



**RANZCO**

The Royal Australian  
and New Zealand  
College of Ophthalmologists

# APPEALS POLICY

---

**Approved by:** Board

**Approval date:** 2 August 2013

**Last review date:** 2 August 2013

**Version:** 1.2

94-98 Chalmers Street, Surry Hills NSW 2010  
Phone: +61 2 9690 1001 Fax: +61 2 9690 1321  
ACN 000 644 404  
[www.ranzco.edu](http://www.ranzco.edu)

**RANZCO**



The Royal Australian  
and New Zealand  
College of Ophthalmologists

THE MEDICAL EYE SPECIALISTS

## 1. Purpose and scope

- 1.1** Under Paragraph 101 of the Constitution, an appeals process has been established to hear and determine appeals from determinations made on behalf of the Royal Australian and New Zealand College of Ophthalmologists (the *College*) by any committee of the College.
- 1.2** Any person (the *Appellant*) who has been directly and adversely affected by a determination of the College that is inconsistent with an approved policy or procedure may apply to the Chief Executive Officer (*CEO*) to have the determination reviewed in accordance with this policy.
- 1.3** Only the following determinations, as referred to in Clause 2.1, may be subject to review:
- 1.3.1 Final Decisions of a Committee or Board in relation to examination, selection, and assessment of progress of Trainees;
  - 1.3.2 Final Decisions of the Council in relation to applications for admission to Fellowship;
  - 1.3.3 Final Decisions of a Committee or Board in relation to the assessment of International Medical Graduates (IMGs) seeking a pathway to Fellowship of the College;
  - 1.3.4 Final Decisions of a Committee or Board in relation to participation in the Continuing Professional Development Program;
  - 1.3.5 Final Decisions of the Committee or Board in relation to the determination of a complaint (in accordance with the College's Protocol for dealing with Complaints); and
  - 1.3.5 Any other final decision of a Committee the CEO considers appropriate where an Appellant has been directly and significantly adversely affected to such an extent that it will impact upon their medical career.

## 2. Reconsideration of a Decision

- 2.1** An Appellant must, prior to lodging an appeal, seek reconsideration of a decision (as referred to in clause 1.3) by the original decision-making body (a *Reconsideration*). There is no fee payable for seeking a Reconsideration.
- 2.2** An application for Reconsideration must be made in writing to the CEO within 28 days of written notification of the original decision and set out in detail the basis for the application for a Reconsideration. The CEO may request additional information from the Appellant or original decision-making body if they feel this will aid the process.

- 2.3** Within 7 days of receipt of an application for Reconsideration, the CEO must acknowledge receipt of the application in writing.
- 2.4** An Appellant may only request a Reconsideration of a decision where:
- 2.4.1 there is evidence that approved policy was not correctly applied; or
  - 2.4.2 there are pertinent matters of fact that existed at the time of the original decision but were not known to the decision maker.
- 2.5** Within 28 days of the receipt of an application for Reconsideration, the original decision-making body must:
- 2.5.1 reconsider the original decision; and
  - 2.5.2 notify the Appellant in writing of the:
    - 2.5.2.1 outcome of the Reconsideration;
    - 2.5.2.2 reasons for the outcome of the Reconsideration; and
    - 2.5.2.3 the Appellant's right of review in accordance with clause 3.1.

### 3. Appeal of a Decision

- 3.1.** If an Appellant is dissatisfied with the outcome of a Reconsideration, an Appellant may, within 3 months of receipt of a notification in accordance with clause 2.5.2, apply to appeal a Reconsideration (an *Appeal*).

#### **Initial Application**

- 3.2.** An application for Appeal made in accordance with clause 3.1 must:
- 3.2.1 be made in writing and addressed to the CEO;
  - 3.2.2 identify the specific decision being contested;
  - 3.2.3 identify the specific ground/s for appeal set out in clause 5.1 which are being invoked;
  - 3.2.4 be accompanied by all relevant information and documents in support of the ground/s for appeal; and
  - 3.2.5 be accompanied by the Appeal fee as determined from time to time by the College and published on the College's website.
- 3.3.** Within 7 days of receipt of an application for Appeal, the CEO must acknowledge receipt of the application in writing.

#### **Initial Determination by the CEO**

- 3.4.** The CEO shall not convene the Appeals Committee until satisfied that:
- 3.4.1 all other avenues of reconsideration and review of the relevant decision have been exhausted; and

- 3.4.2 the application for Appeal establishes prima facie grounds for appeal.
- 3.5.** Where the CEO *is not* satisfied that the application for Appeal meets the criteria in clause 3.4, the CEO will, within 28 days of receipt of an application, advise the Appellant in writing of the reasons for not accepting the Appeal and return the prescribed fee.
- 3.6.** Where the CEO *is* satisfied that the application for Appeal meets the criteria in clause 3.4, the CEO will, within 28 days of receipt of an application, convene an Appeals Committee and:
- 3.6.1 notify the Appellant in writing of:
- (a) the decision to refer the matter for review by the Appeals Committee;
  - (b) the identity of the Appeals Committee;
  - (c) all relevant documentation held by the College
- 3.6.2 notify the original decision-making body in writing of:
- (a) the application for Appeal and provide a copy of the Appeal and any supporting documentation;
  - (b) the decision to refer the matter for review by the Appeals Committee; and
  - (c) the identity of the Appeals Committee.
- 3.7.** The notifications made in accordance with clause 3.6 must be accompanied by a copy of this Policy.
- Initial Notification by the Appeals Committee**
- 3.8.** Within 28 days of notification of the convening of an Appeals Committee by the CEO, the Appeals Committee must advise the Appellant of:
- 3.8.1 the proposed date, time and place of the hearing;
- 3.8.2 the Appellant's right to appear before the Appeals Committee;
- 3.8.3 the Appellant's right to have a support person present at the hearing;
- 3.8.4 the Appellant's right to seek leave from the Appeals Committee to have legal representation present at the hearing; and
- 3.8.5 the process for the Appeal.
- 3.9.** Within 28 days of notification of the convening of an Appeals Committee by the CEO, the Appeals Committee must advise the original decision-making body of:
- 3.9.1 the proposed date, time and place of the hearing;
- 3.9.2 the right of a representative of the original decision-making body to appear before the Appeals Committee;

3.9.3 the right of the original decision-making body to seek leave from the Appeals Committee to have legal representation present at the hearing; and

3.9.4 the process for the Appeal.

### **Submissions**

**3.10.** If the Appellant wishes to make any amendments to the initial application to Appeal, including the provision of supporting documentation, the Appellant must do so within 14 days of the convening of the Appeals Committee by the CEO.

**3.11.** If the original decision-making body wishes to respond to the Appeal it must do so within 28 days of receipt of any amendments to the initial Appeal and supporting documentation from the Appellant or notification from the Appellant that there will be no further documentation.

**3.12.** If the Appellant wishes to reply to the response of the original decision-making body it must do so within 14 days of receipt of the response of the original decision-making body.

**3.13.** Any submissions by the Appellant or original decision-making body must be provided to the other party within 48 hours of receipt by the Chair of the Appeals Committee.

## **4. Appeals Committee**

**4.1** An Appeals Committee convened by the CEO will be comprised of the following:

### **4.1.1 Members**

- Three appropriately qualified persons who are not Fellows of the College.
- Two Fellows of the College (not directly involved in the case matter of the Appeal).

### **4.1.2 Chair**

The Chair will be one of the non-Fellow Members of the Appeals Committee.

**4.2** The Appeals Committee will not comprise any individual who was involved in the making of the original decision.

**4.3** The Appeals Committee is an independent body which is set up and assisted by the College but it is not part of the College.

**4.4** The CEO will oversee the appeals process, and will arrange for legal or secretarial support as required, but shall not form part of the Appeals Committee.

**4.5** A quorum for meetings of the Appeals Committee will be the Chairman and three other members. All members of the Appeals Committee shall be entitled to vote on decisions. The Appeals Committee shall decide on the basis of a majority vote. In the event of an equality of votes, the Chairman may exercise a casting vote.

- 4.6** Conflicts of interest should be avoided where possible, however, where this is unavoidable:
- 4.6.1 the conflict of interest must be disclosed to the Appellant and the original decision-making body; and
  - 4.6.2 the Appellant and the original decision-making body must be given the opportunity to request that the conflicted party refrain from participating in the Appeals process.

## 5. Grounds of Appeal

- 5.1** An Appeal may only be made in respect of one or more of the following grounds:
- 5.1.1 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.
  - 5.1.2 that the original decision was clearly inconsistent with the evidence and arguments put before the body making the original decision.
  - 5.1.3 that irrelevant information was given undue weight in the making of the original decision.
  - 5.1.4 that procedures that were required by College policies to be observed in connection with the making of the decision were not observed.
  - 5.1.5 that the original decision was made for an improper purpose.
  - 5.1.6 that the original decision was made in accordance with a rule or policy without regard to the merits of the particular case.

## 6. Hearing of an Appeal

- 6.1. The hearing of an Appeal must be held within 3 months of the convening of the Appeals Committee. A hearing date will not be scheduled until such time as the Appeal fee has been received by the College in full.
- 6.2. Both the Appellant and the original decision-making body are entitled to apply to the Appeals Committee to be legally represented at the hearing of the Appeal as set out in clauses 3.8 and 3.9. Any such application must be made in writing prior to, and allowing, 14 clear days before the hearing date.
- 6.3. The Appellant will have the onus of proof to establish the grounds of the Appeal.
- 6.4. 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.
- 6.5. The Appeals Committee shall be entitled to consider all relevant information, which it deems fit and may invite any person to appear before it or to provide information.
- 6.6. The Appeals Committee shall conduct its affairs with as little formality as possible, and shall have full power to regulate its conduct and operation, subject to these rules.
- 6.7. Except where 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 shall be kept confidential. Information may be released with the consent of both the Appellant and the original decision-making body.
- 6.8. The CEO may delegate his or her powers and duties in respect of any Appeal to such person/s as he or she considers appropriate.

## 7. Decision of the Appeals Committee

7.1 An Appeals Committee may, upon considering all of the material before it:

- 7.1.1 Determine to confirm the original decision;
- 7.1.2 Determine to revoke the original decision;
- 7.1.3 Determine to revoke the original decision and make recommendations to the College Board to refer the original decision to the relevant parties for further consideration (upon such terms or conditions of the Appeals Committee may determine);
- 7.1.4 Determine to revoke the original decision and make recommendations to the College Board on an alternative decision; and

- 7.1.5 Make recommendations to the College Board as to whether part or all of the costs associated with the Appeals Committee should be waived.
- 7.2 Within 2 weeks of the hearing of an Appeal, the Appeals Committee will issue a written decision, with reasons for the decision, to:
  - 7.2.1 The Appellant;
  - 7.2.2 The original decision-making body;
  - 7.2.3 The College Board; and
  - 7.2.4 Any other authority the Appeals Committee or the CEO considers appropriate.
- 7.3 The decision of the Appeals Committee will take effect from the date it is reported to the Board.
- 7.4 The decision of the Appeals Committee is final and binding.

## 8. Related Documents

RANZCO Constitution

RANZCO Professional Code of Conduct

RANZCO Protocol for Dealing with Complaints