



1. TITLE: APPEALS POLICY

- 1.1 Policy reference: CO-A-002-06
- 1.2 Category: Academic – Education
- 1.3 Approval date: July 2020
- 1.4 Approved by: Chief executive
- 1.5 Effective date: September 2020
- 1.6 Review/revision date: July 2021
- 1.7 Unit responsible: Learning team

2. Policy declaration

2.1 Purpose

This policy sets out how an appellant may appeal against the process by which decisions have been made by The Royal New Zealand College of General Practitioners (the College) that affect their training, assessment and/or other activities associated with the General Practice Education Programme (GPEP or the programme).

3. Scope

3.1 Within the scope of this policy

Appeals of the process used to reach the decision, not of the decision itself. This includes, but is not limited to, the following:

- a. A decision not to allow the appellant entry into the programme;
- b. A decision or result that has been reconsidered and reviewed under the College's Special Consideration in Assessment and Reconsideration of Examination Results Policy (CO-A-003-02);
- c. A decision that the appellant has breached the College or the programme examination rules;
- d. A decision that the appellant has been found guilty of professional or academic misconduct under the College or the Programme Rules or the College's Academic Integrity Policy (CO-A-002-02);
- e. A decision by the censor in chief following a Fellowship assessment visit that the appellant has not met the requirements for Fellowship;
- f. A decision or result that has been evaluated under the College's Recognition of Prior Learning Policy (CO-A-001-03);

- g. A decision or result that has been considered under the College's Varying GPEP Training Policy (CO-A-002-03);
- h. A decision not to accredit a practice as a teaching site; and
- i. A decision related to an appellant meeting the programme requirements.

3.2 **Outside the scope of this policy**

Appeal of the substance of any decision reached by the College that affects an appellant's training, assessment and/or other activities associated with the programme.

4. **Definitions**

All definitions are available in the College's Academic Regulatory Framework for Quality Assurance (CO-A-001-00).

5. **Grounds of appeal**

5.1 **Admission into a College training programme**

- 5.1.1 An appeal against a decision to decline admission into the programme may be brought where the appellant believes the process has been unfair, prejudiced or biased.
- 5.1.2 The appeal claim must be provided in writing and accompanied by documentation supporting the appeal.

5.2 **Examination results**

- 5.2.1 An appeal against an examination result may only be brought if the matter has previously been considered under the Special Consideration in Assessment and Reconsideration of Examination Results Policy (CO-A-003-02).
- 5.2.2 Any appeal will only cover the process used to reach that decision.
- 5.2.3 The appeal claim must be provided in writing and accompanied by documentation supporting the appeal.
- 5.2.4 An appeal may not be brought on the grounds that the appellant:
 - a. wishes to challenge the academic judgement of an examiner concerning their performance in the examination (or include any such grounds in their appeal);
 - b. is unable to give sound reasons as to why they did not understand or were unaware of the examination rules and/or why they did not raise any questions before sitting the examination.

5.3 **Fellowship assessment decisions**

- 5.3.1 An appeal concerning a Fellowship assessment decision may be brought on the grounds that the appellant believes:
 - a. there was an irregularity in the assessment process; or
 - b. the assessment process was unfair; or
 - c. an assessor or the censor in chief was prejudiced or biased against the appellant.

- 5.3.2 The appeal claim must be provided in writing and accompanied by documentation supporting the appeal.
- 5.3.3 An appeal may not be brought on the grounds that the appellant:
- a. wishes to challenge the academic judgement of an assessor or the censor in chief;
 - b. did not understand or was unaware of the process relating to the assessment or the College's Fellowship Assessments Standards.
- 5.4 **Any other matter coming within the scope of this policy**
- 5.4.1 An appeal concerning any other matter within the scope of this policy may be brought on the grounds that the appellant considers the process leading to a decision or result was incorrectly performed, flawed or biased.
- 5.5 **Applications in languages other than English**
- 5.5.1 Hearing-impaired applicants will be advised of their right to have their appeal conducted in New Zealand Sign Language.
- 5.5.2 Applicants wishing to have their appeal conducted in te reo Māori should notify the College of this at the time of submission.

6. Application for appeal

- 6.1 An application for appeal must be made on the Application for Appeal form and submitted to the head of learning (or delegate).
- 6.2 The application for appeal must be received by the College within ten (10) working days of receipt by the appellant of the decision or result appealed against (or, where the matter has been subject to reconsideration under the Special Consideration in Assessment and Reconsideration of Examination Results Policy (CO-A-003-02), within ten (10) working days of receipt of the outcome of the review).
- 6.3 No application for appeal made outside of this timeframe will be accepted, unless the Appeal Tribunal (the Tribunal) is satisfied that the delay in lodging the application was due to exceptional circumstances (e.g. serious illness or a bereavement).
- 6.4 A standard fee of \$75.00 + GST must be paid in respect of an appeal. The fee must be paid at the time of the Application for Appeal and is only refundable if the appeal is upheld. 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.

7. Parties

- 7.1 Where the appeal relates in any way to a GPEP written or clinical examination (including breach of the GPEP examination rules), or to a Fellowship assessment decision, the censor in chief is the respondent.
- 7.2 In any other appeal, the original decision maker is the respondent.
- 7.3 The appellant and the respondent may act in person or be represented in any appeal.

8. The Appeal Tribunal

- 8.1 Any appeal will be heard by the Tribunal, which will be constituted to consider the appeal.
- 8.2 The Tribunal will consist of a chair and up to three members, appropriately qualified to hear a particular appeal, who are appointed by the College (through its chief executive or delegate). Where there are multiple appeals, the College may appoint the same Tribunal to hear each appeal or may appoint a different Tribunal for each appeal (i.e. more than one Tribunal may be in existence at any one time). Where the same Tribunal has been appointed to hear multiple appeals, the Tribunal may decide at its discretion to hear the appeals together or separately.
- 8.3 The Tribunal chair will be either a barrister or solicitor of the High Court of not less than 10 years' practice, or an experienced Fellow of the College who has had no previous involvement in the matter under appeal. Where the member is an experienced Fellow, the College may appoint a legal adviser to advise the Tribunal.
- 8.4 The College may appoint one of its employees to act as an official recorder for the Tribunal.
- 8.5 In determining any appeal, the Tribunal will act independently from the College.

9. Directions

- 9.1 At any time after an appeal is lodged, and in consultation with the parties, the Tribunal may give any directions necessary to facilitate the proper determination of the appeal (on the application of any party or without application). The Tribunal may, but is not limited to, the following actions:
- a. Settle the issues to be determined (including, if necessary, requiring the appellant to provide further details of the grounds of their appeal so that the respondent and the Tribunal are fully informed of the issues in the appeal);
 - b. Advise the appellant of entitlement to representation, advice, advocacy and whānau support at all stages of the process;
 - c. Give directions regarding the manner in which evidence is to be brought before the Tribunal;
 - d. Fix a time for filing briefs of evidence, affidavits, submissions or other documents.

10. Conduct of the appeal

- 10.1 The Tribunal must conduct its business in compliance with the principles of natural justice.
- 10.2 The Tribunal may consider such evidence and information as it thinks fit, whether strictly legal evidence or not.
- 10.3 The Tribunal may hold a hearing in person, by teleconference or by videoconference, or decide an appeal on the paper evidence where the appellant has agreed to this approach.

- 10.4 The Tribunal must take all practicable steps to ensure that notice of the time, place and date of any hearing is given to the appellant and the respondent at least ten (10) working days before the date of the hearing. The appellant may use this time to arrange for one or more support people/whānau to attend the hearing.
- 10.5 Subject to this policy, the Tribunal may make any order it thinks fit to protect the confidentiality of any evidence, submissions or other material provided at or for the purposes of the hearing.
- 10.6 Where the Tribunal members cannot agree on any decision relating to an appeal, the matter will be decided by majority vote.

11. Powers of Appeal Tribunal

11.1 Examination results, Fellowship assessment decisions; and irregularity, prejudice or bias

11.1.1 Where an appeal concerns an examination result or a Fellowship assessment decision and is brought on the grounds of an alleged irregularity, prejudice or bias, the Tribunal must dismiss the appeal unless the Tribunal is satisfied that:

- a. there was such an irregularity, prejudice or bias; and
- b. there is a real likelihood that the irregularity, prejudice or bias materially affected the examination result or the Fellowship assessment decision.

11.1.2 Where the Tribunal is satisfied of the above, it may only make one or both of the following orders (and to avoid doubt any order for costs):

- a. That the examination result or the Fellowship assessment decision be quashed;
- b. That the appellant be permitted to re-sit the examination or have another assessment visit without having to pay the applicable fee. In the case of an examination, the appellant will be permitted to re-sit when the examination is next held. In the case of an assessment visit, the appellant will be permitted to have another assessment visit at a time agreed between the appellant and the College.

(The orders that the Tribunal may make are limited in this way because it will not usually be possible to determine with any accuracy what the appellant's result or the Fellowship assessment decision would have been but for the irregularity, prejudice or bias).

11.2 Alleged error in the calculation or collation of marks

11.2.1 Where an appeal concerns an examination result and an alleged error in the calculation or collation of the appellant's marks, and the Tribunal is satisfied that there was such an error, the Tribunal may order that the appellant's results be amended as it sees fit. If the Tribunal finds that there was no such error, it must dismiss the appeal.

11.3 **Any other matter within the policy's scope**

11.3.1 Where an appeal concerns any other matter within the scope of this policy, the Tribunal must make its own assessment of the matter on the basis of the information before it and may give the respondent's decision such weight as it sees fit. The Tribunal must determine an appeal outcome by:

- a. dismissing the appeal;
- b. modifying the respondent's decision;
- c. quashing the respondent's decision; or
- d. quashing the respondent's decision and making any other decision the respondent could have made.

11.4 **Other powers to dismiss an appeal**

11.4.1 The Tribunal may dismiss any appeal if the appellant does not:

- a. comply with any direction or other order of the Tribunal;
- b. prosecute the appeal with due diligence; or
- c. appear at the time appointed for hearing the appeal.

11.5 **Costs**

11.5.1 The Tribunal may order a party to an appeal to pay to the other party costs and disbursements (including expenses of witnesses) on the basis set out in the District Court Rules 2014 (or any District Court Rules which replace those Rules).

11.6 **Acceptance of the Tribunal's authority and orders**

11.6.1 An appellant who brings an appeal under this policy accepts the Tribunal's authority to make any decision or order relating to the appeal. This includes but is not limited to the Tribunal's decision on the outcome and any order as to costs. An appellant accepts that any costs order made against them by the Tribunal is a debt payable and owing to the College.

12. Decisions in writing

12.1 The Tribunal's decision in any appeal must be in writing and contain the reasons for the decision.

12.2 Summary of appeal process

Step	Action	Timeframe
1.	The appellant is notified of the outcome of the matter in respect of which an appeal has been brought under this policy. The written notification will: <ul style="list-style-type: none">➤ refer the appellant to their right to appeal under this policy; and➤ provide a copy of the policy or information on how the policy can be accessed (e.g. on the College's website).	As soon as reasonably practicable and appropriate to the individual case.
2.	The appellant lodges their appeal within ten (10) working days of having received the notification that resulted in the appeal being made (e.g. the outcome of a reconsideration or review process).	The College will acknowledge the appeal within five (5) working days of receipt.
3.	The College will appoint the Tribunal, any legal adviser, and any registrar.	As soon as reasonably practicable.
4.	The Tribunal will give directions and otherwise conduct the appeal.	As required.
5.	The Tribunal will issue a written decision.	As soon as reasonably practicable.

13 Appeal of decision

13.1 An appellant who is unhappy with the outcome of the Appeal Tribunal process may appeal it to the Ombudsman.

14. Related policies, documents and legislation

- Academic Regulatory Framework for Quality Assurance (CO-A-001-00)
- Application for Appeal form
- Special Consideration in Assessment and Reconsideration of Examination Results Policy (CO-A-003-02)
- Special Consideration in Assessment and Reconsideration of Examination Results Procedure (CO-A-003-02A)
- Admission to GPEP and Placement Policy (CO-A-001-01)
- Academic Integrity Policy (CO-A-002-02)
- Academic Integrity Procedure (CO-A-002-02A)

- > GP Registrar Concerns and Complaints Policy (CO-A-002-05)
- > GP Registrar Concerns and Complaints Procedure (CO-A-002-05A)
- > Varying GPEP Training Policy (CO-A-002-03)
- > Approval of GPEP Teaching Practices and Teachers Policy (CO-A-001-02)
- > Recognition of Prior Learning Policy (CO-A-001-03)
- > Recognition of Prior Learning Procedure (CO-A-001-03A)
- > Fellowship Assessment Standards
- > Human Rights Act 1993
- > Ombudsman Act 1975 and subsequent amendments to the Act

15. Administrative procedures

15.1 Promulgation of published policy

This policy will be available via the College intranet and website.