

Procedural Fairness Policy

Introduction

doctorportal Learning Pty Ltd, trading as 'CPD Home' is a jointly owned subsidiary of the Australian Medical Association (WA) Inc, and Australian Society of Anaesthetists.

CPD Home is available to non-exempt medical practitioners in Australia at www.cpdhome.org.au. It is not limited to members of the AMA.

Background

CPD Home is committed to exercising procedural fairness in its decision making, particularly when there is direct impact to subscribers. We want our subscribers to feel they have been treated fairly, consistently, and objectively. Wherever possible, subject to obligations of privacy and confidentiality, when advising of a decision to which this policy applies, we will endeavour to explain the reasoning behind our decision.

Purpose

The purpose of this policy is to provide some guidance for decision-makers about the sorts of things to be considered when making decisions that may impact negatively on a subscriber's rights or interests, including in relation to decisions about:

- recognising CPD activities
- compliance with their CPD Program
- compliance with the Medical Board of Australia's (MBA)'s *Registration Standard: Continuing Professional Development* (the Standard)
- pertaining to a complaint, special consideration of exceptional circumstance
- the granting or not of an exemption, variation or referral
- a reconsideration, review or appeal of a decision.

Objective

To provide subscribers assurance that, subject to the requirements of the CPD Home Program of Learning (CPD Program) and the Standard, decisions which may affect recognition of their compliance with CPD requirements will be made fairly and objectively, free from bias or discrimination and, having regard to any exceptional circumstances, applied consistently.

Scope

This policy applies to all subscribers, members of the CPD Advisory Panel and staff of CPD Home.

Definitions

Please refer to the Glossary for definition(s) of terms that apply to this policy.

Policy

Procedural fairness is concerned with the procedures used by a decision-maker, rather than the actual outcome reached.

Procedural fairness requires the decision-maker when making decisions which affect the rights, obligation or legitimate expectations of subscribers to adopt procedures that are fair, appropriate and adapted to the circumstances of the matter requiring a decision.

The decision-maker must:

- inform the subscriber of the matter on which a decision is to be made
- give the subscriber an opportunity to respond to the matter
- not be biased or seen to be biased

- take into account only relevant information, arguments or evidence, including that from an affected subscriber.

Decision makers shall undertake all reasonable enquires or investigations before making a decision. Any negative findings must be supported by facts or reliable and credible information. Only relevant factors are to be taken into account. Proper examination of all credible, relevant, and disputed issues is important. It is paramount that the identity of any confidential source of information pertaining to the decision to be made is protected. Decision makers shall ensure that a full record of the investigation and the outcome has been made.

Action

Inform

A subscriber must be provided with enough details of the matter affecting them to enable a response to be prepared, including:

- reasons for the matter affecting them or the case to be met
- information or evidence on which the decision will be based
- reasons why a decision is required
- the nature of the decision to be made
- the criteria on which the decision will be made
- likely outcomes the decision might give rise to.

Subsequent to the initial information provided to the subscriber, any additional information which could be relevant to a subscriber's response which comes to light it should also be provided.

It is generally sufficient to provide a summary of the information pertaining to the matter in writing. Original documents do not have to be provided. Should there be any material that would expose another individual, those details must be redacted.

Hear

A subscriber must be given a reasonable opportunity to be heard and to respond to any matter or decision to be made before a decision is made. This could include:

- making either an oral or written submission as appropriate to the circumstances
- giving evidence and calling witnesses (for example in a formal hearing)
- test persons in relation to any adverse information or material.

The subscriber must be provided with sufficient notice of any decision to be made or hearing to be held. Where applicable, timeframes set out in relevant CPD Home policies must be followed. Otherwise, such notice as is reasonable in the circumstances must be given.

CPD Home decision-makers should also consider whether there are any impediments or circumstances that might prevent or delay a subscriber's ability to respond to the matter at hand and make any appropriate allowances to ensure the consideration of a subscriber's submission or response.

The subscriber may, with permission, bring a support person to any meeting or hearing on the matter at hand (see our Reconsider, Review and Appeals Policy).

Timeliness

The subscriber must be given reasonable and adequate notice to respond to any matter on which a decision is to be made that may impact negatively on the subscriber's rights or interests. What is 'reasonable and adequate' will depend on the circumstances.

To facilitate the matter being dealt with in a timely manner a date for receipt of the response should be nominated. The respondent should be advised that the matter may be decided on in the absence of a response if there were no extenuating circumstances that would give rise to the granting of an extension of time.

Without bias (real or perceived)

The decision-maker must be impartial. They must not have a conflict of interest (direct or indirect), pertaining to the outcome of the decision to be made. They must be objective in their assessment of the matter and must act fairly and without any actual or apprehended bias.

This includes ensuring that, from an onlooker’s perspective, there is no reasonable perception of bias. For example, personal, financial, or family relationships, evidence of a closed mind or participation in another role in the decision-making process can all give rise to a reasonable perception of bias. If this is the case, the person concerned if:

- an individual decision maker, should remove themselves from the process and ensure an independent person assumes the role
- the member of a decision-making entity, should identify their conflict of interest or bias to the Chair of the decision-making entity on which they sit, and adhere to whatever action the remaining members of the decision-making entity consider is appropriate (such as not participating in any discussion on the matter, and/or abstaining from any vote). Reference should be made to the CPD Home Conflict of Interest Policy.

Act only on relevant information or evidence

It is incumbent on decision-makers to give proper and genuine consideration to the merits of a subscriber’s case before arriving at a decision. They must not consider facts or considerations unrelated to the matter at hand when making a decision. There must be facts or information to support all negative findings.

Related Documents / Legislation

The following documents are related to this policy.

1. CPD Home Reconsideration, Review and Appeal Policy
2. CPD Home Conflicts of Interest Policy
3. CPD Home Exceptional Circumstances and Specials Consideration Policy

Appendices

1. Glossary

Version Tracking

Version	Date	Comments
1.0	December 2022	
1.1	September 2024	Updated Introduction to reflect the joint ownership of CPD Home. Amended CPD Home Program of Learning start year from 2023 to 2024, Australian Health Practitioner Regulation Authority to Australian Health Practitioner Regulation Agency. Replaced AMA (WA) CEO with Executive Lead to reflect current SOP. Removed unrelated glossary terms.
1.2	October 2024	Added Definitions statement and edited glossary. Updated minor amendments.

Appendix 1 Glossary

Term	Definition
Actual bias	When a decision-maker's mind, because of an interest in the outcome of a decision (such as financial or family interest), actual hostility or prejudice towards or prejudged position about an affected person, is so closed to persuasion by the affected person that relevant arguments are ineffective.
Appeal	Of a decision, to be undertaken by an Appeals Committee, an ad-hoc committee of the CPD Home Board.
Applicant	Any Subscriber or Education Provider directly affected and unsatisfied with a CPD Home decision who applies to have the decision reviewed, reconsidered or appealed.
Apprehended bias	Where a fair-minded, reasonably well-informed lay observer might reasonably apprehend that the decision-maker might not bring an impartial mind to the resolution of the question that the decision-maker is deciding.
Bias	Inclination or prejudice for or against one person or group, especially in a way considered to be unfair.
Conflict of interest	<p>A conflict of interest occurs when a person's personal interests' conflict, or could be perceived to conflict, with their responsibility to act in the best interests of CPD Home.</p> <p>Conflict of interests may be:</p> <ul style="list-style-type: none"> • Real – where a direct conflict exists between the decision maker and their duty to act in the best interests of CPD Home • Apparent – where it appears or could be perceived that personal interests are influencing the decision maker to not act in the best interests of CPD Home • Potential – where personal interests are not currently but could come into conflict with their duty to act in the best interests of CPD Home.
CPD Home Program of Learning	The CPD Home Program of Learning (CPD Program) provides a pathway for Australian registered medical specialists, international medical graduates, PGY2+ trainees and non-vocationally registered doctors to engage in an accredited CPD program. From 1 January 2024, the CPD Program is a mandatory program for subscribers to the CPD Home service.
CPD requirements	<p>Means CPD requirements against the Standard, as follows:</p> <ul style="list-style-type: none"> • develop a written annual CPD Plan • complete a minimum of 50 hours per year of CPD activities that are relevant to your scope of practice and individual professional development needs • allocate your minimum 50 hours per year between the following types of CPD activities <ul style="list-style-type: none"> ○ at least 12.5 hours (25 percent of the minimum) in educational activities ○ at least 25 hours (50 per cent of the minimum) in activities focused on reviewing performance and measuring outcomes, with a minimum of five hours for each category; and

	<ul style="list-style-type: none"> ○ the remaining 12.5 hours (25 percent of the minimum), and any CPD activities over the 50-hour minimum across any of these types of CPD activities, including any relevant specialist high-level CPD requirements • reflect on your CPD goals at the end of the year in preparation for your next CPD Plan • retain records of your annual CPD compliance for auditing purposes by your CPD home and the MBA for three years after the end of each one-year cycle.
CPD year	CPD year commences 1 January and concludes 31 December.
Complaint	<p>Dissatisfaction or concern about the conduct or actions of CPD Home expressed in a written complaint submitted via the CPD Home Complaint Form by a:</p> <ul style="list-style-type: none"> • Subscriber to CPD Home services • CPD Home Education or Service Provider • member of an CPD Home decision making or advisory entity.
Decision maker	Any person or persons making decisions for or on behalf of CPD Home.
Exemption	CPD requirements for the CPD year are waived in part or full.
Personal interest	Personal interests include where the decision maker or a person or organisation affiliated with them would receive a benefit or incur a detriment because of the decision being made. That benefit or detriment could be financial or non-financial.
Reconsideration	Of a decision, to be undertaken by the original decision maker.
Review	Of a decision, to be undertaken by a Review Panel.
Review Panel	A panel comprised of three people chosen at the discretion of the Executive Lead or their delegate for the purpose of reviewing a decision under the Review, Reconsideration and Appeals Policy. The Review Panel shall not include a member who participated in the original decision or its reconsideration, or who otherwise has, or is perceived to have, a conflict of interest.
the Standard	The Medical Board of Australia's (MBA)'s revised <i>Registration Standard: Continuing professional development</i> .
Variation	The hours required for CPD activities across the two domains of learning, being Domain 1: Educational Activities and Domain 2: Reviewing Performance and Measuring Outcomes as per the Standard for the CPD year, are proportionally reduced to reflect the period where the subscriber did not practise medicine.