

# Merits review process

## Guidance and checklist for specialist medical college decisions on accreditation of training settings

### Background

In 2023, the National Health Practitioner Ombudsman (NHPO) undertook a review of specialist medical college policies, procedures, and practices for accreditation of specialist training settings and published a report: *Processes for progress – Part one: A roadmap for greater transparency and accountability in specialist medical training site accreditation, October 2023* (the NHPO report). Australian Health Ministers agreed with the 23 recommendations in this report, and also directed the Medical Board of Australia and the Australian Health Practitioner Regulation Agency (Ahpra) to require the AMC to work with colleges and jurisdictions on the implementation of the recommendations: *Ministerial Policy Direction 2023-01: Medical College Accreditation of Training Sites*. Colleges, jurisdictional health departments and the AMC have been working to progress this work.

This checklist relates to Recommendation 18 below. Using the checklist will help colleges determine whether their policies and procedures meet best practice principles.

*Recommendation 18: The AMC should work with colleges to ensure merits review processes for decisions relating to specialist medical training site accreditation align with the best practice principles in this report.*

To meet this requirement, this checklist has been developed using information taken from the recommendations included in the main NHPO report and its Appendices (college-specific analysis and recommendations).

### Using the Checklist

The checklist should be used to guide college policies and procedures for the review<sup>1</sup> of decisions made regarding the accreditation of a training setting. This includes decisions that may arise from a scheduled accreditation process, a monitoring process, or a matter of a concern to the college. The checklist is not prescriptive in the language colleges use to describe the policies and procedures they use to review accreditation decisions, or the various stages of review.

The checklist aims to reflect the principles in the *Health Practitioner Regulation National Law* (the National Law). The National Law provides that where accreditation of a program of study is refused, the provider of the program of study must be given the opportunity for internal review of the decision, which must not be carried out by the person who undertook the original assessment. Whilst decisions by colleges regarding accreditation of training settings are not considered to be “accreditation functions” within the meaning of the National Law, it is appropriate that such decisions should be subject to review using the same principles.

### Interaction with the *Model Procedures for specialist medical college accreditation of training settings*

Some items on this checklist duplicate matters set out in the *Model Procedures for specialist medical college accreditation of training settings*. This is to ensure that the checklist is comprehensive and provides all relevant information regarding review processes in one place.

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<sup>1</sup> The word “review” in this checklist has its natural meaning. It does not refer to a particular step in a college process, such as the review stage in a Reconsideration, Review and Appeals policy.

## Interaction with *Complaints processes – Guidance and checklist for specialist medical colleges*

Colleges may also receive complaints about the content of a policy or procedure, the way the college has conducted a process or provided a service, the way a college has communicated with someone, or delays by a college in conducting a process. These are often matters dealt with under the college's complaints policy and procedure, and the *Complaints processes – Guidance and checklist for specialist medical colleges* is applicable.

### Out of scope

There are two related recommendations in the NHPO report that are out of scope for this document. Each college should determine its own approach to these. They are:

- **Recommendation 19:** Colleges should ideally provide the reconsideration and review stages of the merits review process free of charge.
- **Recommendation 20:** Merits review fees related to specialist medical training site accreditation decisions should be charged on a cost recovery basis, articulated publicly, and application fees refunded if the merits review application is successful.

## Review Checklist

#	Checklist Item
<b>Decisions/proposed decisions that can be reviewed</b>	
1.	College policies and procedures should allow for review of the following accreditation decisions/proposed accreditation decisions: <ul style="list-style-type: none"><li>• refusal to grant provisional accreditation;</li><li>• refusal to grant accreditation to an existing training setting (reaccreditation);</li><li>• time period for which accreditation or provisional accreditation is granted;</li><li>• imposition of a new accreditation condition;</li><li>• terms of an accreditation condition (including timeframe to meet the requirements of a condition).</li></ul>
<b>Review of a proposed accreditation decision</b>	
2.	College policies and procedures should provide that: <ul style="list-style-type: none"><li>• A training setting is given reasonable notice of a proposed accreditation decision. This may be done through the provision of a draft accreditation report (best practice) or other notice in writing containing the same information.</li><li>• A training setting is given a reasonable time period in which to respond to a notification that a proposed accreditation decision is to be made. This includes the opportunity for a training setting to submit that a proposed decision not be made, or be varied.</li><li>• The college will take into account the response of the training setting in finalising its accreditation decision.</li><li>• The college will advise the training setting of its final accreditation decision in writing, including reasons for the final decision.</li></ul>

#	Checklist Item
<b>Review of a final accreditation decision</b>	
3.	College policies and processes should provide a training setting with an opportunity to seek review of a final accreditation decision within a reasonable time of it being made. Depending on the nature of the decision and the time at which it is to take effect, this opportunity (and the review) may be before or after the decision becomes operative.
4.	Where a training setting is dissatisfied with a final accreditation decision, policies and procedures should allow for an opportunity to resolve the issue as quickly and expeditiously as possible, for example through informal discussions between the parties. However, once formal processes have commenced, continued discussions between the parties may need to be conducted in the context of that process.
5.	<p>Where informal resolution is not possible, college policies and procedures should allow a training setting to formally seek review of a final accreditation decision. This review should, at the least, allow for an internal review process which is undertaken by a person(s) not involved in the original decision.</p> <p>This process should involve an examination of the merits of the decision, not just whether the procedure to make the decision was correct. The setting should have the opportunity to provide further or new material for consideration by the reviewer.</p>
6.	College policies and procedures <b>may</b> provide a further process of review whereby the decision is considered by a person(s) with a degree of independence from the college, for example, a panel with some or all members who are independent from the college or at least from the college's accreditation processes.
7.	<p>College policies and procedures, and the webpage that relates to accreditation of training settings, should provide detailed information on the opportunities for a training setting to apply to have an accreditation decision reviewed. A summary of that information should be included in each accreditation report (see also the <i>Model report template</i>). The following details should also be included:</p> <ul style="list-style-type: none"> <li>• information outlining the processes;</li> <li>• information on how to initiate the process with a link to the relevant documentation that the training setting must complete, and the relevant policies and/or procedures that govern the process;</li> <li>• any applicable fees and whether any fees may be refunded (for example, if the review is successful); and</li> <li>• how to contact the college for more information or to discuss the process.</li> </ul>
8.	<p>College's policies and procedures should outline the information that the training setting is permitted to provide in its request for a review, for example:</p> <ul style="list-style-type: none"> <li>• the identification of each matter in the decision or proposed decision that the training setting is dissatisfied with or seeks to have changed, and explain why;</li> <li>• the identification of material in possession of the college that the training setting relies on to support its position;</li> <li>• any further or new material the training setting wishes to provide to justify its position.</li> </ul>

#	Checklist Item
<i>Review of a final accreditation decision continued...</i>	
9.	<p>College review application process/forms should:</p> <ul style="list-style-type: none"> <li>• contain targeted questions for the training setting to complete, including details of the decision that is the subject of the application, and the outcome the setting is seeking; and</li> <li>• be available online and able to be submitted electronically, where this is reasonably practicable, given the resources of the college and the number of applications received.</li> </ul> <p><i>Note: Colleges that do not currently have the capacity to receive online applications should work towards this, except where the number of applications is so low that it is not reasonably practicable for the college.</i></p>
10.	<p>College policies and procedures should state the roles and responsibilities of decision makers involved in each stage of a review process. In addition, the way the decision makers are selected should be outlined (e.g. whether the decision makers are a committee of the College or appointed through another process).</p>
11.	<p>College policies and procedures should include the time frames in which:</p> <ul style="list-style-type: none"> <li>• the training setting is to make any application for review;</li> <li>• the college is to acknowledge receipt of an application for review.</li> </ul> <p>Consideration should also be given to including timeframes, or target timeframes, for decision makers to make and give notice of their decision at the conclusion of each review stage.</p>
12.	<p>College policies and procedures should identify possible outcomes of review processes at the conclusion of each review stage, including whether:</p> <ul style="list-style-type: none"> <li>• the accreditation decision is upheld;</li> <li>• the accreditation decision is referred to the original decision maker to be remade;</li> <li>• the accreditation decision is varied (including amendment of conditions and/or the time for meeting conditions);</li> <li>• the original decision is set aside, and a new accreditation decision is made (including amendment/setting of new conditions).</li> </ul>