



The Division of Rural Hospital Medicine

1. TITLE: RECONSIDERATION, REVIEW AND APPEAL

- 1.1 Policy reference: DRHM
- 1.2 Category: Learning – Assessment
- 1.3 Approval date: February 2019
- 1.4 Revision due date: February 2022
- 1.5 Unit responsible: DRHM

2. Policy declaration

2.1 Purpose

- 2.1.1 This policy outlines the process and procedures for reconsideration and appeal of decisions taken by the Division of Rural Hospital Medicine (the 'Division') as part of its function as a training body. This policy sets out the mechanism for reconsideration, review and appeal by any members adversely affected by a decision of the Division. This is to ensure that due process was followed in reaching decisions, and that proper consideration was given to appropriate evidence or information in relation to those decision. This is subject to the matter being within this policy's scope.

3. Scope

- 3.1 The following decisions or results can be subject to reconsideration and review under this policy:
- (a) A decision by the Division not to admit an applicant to the DRHM training programme.
 - (b) A decision by the Division in relation to applications for admission to Fellowship.
 - (c) Written or clinical examination results, if the candidate has reason to believe that:
 - (i) there may have been an error in the calculation or collation of his or her marks
 - (ii) there was an irregularity in the examination
 - (iii) an examiner was prejudiced or biased against the candidate.
 - (d) A decision declining an application for special consideration in assessment. To avoid doubt there is no right to reconsideration or review of such a decision heard or determined before the relevant assessment takes place, and it is unlikely this will occur.
 - (e) A decision by the Division relating to the recognition of prior learning as credit towards the requirements of the training programme.
 - (f) A decision by the Division on training required to be undertaken by overseas-trained general practitioners in order to meet the requirements for Fellowship of the Division.
 - (g) A decision by the Division about whether the required training time as specified in the Regulations have been satisfied by a candidate.
 - (h) A decision by the Division to terminate a Registrar from the training programme, or to terminate membership of a Division member.

- (i) A decision relating to the accreditation of training posts.
- (j) A decision relating to complaints and disputes and any other decision of the Division's Board of Study or Council which may impact directly on the registrar, or indirectly on the registrar's ability to complete the programme.
- (k) Such other decisions of the Division, as the Council may permit or determine from time to time.

3.2 The appeals process is not designed to be a dispute resolution mechanism, or an exemption mechanism. To avoid doubt, there is no right under this policy to have the following decisions reconsidered or reviewed:

- (a) a decision by the Division that a candidate has breached the examination rules
- (b) a decision by the Division following a Fellowship Assessment that a candidate has not met the requirements for Fellowship.

These decisions may however be appealed, as set out below.

3.4 Appellants may appeal:

- (a) a decision or result which has been reconsidered and reviewed under this policy. To avoid doubt, there is no right to have an appeal relating to an application for special consideration heard or determined before the relevant assessment takes place, and it is unlikely this will occur;
- (b) a decision by the Division that the appellant has breached the DRHM (StAMPS) examination rules;
- (c) a decision by the Division following a Fellowship Assessment that the appellant has not met the requirements for Fellowship.

4. General policy

4.1 Principles

- (a) All Division processes should be procedurally fair and decisions should be made without bias.
- (b) Decisions should be made based on the best available information at the time of the decision.
- (c) Candidates should have the right to a fair hearing in cases where a dispute has arisen.
- (d) Progress to the appeal process will only be allowed if a reconsideration request has not been successful.

4.2 Grounds for reconsideration, review and appeal

Reconsideration requests, reviews and appeals will only be considered for the following reasons:

- (a) that due process and / or procedures required by Division policies were not followed in the original decision;
- (b) that relevant and significant information available at the time of the original decision was not considered or not properly considered in the making of the original decision;

- (c) that the original decision was inconsistent with the evidence and arguments put before the body making the original decision;
- (d) that irrelevant information was considered in the making of the original decision;
- (e) that the original decision was made for an improper purpose; or
- (f) that the original decision was made in accordance with a rule or policy without regard to the merits of the particular case.

4.3 Request for reconsideration

- 4.3.1 Written appeal for reconsideration of any decision must be made within three months of the original decision.
- 4.3.2 The written request should set out the grounds for reconsideration and any additional relevant information which may be considered or was unavailable at the time of the original decision.
- 4.3.3 Special Considerations (such as health, family and other issues) will not be addressed under this Policy. In this regard, candidates are referred to the DRHM Special Consideration in Assessment policy.
- 4.3.4 The candidate may, by written request, approach the original decision-taker (whether individual or committee) directly for the reconsideration of a decision taken. This is most appropriate in situations where the decision-taker may not have been aware of all available information at the time of the original decision. If the reason for the reconsideration request is perceived bias in the decision-taking process, this may not be an appropriate route to follow.
- 4.3.5 This route is not appropriate in the case of the Fellowship assessment visit.
- 4.3.6 The reconsideration decision will be made available to the candidate in written form, with reasons, within three weeks of the request for reconsideration.
- 4.3.7 The applicant may request copies of information on which the outcome was based. DRHM will provide such information upon written request, subject to obligations of privacy and confidentiality which may apply.

4.4 Review

- 4.4.1 Following the outcome of a reconsideration the candidate may indicate in writing, within 7 calendar days of receipt of written notification that they wish to formally review the decision. The candidate can provide any additional information they consider may assist in this process. The Chairperson of the Board of Studies will constitute a Review Committee, which will normally be chaired by the Chairperson of Board of Studies and will include two DRHM Fellows, normally from the Board of Studies or Council. If the original decision was taken by the Board of Studies, and it is not appropriate for the review to be undertaken by the same committee, a review committee comprising senior Fellows of the Division not involved in the original decision will be formed for this purpose.
- 4.4.2 Only one application for review can be made in respect of each reconsideration decision.

- 4.4.3 The review committee will meet (physically or virtually) to consider the case within six weeks of receiving the review request. The review committee will examine whether the Division policies and processes have been followed and has the power to request the decision taker to reconsider the merit of the final decision taken or to overturn the decision made by the original decision-taker.
- 4.4.4 The review decision will be made available to the candidate in written form, with reasons, within three weeks of the Review Committee meeting.
- 4.4.5 If the original decision is upheld, the written communication will contain:
- (a) the reasons for the decision being upheld; and
 - (b) instructions on how the candidate can proceed to lodge an appeal of the decision.
- 4.4.6 The candidate may request copies of information on which the outcome was based. DRHM will provide such information upon written request, subject to obligations of privacy and confidentiality which may apply.
- 4.4.7 Following advice of the outcome of the review committee, the candidate is required to advise the DRHM Rural Advisor whether they wish to formally appeal the decision.

4.5 **Appeal process**

- 4.5.1 An appeal process may only be requested by a candidate if the outcome of the reconsideration and review process is not successful.
- 4.5.2 A request for formal appeal of the decision must be made within three weeks of receipt of the reconsideration and/or review decision.
- 4.5.3 The application must be in writing and set out the grounds of appeal.

4.6 **Appeal Committee**

- 4.6.1 The Appeal Committee will comprise of members who have not been party to the original decision or review request, or have any other conflict of interest in the matter. Membership of the Appeal Committee is determined by the nature of the appeal, and will normally include the Chairperson the Division Council and at least two other Fellows of the Division selected to avoid potential conflicts of interest.
- 4.6.2 The Committee will give directions and otherwise conduct the appeal with as little formality and technicality, and with as much expedition as a proper consideration before the Appeals Committee permits.
- 4.6.3 The Appeal Committee is entitled to consider all relevant information in its consideration of the case and may request additional information from any person in order to inform its decision.
- 4.6.4 The candidate has the right to appear before the Appeals Committee (in person or via tele-link) to present the argument and may be accompanied by a personal support person or a legal advisor. The legal advisor may not present the case on the candidate's behalf. All costs relating to appearance before the Committee will be the candidate's responsibility.
- 4.6.5 The applicant has the onus of proof to establish grounds for appeal.

4.6.6 The decision-taker, or a representative of the decision-taking committee, will also be invited to address the Appeals Committee on the merits of the case.

4.7 **Grounds of appeal**

Examination results

4.7.1 An appeal concerning an examination result may only be brought if the matter has previously been considered under the Reconsideration, Review and Appeals Policy, and then only on the following grounds (as put forward by the appellant):

- (a) there was an error in the calculation or collation of the appellant's marks;
- (b) there was an irregularity in the examination;
- (c) an examiner was prejudiced or biased against the appellant.

4.7.2 An appeal may not be brought on the grounds that the appellant:

- (a) wishes to challenge the academic judgement of an examiner concerning his or her performance in the examination (or include any such ground in his or her appeal);
- (b) did not understand or was unaware of the examination rules.

Fellowship assessment decisions

4.7.3 An appeal concerning a Fellowship assessment decision may only be brought on the grounds that the appellant believes:

- (a) there was an irregularity in the assessment;
- (b) an assessor or the Censor-in-Chief was prejudiced or biased against the appellant.

4.7.4 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 concerning his or her performance in the assessment (including but not limited to an assessor's or the Censor-in-Chief's interpretation or application of the Division's Standards for Fellowship). Neither may any such ground be included in the appellant's appeal;
- (b) did not understand or was unaware of the process relating to the assessment or the Division's Standards for Fellowship.

Any other matter coming within the scope of this policy

4.7.5 An appeal concerning any other matter within the scope of this policy may be brought on the grounds that the appellant considers the relevant decision or result was wrong or otherwise in error.

4.8 **Outcomes of appeal**

4.8.1 The Appeal Committee has the power to uphold or dismiss the decision of the original decision-taker. If the decision is dismissed, a new process of consideration must be undertaken.

- 4.8.2 The Appeal Committee does not have the power to change a decision, or to impose additional requirements on the candidate. The Appeals Committee may also not take any decision which results in the candidate being unfairly advantaged in comparison with other registrars.
- 4.8.3 The Appeal Committee's decision will be made available to the candidate in written form, with reasons for the decision given, no more than 6 weeks from the date of the appeal hearing.
- 4.8.4 A confidential record of the Appeal will be held in DRHM files
- 4.9 The decision of the Appeal Committee on any issue is final.

5. Monitoring and evaluation

- 5.1 A confidential, de-identified record of all
- requests for reconsideration of decisions,
 - grievances,
 - disputes, and
 - appeals
- will be held in DRHM files.
- 5.2 A periodic analysis of any trends in both number and nature of de-identified reconsiderations, reviews and appeals, as per this Policy and also the DRHM Grievances, Complaints and Disputes Policy will be conducted by the DRHM Rural Advisor to identify common and/or recurring causes of complaints and appeals, etc. This information is of value to performance review for the training programme and is part of internal audit. As part of the evaluation process any actions that have been undertaken to improve/review/further investigate complaints, appeals, etc. will be circulated to the Board as a learning report.

6. Related policies, documents and legislation

Grievances, Complaints and Disputes Policy.

7. Administrative procedures

7.1 Authorisation

This policy is approved by the Chair of the Council

7.2 Original issue date of policy

February 2019

7.3 Review of this policy

This policy will have a three-yearly review cycle.