THE RANZCP APPEALS PROCESS

1. PURPOSE AND SCOPE

This policy sets out the mechanism for appeal by any person adversely affected by a decision of the College.

2. BACKGROUND

2.1. Any person adversely affected by a decision referred to below, may, within three months of receipt of notice of such decision, apply to the CEO to have the decision considered by the Appeals Committee.

2.2. An appellant may ask the College to explain the original decision that is being appealed. This request must be in writing. The College, within four (4) weeks of receiving the request, will write to the appellant to explain the reasons for the original decision.

3. BODY OF POLICY

3.1. Reconsideration of Decisions

3.1.1 Before referring a matter to the Appeals Committee, the CEO may advise an applicant to seek a reconsideration and review of the original decision, in accordance with the processes approved by the General Council from time to time. Such reconsideration and review shall not, and does not, constitute an appeal under these rules.

3.1.2 An applicant may request copies of information on which the decision was based (other than information supplied to the College on a confidential or privileged basis). The College will provide such information upon written request, subject to obligations of privacy and confidentiality which may apply.

3.1.3 The CEO shall not convene the Appeals Committee until satisfied:

(a) that all other avenues of re-consideration and review of the relevant decision have been exhausted; and

(b) that, on the basis of the material submitted, there are prima facie grounds for appeal.

Appeals Committee

4. An Appeals Committee may be convened by the Chief Executive Officer, comprising the following:

Members:
- President-elect of the College or another Councillor appointed by the General Council.
- Two Fellows of the College (from a subspecialty not involved in the subject matter of the appeal).
- Two members nominated by the Australian Health Ministers Conference (or a delegate).
• One member nominated by the New Zealand Health and Disability Commissioner
• A consumer or carer representative
• If the Appeal relates to a decision of General Council, a nominee of the Professional Conduct Committee will replace the President-elect or other Councillor appointed by General Council.
• If the Appeal relates to a decision of a trainee, the Appeals Committee will also comprise a member from the College’s Registrar Representative Committee.
• If the Appeal relates to a decision of an overseas-trained psychiatrist, the Appeals Committee will also comprise a member from the College’s Overseas Trained Psychiatrists Representative Committee.
• The College will not accept as an appointed person to sit on the Appeals Committee, any person nominated by the Australian Health Ministers Conference who sits on a panel established to assess overseas-trained psychiatrists.

Chair and Deputy Chair:
• One of the non-Fellow members of the Appeals Committee.

5. The Appeals Committee will not comprise any individual who was party to the decision of the College to which the appeal relates.

6. A quorum for meetings of the Appeals Committee will be the Chair and three other members, with a maximum of two Fellows. All members of the Appeals Committee will be entitled to vote on decisions. The Appeals Committee will decide on the basis of a majority vote. In the event of an equality of votes, the Chair will have a second or casting vote.

Grounds of Appeal

7. Any person adversely affected by a decision referred to below, may, within three months of receipt of notice of such decision, apply to the Chief Executive Officer to have the decision reviewed by the Appeals Committee. Such application will be in writing and accompanied by all relevant information or grounds upon which the person seeks to rely in respect of the review. An appellant will be asked to lodge a written submission to the Appeals Committee within a reasonable period of time for a hearing. The Appeals Committee may receive written submissions at any time in the course of a hearing, at its discretion.

8. The decisions which may be reviewed by the Appeals Committee are:

8.1. Decisions of General Council to suspend or terminate membership of the College.

8.2. Decisions of the Board of Education, Fellowship Attainment Committee, Committee for Training, Committee for Examinations, Subcommittees for Advanced Training, Branch Training Committees, Coordinators/Directors of Training, or approved supervisors of psychiatry trainees, in relation to the assessment of progress of trainees of the College (including admission, dismissal or accreditation of training).

8.3. Decisions of General Council, Boards and Committees in relation to applications for admission to Fellowship.

8.4. Decisions of the Board of Education, Fellowship Attainment Committee or Committee for Specialist International Medical Graduate Education in relation to applications from overseas-trained doctors for assessment for recognition received via the Australian Medical Council, or the New Zealand Medical Council, or any applicable State or Territory Medical Board (or for other appropriate purposes).

8.5. Decisions of the Board of Education, Fellowship Attainment Committee, Committee for Specialist International Medical Graduate Education, Committee for Training or Committee for Examinations in relation to examinations or training required to be undertaken by overseas-trained doctors for assessment as set out above.

8.6. Decisions of the Board of Education or the Committee for Continuing Medical Education in relation to participation in the Continuing Professional Development Program, and awarding of the Certificate of Continuing Professional Development.
8.7. Decisions of the General Council and Executive Committee of the College on the advice of the Board of Education, Fellowship Attainment Committee, Committee for Training, Subcommittees for Advanced Training or Branch Training Committees, in relation to accreditation for training of hospitals, units, teaching centres or supervisors.

8.8. Decisions of the Professional Conduct Committee, in relation to professional conduct of Fellows, College trainees and approved supervisors.

8.9. Decisions of the Treasurer in relation to the financial status of Fellows, trainees, or other persons.

8.10. Other such decisions of the College, its Boards or Committees as the General Council may determine from time to time.

8.11. Decisions of a Review Panel in relation to any of the decisions listed in 8.1 to 8.10 above.

9. The Chief Executive Officer will not convene the Appeals Committee until the Chair of the Appeals Committee is satisfied that all other avenues of reconsideration and review of the relevant decision have been exhausted.

10. An Appeals Committee must be convened within three months of lodging an appeal and will endeavour to hear the appeal as soon as practicable. The appellant will be advised in writing of the outcome of the appeal within six weeks of a determination being made.

11. An appeal may only be made on one or more of the following grounds:

11.1. That an error in law or in due process occurred in the formulation of the original decision.

11.2. 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.

11.3. That the original decision was clearly inconsistent with the evidence and arguments put before the body making the original decision.

11.4. That irrelevant information was considered in the making of the original decision.

11.5. That procedures that were required by College policies to be observed in connection with the making of the decision were not observed.

11.6. That the original decision was made in accordance with a rule or policy without regard to the merits of the particular case.

11.7. That the original decision was made for an improper use.

Consideration of Appeals

12. In any appeal, the applicant will have the onus of proof to establish the grounds of the appeal.

13. An applicant will be asked to lodge a written submission to the Appeals Committee at least 30 days before an appeals hearing. Subject to these rules, the Appeals Committee may receive written or oral submissions at any time in the course of a hearing, at its discretion.

14. At least 45 days prior to the convening of the Appeals Committee hearing, the Chief Executive Officer will advise the appellant in writing of:

14.1. The date, time and place of the hearing.

14.2. The right of the appellant to appear before the Appeals Committee and to seek leave to have legal representation.

14.3. The right of the appellant to have support personnel attend with the appellant as observers.
15. The Appeals Committee must act according to the rules of 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 natural justice, may inform itself on any matter and in such manner as it thinks fit.

16. The Appeals Committee will be entitled to consider all relevant information which it thinks fit and may invite any person to appear before it, or to provide information.

17. The Appeals Committee will 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.

18. Except where otherwise required by law, or otherwise determined by the Appeals Committee, a transcript of the hearing of the Appeals Committee and other information provided to the Appeals Committee will be kept confidential (save that information may be released with the consent of the appellant, and a report of the Appeals Committee hearing may be issued by the Appeals Committee to the General Council and/or published by the General Council as the General Council thinks fit).

19. Minutes of hearings of the Appeals Committee will be confined to a report of the decision made by the Appeals Committee and its recommendations, if any, to General Council.

20. Deidentified information on appeals heard, including the date, nature of the appeal and outcome, will be posted on the College Website.

21. An appellant to the Appeals Committee will have the right to appear and address the Appeals Committee in relation to his or her submissions. The appellant will be entitled to have a legal representative as an observer before the Appeals Committee and who may with the consent of the Appeals Committee, act as an advocate.

22. The appellant may be represented by a personal advocate colleague or mentor in those cases where the Appeals Committee considers than an appellant could not, or would be disadvantaged in his or her appeal if required to present in person.

23. Hospitals sponsoring overseas-trained doctors are allowed to appeal on behalf of the doctor.

24. General Council requires that, before convening an Appeals Committee, the appellant to pay a fee of such amount as the General Council determines. If the appellant is successful then up to 50% of the fee, or such part as the Appeals Committee determines, will be refunded (one half of the fee is non-returnable to cover the direct administrative costs of the appeal). Details of the fees payable are available upon application to the College’s Chief Executive Officer.

25. The Chief Executive Officer may delegate his or her powers and duties in respect of any appeal to such person as he or she determines.

Decisions of the Appeals Committee

26. An Appeals Committee may, upon considering all submissions:

26.1. Confirm the decision which is the subject of the appeal.

26.2. Revoke the decision which is the subject of the appeal.

26.3. Revoke the decision and refer the decision to the relevant Board or Committee for further consideration (upon such terms or conditions of the Appeals Committee may determine).

26.4. Revoke the decision and make recommendations to General Council on an alternative decision.

26.5. Recommend to the General Council whether part or all of the costs associated with the Appeals Committee should be waived.
The Appeals Committee will endeavour to issue a written decision to the appellant and relevant Board or Committee, with reasons for the decision, within 21 working days of the appeal hearing, or within 21 working days of receiving written submissions after the appeal, whichever is the later.

The Appeals Committee may not appoint a person (who has applied for selection unsuccessfully) to the College Training program, but shall refer any such decision to appoint the person to the appropriate Board or other appropriate committee or body.

Annual Report

27. The College shall publish annually a report on the activities of the Appeals Committee including the number of appeals lodged and the results of the appeals.

Approved: General Council GC2004/1 R26 (8-9 May 2004)