

# Review, Reconsideration and Appeal Policy and Procedure



## 1. PURPOSE

This Review, Reconsideration and Appeal Policy and Procedure ('the Policy') allows persons who are dissatisfied with decisions of the Royal Australian and New Zealand College of Psychiatrists ('the RANZCP') to seek review of those decisions through the internal review, reconsideration and appeal mechanisms.

The RANZCP is committed to the implementation of reasonable, transparent, impartial and accountable decision-making in all its functions.

## 2. DEFINITIONS

**'Appeals Committee'** is the body established by the *Appeals Committee Regulations*.

**'Appellant'** means a person who has lodged an application for appeal under 'Part Three- Appeals' of this Policy.

**'Applicant'** means a person who has lodged an application for review under 'Part One- Review' or an application for reconsideration under 'Part Two- Reconsideration' of this Policy.

**'Application for appeal'** is an application made under 'Part Three- Appeal' of this Policy.

**'Application for reconsideration'** is an application made under 'Part Two- Reconsideration' of this Policy.

**'Application for review'** is an application made under 'Part One- Review' of this Policy.

**'Decision'** means a final outcome reached by the RANZCP, its committees or other delegated person in relation to a particular matter.

**'Education Review Committee'** is the body established by the *Education Review Committee Regulations*.

**'Independent Reconsideration Panel'** is the body established by the *Independent Reconsideration Panel Regulations*.

**'Original decision-maker'** means the person who or body which made the original decision.

**'Original decision'** is the decision which is the subject of an application made under this Policy.

**'Person'** means:

- a member of the RANZCP;
- a candidate on the RANZCP Specialist Pathway to Fellowship; or
- a person who is not a member or a candidate but who has applied to the RANZCP:
  - for membership
  - to participate in the RANZCP Continuing Professional Development Program
  - to join the RANZCP Fellowship Program or RANZCP Specialist Pathway; or
  - in relation to any other matter in accordance with a RANZCP policy or procedure.

**‘Recommendation for exclusion’** means a proposal made by the RANZCP, its committees or other delegated person to another committee, delegated person or the RANZCP Board in relation to a member being involuntarily excluded from the Fellowship Program and/or a Certificate of Advanced Training by the RANZCP Board as outlined in the *Training Exit and Re-entry Policy and Procedure*.

**‘Recommendation’** means a proposal made by the RANZCP, its committees or other delegated person to another Committee or delegated person under all RANZCP Policies and Procedures

**‘the Board’** is the governing body of the RANZCP, established by the *RANZCP Constitution*.

### 3. APPLICATION OF POLICY

- 3.1. Part One of this Policy applies only to a recommendation for exclusion or decisions made pursuant to a relevant RANZCP Education Policy or Procedure. It does not apply to recommendations or decisions made under other RANZCP policies or procedures.
- 3.2. Parts Two and Three of this Policy apply to a recommendation for exclusion or decisions made under all RANZCP Policies and Procedures, except recommendations or decisions of the Board and the Appeals Committee, unless a reconsideration or appeal is otherwise permitted by the RANZCP Constitution.
- 3.3. Recommendations (other than recommendations for exclusion) are not subject to review, reconsideration or appeal under Parts One Two or Three of this Policy.
- 3.4. A person may apply for review of a recommendation for exclusion or decision made under ‘Part One- Review’ of this Policy where they are affected and dissatisfied by that recommendation for exclusion or decision and Part One applies in accordance with paragraph 3.1 above.
- 3.5. A person may apply for reconsideration of a recommendation for exclusion or decision made under ‘Part Two- Reconsideration’ of this Policy where:
  - 3.5.1. they are affected and dissatisfied by that recommendation for exclusion or decision; and
  - 3.5.2. if ‘Part One- Review’ applies in accordance with paragraphs 3.1 above, they have received an outcome in relation to their Application for Review.
- 3.6. A person may apply to appeal a recommendation for exclusion or decision under ‘Part Three- Appeals’ of this Policy where:
  - 3.6.1. that person has applied for reconsideration under ‘Part Two- Reconsideration’ of this Policy and received an outcome in relation to that application for reconsideration; and
  - 3.6.2. they remain affected and dissatisfied by that recommendation or decision.
- 3.7. A person may only apply to have a recommendation for exclusion or decision reviewed (if applicable), reconsidered and then appealed once. A recommendation for exclusion or decision made in relation to the same matter will be treated as a single recommendation or decision for the purposes of this Policy.
- 3.8. A recommendation for exclusion or decision which is subject to review (if applicable), reconsideration or appeal remains in force while the review, reconsideration or appeal process is ongoing. To the greatest extent possible, the RANZCP will endeavour to take steps to reduce any disadvantage experienced by applicants or appellants as a result of making applications in accordance with this Policy.

- 3.9. The RANZCP reserves the right to put a review, reconsideration or appeal application on hold in circumstances where the applicant or appellant has another matter or matters which relate to or may impact upon any application they have made under this Policy.
- 3.10. Neither the Education Review Committee, the Independent Reconsideration Panel nor the Appeals Committee may make a decision which has the effect of:
  - 3.10.1. appointing or re-instating a person as a member or Fellow of the RANZCP
  - 3.10.2. re-instating a person on the Training or Specialist Pathways to Fellowship, including reinstating comparability status of the Specialist International Medical Graduate
  - 3.10.3. elevating a person above others in a competitive assessment or
  - 3.10.4. overturning the result of a trainee or Specialist International Medical Graduate's assessment or examination.

When considering an application for review, reconsideration or appeal that relates to one or more of the above matters, the Education Review Committee (ERC), Independent Reconsideration Panel (IRP) or Appeals Committee must only make a recommendation in relation to the outcome and present that recommendation to the Board for final decision.

- 3.11. Any action arising from this Policy must not be unlawful or outside the terms or authority of relevant RANZCP regulations or policies as in force at the time of the original decision.

#### **4. GOVERNANCE AND DELEGATIONS**

- 4.1. The RANZCP Chief Executive Officer ('CEO') is responsible for the oversight of this Policy.
- 4.2. The CEO may delegate any of their office's responsibilities and administration under this Policy as appropriate.
- 4.3. Any reference to the CEO in this Policy will be construed in accordance with any delegations made under paragraph 4.2.
- 4.4. The CEO or delegate(s) may alter any of the timelines set out in this Policy.

#### **5. GENERAL PRINCIPLES**

- 5.1. All recommendations for exclusion or decisions made under this Policy must have regard to the principles of transparency, reasonableness, consistency, and impartiality.
- 5.2. The Education Review Committee (ERC), the Independent Reconsideration Panel (IRP) and Appeals Committee must have regard to the principles of natural justice and procedural fairness, including ensuring that the following has occurred:
  - 5.2.1. the applicant or appellant has been provided with a reasonable opportunity to provide information relevant to their application;
  - 5.2.2. the applicant or appellant has a right to have the decision reviewed or appealed by an impartial ERC, IRP or Appeals Committee which has considered the relevant facts and policy before reaching an outcome; and
  - 5.2.3. the applicant or appellant is notified of the information to go before the ERC, IRP and Appeals Committee when the relevant body considers the application, and has an opportunity to request copies of that information.
- 5.3. The onus of proof in relation to the grounds of review, reconsideration or appeal lies with the applicant or appellant. The RANZCP may decide not to progress an application for review, reconsideration or appeal where the grounds are not established in that application or where other requirements of this Policy are not met.

- 5.4. In no circumstances will any person, decision-making body or the RANZCP be liable for damages arising from a decision made in accordance with this Policy where that decision is considered by the applicant or appellant to be adverse to their interests.

## **6. GROUNDS FOR REVIEW, RECONSIDERATION AND APPEAL**

The following grounds for review, reconsideration and appeal may be relied upon by the applicant or appellant:

- 6.1. the decision-maker who made the original recommendation for exclusion or decision:
- 6.1.1. failed to consider or adequately consider relevant and significant information in making the original recommendation for exclusion or decision;
  - 6.1.2. considered irrelevant information when making the original recommendation for exclusion or decision;
  - 6.1.3. made a decision which was inconsistent with the evidence and arguments put before it when making the original recommendation for exclusion or decision;
  - 6.1.4. made an error in applying law, rule, policy, procedure or due process in making the original recommendation for exclusion or decision;
  - 6.1.5. made the original recommendation for exclusion or decision in accordance with a rule, policy or procedure without having regard to the merits of the particular case;
  - 6.1.6. failed to afford the applicant natural justice or procedural fairness in making the original recommendation for exclusion or decision;
  - 6.1.7. made the original recommendation for exclusion or decision for an improper purpose, in bad faith or as a result of unreasonableness.

## **7. PART ONE- REVIEW**

- 7.1. Preliminary steps
- 7.1.1. Prior to submitting an application for review, a person may request in writing to the RANZCP CEO:
    - a) documents considered by the original decision-maker in making its original recommendation for exclusion or decision; and
    - b) the reasons for the original recommendation for exclusion or decision.
  - 7.1.2. The CEO or delegate(s) will endeavour to respond to requests made under paragraph 7.1.1 within four (4) weeks of receipt of the request.
- 7.2. Making an application for review
- 7.2.1. The applicant must make an application for review within two (2) calendar months of the date of the outcome letter pertaining to the original recommendation for exclusion or decision, unless the applicant can prove that there are exceptional circumstances which warrant an extension of this deadline.
    - a) Requests for extension to the deadline must be made in writing on the Application for Review Form and supported by relevant documentation. The decision to grant the extension is at the full discretion of the RANZCP CEO.
    - b) In circumstances where the CEO or delegate(s) extends the time for responding to a request made by the applicant under paragraph 7.1.1, the applicant will have two (2) calendar months from the date of receiving the response from the CEO to lodge an application for review.
  - 7.2.2. The applicant must make an application for review in writing using the Application for Review Form, which is available on the RANZCP website. The application must identify and establish grounds for review as set out in paragraph 6 of this Policy.
  - 7.2.3. The applicant's completed Application for Review Form must be accompanied by:
    - a) any applications or other documentation related to the original recommendation

- for exclusion or decision which is the subject of the application; and
- b) the outcome of the original recommendation for exclusion or decision.

7.2.4. The applicant's completed Application for Review Form may be accompanied by other relevant written supporting documentation.

7.2.5. There is no fee payable in order to make an application for review.

7.2.6. The RANZCP Legal Services Department will:

- a) acknowledge receipt of the application for review within seven (7) days of receipt; and
- b) log the relevant particulars of the application for review in the Review, Reconsideration and Appeal Register.

### 7.3. Assessment of an application for review

7.3.1. The application for review will be reviewed to assess its compliance with the requirements of paragraph 7.2 and whether grounds for review are established.

7.3.2. Where:

- a) the requirements of paragraph 7.2 are not met;
- b) grounds for review are not set out or established;
- c) further information or clarification is required; or
- d) there are suggestions to be made regarding strengthening the application for review, including suggestions regarding condensing the application or relevant supporting documentation

the RANZCP Legal Services Department may contact the applicant to advise the applicant of the relevant issue listed in (a)-(d) above and provide support or information as appropriate prior to progressing the application for review any further.

### 7.4. Considering an application for review

7.4.1. Following assessment of an application, the RANZCP Legal Services Department will collate a brief for the ERC. At a minimum, the following will be included in the brief:

- a) the applicant's application for review;
- b) all supporting written documentation submitted by the applicant; and
- c) all information considered by the original decision-maker in making the original recommendation for exclusion or decision.

7.4.2. The brief should be provided to the ERC at its next meeting, unless otherwise appropriate.

- a) The RANZCP Legal Services Department must notify the applicant of the information in the ERC's brief and provide the applicant with an opportunity to request copies of that information prior to the ERC meeting at which their application is being considered.

7.4.3. A member of the RANZCP Legal Services Department will, where practicable, attend the ERC meeting to provide guidance and information to the ERC in relation to the application for review as required.

7.4.4. The ERC must consider each application for review on its own merits and in accordance with this Policy, including the general principles set out in paragraph 5.

7.4.5. In considering an application for review, the ERC must consider:

- a) all relevant information provided in the application;
- b) whether the applicant has successfully established their grounds for review;
- c) whether the relevant RANZCP Policy and/or Procedure was properly and fairly applied in the course of the original recommendation for exclusion or decision being made; and

- d) whether due process and natural justice were afforded to the applicant in the course of the original recommendation for exclusion or decision being made; and
    - e) any other matters relevant to the application for review.
  - 7.4.6. The ERC may request further information or clarification from the applicant or other relevant party before reaching an outcome in relation to an application for review.
  - 7.4.7. The ERC will consider all applications for review without the applicant present and on the basis of written submissions only. Accordingly, the applicant (and/or their representative) is not entitled to attend the ERC's meeting to make verbal submissions in relation to an application for review.
- 7.5. Outcome of an application for review
  - 7.5.1. The ERC, after considering the matters set out in paragraph 7.4, may recommend any of the following outcomes to the Board in relation to an application for review:
    - a) that the original recommendation for exclusion or decision be upheld;
    - b) that the original decision-maker reconsider the matter for decision, taking into account the findings of the ERC in relation to the application for review; or
    - c) that the original recommendation for exclusion or decision be altered.
  - 7.5.2. A recommendation made by the ERC must be accompanied by reasons.
  - 7.5.3. The ERC's recommendation must be escalated to the Board for final decision.
  - 7.5.4. The Board may make either of the following decisions in relation to the outcome of an application for review:
    - a) to approve the ERC's recommendation; or
    - b) to refer the matter back to the ERC for further consideration.
  - 7.5.5. Following the Board's decision, the CEO must communicate the outcome of the application for review to the applicant in writing, no later than four (4) weeks after the meeting at which the decision was made. The outcome letter must include the following:
    - a) the ERC's recommendation and the reasons for that recommendation;
    - b) the information considered by the ERC in making the recommendation;
    - c) the Board's decision in relation to the application for review;
    - d) the implications of the decision for the applicant;
    - e) the applicant's right to request, in writing, copies of written information provided to the ERC when it considered the application, subject to any relevant laws, regulations or policies and
    - f) the applicant's right to make an application for reconsideration under 'Part Two-Reconsideration' of this Policy if the applicant remains dissatisfied with the decision.
  - 7.5.6. Where the original recommendation or decision has been altered, the original decision-maker must be notified of the alteration and the reasons for that decision.
  - 7.5.7. Decisions made by the Board with respect to applications for review are binding and must be given effect by the original decision-maker insofar as the decision falls within their remit.
  - 7.5.8. Where the applicant remains dissatisfied after receiving the outcome of their application for review and intends to apply for a reconsideration of the decision, the applicant must notify the RANZCP Legal Services Department of this intention within four (4) weeks of receiving the outcome of the application for review.

## 8. PART TWO- RECONSIDERATION

### 8.1. Preliminary steps

- 8.1.1. Prior to submitting an application for reconsideration, a person may request in writing to the RANZCP CEO:
- a) documents considered by the original decision-maker in making its original recommendation or decision and
  - b) the reasons for the original recommendation or decision.
- 8.1.2. The CEO or delegate(s) will endeavour to respond to requests made under paragraph 8.1.1 within four (4) weeks of receipt of the request.

### 8.2. Making an application for reconsideration

- 8.2.1. The applicant must make an application for reconsideration within two (2) calendar months of the date of the outcome letter pertaining to the original recommendation or decision or the outcome letter pertaining to their application for review (whichever is relevant), unless the applicant can prove that there are exceptional circumstances which warrant an extension of this deadline.
- a) Requests for extension to the deadline must be made in writing on the Application for Reconsideration Form and supported by relevant documentation. The decision to grant the extension is at the full discretion of the RANZCP CEO or delegate(s).
  - b) In circumstances where the CEO or delegate(s) extends the time for responding to a request made by the applicant under paragraph 8.1.1, the applicant will have two (2) calendar months from the date of receiving the response from the CEO to lodge an application for reconsideration.
- 8.2.2. The applicant must make an application for reconsideration in writing using the Application for Reconsideration Form, which is available on the RANZCP website. The application must identify and establish grounds for reconsideration as set out in paragraph 6 of this Policy.
- 8.2.3. The applicant's completed Application for Reconsideration Form must be accompanied by:
- a) any applications or other documentation related to the original recommendation or decision which is the subject of the application;
  - b) correspondence setting out the original recommendation or decision; and
  - c) correspondence relevant to a recommendation or decision made under 'Part One- Reviews' of this Policy, if applicable.
- 8.2.4. The applicant's completed Application for Reconsideration Form may be accompanied by other relevant written supporting documentation.
- 8.2.5. The applicant must pay a fee as prescribed by the RANZCP in making the application for reconsideration, unless the applicant can establish grounds of financial hardship.
- 8.2.6. The RANZCP Legal Services Department will:
- a) acknowledge receipt of the application for reconsideration within seven (7) days of receipt; and
  - b) log the relevant particulars of the application for reconsideration in the Review, Reconsideration and Appeals Register.

### 8.3. Assessment of an application for reconsideration

- 8.3.1. The application for reconsideration will be reviewed to assess its compliance with the requirements of paragraph 8.2 and whether grounds for reconsideration have been established.
- 8.3.2. Where:

- a) the requirements of paragraph 8.2 are not met;
- b) grounds for reconsideration are not set out or established;
- c) further information or clarification is required; or
- d) there are suggestions to be made regarding strengthening the application for reconsideration, including suggestions regarding condensing the application or relevant supporting documentation

the RANZCP Legal Services Department may contact the applicant to advise the applicant of the relevant issue listed in (a)-(d) above and provide support or information as appropriate prior to progressing the application for reconsideration any further.

#### 8.4. Considering an application for reconsideration

8.4.1. Following assessment of an application, the RANZCP Legal Services Department will collate a brief for the IRP. At a minimum, the following will be included in the brief:

- a) the applicant's application for reconsideration;
- b) all supporting written documentation submitted by the applicant; and
- c) all information considered by the original decision-maker in making the original recommendation or decision.

8.4.2. The brief should be provided to the IRP at its next meeting, unless otherwise appropriate.

- a) The RANZCP Legal Services Department must notify the applicant of the information in the IRP's brief and provide the applicant with an opportunity to request copies of that information prior to the IRP meeting at which their application is being considered.

8.4.3. A member of the RANZCP Legal Services Department should, where practicable, attend the IRP meeting to provide guidance and information to the IRP in relation to the application for reconsideration as required.

8.4.4. The IRP must consider each application for reconsideration on its own merits and in accordance with this Policy, including the general principles set out in paragraph 5.

8.4.5. In considering an application for reconsideration, the IRP must consider:

- a) all relevant information provided in the application;
- b) whether the applicant has successfully established their grounds for reconsideration;
- c) whether the relevant RANZCP Policy and/or Procedure was properly and fairly applied in the course of the original recommendation or decision being made; and
- d) whether due process and natural justice were afforded to the applicant in the course of the original recommendation or decision being made; and
- e) any other matters relevant to the application for reconsideration.

8.4.6. The IRP may request further information or clarification from the applicant or other relevant party, including other RANZCP Committees, where required.

8.4.7. The IRP will consider all applications for reconsideration without the applicant present and on the basis of written submissions only. Accordingly, the applicant (and/or their representative) is not entitled to attend the IRP's meeting to make verbal submissions in relation to the application for reconsideration.

#### 8.5. Outcome of an application for reconsideration

8.5.1. The IRP, following consideration of the matters set out in paragraph 8.4, may find that any of the following outcomes are appropriate with respect to an application for reconsideration:



- a) that the original recommendation or decision be upheld;
  - b) that the original decision-maker reconsider the matter for decision, taking into account the findings of the IRP in relation to the application for reconsideration; or
  - c) that the original recommendation or decision be altered.
- 8.5.2. A decision or recommendation made by the IRP must be accompanied by reasons.
- 8.5.3. Where the IRP makes a finding under paragraph 8.5.1(b) or 8.5.1(c), the IRP's decision and reasons for the decision must be presented to the Board for final decision.
- 8.5.4. Where the IRP makes a recommendation under paragraph 8.5.1(c), the IRP may make a recommendation for a refund of up to half of the application for reconsideration fee, to the Board for final decision.
- 8.5.5. For the avoidance of doubt, a decision made by the IRP in accordance with paragraph 8.5.1(a) is not required to be escalated to the Board for final decision.
- 8.5.6. Where paragraph 8.5.3 applies to a decision made by the IRP, the Board may make either of the following decisions in relation to the outcome of an application for reconsideration:
- a) to approve the IRP's recommendation; or
  - b) to refer the matter back to the IRP for further consideration.
- 8.5.7. Following the IRP or the Board's decision (as relevant), the CEO or delegate(s) must communicate the outcome of the application for reconsideration to the applicant in writing, no later than four (4) weeks after the meeting at which the decision was made. The outcome letter must set out the following:
- a) the information considered by the IRP in making the recommendation or decision;
  - b) the decision made in relation to the application for reconsideration;
  - c) the reasons for the decision;
  - d) the implications of the decision for the applicant;
  - e) the applicant's right to request, in writing copies of written information provided to the IRP when it considered the application, subject to any relevant laws, regulations or policies; and
  - f) the applicant's right to make an application for appeal under 'Part Three-Appeal' of this Policy if the applicant remains dissatisfied with the decision.
- 8.5.8. Where the original recommendation or decision has been altered, the original decision-maker must be notified of the alteration and the reasons for that decision.
- 8.5.9. Decisions made by the IRP, that are approved by the Board, are binding and must be given effect by the original decision-maker insofar as relevant and within their remit.
- 8.5.10. Where the applicant remains dissatisfied after receiving the outcome of their application for reconsideration and intends to apply for an appeal of the decision, the applicant must notify the RANZCP Legal Services Department of this intention within four (4) weeks of receiving the outcome of the application for reconsideration.

## 9. PART THREE- APPEAL

### 9.1. Preliminary steps

- 9.1.1. Prior to submitting an application to appeal, a person may request in writing to the RANZCP CEO:
- a) documents considered by the IRP in making a recommendation or decision in relation to his or her application for reconsideration; and
  - b) further clarification of the IRP's reasons for its recommendation or decision in relation to his or her application for reconsideration.
- 9.1.2. The CEO or delegate(s) will endeavour to respond to requests made under paragraph 9.1.1 within four (4) weeks of the receipt of the request being acknowledged.

### 9.2. Making an application to appeal

- 9.2.1. The appellant must make an application to appeal in accordance with the requirements of paragraph 9.2 within two (2) calendar months of the date of the application for reconsideration outcome letter, unless the appellant can prove that there are exceptional circumstances which warrant an extension of this deadline.
- a) Requests for extension to the deadline must be made in writing on the Application for Review Form and supported by relevant documentation. The decision to grant the extension is at the full discretion of the RANZCP CEO.
  - b) In circumstances where the CEO or delegate(s) extends the time for responding to a request made by the applicant under paragraph 9.1.1, the applicant will have two (2) calendar months from the date of receiving the response from the CEO to lodge an application for appeal.
- 9.2.2. The appellant must make an application to appeal in writing using the Application to Appeal Form. The application to appeal must identify and establish grounds for appeal as set out in paragraph 6 of this Policy.
- 9.2.3. The appellant's completed Application to Appeal Form must be accompanied by:
- a) the appellant's previous application for reconsideration, including all required documentation as set out in paragraph 8.2.3 and relevant supporting documentation; and
  - b) the application for reconsideration outcome letter.
- 9.2.4. The appellant's completed Application to Appeal Form may be accompanied by other relevant written supporting documentation.
- 9.2.5. The appellant must pay a prescribed fee as determined by the RANZCP in making the application to appeal, unless the appellant can establish grounds of financial hardship.
- 9.2.6. The RANZCP Legal Services Department will:
- a) acknowledge receipt of the application for reconsideration within seven (7) days of receipt; and
  - b) log the relevant particulars of the application for appeal in the Review, Reconsideration and Appeals Register.

### 9.3. Assessment of an application to appeal

- 9.3.1. The application to appeal will be reviewed by the RANZCP Legal Services Department to assess its compliance with the requirements of paragraph 9.2 and whether grounds of appeal are established.
- 9.3.2. Where:
- a) the requirements of paragraph 9.2 are not met;
  - b) grounds for appeal are not set out or established;

- c) further information or clarification is required; or
- d) there are suggestions to be made regarding strengthening the application to appeal, including suggestions regarding condensing the application or relevant supporting documentation

the RANZCP Legal Services Department may contact the appellant to advise of the relevant issue listed from (a)-(d) above and provide support or information as appropriate prior to progressing the application to appeal any further.

#### 9.4. Prior to the appeal hearing

- 9.4.1. The RANZCP Legal Services Department will schedule a date for the appeal hearing, having regard to the time and resources required to prepare for the appeal and the availability of the Appeals Committee members and the appellant.
- 9.4.2. The appeal hearing may be scheduled to take place in person or via videoconference as appropriate and practicable.
- 9.4.3. At least four (4) weeks before the date of the appeal hearing, the CEO will notify the appellant of the following in writing:
  - a) the date and time of the appeal hearing
  - b) whether the appeal hearing will be conducted in person or via videoconference
  - c) the names of the Appeal Committee Chair and members to be present at the hearing
  - d) the name of any other person attending the hearing
  - e) the appellant's right to attend the appeal hearing
  - f) the appellant's right to have a legal practitioner represent them at the appeal hearing
  - g) the appellant's right to have a support person present at the appeal hearing
  - h) if the appellant wishes to have a legal practitioner or support person present at the appeal hearing, the requirement to notify the CEO of this at least two (2) weeks prior to the date of the appeal hearing and
  - i) the appellant's right to request a list of the documents included in the Appeal Committee's brief.
- 9.4.4. The Legal Services Department will collate a confidential brief for the consideration of the Appeals Committee. This brief must include the following:
  - a) the appellant's application to appeal and supporting documentation;
  - b) the appellant's application for reconsideration and supporting documentation;
  - c) any other information considered by the IRP in considering the appellant's application for reconsideration; and
  - d) any documents setting out the IRP's recommendation or decision and reasons for that recommendation or decision.
- 9.4.5. The Legal Services Department will forward a draft copy of the brief to the Chair of the Appeals Committee for consideration. The Chair may request that:
  - a) any amendments or additions be made;
  - b) another person attend the appeal hearing to provide information to the Appeals Committee.
- 9.4.6. At least one (1) week prior to the appeal hearing, the CEO or delegate(s) must forward the final copy of the brief to the Chair of the Appeals Committee and the relevant Appeal Committee members for consideration.
- 9.4.7. The RANZCP Legal Services Department must notify the applicant of the information in the Appeal Committee's brief and provide the applicant with an opportunity to request copies of that information prior to the appeal hearing.
- 9.4.8. The Chair of the Appeals Committee may request that the CEO or delegate(s) schedule a pre-hearing meeting to be attended by the Chair and the Appeals Committee members for the purposes of discussing the brief.
- 9.4.9. If, after the Appeals Committee has received the brief, the appellant provides further documentation for the Committee's consideration, it is at the sole discretion of the Chair of the Appeals Committee ('Chair') as to whether to allow

that further information to be provided to the Appeal Committee prior to the appeal hearing, or to request that such information be submitted following the appeal hearing as 'further submissions' (see paragraph 9.5.9(a) of this Policy).

- 9.5. Conducting an appeal hearing
  - 9.5.1. The Chair will open the hearing and outline:
    - a) the role of the Appeals Committee
    - b) the hearing procedure and
    - c) any other matters relevant to the hearing or appeal.
  - 9.5.2. The Chair will invite the appellant or their legal representative to present the appellant's application to appeal and to make any further verbal submissions.
  - 9.5.3. Following the appellant's appeal and further submissions being presented, the Chair may ask any question relevant to the appeal and invite the members of the Appeals Committee to do the same.
  - 9.5.4. The Chair may call any other person who has been asked to attend the hearing to provide relevant information to the Appeals Committee.
  - 9.5.5. Following information being provided, the Chair may ask any question relevant to the appeal of that person and invite the members of the Appeals Committee to do the same.
  - 9.5.6. The Chair may invite the appellant or their legal representative to make any final submissions to the Appeals Committee, including any response to any information provided by other parties attending the hearing.
  - 9.5.7. The Chair may adjourn the hearing to discuss the appeal and any submissions made at the hearing. The appellant and/or their representative must remain in attendance at the hearing during this adjournment, unless otherwise advised by the Chair.
  - 9.5.8. Following any discussions that occurred during the adjournment, the Chair may ask any further questions of the appellant in relation to the appeal.
  - 9.5.9. The Chair may close the appeal hearing. In closing the appeal hearing, the Chair of the Appeals Committee must advise the appellant:
    - a) of their right to lodge further submissions within two (2) weeks of the appeal hearing;
    - b) that the Appeals Committee will deliberate in relation to the appellant's application and make a recommendation to the Board or decision regarding the outcome of the Appeal; and
    - c) that the appellant will be advised of the outcome and reasons for the outcome.
  - 9.5.10. In conducting the appeal hearing in accordance with paragraph 9.5 of this Policy, the Appeals Committee:
    - a) is not bound by the rules of evidence, but
    - b) is bound by the rules of natural justice and procedural fairness.
  - 9.5.11. Minutes of the appeal hearing, and any meeting of the Appeals Committee, will be kept in accordance with the RANZCP's governance standards.
  - 9.5.12. The RANZCP Legal Services Department may attend the appeal hearing to provide secretariat support to the Appeals Committee.
  - 9.5.13. The CEO may appoint a legal practitioner to represent the RANZCP at the appeal hearing.
- 9.6. Further submissions provided by the appellant
  - 9.6.1. The appellant has a right to lodge further written submissions within two (2) weeks of the hearing. These submissions should be lodged with the RANZCP Legal Services Department.
  - 9.6.2. If any further submissions are received, the RANZCP Legal Services Department must forward those submissions to the Appeals Committee as soon as practicable.
  - 9.6.3. The Chair and Appeals Committee members may convene a meeting following receipt of the submissions to discuss those submissions and the appeal.
- 9.7. Outcome of the application to appeal
  - 9.7.1. The Chair, following consideration of:

- a) the appellant's application to appeal;
  - b) the confidential Appeals Committee brief;
  - c) verbal submissions made by the appellant at the hearing;
  - d) any further written submissions made by the appellant; and
  - e) any other matters relevant to the appeal,
- will prepare a report, setting out the recommendation or decisions made in relation to the appeal.
- 9.7.2. The Chair must provide the report prepared in accordance with paragraph 9.7.1 to the RANZCP Legal Services Department within six (6) weeks of the hearing, or eight (8) weeks of the hearing if further written submissions are provided by the appellant in accordance with paragraph 9.6.1 above.
- 9.7.3. The Appeals Committee may:
- a) make a decision that the original decision be upheld;
  - b) make a recommendation to the Board that the original decision-maker reconsider the matter for decision, taking into account the findings of the Appeals Committee; or
  - c) make a recommendation to the Board that the original decision be altered.
- 9.7.4. The Chair may also make recommendations in relation to relevant RANZCP policies and procedures, with a view to improving processes and the quality of decision-making.
- 9.7.5. Where the Appeals Committee makes a recommendation under paragraph 9.7.3(b) or 9.7.3(c), the Appeal Committee's decision and the reason for the decision must be presented to the Board for final decision.
- 9.7.6. Where the Appeals Committee makes a recommendation under paragraph 9.7.3(c), the Appeals Committee may make a recommendation for a refund of up to half of the application for appeal fee, to the Board for final decision.
- 9.7.7. For the avoidance of doubt, a decision made by the Appeals Committee in accordance with paragraph 9.7.3(a) is not required to be escalated to the Board for final decision.
- 9.7.8. Following consideration of the Appeal Committee's recommendation and reasons where required by paragraph 9.7.5, the Board may make either of the following final decisions in relation to the outcome of the Appeal:
- a) to approve the Appeal Committee's recommendation; or
  - b) to refer the matter back to the Appeals Committee for further consideration.
- 9.7.9. The Board must also consider any recommendations made by the Appeals Committee made under paragraph 9.7.4. The Board may, if appropriate, refer those recommendations to the original decision-maker and/or the Committee responsible for the administration of the relevant policy or procedure for consideration.
- 9.7.10. Following the Appeals Committee or Board's decision, the CEO must communicate the outcome of the application for appeal to the appellant in writing, no later than four (4) weeks after receipt of a statement of decision and reasons from the Chair or the Board meeting at which the Chair's recommendation was considered, as relevant. The outcome letter must stipulate the following:
- a) the information considered by the Appeals Committee in making the recommendation or decision;
  - b) the decision made by the Appeals Committee or the Board;
  - c) the reasons for the decision made by the Appeals Committee or the Board;
  - d) the implications of the decision for the appellant;
- 9.7.11. Where the original recommendation for exclusion or decision has been altered, the original decision-maker must be notified of the alteration and the reasons for that

alteration.

- 9.7.12. Decisions made by the Appeals Committee and the Board are binding and must be given effect by the original decision-maker insofar as relevant and within their remit.

## 10. OTHER MATTERS

- 10.1. Having regard to all the circumstances, the CEO or delegate(s) may determine that an application for review, reconsideration or appeal has been made vexatiously or frivolously. Where this determination is made, the CEO or delegate(s) must notify the applicant or appellant that their application will not be processed on the basis of it being vexatious or frivolous in nature. A decision made by the CEO in accordance with this paragraph is not subject to review, reconsideration or appeal.
- 10.2. The Board will be provided with updates in relation to the activities of the ERC, IRP and Appeals Committee as appropriate.
- 10.3. All activities carried out under this Policy must be carried out having regard to other relevant RANZCP policies and procedures, including the RANZCP Privacy Policy.
- 10.4. Decisions of the ERC, IRP, Appeals Committee and the Board are final and binding unless a person pursues a further avenue of appeal is available in accordance with this policy.
- 10.5. Where an applicant or appellant is successful in their application, the sole avenue of recovery for economic loss of any nature is limited to a recommendation made by the IRP or Appeals Committee to the Board for final decision, in relation to costs or refund of application fees paid under this Policy.
- 10.6. This Policy, and associated documents such as application forms, are subject to change without notice. Any revisions of this Policy will be made and approved in accordance with the RANZCP's standard governance processes.
- 10.7. The RANZCP will publish the most current version of this Policy on its website with public access status. The Policy will come into effect on the day it is published on the website.
- 10.8. Any queries regarding this document or its administration should be forwarded to [legalservices@ranzcp.org](mailto:legalservices@ranzcp.org).

## 11. ASSOCIATED DOCUMENTS

- RANZCP Constitution
- RANZCP Board Regulations
- Education Review Committee Regulations
- Independent Reconsideration Panel Regulations
- Appeals Committee Regulations
- RANZCP Privacy Policy

## 12. DOCUMENT CONTROL AND REVISION RECORD

|                                 |   |                                    |  |
|---------------------------------|---|------------------------------------|--|
| <b>Contact:</b>                 | <b>Legal Services Department</b>  |                                    |  |
| <b>Authorising Body:</b>        | Board   |                                    |  |
| <b>Responsible Committee/s:</b> | Education Review Committee, Independent Reconsideration Panel and Appeals Committee |                                    |  |
| <b>Document Code:</b>           | POL and PRC Review, Reconsideration and Appeal Policy and Procedure                 |                                    |  |
| <b>Date</b>                     | <b>Version</b>  | <b>Approver</b>                    | <b>Description</b>   |
| 29 June 2023                    | 3.0   | EGM<br>Education and<br>Operations | Minor amendments made to structure and content, prior to publication and implementation of document. |
| 23 February 2022                | 2.0   | B2022/2 R29                        | Revised version of the document. Major changes made to structure and content.                        |
| 25 February 2012                | 1.25  | General<br>Council                 |  |
| <b>NEXT REVIEW: 2027</b>        |   |                                    |  |