



**RCSI**

# RCSI Independent Appeals Commissioner Policy

RCSI DEVELOPING HEALTHCARE LEADERS WHO MAKE A DIFFERENCE WORLDWIDE

## Contents

1. Background.....	1
2. Governance and Scope.....	1
3. Selection Process.....	2
4. Remuneration.....	2
5. Escalation Procedure.....	2
6. Investigation Procedure.....	3
Appendix 1.....	5
Application to the Independent Appeals Commissioner.....	9



# RCSI

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## 1. Background

On 12th October 2010 the Minister for Education and Skills approved a bye-law (“the Bye-Law”) which gave the Royal College of Surgeons in Ireland (RCSI) power to appoint an Independent Appeals Commissioner (“the Appeals Commissioner”) to investigate any action taken by or on behalf of a person acting on behalf of the College, where, having carried out a preliminary examination of the matter it appears to the Appeals Commissioner that:

- (a) The action has or may have adversely affected a person and;
- (b) The action was or may have been:
  - i. Taken without proper authority.
  - ii. Taken on irrelevant grounds.
  - iii. The result of negligence or carelessness.
  - iv. Based on erroneous or incomplete information.
  - v. Based on an undesirable administrative practice.
  - vi. Otherwise contrary to fair or sound administration.

Prior to the approval of the new bye-law the last recourse to an appeal concerning a decision regarding examination appeals or disciplinary matters was to the Board of Censors of the Council of RCSI.

This document outlines the selection criteria for the appointment of an Appeals Commissioner as well as their terms of reference and the procedure to be followed for making an appeal to the Appeals Commissioner.

## 2. Governance and Scope

The scope of the Appeals Commissioner will be to investigate complaints made to him or her in relation to an action by a person or on behalf of the College in relation to the following:

- i. Undergraduate student admissions.
- ii. Postgraduate student admissions.
- iii. Postgraduate training admissions.
- iv. Fellowship Ad Eundem admissions.
- v. Undergraduate examinations appeals.
- vi. Discontinuance from postgraduate training schemes.
- vii. Postgraduate training assessment appeals.
- viii. Postgraduate surgical examination appeals to include.
- ix. Intercollegiate MRCS examination appeals.
- x. Intercollegiate specialty examination appeals.
- xi. Postgraduate examination appeals to include postgraduate examination appeals in relation to the following faculties:



# RCSI

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- a. Faculty of Medicine and Health Sciences.
- b. Faculty of Dentistry.
- c. Faculty of Sports and Exercise Medicine.
- d. Faculty of Radiologists.
- e. Faculty of Nursing and Midwifery or;
- f. Student disciplinary hearings.

In this regard, the Appeals Commissioner will become the last recourse to an appeal for any decision relating to matters listed above which fall under the governance of either the Medicine and Health Sciences Board or the Surgery and Postgraduate Faculties Board of RCSI.

The appeal must be made to the Appeals Commissioner within a period of six (6) months of the date of occurrence of the action, or the date of knowledge of the occurrence of the action, to be investigated by the Appeals Commissioner. The Appeals Commissioner shall have the discretionary power to extend the deadline within which an appeal must be made. The Commissioner will investigate an appeal only where it appears to him or her, having regard to all the circumstances, that an investigation into the action would be warranted and that the appellant has pursued and exhausted the appropriate internal channel of appeal in accordance with College policy.

### **3. Selection Process**

The Appeals Commissioner will be appointed initially for a period of one year. The appointment may be renewed thereafter for a period not exceeding three years. The Commissioner will be a person of high standing and will possess the qualifications, experience, seniority, and independence deemed necessary to fulfil the required duties (e.g. retired High Court Judge or Senior Counsel).

The Appeals Commissioner will be appointed by the RCSI Nominations Committee. Selection will be made through an interview and skills-set matching process. The recommendation of the RCSI Nominations Committee will be put forward to the RCSI Council for approval.

### **4. Remuneration**

The Appeals Commissioner will be remunerated based on a flat fee plus specified payments relating to caseload by RCSI. Rates will be agreed in advance in writing.

### **5. Escalation Procedure**

The Appeals Commissioner will act as an independent adjudicator in relation to appeals made in accordance with the Bye-Law. In order to enable the Appeals Commissioner to satisfy the requirement outlined in clause 1 (2) (d) (i.e. “the appellant has exhausted the appropriate channel of appeal in accordance with College policy”) the College will manage the escalation procedure as follows:

- All Faculties, Schools and Departments which fall under the remit of the Medicine and Health Sciences Board or Surgery and Postgraduate Faculties Board will publish explicit and comprehensive appeals procedures relating to admissions, examinations, progression, and disciplinary proceedings.

Where such appeals have been exhausted, the appellant will be advised of the procedures as they relate to the Commissioner. This can be through the appeals procedures or directly by the Dean (or nominee);



# RCSI

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- The appellant must make an application to the Appeals Commissioner within a period of six months of the date of occurrence of the action, or the date of knowledge of occurrence of the action, to be investigated by the Appeals Commissioner.
- The appellant must complete an application form for appeal to the Appeals Commissioner which specifies the grounds under which they are making the appeal, in accordance with the bye-law. This form shall be accompanied by a fee of €250 which will be fully refundable if the appeal is successful.
- The appellant must put forward their case in writing for consideration to the Appeals Commissioner together with any supporting documentation.
- The appellant must send the completed application form, case report and fee to the Department of Legal Affairs, RCSI, by registered post within the six month period specified above.
- On receipt of the appellant's application, the Department of Legal Affairs will inform the relevant Faculty/School/Department of receipt of the appeal who must in turn compile a report for consideration by the Appeals Commissioner together with any supporting documentation as soon as is practicable.
- The Department of Legal Affairs will forward the case, together with supporting documentation, to the Appeals Commissioner for consideration.

## 6. Investigation Procedure

- The Appeals Commissioner will carry out a preliminary examination of the appeal on the basis of the documentation submitted and having done so, may decide not to carry out an investigation into the action in respect of which the appeal is made if they become of the opinion that:
  - (i) The grounds for appeal are trivial or vexatious.
  - (ii) The person lodging the appeal has an insufficient interest in the matter.
  - (iii) The person lodging the appeal has not taken reasonable steps to seek redress in respect of the subject matter of the appeal or, if they have sought such redress, has not been refused redress.
- In determining whether to initiate, continue or discontinue an investigation, the Appeals Commissioner will act in accordance with their own discretion and where the Appeals Commissioner decides not to carry out an investigation into the action or to discontinue an investigation, they will send to the appellant a statement in writing of their reasons for the decision.
- In any case where the Appeals Commissioner conducts an investigation, they will send a statement in writing of the results of the investigation to:
  - (i) The Chief Executive.
  - (ii) The Council of the College.
  - (iii) Any other employee, agent or representative of the College, as nominated by the Chief Executive, to whom it is considered appropriate by the Chief Executive to send the statement.
- Where, following an investigation, it appears to the Appeals Commissioner that the action in question has adversely affected the appellant, the Appeals Commissioner may recommend:



**RCSI**

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- (a) That the matter in relation to which the action was taken be further considered.
  - (b) That measures or specified measures be taken to remedy, mitigate or alter the adverse effect of the action.
  - (c) That the reasons for taking the action be given to the Appeals Commissioner.
- Having carried out their investigation, the Appeals Commissioner will notify the appellant of the result of the investigation, the recommendation (if any) made by them in relation to the matter and the response made to them by the College or by the other person, acting on behalf of the College, to whom it was given.
  - The Appeals Commissioner will not make a finding or criticism adverse to a person in a statement, recommendation or report without having afforded to the person an opportunity to consider the finding or criticism and to make representations in relation to it to them.
  - During the course of investigation, the validity of the action being investigated will not be affected. The College will abide by the recommendation(s) of the Appeals Commissioner following an investigation into an action. However, the investigation by the Appeals Commissioner will not affect the power of the appellant to take further action with respect to any matters the subject of the investigation.



Appendix 1

**BYE-LAWS OF THE ROYAL COLLEGE OF SURGEONS IN IRELAND**

*As approved by the Minister for Education and Science on the 12th day of October 2010.*

**CONCERNING THE COLLEGE**

1. (1) The College shall appoint an independent Appeals Commissioner who may investigate any action taken by or on behalf of a person acting on behalf of the College where, having carried out a preliminary examination of the matter, it appears to the Appeals Commissioner:
- (a) That the action has or may have adversely affected a person and
- (b) That the action was or may have been:
- (i) Taken without proper authority;
  - (ii) Taken on irrelevant grounds;
  - (iii) The result of negligence or carelessness;
  - (iv) Based on erroneous or incomplete information;
  - (v) Improperly discriminatory;
  - (vi) Based on an undesirable administrative practice, or
  - (vii) Otherwise contrary to fair or sound administration.
- (2) The Appeals Commissioner shall not investigate an action unless:
- (a) A complaint has been made to him or her in relation to an action by a person on behalf of the College in relation to the following:
- (i) Undergraduate student admissions;
  - (ii) Postgraduate student admissions;
  - (iii) Fellowship Ad Eundem admissions;
  - (iv) Undergraduate examination appeals;
  - (v) Discontinuance from Postgraduate training schemes;
  - (vi) Postgraduate surgical examination appeals to include:
    - (a) Intercollegiate MRCS examination appeals
    - (b) Intercollegiate specialty examination appeals
  - (vii) Postgraduate examination appeals to include postgraduate examination appeals in relation to the following faculties:
    - (a) Faculty of Dentistry;
    - (b) Faculty of Sports and Exercise Medicine;
    - (c) Faculty of Radiology;
    - (d) Faculty of Nursing and Midwifery; or
  - (viii) Student disciplinary hearings.

Functions of the Appeals Commissioner



- (b) The complaint has been made to the Appeals Commissioner within a period of six (6) months of the date of occurrence of the action, or the date of knowledge of the occurrence of the action, to be investigated by the Appeals Commissioner. The Appeals Commissioner shall have the discretionary power to extend the deadline within which a complaint must be made under this Bye-Law.
  - (c) It appears to him or her, having regard to all the circumstances, that an investigation into the action would be warranted;
  - (d) The complainant has pursued and exhausted the appropriate channel of appeal in accordance with College policy;
- (3) The Appeals Commissioner may:
- (a) Having carried out a preliminary examination of the matter, decide not to carry out an investigation under this Bye-law into an action in respect of which a complaint is made, or
  - (b) Discontinue an investigation under this Bye-law into such an action,
- If he or she becomes of the opinion that:
- (i) The complaint is trivial or vexatious,
  - (ii) The person making the complaint has an insufficient interest in the matter, or
  - (iii) The person making the complaint has not taken reasonable steps to seek redress in respect of the subject matter of the complaint or, if he or she has, has not been refused redress.



- (4) An examination or investigation by the Appeals Commissioner shall not affect the validity of the action investigated or any power or duty of the person to take further action with respect to any matters the subject of the examination or investigation.
- (5) In determining whether to initiate, continue or discontinue an investigation under this Bye-law, the Appeals Commissioner shall, subject to the provisions of this Bye-law, act in accordance with his or her own discretion.

2. (1) In any case where a complaint is made to the Appeals Commissioner in relation to an action and the Appeals Commissioner decides not to carry out an investigation under this Bye-law into the action or to discontinue such an investigation, he or she shall send to the person who made the complaint a statement in writing of his or her reasons for the decision.

Reports of the Appeals  
Commissioner

- (2) In any case where the Appeals Commissioner conducts an investigation under this Bye-law, he or she shall send a statement in writing of the results of the investigation to:
  - (a) The Registrar of the College;
  - (b) The Council of the College;
  - (c) Any other employee, agent or representative of the College, as nominated by the Registrar of the College, to whom it is considered appropriate by the Registrar to send the statement.
- (3) Where, following an investigation under this Bye-law into an action, it appears to the Appeals Commissioner that the action adversely affected the complainant, the Appeals Commissioner may recommend to the Executive of the College:
  - (a) That the matter in relation to which the action was taken be further considered,
  - (b) That measures or specified measures be taken to remedy, mitigate or alter the adverse effect of the action, or
  - (c) That the reasons for taking the action be given to the Appeals Commissioner.



- (4) Where the Appeals Commissioner carries out an investigation under this Bye-law into an action the subject of a complaint to him, he or she shall notify the person who made the complaint of the result of the investigation, the recommendation (if any) made by him or her in relation to the matter and the response made to him or her by the College or by the other person, acting on behalf of the College, to whom it was given.
- (5) The Appeals Commissioner shall not make a finding or criticism adverse to a person in a statement, recommendation or report without having afforded to the person an opportunity to consider the finding or criticism and to make representations in relation to it to him or her.
- (6) The College shall agree to abide by the recommendation(s) of the Appeals Commissioner following an investigation under this Bye-law into an action.

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## Application to the Independent Appeals Commissioner

Family Name: ..... First Name: .....  
RCSI Student Number: ..... Date of Birth: .....

Telephone Number: ..... Email Address: .....

Full Address for Correspondence: .....

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Programme on which you are Registered: .....

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Decision you are appealing: .....

**Brief Outline of why you are appealing this decision:** *(Continue overleaf if required)*

*Please also include any other documentation relevant to this application*



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**Signature:** ..... **Date:** .....