

Bullying, Discrimination & Harassment Policy

Introduction

The Royal Australian and New Zealand College of Obstetricians and Gynaecologists (the College; RANZCOG) is committed to providing a respectful workplace and training environment where everyone is treated equitably. The College adheres to a strict zero-tolerance policy on any incidences of bullying, harassment, and discrimination. The College will take all such allegations seriously and ensure appropriate actions are taken.

Bullying, harassment, and discrimination can adversely affect the psychological and physical health of a person but can also extend to others in the workplace or relations (such as family or friends). The College places equal responsibility on all employees, members, and trainees with regard to their work health and safety duties in preventing workplace bullying, harassment, and discrimination. It is the College's policy that all members, trainees, and staff must take reasonable care that their behaviour does not adversely affect the health and safety of others.

Bullying, harassment and discrimination may occur in the workplace, at a work-related function, conference, or other activity. Bullying, harassment and discrimination can occur between co-workers, supervisors and employees, College employees and contractors, College members, project partners, volunteers, suppliers, and collaborators.

All forms of bullying, harassment and discrimination constitute a breach of the RANZCOG Code of Conduct and are not in congruence with the RANZCOG Organisational Values of advocacy, education, excellence, integrity, kindness, and respect.

1. Scope

This policy applies to the following people:

- i. RANZCOG members, including but not limited to Fellows, Subspecialists, Diplomates, Associates (Procedural and Adv Procedural) Trainees, and Specialist International Medical Graduates (SIMG) on the pathway to Fellowship or certification in a Subspecialty of Obstetrics and Gynaecology
- ii. College Staff, contractors, and volunteers
- iii. any external individual serving on a RANZCOG body or representing the College in other forums
- iv. a person with whom RANZCOG works to deliver programs including local and international partners, organisations, and participants
- v. Any person conducting business or undertakings for the College

Refer to BHD Resource Guide Attachment A for more information on College Member Roles & Responsibilities.

Refer to BHD Resource Guide Attachment B for more information on College Staff Roles & Responsibilities.

2. Bullying

2.1 What is bullying?

Bullying is defined as repeated and unreasonable behaviour directed towards a person or a group of people that creates a risk to health and safety. Bullying can be classified into two broad categories, direct or indirect. Examples of behaviour, whether intentional or unintentional, that may be considered to be workplace bullying if they are repeated, unreasonable and create a risk to health and safety include but are not limited to:

- aggressive or intimidating conduct
- belittling or humiliating comments
- spreading malicious rumours
- teasing, practical jokes or 'initiation ceremonies'
- pressure to behave unreasonably
- exclusion from work and work-related events
- unreasonable work expectations, including too much or too little work, or work below or beyond a worker's skill level
- displaying offensive material

It is common that a series of relatively minor behaviours, each of minimal effect when viewed in isolation from each other might, when combined, demonstrate a systematic and significant episode of bullying when experienced over a period of time.

Refer to BHD Resource Guide Attachment C for specific examples of direct and indirect bullying.

It is important to note at law that behaviour will only be defined as bullying if a reasonable person observing the situation would consider it to be bullying. The 'reasonable person' is identified as an objective third person.

2.2 What is cyber abuse?

Cyber abuse, a distinct category of bullying, is any behaviour that uses technology to threaten, intimidate, harass, or humiliate a person, or group of people, with the intent to hurt them socially, psychologically or even physically, and which creates a risk to health and safety. It can take place on social media, through online chat and messaging services, text, messages, emails, on message boards and in online forums that allow people to comment publicly.

Refer to BHD Resource Guide Attachment C for specific examples of cyber abuse.

3. Harassment

3.1 What is harassment?

Harassment includes offensive, belittling, or threatening behaviour towards an individual or group of people. The behaviour is unwelcome, unsolicited, usually unreciprocated, and often repeated. Even if the behaviour is not deliberate, it can still be harassment where a reasonable person would conclude that it would humiliate, offend, intimidate, or cause a person unnecessary hurt or distress. In the case of sexual harassment, it need only be shown that a reasonable person would anticipate the possibility that the behavior would offend, humiliate, or intimidate.

Unlawful harassment occurs when a person or group of people is made to feel intimidated, insulted or humiliated because of their protected trait, or some other characteristic specified under human rights legislation and some workplace legislation, and that a reasonable person would likely anticipate that possible reaction in the circumstances. It can be obvious or indirect, physical, or verbal, repeated or one-off. It does not matter that the harassment was not intended. Unlawful harassment can also happen if someone is working in a 'hostile work organisation'.

Refer to BHD Resource Guide Attachment C for specific examples of harassment.

3.2 What is sexual harassment?

Sexual harassment is a distinct category of harassment that is explicitly prohibited under anti-discrimination laws. Sexual harassment is unwelcome sexual conduct that could be expected to make a person feel offended, humiliated, or intimidated. Sexual harassment can be physical, verbal or written and does not have to be repeated or continuous. A single incident can amount to sexual harassment.

It is important to highlight that the sexual conduct need not be addressed to a person to constitute sexual harassment. Conduct of a sexual nature made to a person, or in the presence of a person can constitute sexual harassment if the conduct is unwelcome. Whether the conduct is unwelcome is a subjective question and will depend on the person's reaction. For example, a person may complain of sexual harassment if they overhear sexual banter or a sexual joke or is exposed to a sexually explicit poster in a workplace. A workplace environment or culture that is sexually permeated or hostile may amount to unlawful sexual harassment.

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.

Sexual harassment in the course of employment can be considered serious misconduct and can be a valid reason for dismissal. *Refer to BHD Resource Guide Attachment C for specific examples of sexual harassment.*

NB: Under the amended Fair Work Act 2009 (Cth) sexual harassment in connection with employment can be a valid reason for dismissal. Protection applies to staff, prospective staff, contractors, students, people conducting business or undertakings with the college.

3.3 Harassment on the Ground of Sex

Harassment on the ground of sex (sex-based harassment) is a new category of harassment introduced under the anti-discrimination laws. Harassment on the ground of sex is any unwelcome and seriously demeaning conduct (not necessarily sexual) based on a person's sex that is expected to make a person feel offended, humiliated, or intimidated. This category of harassment would cover conduct based on characteristics that are related to sex or gender stereotype. For example, saying to a male co-worker, "you sound like a girl" for having a high-pitched voice.

Refer to BHD Resource Guide Attachment C for specific examples of harassment on the ground of sex.

4. Discrimination

4.1 What is discrimination?

Discrimination occurs when a person, or a group of people, is treated less favourably than another person or group because of their background or specific personal characteristics; This is known as 'direct discrimination'. It is also discrimination when an unreasonable rule or policy applies to everyone but has the effect of disadvantaging some people because of a personal characteristic they share; This is known as 'indirect discrimination'.

Systemic discrimination is described as patterns of behaviour, policies or practices that are part of the structures of an organisation, and which create or perpetuate disadvantage. It impacts a group of people because of a "personal characteristic" shared among them and therefore places them at a disadvantage.

It is unlawful to discriminate against another person on the grounds of their race, colour, sex, sexual preference, age, physical or mental disability, marital status, family or carer's responsibilities, pregnancy, religion, political opinion, national extraction or social origin and any other traits protected by federal and state legislations.

4.2 What is racial discrimination?

Racial discrimination occurs when a person is treated less favourably, or not given the same opportunities, as others in a similar situation, because of their race, the country where they were born, their ethnic origin or their

skin colour. The Racial Discrimination Act 1975 (Cth) (RDA) makes it unlawful to discriminate against a person in Australia because of their race, colour, descent, national origin or ethnic origin, or immigrant status.

Refer to BHD Resource Guide Attachment C for specific examples of unlawful discrimination.

5. Victimization

Victimization means subjecting or threatening to subject a person to some form of detriment because they have:

- lodged, or are proposing to lodge, a complaint of bullying, harassment, or discrimination
- provided information or documents to an internal investigation or an external agency
- attended a conciliation conference
- reasonably asserted their rights, or supported someone else's rights, under anti-discrimination laws
- made an allegation that a person has acted unlawfully under anti-discrimination laws

Victimization is against the law. It can also be a criminal offence. Concerns and complaints about bullying, harassment and discrimination should always be handled appropriately and sensitively.

6. What is not bullying, harassment and discrimination

A single incident of unreasonable behaviour is not considered to be workplace bullying or harassment; however, it may be repeated or escalate and should not be ignored. When dealing with a single incident of unreasonable behaviour, the person impacted should firstly consider talking to the person who displayed this behaviour. If the person who has been impacted does not wish to speak directly to the person displaying the behaviour, they should consider talking to their supervisor and/or the People and Wellbeing team. The following are examples of incidents that may not necessarily be instances of bullying and harassment.

6.1 Reasonable management action taken in a reasonable way

It is reasonable for supervisors to allocate work and give feedback on an employee's performance. These actions are not considered to be workplace bullying or harassment if they are carried out respectfully and reasonably, taking the particular circumstances into account. A supervisor exercising their legitimate authority at work may result in some discomfort for an employee. The question of whether management action is conducted reasonably is determined by considering the actual management action rather than an individual's perception of it.

Refer to BHD Resource Guide Attachment C for specific examples of reasonable management actions.

6.2 Workplace conflict

Differences of opinion and disagreements are generally not workplace bullying and/or harassment. People can have differences and disputes in the workplace without engaging in repeated, unreasonable behaviour that creates a risk to health and safety. However, in some cases, a conflict that is not managed may escalate to the point where it becomes workplace bullying and/or harassment. If workplace conflict is affecting an individual, they should, in the first instance, speak to the person with whom the conflict occurred. If the person affected does not wish to speak to the person with whom the conflict has occurred, they should speak to their supervisor and/or the People and Wellbeing team.

7. Impact of workplace bullying, harassment and/or discrimination

Failure by supervisors and employees to take steps to manage the risk of workplace bullying, harassment and discrimination can result in a breach of Work Health and Safety (WHS) laws.

Workplace bullying, harassment and/or discrimination can be harmful to the person experiencing it and to those who witness it. It can also adversely impact people not directly involved, such as family and friends. The effects will vary depending on individual characteristics as well as the situation and may include one or more of the

following:

- distress, anxiety, panic attacks or sleep disturbance
- physical illness, for example, muscular tension, headaches, fatigue, and digestive problems
- reduced work performance, concentration, and decision-making ability
- loss of self-esteem and self-confidence
- feelings of isolation
- deteriorating relationships with colleagues, family, and friends
- depression
- thoughts of suicide

Workplace bullying and/or harassment can also have a negative impact on RANZCOG as a whole. It can hinder performance, adversely impact the culture, and reflect poorly on the College.

8. Employee Assistance Program (EAP)

Converge

Converge International provides RANZCOG's Employee Assistance Program (EAP). It is a fully subsidised, confidential service available to College Staff, members, trainees, and their immediate families. Contact the service any time by calling 1300 687 327 in Australia or email eap@convergeintl.com.au.

For New Zealand call 0800 666 367 or visit the Converge International website.

RANZCOG Wellbeing Support

College staff wellbeing support – contact hr@ranzcog.edu.au

College member wellbeing support – contact wellbeing@ranzcog.edu.au

Trainee and SIMG wellbeing support – contact traineeliason@ranzcog.edu.au or your local trainee representative

9. Be a supportive bystander

A bystander is someone who sees or knows about bullying or other forms of violence that is happening to someone else. Bystanders can be either part of the problem or an important part of the solution.

A supportive bystander will take action to protect the rights of others. A supportive bystander will use words and/or actions that can help someone who is being bullied or abused. If bystanders are confident to take safe and effective action to support victims, then there is a greater possibility that the bullying or abuse can stop and the person who is bullied or abused can recover.

Supportive bystanders take safe and effective action by:

- Making it clear to your colleagues that you will not be involved in bullying or abusive behaviour
- Never standing by and watching or encouraging bullying or abusive behaviour
- Not harassing, teasing, or spreading gossip about others, this includes on social networking sites
- Never forwarding on or responding to messages or photos that may be offensive or upsetting
- Supporting the person who is being bullied or abused to ask for help (e.g. go with them to a place they can get help or provide them with information about where to go for help)
- Reporting a case of bullying, harassment or discrimination to their supervisor or the People and Wellbeing

team

Refer to BHD Resource Guide Attachment D for more information on supportive bystanders.

10. Lodging a bullying, harassment and/or discrimination complaint

10.1 College Staff

Refer to the RANZCOG Grievance and Complaints Policy and Procedure for information on lodging a complaint.

10.2 College members

Refer to the RANZCOG Complaints Policy for information on lodging a complaint.

11. Records and procedural fairness

11.1 Recordkeeping

The College records assist in identifying patterns of behaviour or continuing problems. Adequate records are essential if the matter leads to an investigation or formal disciplinary action. Formal action taken will be documented, and records of complaints will be maintained for a minimum of two (2) years.

11.2 Confidentiality of Records

An accusation of bullying can be potentially defamatory. Confidentiality will always be respected and maintained when taking action or responding to claims of bullying, harassment, or discrimination.

Only the people directly involved in a complaint or a resolution will have access to information about the issue. All parties involved will be advised of the requirements of confidentiality and their resulting obligations. Discussions, information, and records related to complaints will remain factual. If confidentiality cannot be guaranteed, this will be clearly indicated. Confidentiality of all complaints will be maintained in accordance with the College Privacy Policy and Confidentiality Policy, the Australian Privacy Act (1988) and the New Zealand Privacy Act (2020).

11.3 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.

11.4 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.

11.5 Timeliness

All allegations of bullying, harassment and/or discrimination must be investigated in a timely fashion and action taken to facilitate a timely resolution to the issue. Depending on the nature of the complaint, the College will endeavour to resolve complaints lodged under this policy within eight (8) weeks. If the College requires further time, all parties will be notified and will be provided with the steps that the College has taken.

11.6 Procedural Fairness

All allegations will be treated in accordance with the rules of procedural fairness. In summary, this means:

- a decision-maker will be impartial and be free of actual or apparent bias

- a person whose interests will be affected by a proposed decision receives a fair hearing, including the opportunity to respond to any adverse material that could influence the decision
- findings are based on evidence that is relevant and logically capable of supporting the findings

12. Frivolous and vexatious claims

The College will take care to determine whether a claim is frivolous or vexatious, and deal with such cases quickly, firmly, and fairly. Frivolous claims are those that are 'obviously unsustainable'. Vexatious claims are those that are brought for a 'collateral purpose, as a means of obtaining some advantage for which the proceedings were not designed'. Bringing a vexatious complaint against a person may, itself, constitute unacceptable behaviour.

The College will take great care when dismissing a claim on these grounds, undertaking sufficient inquiries to establish that the complaint is either frivolous or vexatious. A complaint that has previously been resolved or is vexatious, malicious, or frivolous may lead to disciplinary action against the complainant.

13. Breaches of the RANZCOG Code of Conduct

Workplace harassment and/or bullying, whether a single incident or repeated occurrences, may constitute a breach of the RANZCOG Code of Conduct and may also be unlawful under Commonwealth anti-discrimination legislation and the Fair Work Act 2009.

Where an individual is found to have breached the RANZCOG Code of Conduct, the following sanctions may apply:

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

Workplace bullying, harassment, sexual harassment and discrimination (including any form of racism) can be considered serious misconduct and can be a valid reason for dismissal.

The College may be prosecuted for a breach of occupational health and safety legislation when the Bullying, Harassment and Discrimination involves staff, future staff, contractors, students or people conducting business or undertaking with the college, 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.

14. Further Information and Support

Further information on workplace bullying, harassment and discrimination can be found at the following locations:

[Employee Assistance Program \(EAP\) - Converge](#)
[Beyond Blue](#)

[Lifeline](#)

[Employment New Zealand](#)

[New Zealand Human Rights Commission Australian eSafety Commissioner](#)

[Australian Fair Work Commission](#)

[Australian Human Rights Commission Safe work Australia](#)

15. Related RANZCOG documents

RANZCOG Code of Conduct

RANZCOG Organisational Values

RANZCOG Complaints Policy

RANZCOG Conflict of Interest Policy

RANZCOG Privacy Policy RANZCOG BHD Resource Guide

RANZCOG Grievance and Complaints Policy and Procedure

RANZCOG Zero tolerance policy for provide sexual boundary violations

16. Related legislation

Refer to BHD Resource Guide Attachment E for related Australian and New Zealand Legislation.

GLOSSARY

College Staff: all employees of the College, including volunteers and contractors

Complainant: the member or employee making a complaint of bullying, harassment, or discrimination

Employee: a person who works for the College in return for financial or other compensation. Independent contractors are classified as employees.

Frivolous claims or complaints: unsustainable claims that have no serious purpose or value. The implication is that the claim has not been brought in good faith because it is obvious that it has no reasonable prospect of success and/or it is not a reasonable thing to spend time complaining about.

Hostile work environment: a work environment that is difficult or uncomfortable for another person to work in.

Human Rights: basic rights and freedoms that belong to every person in the world, from birth until death. These basic rights are based on shared values like dignity, fairness, equality, respect, and independence. These values are defined and protected by law.

Member: as specified in the RANZCOG Constitution Clause 3 and RANZCOG Regulation A1. It includes the categories of membership of Fellow; Honorary Fellow; Retired Fellow; Member; Diplomate; Associate (Procedural and Adv Procedural); Affiliate; Educational Affiliate; Certificant; International Affiliate; Prevocational Affiliate – RANZCOG and PVOGS; Trainee Affiliate, including All Trainees who have been accepted to the RANZCOG Training Program, or a Associate Procedural Training Program; and Midwife Affiliate. Also includes a Specialist International Medical Graduate on the pathway to Fellowship, or certification in a subspecialty of Obstetrics and Gynaecology as specified in RANZCOG Regulation E.

National Extraction or Social Origin: includes distinctions made on the basis of a person's place of birth, ancestry or foreign origin; for instance, national or linguistic minorities, nationals who have acquired their citizenship by naturalisation, and/or descendants of foreign immigrants. National extraction means both the nation and nationality from which a person is derived by birth or by self and community identification.

Protected traits: includes race, colour, descent, sex, sexual orientation, gender identity, intersex status, age, physical or mental disability, marital or relationship status, breastfeeding and family or carer's responsibilities, pregnancy, religious activity or opinion, political opinion or activity, irrelevant medical history, irrelevant criminal record, national extraction or social origin, union membership and non-membership of a union.

Repeated behaviour: refers to the persistent nature of the behaviour and can involve a range of behaviours over time.

Respondent: the member or employee that a complaint of bullying, harassment or discrimination has been made against

Supervisor: a person who supervises employees work and to whom an employee reports. Reporting lines are outlined in the College organisation chart.

Unreasonable behaviour: behaviour that a reasonable person, having considered the circumstances, would see as unreasonable, including behaviour that is victimising, humiliating, intimidating, or threatening.

Vexatious claim or complaint: one (or a series of many) that is specifically being pressed on to cause an act of harassment, annoyance, frustration, worry, or even bring financial cost (such as engage a lawyer). They are brought for a collateral purpose, as a means of obtaining some advantage for which the proceedings were not designed.

Workplace bullying: repeated and unreasonable behaviour towards a worker or a group of workers that creates a risk to health and safety.

Workplace discrimination: occurs when an employer takes an adverse action against an employee or prospective employee because of the person’s race, colour, sex, sexual preference, age, physical or mental disability, marital status, family or carer’s responsibilities, pregnancy, religion, political opinion or national extraction or social origin.

Workplace harassment: includes offensive, belittling, or threatening behaviour towards an individual or group of employees. The behaviour is unwelcome, unsolicited, usually unreciprocated, and often repeated.

Version	Date of Version	Pages revised / Brief Explanation of Revision
v1	December 2020	
v2	October 2022	Expansion of scope of protected traits
v3	May 2023	Minor update to the meaning of Harassment on the Ground of Sex resulting from legislative amendment
v4	January 2024	Introduction amended, sexual harassment section amended, racial discrimination definition added and Converge and RANZCOG Wellbeing Support details added.
v5	April 2024	Cl. 11.5 Timeliness updated

Policy Version:	Version 5
Policy Owner:	RANZCOG Governance and Legal