



Policy on bullying, discrimination and harassment for fellows, trainees and specialist international medical graduates acting on behalf of the college 2020

1. Purpose

The Australian and New Zealand College of Anaesthetists including the Faculty of Pain Medicine (the college) is committed to equality of opportunity and ensuring that the working and training environment is free from discrimination, bullying and harassment. The college considers bullying, discrimination and harassment to be unacceptable behaviours that will not be tolerated under any circumstances.

The purpose of this policy is to describe the behaviour expected of all fellows, trainees, specialist international medical graduates (SIMGs) and other volunteers acting on behalf of the college.

2. Scope

This policy applies to any place where 'college activities' are carried out, including places external to workplaces in which the college is the employer.¹

This policy covers all persons who undertake roles or tasks for the college but are not employed by the college. These tasks are often undertaken as part of employment with another employer and in that employer's workplace.

This policy does not apply to anaesthetists in the performance of their normal clinical duties as outlined in *PS57 Statement on Duties of Specialist Anaesthetists* or specialist pain medicine physicians in performance of their duties.

In any workplace, it is the employer who has the prime duty to investigate such allegations and who can best undertake disciplinary action against their employee.

This policy does not apply to staff employed by the college, who are covered by the *Policy on bullying, discrimination and harassment for employees*.

¹ A "workplace" is defined under OHS/WHS laws in both Australia and New Zealand as a place where work is carried out for a business or undertaking and includes any place where a worker goes, including a vehicle, aircraft etc.

3. Background

The college is committed to ensuring that fellows, trainees and SIMGs are not subjected to inappropriate discrimination, bullying or harassment. The intent is to set expectations for appropriate workplace and training environment behaviour. However, in addition to the workplace, professional behaviour is expected of all fellows, trainees, SIMGs and volunteers or others involved in college activities in all circumstances.

Bullying, discrimination and sexual harassment is a workplace issue, as defined in legislation. In the event that a fellow, trainee, SIMG or other person associated with the college suffers bullying, discrimination or harassment in the workplace, the employer has primary responsibility. However, the issue may be referred to the college where training or the gaining of specialist qualifications are affected.

Additionally, allegations under this policy outside of the scope of the 'workplace' may be referred to the college.

4. Body of policy

The college commits to:

- Promoting working and training environments free from unlawful discrimination, bullying and sexual harassment where all are treated with dignity, courtesy and respect.
- Ensuring that policies and procedures about bullying, sexual harassment and discrimination are available.
- Promoting appropriate standards of conduct at all times.
- Encouraging the reporting of behaviour that breaches this policy.
- Encouraging an effective complaints procedure based on the principles of natural justice.

Treating all complaints in a sensitive, fair, timely and confidential manner; and encouraging local resolution of the issues but if not resolved, then encouraging the 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 bodies.

5. Definitions

5.1 College activities

"College activities" means:

Any circumstances in which the person is engaged in activities organised or supported by the college, or activities relating to the training and supervision of trainees and oversight of SIMGs, and where the person is representing the college in those activities.

5.2 Bullying

Bullying is unreasonable behaviour that creates a risk to health and safety. It is behaviour that is **repeated** over time or occurs as part of a **pattern of behaviour**. “Unreasonable behaviour” is behaviour that a reasonable person, having regard to all the circumstances, would expect to victimise, humiliate, undermine or threaten the person to whom the behaviour is directed.

There are two broad categories of bullying:

1. **Direct bullying** – behaviour that is overt and usually involves conduct directed at a person to belittle or demean them. Examples include:
 - Aggressive and intimidating behaviour.
 - Belittling, degrading or humiliating comments.
 - Spreading misinformation or malicious rumours.
 - Interfering with a person’s property or work equipment.
 - Displaying offensive material (for example pornography).

2. **Indirect bullying** – behaviour that excludes or removes benefits from a person. Examples include:
 - Assigning meaningless tasks unrelated to the job.
 - Setting tasks that are unreasonably below or beyond a person’s skill level.
 - Deliberately changing work rosters to inconvenience particular employees.
 - Deliberately withholding information that is vital for effective work performance.

5.3 Discrimination

Discrimination means treating a person with an identified attribute or personal characteristic as set out in legislation less favourably than a person who does not have the attribute or personal characteristic.

The Australian federal jurisdiction, the States and Territories of Australia and New Zealand all have broadly similar legislation under Human Rights and Equal Opportunity legislation covering grounds of unlawful discrimination. These include:

- Gender.
- Transgender, gender history and trans-sexual status.
- Pregnancy and potential pregnancy.
- Childbirth or breastfeeding.
- Marital status.
- Sexual orientation.
- Lawful sexual activity.
- Disability or impairment.
- Race (including colour, nationality, descent and origin).
- Physical features.
- Age.

- Carer status and family responsibilities.
- Religious belief or activity.
- Political belief or activity.
- Trade union membership and industrial activity.
- Associated with a person who is identified by reference to any of these attributes.

5.4 Harassment

Harassment is any type of unwanted behaviour that offends, humiliates or intimidates a person, and targets them on the basis of a characteristic covered by anti-discrimination law, for example gender, race, ethnicity or disability, etc. In general, harassment is any behaviour that is:

- Unwelcome, not asked for and not returned.
- Likely to humiliate (put someone down), seriously embarrass, offend or intimidate (threaten or scare) someone.
- Based on a personal characteristic (or family or friend's characteristic) protected by law.

5.5 Sexual Harassment

Sexual harassment is against the law. Sexual harassment is unwelcome sexual behaviour, which could be expected to make a person feel offended, humiliated or intimidated. It can be physical, verbal or written. It can involve:

- Behaviour that is accompanied by a direct or implied threat, benefit or promise. This type of sexual harassment is sometimes termed "quid pro quo" harassment or "sexual blackmail" because compliance is demanded in return for employment advantages or the avoidance of employment detriment.
- Physical contact, verbal comments, jokes, propositions, graphic verbal commentaries about an individual's body, questions or insinuations about a person's sexual or private life, and unnecessary touching of an individual or the display of offensive material. This includes offensive material accessed from the internet or sent electronically.
- Behaviour which creates a sexually permeated or hostile working environment.
- Behaviour which would also be an offence under the criminal law. For example, physical assault, indecent exposure, sexual assault, stalking or obscene communications.

The intention or motive of an alleged harasser is not relevant when determining whether the behaviour was unwelcome. Investigation of a complaint will consider how the conduct in question was perceived and experienced by the recipient rather than the intention behind it. Harassment does not have to be repeated or continuous to be against the law.

5.6 Victimisation

Victimisation is unlawful. Victimisation occurs when a person is treated unfairly due to that person having made a complaint of sexual harassment. Victimisation is behaviour that

makes a person suffer a detriment including feeling uncomfortable, isolated, insecure or intimidated.

5.7 Individual Responsibility

While the college does not intrude into the personal relations of employees, fellows, trainees or SIMGs, it does have a concern where sexual relationships may represent an abuse of power in the training and work environment and:

- Implicitly or explicitly becomes a condition of a person's selection, recruitment, assessment, condition of employment, promotion or salary; or
- Has the effect of interfering with an individual's training performance; or
- Creates an environment that is offensive, hostile, intimidating and not conducive to productive working.

Sexual harassment does not include behaviour based on mutual attraction, friendship and respect. Sexual harassment does not include interactions that are consensual, welcome and reciprocated.

6. Conduct

6.1 Fellows and others involved in college activities (for example supervisors of training)

- a. Shall not unlawfully discriminate, bully or sexually harass:
 - An employee of the college.
 - A contractor of the college.
 - A member of the public.
 - Another fellow, or committee member.
 - A trainee or SIMG.
 - Any other person within their workplace.
- b. Shall not victimise another person, or subject a person to any detriment because that person:
 - Has made a complaint under their employer's or college policies.
 - Has brought proceedings under their employer's or college policies.
 - Has, or proposes to, give evidence or information in connection with proceedings, under their employer's or college policies.

6.2 Trainees and SIMGs

- a. Shall not, in the workplace, in the course of college activities, or in training, unlawfully discriminate, bully or sexually harass:
 - An employee of the college.

- A contractor of the college.
 - A member of the public.
 - Another fellow.
 - Another trainee or SIMG.
 - Any other person within their workplace.
- b. A trainee or SIMG shall not victimise another person, or subject a person to any detriment because that person:
- Has made a complaint under their employer's or college policies.
 - Has brought proceedings under their employer's or college policies.
 - Has, or proposes to give evidence or information in connection with proceedings, under their employer's or college policies.

7. Complaints

These will be handled in accordance with the college's *Notification and management of complaints and concerns policy*, which proposes a stepped escalation approach to dealing with the complaint. However, this does not prevent the aggrieved person from making a formal complaint directly to the CEO. The CEO may delegate assessment or investigation of the complaint to appropriate officers or college advisors.

All grievances relating to bullying, discrimination or harassment will be dealt with promptly, sensitively and confidentially. Any assessment or investigation will be carried out in an impartial and fair manner.

It is recognised that, if the aggrieved person is dissatisfied with the manner in which their complaint has been dealt with, or the recommended resolution, the person is entitled to lodge a complaint with the relevant statutory authority.

The college encourages the reporting of behaviour that is genuinely believed to constitute bullying, discrimination or harassment. There will be no disadvantage to, or unfair treatment of, a person who reports in accordance with this policy. False allegations of bullying, discrimination or harassment will be viewed seriously.

8. Related documents

8.1 ANZCA policies

- Notification and management of complaints and concerns policy

8.2 Legislation

- [Australian Commonwealth Disability Discrimination Act \(1992\)](#)
- [Australian Commonwealth Work Health and Safety Act \(2011\)](#)
- [Australian Commonwealth Racial Discrimination Act \(1972\)](#)
- [Australian Commonwealth Sex Discrimination Act \(1984\)](#)

- [Australian Commonwealth Age Discrimination Act \(2004\)](#)
- [New Zealand Employment Relations Act \(2000\)](#)
- [New Zealand Human Rights Act \(1993\)](#)
- [New Zealand Harassment Act 1997](#)
- [Australian Commonwealth Fair Work Act \(2009\)](#)

9. Further resources

9.1 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](#)

9.2 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](#)

9.3 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](#)

10. 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 on bullying, discrimination and*

harassment for fellows, trainees and specialist international medical graduates acting on behalf of the college will be available via the college website or by contacting the college on +61 3 9510 6299.

11. Concerns or comments

If you have any concerns about the *Policy on bullying, discrimination and harassment for fellows, trainees and specialist international medical graduates acting on behalf of the college* please contact the Office of the Chief Executive Officer via ceo@anzca.edu.au. Requests must be in writing and resolution of concerns will be sought as promptly as possible.

12. Change control register

| Version | Author | Approved by | Approval Date | Sections Modified |
|---------|-------------------|-------------|------------------|------------------------------|
| 1.0 | Office of the CEO | Council | 19 November 2011 | Created. |
| 1.1 | Policy | CEO | 11 March 2014 | Copyright statement added. |
| 1.2 | Policy | CEO | 27 May 2015 | Updated CEO contact details. |
| 2.0 | Office of the CEO | Council | 21 November 2020 | All. |

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