO
Appeal Hearing		
Appellant may be given to an opportunity to give further	Within two (2) weeks of	Appellant to Appeals Committee

written submissions	the Appeal Hearing	
Appeals Committee will Issue a written decision to the CEO setting out the reasoning of the outcome	Within four (4) weeks of the Appeal Hearing or receipt of submissions	Appeals Committee to CEO
Post-Appeal		
Advise the Appellant of the progress in writing	Within two (2) weeks of receiving the report from the Appeals Committee.	CEO to Appellant
General Council will review the decision and ratify any recommendations made by the Appeals Committee.		CEO to General Council
Advise the Appellant of the outcome.		CEO to Appellant

DOCUMENT CONTROL

Responsible department: Office of the President and CEO	Responsible position: Legal Officer Hearings and Complaints	Version: 1. 25 February 2012
Responsible committee:	Date approved by General Council: 25 February 2012	

REVISION RECORD

Date	Version	Revision description

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