



The Royal New Zealand
College of General Practitioners
Te Whare Tohu Rata o Aotearoa

1. Title: RECONSIDERATION, REVIEW AND APPEALS POLICY

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| 1.7 | Unit responsible: | Learning Team |

RECONSIDERATION, REVIEW AND APPEALS POLICY

1. Purpose

- 1.1 This policy replaces the College's Appeals Policy and puts in place a new framework for reconsideration, review, and appeal of a decision made by the College.
- 1.2 This policy outlines the process for reconsideration, review, and appeal of a decision made by the College in relation to a member application, membership, progression of GPEP and financial or professional good standing associated with the General Practice Education Programme. Any member affected by a college decision (that is subject to this policy) is entitled to apply for reconsideration, review, and/or appeal to ensure that:
 - a. the College followed proper procedures during the decision-making process; and
 - b. evidence presented and available to the College was properly considered in the decision-making process.
- 1.3 The three stages of the College's internal process for the reassessment of a decision are:
 - a. **Reconsideration** – fact check by the decision maker who made the decision or the decision maker's delegate;
 - b. **Review** – independent review by a person with oversight of the decision maker or the person with oversight's delegate; and
 - c. **Appeal** – an Appeal Committee appointed by the Chief Executive or Chief Executive's delegate.
- 1.4 In each of these stages the decision maker(s) will reassess all the facts and circumstances relating to the decision, and either uphold the original decision or make a new decision.
- 1.5 As set out in clause 3.1 below, an application for review can be made without first seeking reconsideration, or in the case of appeal, without seeking reconsideration or review.
- 1.6 This policy does not apply to reconsideration of examination results which are dealt with via the Recount/Reconsideration of Examination Results Policy (CO-A-003-03).

2. Reconsideration

- 2.1 A person may apply for reconsideration of a decision if the decision concerns them directly.
- 2.2 An application for reconsideration must be made in writing and be received by the College within ten (10) working days of the applicant being advised of the decision.
- 2.3 The person undertaking a reconsideration will have the same power and discretion as the decision maker.
- 2.4 The person undertaking a reconsideration will consider information, documents and materials provided in relation to the original decision, any submissions or additional documents provided with the application for reconsideration, and other relevant information obtained by the College.
- 2.5 If the person considers new information not previously provided to the applicant which is relevant to the reconsideration, it must be shared with the applicant, with a reasonable time to respond, prior to the delegate making a reconsideration decision.
- 2.6 The reconsideration will be undertaken 'on the papers' and there will not ordinarily be an opportunity for the applicant to attend meetings or make oral submissions to the person undertaking the reconsideration.
- 2.7 The person undertaking the reconsideration must rely on information that was current at the time the original decision was made and cannot consider, for example, the applicant's additional training or experience gained between the time the decision was made and when it is reconsidered.
- 2.8 The person undertaking the reconsideration must give the applicant written notice of their decision on the application for reconsideration within a reasonable timeframe.
- 2.9 Only one application for reconsideration can be made in respect of a decision.

3. Review

- 3.1 A person may apply for a review of a decision if the decision concerns them directly. An application for review must be made on the College's form (accompanied by the prescribed fee) and be received by the College within ten (10) working days of the applicant being advised of the decision or reconsideration decision.
- 3.2 Review of a decision is conducted by a person with oversight of the decision maker or the decision maker's delegate.

- 3.3 The reviewer must be independent and not have participated in the decision-making process or any reconsideration in respect of the decision. The reviewer is appointed at the College's discretion.
- 3.4 The reviewer will have the same power and discretion as the decision maker.
- 3.5 The reviewer will consider information, documents and materials provided in relation to the original decision and reconsideration decision, any submissions or additional documents provided with the application for review, and other relevant information obtained by the College.
- 3.6 If the reviewer considers new information not previously provided to the applicant which is relevant to the review, it must be shared with the applicant, with a reasonable time to respond, prior to the reviewer making a review decision
- 3.7 The review will be undertaken 'on the papers' and there will not ordinarily be an opportunity for the applicant to attend meetings or make oral submissions to the reviewer.
- 3.8 The reviewer must rely on information that was current at the time the original decision was made and cannot consider, for example, the applicant's additional training or experience gained after the decision was made and when it is reviewed.
- 3.9 The reviewer must give the applicant written notice of their decision on the application for review within twenty (20) working days, unless the reviewer advises otherwise.
- 3.10 Only one application for review can be made in respect of a decision.

4. Appeal

- 4.1 A person may apply for an appeal of a decision, provided it has been through the review process set out above unless it is a termination of membership decision (where they can go straight to appeal), if they are the member affected by the decision.
- 4.2 An application for appeal must be made on the College's form, accompanied by the prescribed fee and be received by the College within twenty (20) working days of the applicant being advised of the outcome of the review, or the Board's decision to terminate their membership.
- 4.3 An appeal is conducted by an Appeal Committee convened to undertake the appeal.
- 4.4 Only one application for appeal can be made in respect of a decision.

5. Appeal Committee

5.1 An Appeal Committee shall consist of:

- a chair, being either the Chief Executive of the College (CE) or a Fellow appointed by the President to chair the Appeal Committee;
- a Fellow of the College; and
- a legal professional being a member of the New Zealand Law Society with a current practicing certificate.

5.2 Other members of the Appeal Committee shall be appointed at the College's discretion and the Chair may expand the membership of the Appeal Committee to include additional Fellow and/or non-Fellow members, as they consider appropriate in the circumstances. The College will provide secretariat support to the Appeal Committee.

5.3 The Appeal Committee must be independent and not include anyone who has previously participated in any decision-making process in respect of the decision.

6. Appeal Process

6.1 The Appeal Committee will be provided with an appeal pack of information, documents and materials in relation to the decision and any submissions or additional documents provided with the application for appeal. The applicant will be provided with a copy of the appeal pack provided to the Appeal Committee.

6.2 The applicant has ten (10) working days from receiving the appeal pack to submit any further information relevant to the appeal.

6.3 After considering the material provided under clauses 6.1 and 6.2, the Appeal Committee will determine how the appeal will proceed including:

- a. whether any additional information is required;
- b. whether the appeal can be decided 'on the papers'; and
- c. whether the applicant should have the opportunity to meet with the Appeal Committee or make oral submissions.

6.4 If the applicant is invited to attend a meeting of the Appeal Committee or make oral submissions, the applicant may, if they wish, be accompanied by a support person or representative but will not have the opportunity to call witnesses or cross-examine individuals who have provided information.

- 6.5 If the Appeal Committee considers new information not previously provided to the applicant which is relevant to the appeal, that information must be shared with the applicant. The applicant will have not less than five (5) working days to provide the Appeal Committee with any further information or documentation relevant to the new material or make submissions in response to it.

7. Decision of Appeal Committee

- 7.1 Except in the case of an appeal of a decision to terminate membership, the Appeal Committee will have the same decision-making power and discretion as the decision-maker. The Appeal Committee may decide to uphold the original decision, or review a decision, or make a new decision. In addition, the Appeal Committee may overturn the decision but refer the matter back to the original decision-maker or reviewer for further consideration.
- 7.2 In the case of an appeal of a decision to terminate membership, the Appeal Committee will make a recommendation to the Board. The Appeal Committee's recommendation will not be binding on the Board because the Appeal Committee does not have the authority to make decisions about termination of membership or override the Board's decision making.
- 7.3 In addition to making a decision in respect of the appeal, the Appeal Committee may make recommendations to the Board if it considers appropriate in respect of any matter arising from the appeal.
- 7.4 The Appeal Committee must rely on information that was current at the time the original decision was made and cannot consider, for example, the applicant's additional training or experience gained between the time the decision was made and the appeal.
- 7.5 The Appeal Committee must give the applicant written notice of its decision on the appeal within a reasonable timeframe.

7.6 Costs

Additional costs may apply, depending on the nature of the appeal. This will be determined on a case-by-case basis and the appellant will be informed of the costs by the College.

The Committee may order a party to an appeal to pay to the other party costs and disbursements (including expenses of witnesses) using the basis for costs set out in the District Court Rules 2014 (or any District Court Rules which replace those Rules). An appellant accepts that any costs order made against them by the Committee is a debt payable and owing to the College.

8. Decisions of the College Board and Recommendations of College Bodies

- 8.1 This policy does not apply to any decision of the College Board other than the termination of membership decision.