

New Zealand Institute of Chartered Accountants Appeals Council Procedure

Lodging an Appeal

1. Either the Member or the Professional Conduct Committee (PCC) may appeal a decision of the Disciplinary Tribunal. In accordance with NZICA Rule 13.51 appeals must be lodged within 14 days after the date of notification of the Disciplinary Tribunal's decision. Appeals must be made in writing stating the grounds of appeal.
2. Prior to the date of hearing there will usually be an exchange of submissions by the parties. The parties may agree to a timetable for the exchange of submissions or a direction can be sought from the Chair of the Appeals Council.
3. Appeals are heard by way of rehearing but unless the Appeals Council directs otherwise, it is not permissible to recall witnesses who gave evidence before the Disciplinary Tribunal or to introduce any new evidence. If a party wishes to recall a witness or introduce new evidence, an application will need to be made in accordance with Rule 13.54. These can be done before the appeal hearing as an interlocutory application or at the start of the hearing.
4. Appeals are generally heard in one day, however, in some cases more than one day maybe required.
5. The Appeals Council does not have a separate legal advisor as the Chair is legally qualified.

At the hearing

6. On the day of the hearing, the parties (representatives of PCC and the member), the Appeals Council Secretary, the stenographer (or recording technician) and any members of the public or media take their seats in the hearing room, the Appeals Council members enter.
7. The Chair opens the hearing, introduces the members of the Appeals Council and explains the nature of the proceedings. The hearing is held in public unless the Appeals Council orders otherwise. At this point, generally any applications for interim name suppression (or other types of suppression) or holding the hearing or any part of a hearing in private are made at this point in accordance with Rules 13.61 and 13.62.
8. If the Appeals Council grants an application in accordance with Rule 13.62, the Chair will explain the conditions on which any member of the public or media present is permitted to remain in the hearing.
9. The hearing will either be recorded by a stenographer typing a transcript or by oral recording. If an oral recording is taken, it will, if required, be subsequently transcribed.



11. The Notice of Appeal, any further written submissions on the appeal and authorities submitted by the parties will be tabled with the Appeals Council together with relevant documentation from the Disciplinary Tribunal case file. If the appeal is limited in scope, the parties may agree in advance or following a direction from the Chair of the Appeals Council, what documentation will be tabled from the Disciplinary Tribunal case file. The Appeals Council members will have read the Appeal case file before the commencement of the hearing.
12. The Appeals Council will decide any applications in accordance with Rule 13.54 to recall witnesses or introduced new evidence, if such applications have not already been determined in advance of the hearing.
13. The Chair will invite the appellant's counsel (or the appellant if not represented) to make submissions to the Appeals Council on the grounds of appeal.
14. The Chair will invite the respondent's counsel (or the respondent if not represented) to make submissions in reply.
15. Members of the Appeals Council may ask questions of the parties throughout the proceedings.
16. Both parties will have the opportunity to make a final address.

Decision of the Appeals Council

17. The Appeals Council often reserves its decision at the end of the hearing, and the Chair will give an indication if anything else is required from the parties prior to the delivery of the decision. The Appeals Council's deliberations are conducted in private.
18. The Appeals Council Secretary will provide the decision to the parties when it is available (usually 2-6 weeks after the conclusion of the hearing).
19. Costs are generally reserved until the Appeals Council has delivered its decision. The parties may either agree on costs or if there is no agreement, the parties may make submissions to the Appeals Council on costs. The Appeals Council generally considers the matter of costs on the papers and will provide a written decision.
20. Publication of any decision will follow the appeal. The presumption is that decisions of the Appeals Council will be published with the member's name, address and particulars of the charges unless the Appeals Council directs otherwise.