



1. Purpose & Scope

The purpose of this policy is to set out the mechanism for appeal by any person (the appellant) adversely affected by a decision of GSA that is inconsistent with approved policy related to the Post Fellowship Education & Training (PFET) Program in Transplantation Surgery.

An appellant who has been directly and adversely affected by a decision that is inconsistent with approved policy and procedure may apply to the Executive General Manager (EGM) of GSA to have the decision considered by the Appeals Committee.

2. Definitions

Listed here are all key terms and acronyms used in the policy, and their definitions.

Acronym – Key Word	Definition
GSA	General Surgeons Australia
PFET	Post-Fellowship Education & Training
TTC	Transplant Training Committee
Board	GSA Board of Directors

3. Policy

3.1 Internal Review

- 3.1.1 An appellant may, prior to lodging an appeal, by direct request to the original Decision maker, seek a review of a decision made by a the Board or TTC in relation to the PFET Program in Transplantation Surgery within twenty (20) business days of being notified of the decision.
- 3.1.2 A review may be requested where there is evidence that approved policy was not correctly applied or that there are pertinent matters of fact that existed at the time but were not known to the Decision maker, that may have persuaded the Decision maker to reach an alternate decision.
- 3.1.3 An appellant may request copies of information on which the decision was based. The TTC or Board will provide such information within four (4) weeks of receipt of a written request, subject to obligations of privacy and confidentiality which may apply.
- 3.1.4 Any request for an appeal will initially be processed as a review. GSA aims to complete the review process within six (6) weeks and will notify the appellant of the outcome.
- 3.1.5 On receipt of notification from GSA of the outcome of the review the appellant may:
 - a. Accept the decision and the result of the internal review; or
 - b. Within two (2) weeks request in writing that the EGM convene a hearing of the Appeals Committee.

- c. If no correspondence is received within two (2) weeks this will constitute acceptance of the review.

3.2 Appeal Initiation

- 3.2.1 The Appeal Request to the EGM must include:
 - i. The prescribed appeal fee of AUD\$5,500 (including GST) (50% of which will be refunded in the event of a successful appeal), and
 - ii. The specific decision that is being contested, and
 - iii. The Grounds of Appeal, based on the allowable Grounds of Appeal (see 3.3), and
 - iv. Specify how the decision being appealed does not conform to approved policies and/or procedures, and
 - v. Provide documented and verifiable evidence in support of the Grounds of Appeal.
- 3.2.2 Payment of the prescribed appeal fee must be made at the time of submitting the appeal and the appeal will not be taken to have been received until full payment has been made.

3.3 Grounds of Appeal

- 3.3.1 The Decisions which may be considered by the Appeals Committee are:
 - a. Decisions of the TTC or the Board in relation to, selection or in-training assessment of progress.
 - b. Decisions of the TTC or the Board in relation to the awarding of the *Certificate of Australasian Transplantation Post Fellowship Training*.
 - c. Decisions of the TTC or Board in relation to accreditation of hospitals and PFET posts for training, or supervisors of training.
 - d. Decisions of the Treasurer in relation to the financial status of Trainees.
 - e. Such other decisions of GSA, the Boards or the TTC may determine from time to time.
- 3.3.2 An appeal may only be made 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 existing at the time of the original decision, and which should have been known to the Decision maker 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.

3.4 Acceptance Appeals

- 3.4.1 Appeals are not accepted where the appellant is seeking an exemption from approved policy.
- 3.4.2 The EGM shall, within six (6) weeks of receipt of a properly initiated appeal in accordance with Section 3.2 of this policy, advise the appellant and the original Decision maker that an appeal will be heard. This advice will include:
 - a. The date, time and place of the hearing (which shall not be less than six (6) weeks from the date of notice).

- b. The right of the appellant to appear before the Appeals Committee.
- c. The right of the appellant to be accompanied by a legal representative to act as an advisor.
- d. The right of the appellant to have a support person present.
- e. All relevant documentation held by GSA.

3.5 Submissions to the Appeals Committee

- 3.5.1 In any appeal, the appellant will carry the onus of proof to establish the grounds of the appeal.
- 3.5.2 At least four (4) weeks prior to the hearing the appellant will provide GSA with written submissions and copies of any documents and records upon which he/she wishes to rely. This written submission must be within the context of the original submission for an appeal, and cannot introduce new grounds of appeal. A copy of the submission will be made available to the original Decision maker.
- 3.5.3 At least four (4) weeks prior to the hearing the original Decision making authority will provide the EGM with written submissions and copies of any additional documents and records relevant to the decision made, being the subject of the appeal. A copy of the submission will be made available to the appellant.
- 3.5.4 Both the appellant and the original Decision maker may lodge a rebuttal submission up to two (2) weeks before the scheduled appeal date.
- 3.5.5 The Appellant's submissions and the Decision maker's submissions will be provided to the Appeals Committee and no further material will be accepted after this time

3.6 Appeals Committee Composition

- 3.6.1 An Appeals Committee will be convened comprising the following members:
 - a. Three financial members of GSA who must not have been a party to the decision to which the appeal relates.
 - b. Two Fellows of the Royal Australasian College of Surgeons who are not financial members of GSA and who must not have been a party to the decision to which the appeal relates.
- 3.6.2 The Chair is nominated by the Board from the non-members of GSA on the Appeals Committee.
- 3.6.3 The Board has delegated the appointment of Committee members (in accordance with this policy) to the Executive General Manager.
- 3.6.4 A quorum for meetings of the Appeals Committee will be the Chair and three other members. All members of the Appeals Committee shall be entitled to vote on decisions and the outcome of the appeal shall be decided on the basis of a majority vote. In the event of a tied vote, the Chair will exercise a casting vote.
- 3.6.5 A Board nominated Solicitor shall be the Legal Adviser to the Appeals Committee.
- 3.6.6 The GSA Counsel shall be the legal advisor to the relevant Decision maker.
- 3.6.7 Other GSA staff may also attend at the invitation of the EGM.

3.7 Conduct of Meetings of the Appeals Committee

- 3.7.1 Subject to these rules, the Appeals Committee must act according to the rules of procedural fairness and decide each appeal on its merits. The Appeals Committee is not bound by the rules of evidence and, subject to these rules and rules of procedural fairness may inform itself on any matter and in such manner as it thinks fit.
- 3.7.2 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. Witnesses are not compellable.
- 3.7.3 The Appeals Committee shall conduct its affairs with as little formality as possible and in accordance with the procedures set out in these rules, but otherwise, subject to these rules, shall have full power to regulate its conduct and operation.
- 3.7.4 An appellant has the right and responsibility to appear before the Appeals Committee and to advocate orally the merits of the appeal himself /herself as represented through written submissions.
- 3.7.5 The appellant has the right to be advised by a legal representative or support person. Legal advisors and/or support persons may not act as an advocate for the appellant but the legal advisor (if any) may be invited to address the Appeals Committee regarding any particular legal issue that the Appeals Committee believes cannot adequately be addressed by the appellant.
- 3.7.6 A representative(s) of the relevant Decision maker is expected to attend and address the Appeals Committee on matters relevant to the appeal and will be given equal opportunity to comment on submissions of the Appellant and the Decision maker. GSA Counsel may not act as an advocate but may be invited to address the Appeals Committee regarding any particular legal issue that the Appeals Committee believes cannot adequately be addressed by the original Decision maker.

3.8 Decisions of the Appeals Committee

- 3.8.1 An Appeals Committee may, upon considering all submissions:
 - a. Confirm the decision that is the subject of the appeal.
 - b. Revoke the decision that is the subject of the appeal and refer the decision to an appropriate Board or Committee for further consideration (upon such terms or conditions of the Appeals Committee may determine).
 - c. Revoke the decision and make an alternative decision, subject to the restrictions of 3.8.2.
- 3.8.2 A decision of the Appeals Committee cannot:
 - a. Elevate the appellant above others in a competitive assessment for selection to the PFET Program in Transplantation Surgery without reference to the scoring process;
 - b. Revoke a decision and make an alternative decision without reference to a GSA Board or Committee for reconsideration, where a procedural error is identified; or
 - c. Revoke the clinical assessment of a Trainee and replace the assessment with an assessment of its own.
 - d. Award the *Certificate of Australasian Transplantation Post Fellowship Training* to any appellant.

3.9 Reporting

- 3.9.1 The decision of the Appeals Committee takes effect from the date of publication by the EGM.
- 3.9.2 The Appeals Committee will issue a written decision, with reasons for the decision, no more than eight (8) weeks after the completion of the appeal hearing and this will be submitted to the Board.
- 3.9.3 Except where otherwise 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 (save that information may be released with the consent of the appellant, and a report of the Appeals Committee hearing may be issued by the Appeals Committee to the Board and/or published by the Board as the Board thinks fit).
- 3.9.4 Minutes of hearings of the Appeals Committee shall be confined to a report of the decision made by the Appeals Committee and its recommendations to Board for approval.
- 3.9.5 The EGM will report to the Board annually on the activities of the Appeals Committee, including the number of appeals lodged and the results of appeals and any recommendations to Board from the Appeals Committee.

4. Implementation

The policy will be available on the GSA website.