



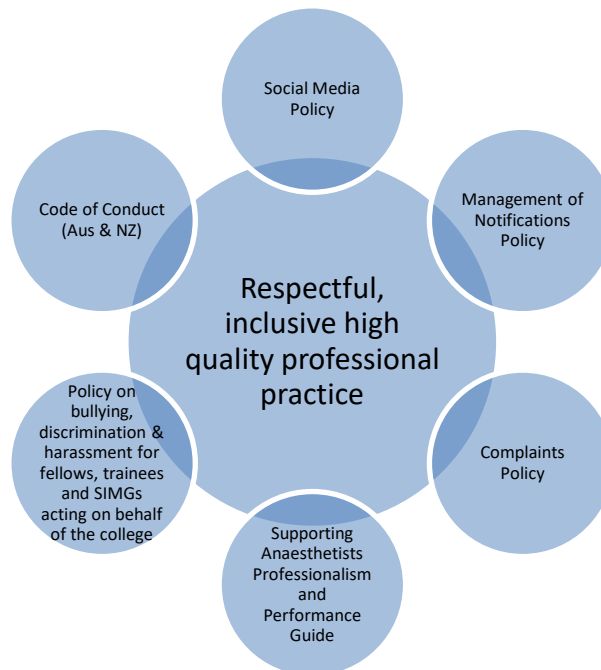
## Short title: Notifications management

### 1. Purpose

The purpose of this policy is to outline how the Australian and New Zealand College of Anaesthetists, including the Faculty of Pain Medicine, manages and resolves notifications about anaesthetists and specialist pain medicine physicians and the procedures that support a timely, transparent and a rigorous approach to resolution. It provides guidance for the pathways and processes that may apply to a notification but is subject to the express provisions of other relevant policies that may apply in specific instances.

#### 1.1 Context

ANZCA bases this policy on a suite of policies, regulations, and guiding documents that, together represent a professional practice framework that supports respectful, inclusive high-quality practice. The below diagram outlines the components of this framework.



### 2. Scope

Throughout this document:

- The Australian and New Zealand College of Anaesthetists, including the Faculty of Pain Medicine, will be referred to as the college.
- Complaints and concerns will be referred to as notifications.
- Anaesthetists and pain medicine physicians include fellows, trainees and specialist international medical graduates on the pathway to fellowship (SIMGs).

This document applies to notifications about anaesthetists and specialist pain medicine physicians.

Where a notification is about bullying, discrimination or harassment against fellows, trainees and SIMGs acting on behalf of the college, the [Policy on bullying, discrimination and harassment for fellows, trainees and specialist international medical graduates acting on behalf of the college](#) must be considered in conjunction with this policy.

This policy does not apply to notifications about ANZCA employees, which are to be directed to the People and Culture unit in the college (see **Complaints Policy** on ANZCA Networks).

Notifications can be received from:

- The community.
- Patients.
- Other health professionals.
- Employers.
- Tribunals.
- Regulatory or educational bodies.
- Other fellows, trainees or SIMGs.
- Staff.

Notifications may include concerns about:

- Professional standards including poor clinical standards or outcomes.
- Unacceptable behaviours inconsistent with the code of conduct or the [Supporting Anaesthetists Professionalism and Performance Guide](#) ('Performance and Professionalism Guide') against fellows, trainees and SIMGs.

### 3. Background

The college has the following documents which make explicit the standards of ethical and professional conduct expected of doctors by their professional peers and the community:

- [Good Medical Practice: A Code of Conduct for Doctors in Australia](#) (Medical Board of Australia).
- [Good Medical Practice](#) (Medical Council of New Zealand).

These documents are referred to in this policy as the code of conduct.

The following ANZCA documents make explicit the standards of ethical and professional conduct expected of anaesthetists and pain medicine specialists by their professional peers and the community:

- [Policy on bullying, discrimination and harassment for fellows, trainees and specialist international medical graduates acting on behalf of the college](#).
- [Supporting Anaesthetists' Professionalism and Performance Guide](#) ('Professionalism and Performance Guide')
- ANZCA Social media policy
- ANZCA Academic integrity policy

The college is committed to ensuring best practice in managing notifications. The college therefore, is guided by the [AS/NZS 10002:2014 Guidelines for complaint management in organisations](#).

A notifier will be treated fairly and in good faith and with a timely, clear, and informative response. Consideration of a notification will be objective, impartial and managed confidentially in accordance with the notifier's consent and privacy obligations.

#### **4. Body of policy**

The college's objective is that all anaesthetists and specialist pain medicine physicians demonstrate a high standard of performance and professionalism and comply with ANZCA standards, the [Professionalism and Performance Guide](#), and code of conduct.

The college believes that anaesthetists and specialist pain medicine physicians, as well as being accountable to the community through regulators and other bodies, are accountable to each other through the college for the maintenance of those standards and will endeavour to support notifiers and the subjects of notifications in order to assist in their resolution.

The college commits to:

- Promoting working and training environments free from unacceptable behaviours and inconsistent with the code of conduct or the [Professionalism and Performance Guide](#).
- Providing access to relevant college policies and procedures detailing unacceptable behaviours as documented in the code of conduct or the [Professionalism and Performance Guide](#).
- Promoting accepted standards of conduct at all times.
- Encouraging the reporting of behaviour/s that breach this policy.
- Encouraging an effective complaints procedure based on the principles of natural justice.
- Treating all notifications in a sensitive, fair, timely and confidential manner. This may include encouraging local resolution of the issues. Involvement of bodies such as local anti-discrimination and human rights authorities, the Medical Board of Australia or Medical Council of New Zealand, or statutory workplace authorities may be recommended in the event of failure to reach local resolution.

**Appendix 1** lists the pathway, procedures, and potential outcomes of how the college manages notifications.

**Appendix 2** lists other groups that may manage notifications.

#### **4.1 Working with other bodies investigating complaints**

The college recognises that other groups such as employers, hospitals, health services, health complaints entities, or regulatory authorities may respond to notifications. If a notification is being investigated by one of these bodies, the college will usually await the outcomes of those processes.

If a notification in New Zealand involves an alleged breach of the Health and Disability Commissioner Code of Health and Disability Services Consumers' Rights (regulation 1996) it must be dealt with according to the provisions of the Health and Disability Commissioner Act 1994.

It is expected that anaesthetists and specialist pain medicine physicians will notify the college of any adverse finding by a regulatory authority or any criminal charges. Trainees and SIMGs are required to advise the college immediately after becoming aware of any notification or complaint being made against them by any health complaint entity or other health regulatory body, or any criminal charges.

## **4.2 How complaints are received**

Notifications can be received via telephone, post, email or in person and verbal reports must also be put into writing.

The college may decide to act in response to information in the media, including use of social media platforms, or a third-party external audit outcome provided to the college.

## **4.3 What the college can and cannot do**

The college's primary role under this policy is to facilitate outcomes in the interests of maintaining high standards of professional conduct, consistent with the code of conduct and the [Professionalism and Performance Guide](#).

Notifications raised by patients about standards of care will be received and evaluated. However, for matters that require formal investigation, notifiers will be referred to either the medical regulator or relevant health complaints authority (see Appendix 2).

The college is not a regulator and does not have statutory powers, nor does it have powers to directly address complaints about alleged poor clinical practice. It cannot award compensation or compel outcomes. It cannot compel the production of documents. It can take action in accordance with its own regulation 26. It can also refer matters to the Medical Board of Australia or the Medical Council of New Zealand, health complaints entities, health departments, other colleges or police, where relevant.

The college may decide that a notification is abusive, trivial, misconceived, or vexatious and refuse to deal with it any further other than to inform the notifier.

### **4.3.1 College training sites**

ANZCA has very limited powers within another employer's workplace, which is relevant to notifications arising out of events within hospitals and other sites where fellows, trainees and SIMGs provide medical services. Taking this into account:

All notifications about poor behaviour affecting trainees in training sites are to be referred to the training site for resolution, as long as the notifier consents. The accreditation committees (TAC and TUAC) will also be notified, and as part of their accreditation processes require that accredited training sites have suitable processes for resolving such complaints. This strengthens the college's ability to bring about effective change.

Those notifications about bullying, discrimination or harassment against fellows, trainees and SIMGs at training sites that are covered by the [Policy on bullying, discrimination and harassment for fellows, trainees and specialist international medical graduates acting on behalf of the college](#) will be referred to the triage group for identification of the applicable pathway to progress notification resolution.

## **4.4 ANZCA commitment – general principles**

### **4.4.1 Confidentiality**

As far as possible, notifications will be treated as strictly confidential. Notifiers can choose to be identified, maintain confidentiality, or specify anonymity.

Where notifications are to remain confidential only the outline of the concern raised will be recorded.

The college will usually only act on any notification with consent from the notifier. Sometimes the college is required to make a mandatory report. The college can take only limited action with anonymous individual notifications. However, where there is a cluster of anonymous notifications raising the same concern, the college may initiate action.

#### **4.4.2 Impartiality**

The procedure will be conducted in a fair and equitable manner at all times. No judgements or decisions will be made until all relevant information has been obtained and reviewed.

Any anaesthetist and specialist pain medicine physician about whom a notification is received is entitled to receive sufficient details of the nature and circumstances of the allegations to allow them to fully respond to the allegations. This may necessitate the disclosure of the identity of the notifier and will be done only with the notifier's consent. Where that consent is withheld, ANZCA's ability to represent the issues fairly to the respondent will necessarily be limited.

#### **4.4.3 Victimisation**

Victimisation is unacceptable and will not be tolerated against any person who has:

- made, or intends to make a complaint;
- been, or intends to be a witness;
- is a support person to any of the parties involved in the complaint;
- is involved in resolving the complaint;
- acted in good faith in bringing information or making an allegation under anti-discrimination and harassment legislation.

Should such victimisation occur, disciplinary action will be taken against the offender.

#### **4.4.4 Defamation**

Allegations of unlawful discrimination, harassment or bullying are serious matters and can potentially damage an individual's reputation if later found to be unsubstantiated. To minimise the risk of defamation it is important to maintain confidentiality and involve as few people as possible in the dispute resolution process.

All college personnel and other representatives appointed to assist in dispute management, are protected under the doctrine of 'qualified privilege' provided they act in accordance with the dispute resolution procedure and not maliciously.

#### **4.4.5 False accusation**

False accusations of discrimination, sexual harassment or bullying will be viewed seriously and, where found to be malicious, may expose the complainant to risk of defamation proceedings or disciplinary action up to and including termination of fellowship or dismissal.

#### **4.4.6 Intent**

The college acknowledges that behaviour or comments acceptable to one person may offend or be unwelcome to another. Perceptions and interpretations are likely to differ because of diverse backgrounds, cultures, and views. “Innocent intent” is not a defence or excuse against harassment or discrimination complaints nor a justification for bullying behavior.

#### **4.4.7 Procedural fairness**

Any anaesthetist and specialist pain medicine physician about whom a notification is received, is entitled to:

- be judged by unbiased decision maker(s),
- be judged only on relevant material

receive sufficient details of the nature and circumstances of the allegations to allow them to fully respond to the allegations. This may necessitate disclosure of the notifier’s identity and will usually be done only with their consent. Where that consent is withheld, the college’s ability to represent the issues fairly to the respondent will necessarily be limited.

#### **4.4.8 Timely responses**

The college encourages timely lodgement of notifications to allow for the best resolution for the benefit of all involved.

#### **4.4.9 Collaboration**

The college supports resolution of notifications through established health agency pathways and seeks to be informed of notification and investigation outcomes, specifically where allegations of misconduct have been found that might represent a breach of the code of conduct.

#### **4.4.10 Exclusions**

If a notification comes under the mandatory scope of a statutory body, then that body’s processes takes precedence.

The college does not usually become involved in notifications related to findings or decisions made about anaesthetists and specialist pain medicine physicians by regulators or in other legal proceedings.

The college cannot provide direct legal assistance or legally represent anaesthetists and specialist pain medicine physicians involved in action by regulators or in other legal proceedings.

#### **4.4.11 Support person.**

A support person is anyone who provides assistance to the complainant or the respondent of a discrimination, sexual harassment or a bullying dispute. A support person may be a family member, trusted advisor or a co-worker.

The support person’s role is to be conducted in the spirit of conciliation as well as fair and equitable outcomes.

A support person is also bound by the requirement for confidentiality and cannot act as a witness and a support person in the same complaint.

#### 4.4.12 Counselling and support.

A complainant may wish to seek counselling or assistance from someone independent of the college.

### 5. Related documents

- [Good Medical Practice: A Code of Conduct for Doctors in Australia](#) (Medical Board of Australia).
- [Good Medical Practice](#) (Medical Council of New Zealand).
- [Supporting Anaesthetists Professionalism and Performance Guide](#)
- [Regulation 23 Recognition as a specialist in anaesthesia or pain medicine and admission to fellowship by assessment for specialist international medical graduates \(SIMGs\).](#)
- [Regulation 26 Standards of professional practice.](#)
- [Regulation 28 Removal of role holders, committee, subcommittee and working group members representatives](#)
- [Regulation 30 Reconsideration and Review Processes](#)
- [Regulation 31 Appeals Process](#)
- [Regulation 37 Training in anaesthesia leading to FANZCA, and accreditation of facilities to deliver this curriculum](#)
- [FPM By-law 4 FPM training program](#)
- [Policy on bullying, discrimination and harassment for fellows, trainees and specialist international medical graduates acting on behalf of the college.](#)
- [Privacy Policy](#)

### 6. Changes to policy

The college may modify or amend this policy at any time. Formal notice of amendments will not ordinarily be given, but the current policy will be available via the college website or by contacting the college on +61 3 9510 6299.

### 7. Concerns or comments

If you have any concerns about the *Policy on management of notifications* please contact the Office of the Chief Executive Officer via [ceo@anzca.edu.au](mailto:ceo@anzca.edu.au) Requests must be in writing and resolution of concerns will be sought as promptly as possible.

### 8. Change control register

Version	Author	Approved by	Approval Date	Sections Modified
1	CEO	Council	May 15 2017 (via e-vote)	Original document
2	DCEO	Council	February 2018	Name of policy Clauses 3.2, 3.5 and 3.6, 4
3	CEO	Council	May 2022	ALL

4	CEO	Council		Next review due in 2023 when Diploma of rural generalist anaesthesia commences to update purpose and scope.
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## **Appendix 1:**

Pathway, procedures, and potential outcomes of how the college manages notifications.

### **A1. Triage**

All notifications will be assessed initially by the triage group. This enables the identification of the applicable pathway to progress notification resolution as listed in A2 below. The professional conduct triage group comprises the college CEO, Vice-President and Executive Director of Professional Affairs (EDPA). Other staff may be involved as necessary, for example, the DPA FPM if notifications regarding pain medicine are being considered.

### **A2. Pathway**

The college is committed to early intervention and prompt resolution of notifications. This will provide focus to the chosen pathway.

As a guide, the pathway involves levels of graduated intervention where minor breaches are dealt with on a local basis. Mediation is used early with a progressive hierarchy to guide responses.

- Level 1 – single unprofessional incident – informal, advice and assistance offered, point of reflection, non-judgmental.<sup>1</sup> Before being considered by the college local resolution of any notifications is preferable.
- Level 2 – apparent pattern – awareness intervention. First stage of formal process. Counselling stage.
- Level 3 – pattern persists – guided intervention by authority. Second stage of formal process. Disciplinary intervention considered. Employer involved.
- Level 4 – no change and potential for high impact or high risk – disciplinary intervention most likely. Employer shares responsibility for outcomes. Notification to medical regulator considered.

All notifications will be received by the ANZCA Professional Conduct Triage Group. This group will determine the most appropriate pathway to resolution of notifications. The professional conduct triage group may manage levels 1 and 2 notifications. Levels 3 and 4 require authorisation or determination by the ANZCA Executive Committee and ANZCA Council respectively.

The pathway may be varied depending on the circumstances. The final decision on appropriate responses rests with the college.

Matters relating to specific areas will be dealt with through the relevant college committee or unit. For example, concerns about noncompliance with continuing professional development (CPD) will be handled by the CPD Committee under this policy. Notifications from trainees concerning their training sites, training progression and/or assessments are assessed with reference to related policies and regulations 30 and 31.

All notifications about training sites will be referred to the relevant training site accreditation committee, with consideration of referral to a regulation 26 panel for further action

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<sup>1</sup> Note that very occasionally a single incident may be reckless or egregious enough to warrant a level 4 response.

Notifications about training sites that lie outside the ANZCA Policy on bullying, discrimination and harassment for anaesthetists and specialist pain medicine physicians acting on behalf of the college will be referred to the relevant training accreditation committee, but without the option of referral to a regulation 26 panel.

Notifications about anaesthesia trainees will be dealt with according to the provisions of [Regulation 37: Training in anaesthesia leading to FANZCA, and accreditation of facilities to deliver this curriculum](#).

Notifications about faculty trainees will be dealt with according to the provisions of [By-law 4: Faculty of Pain Medicine Training Program](#).

Notifications about SIMGs will be dealt with according to the provisions of [Regulation 23: Recognition as a specialist in anaesthesia or pain medicine; and eligibility for admission to fellowship by assessment for specialist international medical graduates \(SIMGs\)](#).

### **A3. Governance**

- A3.1 The ANZCA Executive Committee of Council will provide governance oversight of this policy and its implementation.
- A3.2 All issues relating to notifications are reported through the ANZCA Executive Committee, although they may also be reported as appropriate to external regulators. Confidentiality will be observed, and only relevant points will be communicated.
- A3.3 The ANZCA Executive Committee may, after consideration of a matter, intervene and make its own determination or refer the matter directly to ANZCA Council.
- A3.4 Reference to the reconsideration, review and appeal processes of the college ([regulations 30 and 31](#)) do not apply to procedural decisions or action of the college, its committees or staff under this policy, unless there has been a final substantive decision regarding the outcome of a notification or complaint by the college. Those outcomes will be reported in a summarised version by the Executive DPA to the ANZCA Executive Committee.

### **A4. Potential outcomes**

Potential outcomes may include:

- a) No further action.
- b) Informal discussion with a senior fellow as quickly as possible, to inquire about:
  - i. Member's welfare.
  - ii. Member's reflections on the matter, and changes to future practice.
  - iii. Assistance the college may give with continuing education
- c) Referral to an individual nominated by the college to assist and support professional practice.
- d) Referral to an external organisation.
- e) Issue of a reprimand (level 3 conduct).
- f) Referral to [Regulation 26](#) professional standards panel (levels 3 or 4 conduct).

- g) Referral to ANZCA Council for consideration of removal of fellowship, other disciplinary actions, for example, report to medical regulatory authority, publication of details of matter (level 4 conduct).

#### **A4.1 Level 1 – show cause**

After evaluation of any notification, respondents may be required to explain their actions or reasons why the notification was raised.

The college may take the following approach.

If it is satisfied with the explanation of the matter, then it will take no further.

If it is agreed that the notification is substantiated but constitutes a single unprofessional incident and is, in the college's opinion, unlikely to be repeated, then informal counselling with a nominated fellow may be required. In such cases the matter will not be escalated beyond that point.

#### **A4.2 Level 2 – Counselling**

In cases where there appears to be a pattern of behaviour in breach of the standards of ethical and professional conduct of the regulatory authorities or of the college, such matters will be dealt with on a formal basis. Counselling is the first stage of that formal process.

As part of the counselling process, respondents will be directed to:

- a) The relevant code of conduct, which identifies the standard of behaviour for anaesthetists, specialist pain medicine physicians.
- b) The college's guide to expected behaviour as outlined in the [Professionalism and Performance Guide](#).

Particular emphasis will be placed on compliance with these documents and respondents will be expected to comply with the standards. Failure to do so, as evidenced by any further breaches, will result in any notification being escalated to level 3 for further consideration.

#### **A4.3 Level 3 – referral to a panel convened under regulation 26**

More serious or complex notifications may be referred to a panel convened under regulation 26 (the panel). As per regulation 26.4.5, the potential outcomes from the panel are:

- a) The matter is dismissed.
- b) The matter is referred to an appropriate authority.
- c) The fellow is reprimanded, which may include the loss of the privileges detailed below (i-vi).
- d) The fellow is required to undergo remediation.
- e) The matter is referred to ANZCA Council for consideration of termination of fellowship under clause 4.2 of the constitution.

The CEO will issue this under the authority of ANZCA Council following a recommendation of the panel. Where the action involves a fellow of the Faculty of Pain Medicine, this will be done in consultation with the faculty board.

Anyone receiving a reprimand and required to undertake remediation activities including attendance at certain nominated courses (at own expense) may also lose the following privileges, until a review after a period of time indicates successful completion of the remediation.

- i. Participation in any college committees or as an examiner.
- ii. Supervision of trainees or SIMGs.
- iii. Teaching on a college course.
- iv. Application for a college scholarship or research grant.
- v. Eligibility to receive a college award.
- vi. Be eligible to be elected or appointed to ANZCA Council or committees, or the Faculty of Pain Medicine board or committees.

#### **A4.4 Level 4 – sanctions or termination of fellowship**

Where any individual is found to have repeatedly breached the code of conduct or if a very serious breach of the code is found to have occurred, then ANZCA Council may terminate fellowship under clause 4.2 of the constitution or apply sanctions on membership. Trainees and SIMGs will be dealt with through the relevant unit processes. Where the action involves a fellow of the faculty of pain medicine, this will be done in consultation with the faculty board.

Until the required remediation is undertaken a fellow will be unable to:

- a) Participate in any college committees or as an examiner.
- b) Supervise trainees or SIMGs.
- c) Teach on a college course.
- d) Apply for a college scholarship or research grant.
- e) Be eligible to receive a college award.
- f) Be eligible to be elected or appointed to ANZCA Council or committees, or the Faculty of Pain Medicine board or committees.

Withdrawal of fellowship on these grounds will also be reported to the relevant medical regulator.

#### **A5. Reconsideration, review and appeal of outcomes**

The respondent may appeal the outcome of any notifications according to the reconsideration, review and appeal policies in respect of matters to which those policies apply on the terms of those policies ([regulations 30 and 31](#)). Those outcomes will be reported in a summarised version by the EDPA to the ANZCA Executive Committee.

## Appendix 2:

Other groups that may manage notifications:

### **Australian Health Practitioner Regulation Agency/Medical Board of Australia**

- [For patients and members of the community](#)
- [For registered health practitioners, employers and health education providers](#)

### **New Zealand Medical registration body (Medical Council of New Zealand)**

- **For patients:** [standards@mcnz.co.nz](mailto:standards@mcnz.co.nz) (noting that the MCNZ must refer such notifications directly to the Health and Disability Commissioner)
- **For doctors employers etc:** [standards@mcnz.co.nz](mailto:standards@mcnz.co.nz)
- Further information about [conduct and competence concerns](#) or [health concerns about a doctor](#)

### **Health Complaints Organisations**

- New Zealand – [Health and Disability Commissioner](#)
- New South Wales – [Health Care Complaints Commission](#)
- Victoria – [Health Complaints Commissioner](#)
- Queensland – [Office of the Health Ombudsman](#)
- Western Australia – [Health and Disability Services Complaints Office](#)
- South Australia – [Health and Community Services Complaints Commissioner](#)
- Australian Capital Territory – [Health Services Commissioner](#)
- Tasmania – [Health Complaints Commissioner](#)
- Northern Territory - [Health and Community Services Complaints Commission](#)

### **Human rights and equal opportunity commissions**

- [Australian Human Rights Commission](#)
- [New Zealand Human Rights Commission](#)
- [Australian Capital Territory Human Rights Commission](#)
- [Anti-Discrimination Board of New South Wales](#)
- [Northern Territory Anti-Discrimination Commission](#)
- [Queensland Human Rights Commission](#)
- [Equal Opportunity Commission South Australia](#)
- [Equal Opportunity Tasmania](#)
- [Victorian Equal Opportunity and Human Rights Commission](#)
- [Equal Opportunity Commission Western Australia](#)

### **Workplace authorities**

- [Fair Work Ombudsman Australia](#)
- [Australian Capital Territory Work Health and Safety](#)
- [SafeWork New South Wales](#)
- [Northern Territory Worksafe](#)
- [WorkCover Queensland](#)
- [SafeWork South Australia](#)
- [WorkSafe Tasmania](#)
- [Worksafe Victoria](#)
- [Employment New Zealand](#)
- [Safework Australia](#)

### **Employee support**

- ANZCA staff employee assistance program (for college staff)
- [ANZCA Doctors support program \(for college fellows, trainees, SIMGs and immediate family members\)](#)
- [Fair Work Commission Australia](#)