

Stage 5 | Appeals

Making an Appeal

108. Right of Appeal under this Procedure. Registrants/trainees may appeal any finding or sanction made against them by the Professional Conduct Committee and they have 20 working days from the Committee's full written decision being communicated to them to request an appeal and for it to be accepted. Registrants/Trainees considering an appeal are advised to contact the Professional Conduct team as soon as possible after the Committee decision is received to discuss the procedure and clarify any aspects of it. The general points on delay and time extensions set out in section 39 above also apply to the procedures for appeals.
109. Requesting an Appeal. To request an appeal, the Registrant/Trainee must write to the Professional Conduct Manager stating in outline what part of the Professional Conduct Committee's decision is being appealed, the grounds to be relied on (s 110) and the evidence that will be provided to support the appeal. If the request does not contain this information, it is not valid and will not be accepted. Appeals must be made by letter, email, or BSL video letter. Telephone, fax or text message communication will not be accepted. The request should be made in time for the Professional Conduct Manager to make the decision whether to accept it within the 20 working days window. The 20 working day period includes the time required to consider the request, refer it back to the Registrant/Trainee for clarification if necessary and then decide to accept it or not.
110. Grounds of Appeal. The allowable grounds for appeal are:
- a. errors in the procedure or conduct of the Professional Conduct Committee hearing; and/or
 - b. availability of substantial and relevant new evidence, which was not available at the Professional Conduct Committee hearing.
111. Decision to Accept an Appeal Request. The Professional Conduct Manager will confirm receipt of the appeal request and notify the Registrant/Trainee whether the request has been accepted within 2 working days. The decision to accept an appeal request is not

based on an assessment of the merits of the appeal only that it contains the relevant information to be considered an appeal. If the request is not accepted the reasons for this will be given and the Registrant/Trainee may resubmit the request after amendments. The appeal window will not be extended beyond 20 working days to allow resubmissions (unless in exceptional circumstances - see section 39).

112. Convening the Appeals Committee. If the Appeal request is accepted, the Professional Conduct Manager will convene an Appeals Committee. It will be formed in the same way as a Professional Conduct Committee (ss 55-58 above) and, in addition, no member of the Committee whose decision is being appealed shall be appointed to the Appeals Committee.
113. Notice and Arrangements for the Appeal Hearing. Sections 59 to 62 apply to the giving of notice and making arrangements for the Appeals committee.

The Registrant/Trainee's Appeal Case

114. Service of Appeal Case and Evidence. The Registrant/Trainee must submit their full written appeal including all the evidence they intend to rely on within 20 working days of the Appeal being accepted by the Professional Conduct Manager. Registrants/Trainees are advised to contact the Professional Conduct team who can provide neutral advice on the practical aspects of organising the appeal document and the evidence. If the full written appeal submission is not received from the Registrant/Trainee within the timeframe the Appeal proceedings will be discontinued.
115. Service of Full Appeal Hearing Bundle. The Registrant/Trainee's appeal and evidence will be combined with the other relevant material from the original Professional Conduct Committee (such as a transcript if available) and provided to the Appeals Committee and the Registrant/Trainee 10 working days prior to the Appeal hearing or as soon after that as possible (as s.65 above).
116. The Burden and Standard of Proof. In an appeal the burden of proof lies with the Registrant/Trainee, that is to say that it is entirely for the Registrant/Trainee to prove their appeal case to the Appeals Committee and provide the supporting evidence. The standard of proof is 'on the balance of probabilities' so the Registrant/Trainee must

prove their case to the Appeals Committee to this standard.

117. Registrant/Trainee Attendance and Representation. The Registrant/Trainee will be asked to confirm their attendance at the appeal and whether they will be represented (and if so by whom). Registrants/Trainees have the same rights to be represented or accompanied as for a Professional Conduct Committee as set out in sections 78 and 79 above.

The Appeal Hearing

118. Preliminary Steps at the Appeal Hearing. At the appeal hearing, the Appeals Committee will hear the appeal arguments and consider all the available evidence and the NRCPD arguments against the appeal. The Committee has full details of the original proceedings, evidence and reasoned decision of the Professional Conduct Committee. Where there are procedural matters to decide before the Registrant/Trainee presents their appeal, the Appeal Committee may decide to issue case management directions. Examples include but are not limited to: requiring the hearing in private, changing from a remote to an in-person hearing or delay for health reports. Section 82 above regarding adjournments also applies to the Appeals Committee.

119. If the Registrant/Trainee or their Representative does not Attend the Hearing. If the appeal hearing begins and the Registrant/Trainee or their representative is not present, the Appeals Committee shall decide whether to proceed in their absence and shall follow the procedure in sections 96 and 97 above. If the committee decides to proceed in the absence of the Registrant/Trainee they shall conduct proceedings on the basis of the Registrant/Trainee's written appeal submission and supporting evidence within the hearing bundle.

120. Health, Disability and Access to Proceedings. On completion of preliminary matters the Appeals Committee may invite submissions on matters of the Registrant/Trainee's health and disability in relation to reasonable adjustments that may be requested to enable the registrant to fairly participate in proceedings. If not already provided, such requests must be supported by sufficient disclosure of circumstances and relevant evidence for the Committee to consider it. Such matters will be dealt with in private

session. The Committee may then make any necessary directions for progressing the Appeal fairly as it deems necessary and/or practical.

121. Granting Leave to Appeal. The Appeals Committee will then hear the Registrant/Trainee's outline Appeal application and decide whether based on the evidence provided, that there are allowable and arguable grounds for appeal (Section 110. above). NRCPD will be invited to respond. If the Committee decides there are such grounds, then it will grant leave for the Appeal to go ahead, and this will normally continue straight away. If the Committee is not satisfied that there are grounds for appeal, the Appeal will be dismissed.
122. Form of the Appeal. If leave to appeal has been granted, the Appeals Committee will carry out the appeal as a review of the original proceedings as they relate to the Registrant/Trainee's appeal arguments. The Appeals Committee does not have the power to order a re-hearing.
123. Registrant/Trainee's Full Appeal Presentation. The Appeals Committee will then hear the Appeal from the Registrant/Trainee in full and consider all the evidence presented. The Appeals Committee does not have to look at everything that was considered by the original Committee, only those elements that assist in considering the Registrant/Trainee's appeal. The Appeals Committee may ask questions and ask for witnesses to attend if applicable and if that assists the Committee. Section 69 above regarding evidence also applies to the Appeals Committee.
124. NRCPD Response to the Appeal Case. The Appeals Committee will then invite NRCPD to ask questions of the Registrant/Trainee about their Appeal and evidence, and to make their own submission in defence against the Appeal, including the introduction of evidence to support the NRCPD response.
125. Variation in Hearing Procedure. If it is in the interests of justice and/or for the fair and efficient conduct of proceedings to do so, the Appeals Committee may vary the exact procedure for the hearing with advice from the appointed legal adviser and guided by applicable procedures for the Professional Conduct Committee where appeal procedures are silent.

After the Appeal Hearing

126. Deciding the Appeal Outcome. After both parties have presented their arguments, the Appeals Committee will retire and consider its decision. The Appeals Committee may decide: -
- a. To overturn the original Committee decisions on one or more of the charges appealed; or
 - b. To substitute the sanction or sanctions imposed by the original Committee for a different sanction, including no sanction at all; or
 - c. To do both a. and b.
 - d. To dismiss the Appeal entirely.

In any decision to substitute the original sanction imposed with another, the Appeals Committee has the same powers as the Professional Conduct Committee set out in section 101.f above and should take the same steps as set out in section 102. above in determining the detail of the sanction.

127. Notification of the Appeal Committee's Decision. The Appeals Committee shall notify its decision to all parties as in section 103. above and the Professional Conduct Manager will ensure the Committee's full written decision is sent to the parties without undue delay, and on the day of receipt if possible.
128. Implementation and Publication of Outcome. There is no further right of appeal against an Appeal Committee decision therefore any sanction the Committee has imposed, substituted or left in place, will be implemented when the Committee's written decision is communicated to the Registrant/Trainee. Any Interim Suspension or Interim Restriction that is still in place is immediately discontinued. The case outcome is published as set out in section 77 above.
129. If the Appeal fails, the Registrant/Trainee has no further route of appeal under the NRCPD Fitness to Practice Procedure. The Registrant/Trainee may still have statutory rights, such as Judicial Review.