



Bullying, Harassment and Discrimination in the Workplace Policy

Purpose and scope

The purpose of this policy is to outline the College's position on bullying, harassment and discrimination as informed by the relevant legislation and to describe the behaviour expected of all persons involved in College activities. As such, this policy relates to the behaviour of all College members, including Members, Fellows, trainees, SIMGs on the pathway to Fellowship and staff in roles pertaining to RANZCOG training, including supervision, oversight, reporting and assessment in the workplace in which they are located, including training sites in public and private hospitals, private practice settings, in the College environs and at other sites where College activities are conducted.

The College is committed to ensuring fair and equitable workplace practices exist; where all are treated with dignity, courtesy and respect, and as such does not tolerate bullying, harassment or unlawful discrimination in any workplace. All persons have a responsibility to contribute to achieving a workplace environment free from bullying, harassment and discrimination by avoiding actions which lead to, support or condone such activities.

Where instances of bullying, harassment and/or discrimination occur in a workplace external to the College environs, the employing authority shall have primary responsibility for investigating and addressing the allegation(s), including undertaking any disciplinary action deemed appropriate. Where relevant, the College should be notified of any such allegation(s) in order to provide support and advice and determine whether to investigate reports where a member's training or assessment are affected by the unprofessional or inappropriate behaviour.

Discrimination, bullying and harassment are prohibited at law and workplace participants who engage in such conduct may be held personally liable for their actions.

1. Definitions

1.1 What is bullying?

Bullying behaviour is repeated, unreasonable or less favourable treatment of a person or group by another or others in the workplace that creates a risk to health and safety. It can include a range or pattern of behaviours over time and can be physical, psychological, verbal, in writing and/or online; for example via text, internet chat rooms, instant messaging, SMS or MMS.

Unreasonable behaviour means 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.

Risk to health and safety includes risk to the physical or mental health of a person.

There are two broad categories of bullying:

Direct bullying behaviours that are usually overt and can include:

- physical or verbal abuse or insults
- yelling, screaming, or offensive language
- psychological harassment including belittling, offensive or degrading remarks
- intimidation, manipulation, and/or unreasonable and persistent criticism.

Indirect bullying behaviours that can be more covert and include:

- unjustified criticism or complaints;
- deliberately excluding someone from workplace activities

- deliberately denying access to information or other resources
- withholding information that is vital for effective work performance
- setting tasks that are unreasonably above or below a worker's ability
- deliberately changing work rosters to inconvenience particular employees
- setting timelines that are very difficult to achieve
- excessive scrutiny at work
- repeatedly failing to give due credit for work and ideas.

Reasonable management actions and behaviour carried out in a fair way are not considered to be workplace bullying. Examples of reasonable management actions include:

- setting performance goals, standards and deadlines
- allocating work to a worker
- rostering and allocating working hours
- informing a worker about unsatisfactory work performance
- informing a worker about their inappropriate behaviour
- implementing organisational changes or restructures
- performance management processes
- providing constructive feedback.

2.2 What is harassment?

Harassment is unwelcomed behaviour that offends, humiliates, belittles or intimidates a person on the basis of their gender, race, disability, or personal characteristics and is a form of unlawful discrimination. It is generally an expression of improper power by one person over another.

Generally harassment is any behaviour that is:

- not wanted, not asked for and not returned
- likely to humiliate, seriously embarrass, offend or intimidate someone
- based on a personal characteristic (disability, ethnicity, gender, age, sexual orientation).

Sexual harassment is unwelcomed behaviour of a sexual nature that offends, humiliates or intimidates the person at which it is directed, regardless of intent. Sexual harassment can be physical, verbal or written and includes:

- sexual advances
- requests for sexual favours
- sexual innuendo
- verbal or physical contact such as leering, touching, patting or brushing against a person
- offensive jokes, remarks, spreading rumours of a sexual nature or about a person's sexual or private life
- displays of pornography and sexually explicit and offensive material
- telephone, email, text messages or mail that may be sexually explicit, offensive and obscene.

Sexual harassment also includes behaviour that is an offence under the criminal law such as physical assault, indecent exposure, sexual assault, stalking or obscene communications.

2.3 What is discrimination?

Discrimination is the less favourable treatment of a person or group with a particular attribute or personal characteristic when compared to the treatment of people who do not have that attribute or personal characteristic. It is unlawful to discriminate in any aspect of the employment relationship in the workplace.

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

- race (including colour, nationality, national extraction, descent or origin);
- gender (including gender history);
- sexual orientation;
- lawful sexual activity;
- age;

- marital status;
- carer status and family responsibilities (including breastfeeding);
- pregnancy or potential pregnancy;
- physical features;
- disability or impairment (both physical and intellectual);
- religious belief or activity;
- political belief or activity;
- membership of a lawful organisation;
- irrelevant medical history;
- irrelevant criminal record;
- association with a person who is identified by reference to any of these attributes.

2. Effects of bullying, harassment and discriminatory behaviour

The negative effects of bullying behaviour, harassment and discrimination include injury, physical and psychological illness (such as anxiety disorders, depression, psychological stress, and insomnia), and the denial of equality of opportunity. Bullying contributes to the creation of an intimidating, hostile or offensive work environment, and affects the performance and safety of everyone.

3. The policy

The College is committed to ensuring fair and equitable workplace practices exist; where all are treated with dignity, courtesy and respect, and does not tolerate bullying, harassment or unlawful discrimination in any workplace or training setting under any circumstances. Inappropriate or unlawful behaviours in a workplace or training setting should be reported to an appropriate representative of the College.

This policy does not replace or override existing policies or Occupational Health and Safety regulations relevant to a specific workplace.

4. Responsibilities

The College takes seriously its responsibilities to help eliminate bullying, harassment and discrimination in the workplace and to handle complaints about such behaviours promptly, impartially and confidentially. All RANZCOG Members, Fellows, Trainees, SIMGs and staff have a responsibility to contribute to achieving a workplace environment that is free from bullying, harassment and discriminatory behaviour by avoiding actions which lead to, support or condone such activities.

RANZCOG members and Fellows performing educational oversight and supervisory duties have a particular responsibility to prevent bullying, harassment and discrimination and to ensure that those under their tuition or supervision understand that such behaviour is not acceptable. Further, they have a responsibility to intervene and take early corrective action through informal or formal processes as appropriate, to settle the complaints when such behaviour is evident or reported.

5. Principles for responding to instances or reports of bullying, harassment or discriminatory behaviour

5.1 Confidentiality

An accusation of bullying can be potentially defamatory. Confidentiality should be respected and maintained at all times when taking action or responding to claims of bullying, harassment or discrimination.

Only the people directly involved in a complaint or in resolving it, should have access to information about the issue. Those involved should also be told about the requirements of confidentiality and their resulting obligations. Discussions, information and records related to complaints will remain factual. When confidentiality cannot be guaranteed, this must be clearly indicated.

5.2 Victimisation

Victimisation is unlawful and will not be accepted or tolerated against a person who:

- has made, or intends to make a complaint
- has 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
- has acted in good faith in bringing information or making an allegation under anti-discrimination and harassment legislation.

5.3 Respect

All parties have a right to be treated with respect. All parties have a right to be informed of what has been alleged against them and to put their case in reply.

5.4 Impartiality

All parties have the right to be treated with impartiality and for any decision to be made by an impartial decision-maker. All parties have the right to appeal against a decision.

5.5 Timeliness

Any allegations of bullying, harassment or discrimination must be investigated in a timely fashion and action taken to facilitate a timely resolution to the issue.

6. Procedures for responding to instances or reports of bullying, harassment or discriminatory behaviour

All parties have a responsibility to:

- make a colleague who may be experiencing inappropriate behaviour aware of this policy
- make a colleague who may be engaging in inappropriate behaviour aware of this policy and that their behaviour is not respectful or acceptable
- report continued instances of such behaviour to the appropriate employment workplace officer, or if appropriate to a RANZCOG Training Supervisor, ITP Coordinator, relevant RANZCOG Committee Chair or the nominated senior College House staff member (all known as a “**Contact Officer**”).

The College recognises that complaints may vary in severity of the issues involved and may be dealt with informally or formally by the person experiencing the behaviour.

7. Complaints

Complaints arising out of conduct at official College activities such as Board, Council and Committee meetings may be lodged with the College. A person wishing to lodge a complaint with the College should address this in writing to the Chief Executive Officer.

Resolution for bullying, discrimination and harassment issues should occur in the workplace as an employment issue. The employer’s human resources department can provide advice on the complaints and resolution process in addition to counselling and support. This should be the first port of call.

Those experiencing repeated inappropriate behaviour without resolution through the above process may also lodge a complaint with an external body relevant to the issue such as the Human Rights Commission, Worksafe or Fair Work Commission.

The College does have a formal complaints mechanism that can be activated. However, this has limited investigative powers for issues in the primary place of employment due to jurisdictional considerations.

8. Disputes resolution process

Parties who believe they are the victims of bullying, harassment or discrimination should use the following processes to resolve their grievances.

<p>1. Self-help</p>	<p>The complainant, if possible, should discuss their concerns with the individual they believe is the cause of the grievance. This involves telling the other person in a direct and firm manner that their behaviour is unacceptable and/or unwelcome and they want the offending behaviour to stop. The complainant should consider telling the person in writing if they are unable to speak to them in person. Open and honest discussion can resolve many problems.</p>
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<p>2. Seek assistance</p>	<p>If the grievance is not resolved, or if the complainant does not feel that they can personally deal with the problem, then they should request assistance from their immediate supervisor or a neutral third party.</p> <p>The College recognises that in some instances, discussing the matter with an immediate supervisor may not be appropriate. Therefore the complainant should report their concerns to the appropriate Contact Officer and provide factual details of instances of inappropriate behaviours.</p>
<p>3. Be prepared to discuss options on how to resolve the problem</p>	<p>The Contact Officer will listen, discuss options and assist the complainant with the next step in this process. The Contact Officer will record discussions.</p> <p>Options may include the Contact Officer speaking directly to the person responsible for the unacceptable behaviour or arranging for a mediation session to discuss the issue with both parties. Resolution is achieved when the complainant is satisfied that that the unacceptable behaviour has stopped and the issue is resolved. Resolution may include an acknowledgement and a formal apology, agreement to stop the conduct, workplace adjustment and/or disciplinary action.</p>
<p>4. Make a formal complaint</p>	<p>If self-help and less formal conflict resolution strategies have not been successful then the complainant may choose to make a formal complaint in writing to the Contact Officer who is then responsible for following a more formal process to help achieve resolution.</p>

Where the incident or complaint is made against a RANZCOG Trainee or Training Supervisor, the College also has a responsibility to address the matter in addition to the workplace officer. In such cases a report should also be made to the ITP Coordinator or a senior College House staff member who will ensure that an appropriate investigation is undertaken.

Parties who receive a report or allegation of bullying, harassment or discrimination should, in the first instance:

- a) Assess the risks involved.
- b) Ensure that all parties understand their responsibilities and are familiar with this policy.
- c) Offer support to all parties.
- d) If appropriate, attempt to resolve the issue informally (unless otherwise requested) by informing the person or people of the allegations against them in a non-judgmental manner and facilitating frank and open discussion.
- e) Refer complaints to an impartial third party if a resolution cannot be reached, or if there is a conflict of interest or if you are not the right person to deal with the allegations.
- f) Monitor the ongoing situation and be alert to warning signs.

9. Outcomes of investigations into bullying, harassment and discrimination

Where a party has been found to engage in bullying, harassment, victimisation or discriminatory behaviour in the workplace, one or more of the following outcomes may occur:

- formal apology
- counselling
- amended working arrangements (trial or permanent)
- reassignment of responsibilities
- official reprimand
- demotion, dismissal, suspension or termination of employment
- legal action and damages claim
- other mutually agreed upon arrangements

Fellows may also be in breach of the College's Code of Conduct. Breaches of the code of conduct may lead to the loss of Fellowship.

10. Consequences and liabilities

The College may be prosecuted for a breach of occupational health and safety legislation, when the Bullying, Harassment and Discrimination involves Fellows or College staff performing College duties, where it has failed to take practical precautions to prevent the breach from occurring. Individuals engaging in some forms of inappropriate behaviour, or failing to take action to prevent it may be found guilty of a criminal offence.

11. Additional information

11.1 RANZCOG contact officers

The following staff members are the nominated Contact Officers and are available to discuss concerns about possible workplace bullying, harassment or discrimination issues.

- RANZCOG Director of Education & Training
- RANZCOG Training Services Manager

11.2 Australian Equal Opportunity Commissions

Australian Human Rights Commission	(02) 9284 9600 or 1300 656 419 www.hreoc.gov.au
ACT Human Rights Commission:	(02) 6205 2222 www.hrc.act.gov.au/
Anti-Discrimination Board of NSW:	(02) 9268 5555 www.lawlink.nsw.gov.au/lawlink/adb/ll_adb.nsf/pages/adb_index
NT Anti-Discrimination Commission:	(08) 8999 1444 or 1800 813 846 www.adc.nt.gov.au/
Anti-Discrimination Commission Queensland:	1300 130 670 www.adcq.qld.gov.au/
Equal Opportunity Commission (SA)	(08) 8207 1977 or 1800 188 163 www.eoc.sa.gov.au
WorkCover Tasmania:	(03) 6233 4841 or 1300 305 062 www.antidiscrimination.tas.gov.au/
Victorian Equal Opportunity & Human Rights Commission:	(03) 9032 3583 or 1300 292 153 www.humanrightscommission.vic.gov.au/
Equal Opportunity Commission Western Australia:	(08) 08 9216 3900 www.eoc.wa.gov.au/

11.3 Australian WorkCover Authorities

ACT WorkCover:	(02) 6207 3000 www.worksafe.act.gov.au
WorkCover NSW:	13 10 50 www.workcover.nsw.gov.au
Northern Territory Worksafe:	1800 019 115 www.worksafe.nt.gov.au
WorkCover QLD:	1300 362 128 www.workcoverqld.com.au
WorkCover SA:	13 18 55 www.workcover.com
WorkCover Tasmania:	1300 776 572 (inside Tas.) (03) 6233 5343 (outside Tas.) www.workcover.tas.gov.au
Worksafe Victoria:	(03) 9641 1444 or 1800 136 089 www.worksafe.vic.gov.au

11.4 New Zealand Department of Labour Employment Relations Services

General inquiries:	0800 20 90 20	(www.ers.dol.govt.nz)
Auckland:	0-9-357 9740	
Christchurch:	0-3-964 7850	
Wellington:	0-4-915 50	

11.5 References

- Spivey, A (2013) "New anti-bullying laws in 2014: is your organisation ready?", Mondaq, <http://www.mondaq.com/Australia/x/282002/Health+Safety/New+antibullying+laws+in+2014+is+your+organisation+ready>
- ACTUQ/QCCI/QLD Government Department of Workplace Health and Safety, Information for Employers (2011) www.humanrights.gov.au/employers/Australian Human Rights Commission
- Australian Government Department of Education, Employment and Workplace Relations (2010) Fair Work Principles: User Guide. www.deewr.gov.au/fairworkprinciples
- Australian Government Fair Work Ombudsman (2011), "Unlawful workplace discrimination", www.fairwork.gov.au
- Australian Commonwealth Disability Discrimination Act (1992)
- Australian Commonwealth Human Rights and Equal Opportunity Act (1995)
- Australian Commonwealth Occupational Health and Safety Act (1991)
- Australian Commonwealth Racial Discrimination Act (1972)
- Australian Commonwealth Sex Discrimination Act (1984)
- Australian Human Rights Commission Good Practice Worksheet, (2011) Good practice, good business.
- www.humanrights.gov.au/employers
- Human Rights Commission, New Zealand (2010) "Resolving discrimination and harassment: A guide to making and responding to a complaint under the Human Rights Act, 1993".
- RACS Policy on "Inappropriate Behaviour in the Workplace" (2009)
- New Zealand Employment Relations Act (2000)
- New Zealand Human Rights Act (1993)
- Victorian Work Safe Bulletin Edition 3, June 2009. "Preventing and responding to bullying at work" www.worksafe.vic.gov.au

11.6 Related RANZCOG documents

- Trainee in Difficulty Policy
- Guidelines on Supporting Trainees in Difficulty
- Conflict of Interest Policy
- RANZCOG Code of Conduct

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