

Ākonga Appeals Policy

Approval details

Category	Academic	Date created	16 November 2022
Approved by	Te Poari Akoranga	Date of last review	--
Responsibility	Business Division Lead	Date of next review	16 November 2023
		Version	1

1. Purpose

- 1.1. The purpose of this policy is to ensure that Te Pūkenga ākonga have access to an appeal process that is timely, conducted fairly, effectively, consistently, and in a manner that is culturally appropriate to the ākonga, following the principles of natural justice.

2. Audience and scope

- 2.1. This policy is a national policy that applies to any appealable decision, action or omission process relating to the ākonga made by Te Pūkenga.
- 2.2. Appealable decisions include:
- The outcome of an academic complaint or academic integrity matter or review process
 - The outcome of a non-academic complaint
 - The outcome of a Postgraduate Research or Scholarship decision
 - The outcome of an ākonga breach of discipline decision

3. Principles

- The appeals policy follows the principles of natural justice.
- Ākonga are entitled to culturally appropriate approaches that consider traditional processes for raising and resolving issues.
- Appeals are resolved in a timely and consistent manner.
- Ākonga are treated with respect, fairly, and without bias.
- All parties are entitled to an advocate and support at all steps in the appeals process.
- Every person affected by this policy has the right to a copy of this policy and procedures and any other information as needed to clarify any point or process.
- All parties directly affected by the appeal are kept regularly informed of the progress of the appeal, given an opportunity to respond to the findings and entitled to the decision in writing.

4. Responsibilities

Role	Responsibilities
Appellant (Ākonga)	Attend hearing (if required) Participate in good faith Provide any further information required by the Appeals Panel
Advocate	Work with appellant to ensure culturally appropriate format for hearing Read all documentation prior to the hearing Offer guidance to appellant throughout all stages of the appeal

Role	Responsibilities
Chair of Appeals Panel	Establish date, time, venue, and format, including culturally appropriate approaches, of Appeals Panel hearing Determine appropriate members of Appeals Panel Chair the panel Communicate outcome of appeal to all parties within a specified timeframe
Appeals Panel	Be available to determine whether grounds of appeal are sufficient to proceed Receive and read all documentation related to the appeal Make any subsequent improvements/quality recommendations to appropriate departments
Appeals Officer or delegated function within business division	Receive the Notice of Appeal Log the appeal on the Appeals Register Forward the Notice of Appeal to the delegated Appeals Panel member to determine whether grounds of appeal are sufficient to proceed to a hearing Notify all parties of date, time, venue, and format of hearing Receive Appeal of the Decision and liaise with and forward all documentation to the Ohu Whakahaere Appeals secretary Manage documentation and reporting
Appeals Co-ordinator or delegated function within business division	Collate all documentation for the Panel hearing, including the original decision document on which the appeal is based. Provide additional documentation required by the Panel Attend and minute the hearing

5. Procedures

5.1. Timeframe

- a. An appeal must be lodged within seven working days of appellant being advised of an appealable decision.
- b. In exceptional circumstances, and with the approval of the delegated authority, an appeal may be received later than seven working days.

5.2. Grounds for an appeal

- a. To make an appeal one of the following grounds must be established:

Subject Matter	Grounds for Appeal
Appeal against an academic complaint or academic integrity or review process decision Appeal against a non-academic complaint decision. Appeal against a Postgraduate Research and Scholarships Committee decision.	Establish one of the following grounds to appeal: <ol style="list-style-type: none"> a. There is new information which has a bearing on the matter, and which was previously unavailable (and could not reasonably have been made available at the time the disputed decision was made), OR b. There was a flaw in the process relating to the decision the ākonga seeks to appeal.
Appeal against an ākonga breach of discipline decision	<ol style="list-style-type: none"> a. That the procedure used for investigating or resolving the Prohibited Conduct was unfair or biased, OR

Subject Matter	Grounds for Appeal
	<ul style="list-style-type: none"> b. That the decision of the Investigator could not reasonably be sustained on the evidence, OR c. That significant new evidence which was not previously available has become available since the investigation which could have a material effect on the decision made or the penalty imposed, OR d. That the disciplinary action/s taken were out of proportion to the nature of the breach of discipline and the full circumstances of the case.

5.3. Advocacy and Support

- a. In making an appeal, the ākongā:
 - i. Should seek support from the business division Ākongā Support teams or independent advocates for all steps in the process.
 - ii. Must complete a Notice of Appeal form (refer Appendix 1 of this policy).

5.4. Receipt of Appeal

- a. When the Notice of Appeal is received, the appeal will be registered on the Ākongā Appeals Register and the grounds for appeal assessed by a delegated Appeals Panel member.
- b. Where the grounds for appeal have been satisfied
 - i. the Notice of Appeal is acknowledged by the Appeals Officer within three working days including advice on the next steps in the process.
 - ii. This formal acknowledgement of receipt of the Notice of Appeal is sent to the appellant and any support person/s and/or advocate noted in the Notice of Appeal and will include advice on the next steps in the process.
- c. Where the grounds for appeal have not been satisfied, the appellant and any support person/s and/or advocate are notified of the decision and reasons within ten working days.

5.5. Convening Appeal Panel

- a. Appeals relating to academic matters may be considered by the relevant academic committee, e.g., a programme committee, or an Appeals Panel.
- b. Appeals relating to non-academic matters or breaches of discipline are considered by an Appeals Panel.
- c. The Appeals Panel is established by the relevant business division and consists of kaimahi with knowledge and experience of appeals processes. Membership is determined by the nature of the decision being appealed and the cultural, disability, or other needs of the appellant.
- d. The membership of each Appeals Panel must also consider any Professional or Regulatory Body representation requirements.
- e. The Appeals Panel decides who amongst them will Chair the appeal hearing.

5.6. The Appeal Hearing

- a. The Appeal hearing is conducted following the process set out in Appendix 2 of this policy.

5.7. The Appeal Decision

- a. The Chair of the Appeals Panel informs the appellant and their support person/s and/or advocate in writing, within five working days from the Panel hearing of the Appeals Panel’s decision. The decision will also inform the appellant of their right to further appeal.

5.8. Right to Further Appeal

- a. Appellants have the right to further appeal the Appeal Panel’s decision to Te Ohu Whakahaere Appeals, a subcommittee of Te Poari Akoranga ,Te Pūkenga Academic Board.
- b. Appellants apply in writing to the Chair of Te Ohu Whakahaere Appeals within seven working days of receiving the Appeals Panel’s decision. A copy of the Appeals Panel’s decision and support evidence is attached, and the appeal submitted to the Appeals Officer.
- c. Te Ohu Whakahaere Appeals Officer refers the appeal to the Chair of the Ohu Whakahaere Appeals who reviews the appeal and decides on the appropriate procedure to deal with the appeal, including whether to hold a hearing or not.
- d. Te Ohu Whakahaere Appeals Officer acknowledges receipt of the appeal and advises the appellant of the procedure and/or timeframe within five working days of receiving the appeal from the appellant.
- e. If a hearing is required, it will be held as soon as is practicable and the appellant has the right to attend, to make submissions, and be supported by a support person/s and/or advocate.
- f. The Chair of Te Ohu Whakahaere Appeals informs the appellant and their support person/s and/or advocate in writing of Te Ohu Whakahaere Appeals’ decision as soon as is practicable. If a hearing is held, the decision will be released within five working days of the Panel hearing.
- g. The decision of Te Ohu Whakahaere Appeals is final. There is no further internal appeal process available. The decision document informs the appellant of their right to refer the matter to an external organisation such as the Human Rights Commission, the Ombudsman Office, or NZQA.

5.9. Documentation, records, and reporting

- a. The delegated committee receives a summary of appeals and the outcomes four times a year.
- b. Institutional improvements or corrective actions identified as part of the appeal’s hearing or process will be added to the business division’s Continuous Quality Improvement plan and reported to Te Ohu Whakahaere Quality.
- c. Documentation relating to the appeal is kept in accordance with relevant legislation and the business division Records Management Policy and General Disposal Authority.

6. References

Internal

Business Division Code of Conduct, Learner Statute, and Breach of Discipline procedures

Te Kawa Maiororo

Te Pūkenga Concerns and Complaints Policy and business division concerns and complaints procedures

External

Bill of Rights Act 1990

Human Rights Act 1993

Privacy Act 2020

7. Definitions

Term	Means
Appeal	A request to review a decision, made by Te Pūkenga, that relates to or impacts on an ākonga
Appealable decision	A decision made in response to a review process or complaint or disciplinary matter
Appellant	Ākonga who has submitted an appeal of any appealable decision, action, or omission made by Te Pūkenga.
Advocate	<p>The person who assists the ākonga by being present and guiding them through the process. The role will normally include observing that the process is followed, and/or advising the ākonga regarding process and option.</p> <p>An Advocate will be an Ākonga Advocate, Ākonga Advisor, or their nominee; or any person nominated by the student.</p>
Natural justice	<p>The three main requirements of natural justice that must be met in every case are: adequate notice, no bias, and fair hearing.</p> <p>In an investigation, the subject of the complaint must be advised of the allegations in as much detail as possible, given time to prepare and present their side of the story including evidence and must be given the opportunity to reply to the allegations.</p> <p>Investigators and decision makers must be impartial and act without bias in procedures connected with the making of a decision. Decisions must be based on a balanced and considered assessment of the information and evidence. Decisions must be based on logical proof or evidence. Investigator or decision makers should be able to clearly point to the evidence on which the decision is based. Evidence presented by one party must be disclosed to the other party, who may then subject it to scrutiny.</p>

8. Amendment history

Version	Effective date	Created/reviewed by	Reason for review/comment
1	November 2022	Te Kawa Maiooro Working Group	First published

Appendix 1: Notice of Appeal

[online form]

Name	
Ākonga ID number	
Email address	
Phone	
Address	
Preferred Contact Method (email, phone, mobile, other)	
Programme of Study or Qualification	
Te Pūkenga Business Division	
Describe the details of your Appeal	
Identify the grounds on which you are making this appeal	
Please describe how you have already tried to resolve this appeal	
Please describe how you think your appeal can be resolved (outcome sought)	
Identify the support person/s and/or advocate assisting you in making this appeal (Name and contact details)	
Identify any other person/s assisting you (Name and contact details)	
Documentation (uploaded)	

Appendix 2: The Appeal Hearing

The nominated Chair for each Appeals Hearing will:

- Establish a date, time, venue, and format for the Hearing which is convenient for all parties and within seven working days of receipt of Notice of Appeal. Any timeframe over the seven working days to be notified to all parties.
- Inform the ākonga of their rights to appear at the Hearing, being supported by their chosen support person/s, use an advocate to speak on their behalf, request an interpreter, and to request Māori or other representation at the hearing. The ākonga may also choose not to appear as all documentation/evidence material has been provided.
- Ensure all parties have the same documentation at the Hearing. This includes the Notice of Appeal and accompanying documentation and the appealable decision under appeal.
- Additional material may be provided at the hearing if all parties are given a reasonable opportunity to consider the material and there is an agreement in the panel to allow additional material not previously available.
- The Hearing is an open and consultative event attended by all parties to hear each other's explanations.
- If agreement/consensus is reached by all parties at any stage in the Hearing, the Hearing may be vacated.
- Determine the order of the proceedings and time limits for each participant's speaking at the Hearing.
- Provide for all members of the Panel to ask relevant questions, including the background to and reasons for the Appealable decision.
- At the time of the deliberation, all parties not on the Hearing Panel, be asked to leave the meeting
- Ask all the Panel members to consider all evidence and make decision.
- Invite all other parties back into the Panel Hearing to be informed of the decision with no further recourse to discussion or questions.
- Advise the ākonga of the next steps in the process.