



### **19.1 POLICY**

- 19.1.1 The Appeals Committee shall hear appeals in relation to decisions made by or on behalf of the RANZCOG.

### **GUIDELINES**

- 19.2 Questions of disputed decisions or assessment can frequently be resolved without recourse to formal appeal. It is advised that any disputed decision or assessment be discussed with the Chief Executive Officer of the College under Regulation 19.3 below (Informal Review Procedures) prior to lodging a formal appeal under Regulation 19.4 of this policy.

### **19.3 Informal Review Procedures**

- 19.3.1 Requests for informal reviews, where potential appellants seek a review of a decision or further reasons for a decision, must be addressed in writing to the Chief Executive Officer within three months of the date of the decision being made. Such a review shall not, and does not, constitute an appeal under this Regulation.
- 19.3.2 An appellant may request information on which the decision was based. The College will provide such information upon written request, within four weeks of the request, subject to obligations of privacy and confidentiality which may apply.
- 19.3.3 Following a request for informal review, or additional reasons (as the case may be), the Chief Executive Officer must be satisfied that all other avenues to resolve the issues of concern to the potential appellant have been exhausted before a formal appeal can be lodged and an Appeals Committee constituted.
- 19.3.4 Where the informal review procedure has been utilised, formal appeals must be lodged in writing to the Chief Executive Officer within three months of the date of advice of the outcome of the informal review.

### **19.4 Formal Appeals**

- 19.4.1 Formal appeals must be lodged in writing to the Chief Executive Officer within six months of the decision being made. Where the appellant has utilised the informal review procedures as outlined in Regulation 19.3 and the Chief Executive Officer is satisfied that all other avenues to resolve the issues of concern to the potential appellant have been exhausted, formal appeals must be lodged in writing to the Chief Executive Officer within three months of the date of advice of the outcome of the informal review from the Chief Executive Officer.
- 19.4.2 The formal appeal lodged in writing must:
- State the decision in respect of which the appeal is made;
  - Clearly state the grounds for the appeal (refer to Regulation 19.5);
  - Provide a brief outline of the matters in issue;
  - State the remedy sought; and
  - Provide payment of the applicable appeal fee (refer to Regulation 19.9).

## 19.5 Grounds for Appeal

- 19.5.1 A person who is aggrieved by a College decision may request an appeal in respect of the decision on one or more of the following grounds:
- (a) that an error in law or in due process occurred in the formulation of the original decision;
  - (b) 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;
  - (c) that irrelevant information was considered in the making of the original decision;
  - (d) that procedures that were required by College policies to be observed in connection with the making of the decision were not observed;
  - (e) that the original decision was made for an improper purpose;
  - (f) that the original decision was made in accordance with a rule or policy without regard to the merits of the particular case;
  - (g) that the original decision was clearly inconsistent with the evidence and arguments put before the body making the original decision.

\* **Note:** Evidence of further training and experience by the appellant during the period between the making of the original decision, the subject of the appeal, and the date of the hearing of the appeal, shall not be considered as information that becomes available subsequently.

## 19.6 Time Restrictions for Appeals

- 19.6.1 Pursuant to Regulation 19.3.1 requests for informal reviews must be lodged in writing to the Chief Executive Officer within three months of the date of the decision.
- 19.6.2 Pursuant to 19.4.1 formal appeals must be lodged in writing to the Chief Executive Officer within six months of the decision being made. Where the appellant has utilised the informal review procedures as outlined in Regulation 19.3 and the Chief Executive Officer is satisfied that all other avenues to resolve the issues of concern to the potential appellant have been exhausted, formal appeals must be lodged in writing to the Chief Executive Officer within three months of the date of advice of the outcome of the informal review from the Chief Executive Officer.

## 19.7 Appeals Committee Composition

- 19.7.1 The Appeals Committee will comprise:
- Three members (one of whom shall be the Chairperson) who are not College members; and
  - Two College Fellows who were not party to any decision to which the appeal relates (in the event of an appeal involving a subspecialist, one of the Fellows should be a subspecialist from that particular subspecialty).
- 19.7.2 The Chief Executive of the College, or nominee, shall be in attendance at the hearing of the appeal but shall not be part of the Appeals Committee.

19.7.3 A quorum for meetings of the Appeals Committee will be the Chairperson and three other members. All members of the Appeals Committee shall be entitled to vote on decisions. Decisions of the Appeals Committee shall be decided by a majority of votes of members. In the event of an equality of votes, the Chairperson may exercise a casting vote.

## **19.8 Appeal Proceedings**

19.8.1 After determining that the appeal will proceed, the Chief Executive Officer or nominee shall:

- (a) Acknowledge receipt of the appeal, including receipt of payment of the appeal fee.
- (b) Convene the Appeals Committee.
- (c) Determine the date of the appeal hearing, which shall be held within three months of the lodging of a formal appeal.
- (d) At least 21 days prior to the hearing date the Chief Executive Officer or nominee will advise the appellant in writing:
  - The date, time and location of the appeal;
  - The membership of the Appeals Committee;
  - The right of the appellant to present his or her case to the Appeals Committee in person; and
  - The right of the appellant to have a personal advocate, colleague or mentor present at the hearing in an observer capacity, but who may, with the consent of the Appeals Committee, act as advocate in accordance with Regulation 19.8.3.

19.8.2 Appellants are required to lodge all written submissions and copies of any documents and records upon which he/she wishes to rely to the Appeals Committee 14 days prior to an appeal hearing. Additional information provided after the submission will only be considered if the Chair of the Appeals Committee considers that the material is of significance to the matter.

19.8.3 A personal advocate, colleague or mentor may represent the appellant in those cases where the Appeals Committee considers that an appellant could not present, or would be disadvantaged in his/her appeal if required to present in person. Such a request for an appellant to be so represented must be made in writing to the Chairperson of the Appeals Committee no later than seven (7) working days prior to the date of the appeal hearing. In those cases where the appellant is granted leave to be so represented by an advocate, the Appeals Committee may appoint a person to act as counsel assisting in the hearing of the appeal.

19.8.4 Sponsoring hospitals may appeal on behalf of overseas-trained specialists they are seeking to employ.

19.8.5 The Appeals Committee must act according to the rules of procedural fairness / 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 procedural fairness / natural justice, may inform itself on any matter and in such a manner as it thinks fit.

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

19.8.7 All proceedings shall remain confidential, save for information relating to decisions distributed as outlined in Regulation 19.8.12 below.

- 19.8.8 The Appeals Committee may:
- (a) Confirm the decision which is the subject of the appeal.
  - (b) Revoke the decision which is the subject of the appeal and refer it back to the originating committee for a fresh decision.
  - (c) Revoke the decision which is the subject of the appeal and make an alternative decision for notification to Council.
- 19.8.9 In all cases the Appeals Committee's decision is final.
- 19.8.10 Decisions of the Appeals Committee must be notified to Executive and Council.
- 19.8.11 The Chief Executive Officer, on behalf of the Appeals Committee, will notify the appellant in writing of the decision, and reasons for the decision, within three weeks of the appeal hearing.
- 19.8.12 Decisions of the Appeals Committee will be disseminated as follows:
- 19.8.12.1 Following communication of the decision and reasons to the appellant(s), the College Chief Executive Officer shall make available to the College President a document outlining the decision and a summary only of reason(s) for the decision (essentially the grounds of appeal and those which were or were not found to be upheld).
  - 19.8.12.2 The decision of the Committee, together with the summary of the reason(s) for the decision, will be conveyed to the College Executive members (by e-mail in the first instance, followed by distribution in papers at the next scheduled meeting of this group). (19.8.7, 19.8.10)
  - 19.8.12.3 The decision of the Committee, along with the summary of the reason(s) for the decision will be conveyed to the Chairperson of the Committee or other body that was responsible for the original decision that was the subject of the appeal, as well as the manager of the College department responsible for the coordination of that Committee or other body. This enables facilitation of any further processes required as a result of the decision, as well as review of processes surrounding the original decision. The Chairperson of the Committee may choose to share the decision and summary reasons for the decision with members of the body.

There are occasions where a decision may be felt by the College President or Chief Executive Officer to have direct relevance and ramifications beyond the committee from which the decision that was the subject of the appeal originated. In such cases, where it is considered necessary in order for College process to be altered as a result of the decision of an appeal, and with the agreement of the Chairperson of the Appeals Committee, the decision of the Appeals Committee, along with information relating to the summary of the reason(s) for the decision that is considered to be of direct relevance, may be conveyed to such other bodies or staff as is considered necessary, provided that the information conveyed is first de-identified to protect the confidentiality of the appeal proceedings.

- 19.8.12.4 The decision of the Committee, along with the summary of the reason(s) for the decision (essentially the grounds of appeal and those which were or were not found to be upheld) will be conveyed to the College Council by distribution in papers at the next scheduled meeting of this group. (19.8.7, 19.8.10)
- 19.8.12.5 A de-identified notice of the outcome of the appeal may appear on the College website or in a suitable College newsletter should the President and Executive wish it to be publicised.

## 19.9 Fees

- 19.9.1 The Chief Executive Officer will advise the appellant of the applicable fee at the time of initial discussions prior to lodgement of the formal appeal.
- 19.9.2 The appellant shall submit payment of the fee with the formal letter of appeal.
- 19.9.3 The College will refund the fee paid to the appellant in the case that the appeal is upheld.
- 19.9.4 The Chief Executive Officer of the College has the power to waive the application fee in appropriate circumstances, and the Chair of the Appeals Committee shall have the power to review decisions of the Chief Executive Officer on application of the appellant.
- 19.9.5 An appellant requiring a face-to-face hearing will meet all costs that they incur including, but not limited to, travel and accommodation regardless of the result of the appeal.

## 19.10 Approval Authority

- 19.10.1 Amendments to this policy and the procedures shall be approved by the College Executive Committee.

## 19.11 Implementation and Monitoring

- 19.11.1 The Chief Executive Officer shall be responsible for the implementation of this policy and for monitoring its effectiveness.

<b>Effective Date</b>	The RANZCOG Appeals Procedures came into effect on the date that it was approved by the RANZCOG Council, being 27 March 2004.
<b>Review Date</b>	The Chief Executive Officer shall review this policy every two years after the date it is put into effect.
<b>Revision History</b>	Council November 2004 Executive Committee and Council November 2006 Incorporates additions approved by Executive Committee and Council March 2007 and Executive Committee and Council November 2007 Executive Committee November 2009 Executive Committee March 2010