

Review of the Royal Australian
and New Zealand College of Obstetricians
and Gynaecologists' complaint files
for 2022-2023

By

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Executive summary

My review of the complaint files of the Royal Australian and New Zealand College of Obstetricians and Gynaecologists (College) shows that the College manages its complaints in a timely and careful manner. I have provided ten recommendations as part of continuous improvements to the College's complaint handling system, including:

- ensuring that any conflicts of interest are declared prior to accessing a complaint file;
- assigning a complaint file to a complaint handling officer;
- requiring an assessment and/or investigation report for every matter;
- ensuring that all issues raised in a complaint are assessed properly; and
- treating cluster complaints as individual complaints.

Introduction

As the Independent External Review, the Chief Executive asked me to review the complaints received by the College from January 2022 to June 2023 and provide a report to the Professional Standards Committee and the Board. I was provided access to all 19 complaints files. In order to protect the privacy of complainants and other parties, their identities have been anonymised in this report.

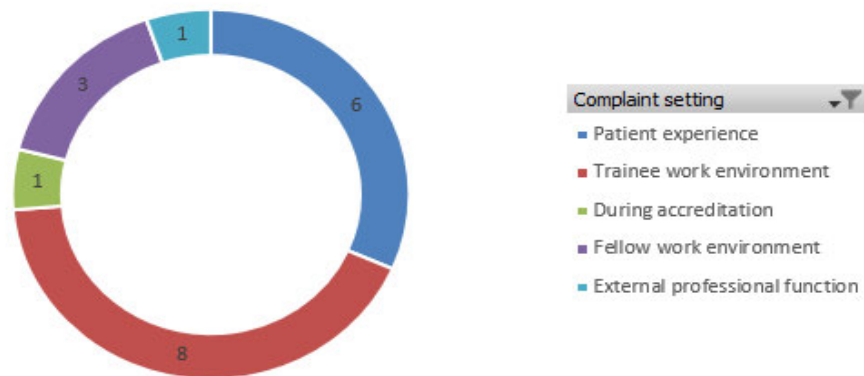
Analysis of complaints received by the College

Breakdown of complaints

A breakdown of the context of complaints received is set out in Graph 1 below. It is likely that the College received more than 19 complaints because there appeared to be "cluster" complaints that had the potential of being counted individually. However, it is not clear whether some of those complaints were separate complaints or were supporting evidence.

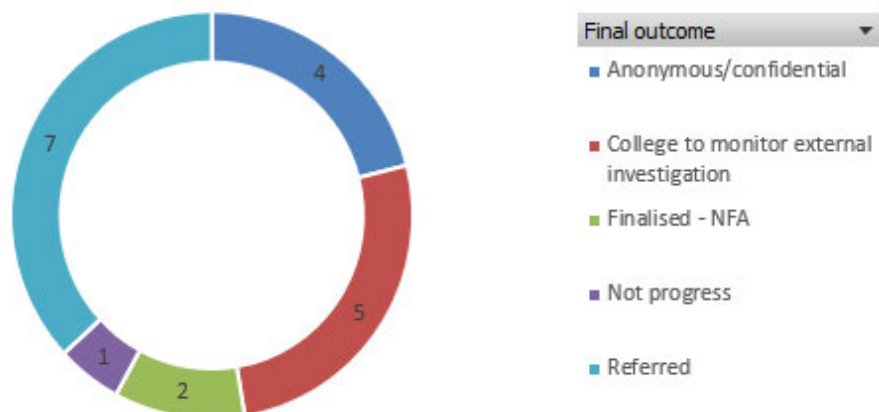
- Of the 19 complaints:
 - six complaints related to patient experience and were referred to AHPRA and/or the hospital;
 - nine complaints related to allegations of bullying;
 - nine complaints were from Trainees and three were from Fellows; and
 - one complaint related to alleged unprofessional conduct during an accreditation visit.
- Three trainee complainants who did not allege bullying, complained about:
 - unfair treatment;
 - aggressive behaviour by a senior doctor following a negative patient outcome; and
 - sexual assault of a friend during an external professional function.

Context of complaints



Graph 1: General context of complaints received

Complaint outcomes



Graph 2: Outcome of complaints

Analysis of complaints relating to bullying

Of the 19 complaints, nine complained about bullying and related issues, as set out in Table 1 below:

- Six of the complainants were Trainees or related to their trainee experience. Three complainants were Fellows;
- Three complained of victimisation after they raised concerns about unsafe work conditions, circumstances leading to negative patient outcomes and unreasonable expectations about workload;
- Three complained of not being provided learning opportunities or of being sidelined without any explanation;
- Five complained of supervisors who displayed poor communication skills and who were aggressive or threatening towards them;

- Five complainants relayed stories of being ridiculed or demeaned in front of other people; and
- All nine complainants described significant impact on their professional development and emotional and mental wellbeing.

	Bullying	Poor communication skills	Lack of teaching or care	Overly critical/ridiculing	Patient safety	Work safety
1	x		x		x	
2	x				x	
3	x					x
4	x	x	x	x		
5	x	x		x		
6	x	x	x	x		
7	x	x		x		
8	x	x		x		
9	x	(insufficient detail)				

Table 1: Issues raised in complaints relating to bullying

Review of complaint handling

I found that all the complaints were handled efficiently and with care. The Chief Executive responded to complainants and respondents respectfully and in a timely manner. I found that the College assessed most matters within days or a few weeks. There was careful consideration of the complaint handling policies and procedures. Responses from the College tried to provide support to complainants by directing them to the most suitable bodies to assess their complaints, such as AHPRA or the HDC. The College directed complainants to support bodies, such as the College’s Trainee Liaison and employee assistance program. The College was timely in its responses to complainants and in notifying parties, where required. To assist the College’s continuous improvements, I have identified ten areas in the College’s complaint handling practices that could be improved.

Suggestions for continuous improvement

1) *The College should be mindful of potential conflicts of interest when assessing complaints.* It is important that anyone in the College who becomes involved in the management of a complaint should declare any actual, potential or perceived conflict of interest prior to accessing a complaint in accordance with the College’s Conflict of Interest Policy. In reading the matter of C4, it appears an external advisor to the Legal and Governance team (not a staff member) indicated that he knew the practitioners who were named in the complaint well and took a dim view of the complainant. The College should take all steps to avoid conflicts of interest or the introduction of bias in complaint handling. Based on the file, it does not appear that the decision-maker, the Chief Executive, was aware of or was influenced by the comments made by the advisor.

2) *While the College is limited by its resources to conduct investigations (and the power to compel cooperation by third parties), there may be some matters that are so important for the College to investigate upon receipt of a complaint. I also recommend that the College considers setting out expressly its preference for hospitals to conduct their investigations at first instance. This would help in managing complainant expectations.* It is the College's policy to allow the investigation by a hospital-employer to take place prior to conducting its own investigation, particularly in allegations of bullying. The College writes in its response letters the following:

We take complaints against RANZCOG members seriously. However, you would appreciate that the College has limited powers to investigate incidents that occur in another employer's workplace as the College does not have the power to investigate, access, records, or require interviews.

In most cases, the College's preference for deferring its investigation is reasonable for good order and for pragmatic reasons. For example, hospital-employers have easier access to witnesses and documents. However, there could be public perception that the College is not investigating complaints especially serious ones, including cluster complaints and where there are, prima facie, significant distress experienced by complainants and serious issues being alleged. There could be a perception that while the College has policies and procedures relating to breach of the code of conduct or bullying, harassment and discrimination, it is not actively investigating such allegations in practice. For example, in complaint C12, the complaint reported that a doctor committed suicide due to the unprofessional conduct of another doctor. The College referred the complainant to the Australian Health Practitioner Regulation Agency and to the hospital employer, however it is not apparent from the file whether the College intended to monitor the outcome of the external investigation.

The College could consider establishing a risk-based matrix where factors are identified that could signal the basis for the College to investigate. A risk-based matrix could inform the College on which significant issues and circumstances may require the College's immediate attention.

3) *There were seven complaint files that had incomplete outcomes (or outcomes were not apparent from the file). As part of file management, the College should consider ensuring that file notes set out the final position in the file and that tasks have been completed, including the assessment of all issues raised in the complaint.* During my review, I found some that there were some files where not all the issues or allegations were considered or properly referred. In the C4 matter, the complainant indicated that she had previously written to three former Presidents of the College. She wrote: *I've written to three past presidents of RANZCOG about what happened and received no reply.* It would have been appropriate for the College to look into this allegation, but there was no indication in the file that this was done.

It is best practice that a complaint handling officer ensures that the final response from the complainant is obtained prior to closing the file. For instance, in complaint C13, the College wrote to the complainant about the requirement for her to submit a formal complaint. Based

on the file, it appears there was no response from the complainant. It would be best practice for the complaint handling officer to follow up the letter or to telephone the complainant and create a file note reflecting the discussion.

The outcome in complaint C5 is also unclear. The complainant was under investigation for harassment due to alleged patient safety concerns raised by the complainant. In return, he alleged bullying and victimisation in his complaint to the College. In this matter, the College deferred to the ongoing investigation by the hospital, which was an investigation against the complainant. The College wrote: *Hospital employer more appropriately deals with workplace bullying and victimisation*. There is no indication in the file that the College intended to monitor the outcome of the hospital's investigation.

There appeared to be "cluster" complaints (see below for further detail), such as the C10 and C8 matters, that indicated that there were other complainants with similar issues. It would have been preferable for the College to fully assess these other complaints instead of closing the file:

- In the C10 matter, it seemed that a complaint by a second doctor was not fully assessed. The hospital investigation indicated that the issues raised by the second doctor have not been previously raised with the hospital and therefore, the hospital is unable to comment on that complaint. The hospital suggested that this was a matter for the College and the training supervisor. It doesn't appear from the file that the second doctor's concerns were investigated further.
- In the C8 matter, the complainant indicated that there were other Fellows who could provide similar feedback. The complainant wrote: *I do note that several other individuals raised concerns about this individual, and that in our feedback sessions with RANZCOG, we have raised concerns with the college and subsequently with you as CEO and with the President*. It does not appear from the file that the College considered the concerns from these other individuals.

4) *The College should consider allocating a complaint file to a complaint handling officer. To the extent that this role does not exist within the College, I recommend that the College considers providing adequate resource to this role.* It was not always clear, from reading the files, who was assessing and managing the complaint files. There were several examples where an Executive Officer appeared to be providing instructions to the Legal and Governance section on how to draft a response. In many instances, the Legal and Governance team appeared to be managing complaint files. It is best practice to allocate a file to a complaint handling officer who has authority to consider the issues, evidence and provide an assessment of the complaint.

The ISO 10002:2018 recommends that organisations allocate files to complaint handling officers for their assessment and investigation, often referred to as the "frontline staff". This is to ensure that staff managing complaints have appropriate authority, training and supervision. It is also to ensure that there is proper management of the file, assessment of the evidence and one contact person for the parties to the complaint.

The College's complaint policies and procedures require that complaints are addressed to the Chief Executive. It is reasonable for the Chief Executive to delegate the assessment and investigation of a complaint to a suitably qualified staff member who can read a complaint file in detail, attend to correspondence, including any request for further information, and provide recommendations to the Chief Executive. It is best practice for the complaint handling officer to set out the complaint issues and outcomes sought by the complainant. Where required, it is not uncommon for the complaint handling officer to have telephone discussions with parties to the complaint, particularly the complainant, and set out file notes of the discussions. It appears that the College prefers a written-based process, but there may be circumstances where a telephone discussion would be more efficient and provide a more empathetic approach to complaint handling.

As set out in my Review of the College's complaints management policies and procedures (Review), it is best practice to draft an assessment report (and an investigation report, if required) that sets out the issues of the complaint, the parties' responses and recommended actions. The complaint handling officer should draft the assessment report, analysing the available information and applying the College policies. The assessment report should provide reasonings supporting its recommendations to the CEO and President. For example in the [REDACTED] matter, it is not clear how the College formed the view that the respondent's pre-natal care consultation followed standard practice. Presumably, the College considered and accepted the respondent's detailed response, however, this should be clearly set out in a report.

In reviewing complaint C9, it appeared that a number of College staff were responding to differing queries relating to the complaint. This is not best practice as this could cause confusion and incorrect advice being provided to parties. It would be ideal if the College's matter handling was more centralised and kept tight. For example, the day after a complaint was sent to the CEO, the Chair of the CU Subspecialty Committee wrote to the respondent: *Please let me reassure you that there has been no formal complaint made against you which also means that RANZCOG's Complaints Policy did not come into effect.*

Similarly, in the C6 matter, the CMFM Chair wrote to the complainant. It appears that two areas in the College (CMFM and Governance) were assessing the concerns raised by the complainant. It is reasonable to seek assistance from areas in the College for advice, however, it should always be clear who is responsible for the complaint file.

5) *Generally, complaints put forward by individuals relating to one respondent should not be combined under one file.* In my review, there were three complaints (C15, C10 and C8) where during the course of the assessment, other individuals appeared to come forward to support the initial complaint. It is not clear whether the subsequent "complainants" were merely providing evidence or whether they were submitting their own complaints for the College's assessment. It is best practice to determine whether submissions are being provided to the College as complainants or as evidence to the complaint.

It is not recommended that the College combines complaints in one file because of procedural fairness issues. Related complaints could be linked, but they shouldn't be amalgamated. A respondent should be allowed to respond to specific allegations and not wholesale allegations from different individuals. A respondent could argue that the College, in making its determination, was subject to bias because irrelevant evidence was considered by the College and improperly established a respondent's predisposition to wrongdoing. This would offend the principles of procedural fairness.

The three complaints described above could be described as a cluster. In complaints management, clusters often raise red flags (though they are not determinative) because they are not statistically common. The College should consider assessing these cluster complaints in a special way because they could be signalling systemic problems. For example, a new file should be created for every complaint received, as noted above.

6) *Drafting categories of complaints or complaint issues would provide greater insight to the College.* It would assist the College in understanding the issues being raised in complaints by establishing a complaint issues list. This is common practice for complaints receiving bodies so that they can analyse the complaint data efficiently and effectively.¹ The College's complaint issues list will have to be customised given the nature of the College members' work. In reviewing the complaints of 22-23, I devised a short list of complaints issues based on the complaints I read. It would help the College to avoid using the category "breach of Code of Conduct" because most complaints would fall under this category. Instead, the College should consider categories that specifically describe the issues being raised, such as poor communication skills, threatening behaviour, unfair treatment, breach of privacy, failure to obtain patient consent, etc. The complaint handling officer would have to be trained in identifying issues and tagging the file to enable efficient reporting to the Professional Standards Committee and the Board.

7) *As part of its victim-centred approach, the College could apply some improvements to its complaint handling making it easier for a complaint to be submitted and assessed.* I have viewed files where there was a requirement for a complaint to be formally addressed to the Chief Executive. I understand the reasons for requiring a proper process of submitting a complaint, however, it could be perceived as making it difficult for a complainant. The Chief Executive could write to the complainant presuming that the complainant was meant for her consideration, as required in the complaints policy.

In the Review, I recommended that the College considers designing a page on its website dedicated to complaints. This page could highlight the College's important work on the Fostering Respect Action Plan, set out important information about submitting a complaint and ensure there is a well-publicised, dedicated inbox for complaints. It appears from the

¹ The South Australian Health and national complaints categories can be accessed here https://www.sahealth.sa.gov.au/wps/wcm/connect/5527135d-bb30-41f0-b693-341d5ba868eb/CCC_Consumer+Feedback+Resource+4_Complaints+Categories.pdf?MOD=AJPERES&CACHEID=ROOTWORKSPACE-5527135d-bb30-41f0-b693-341d5ba868eb-n-hazY4. AHPRA would also have its own complaint issues list.

complaint files that complaints were sometimes received through different channels. A dedicated page on the website could help direct complaints (ie the CEO's email or the Independent External Reviewer's email). Sometimes the dispersed nature of receiving complaints contributed to different areas in the College responding to the complaint. This process is not ideal because of concerns about confidentiality, management of information and provision of consistent advice to parties to the complaint. In most cases, the CEO corresponded with the parties, but there were several examples when other areas in the College addressed the complaint.

8) *The College could consider taking a more proactive role in ensuring that hospitals and other bodies loop back to the College upon completion of its investigations.* In a number of matters, the College determined that the complaint was more suitable for a third party to conduct its own investigation, for example a hospital employer. I encourage the College to indicate to the investigating body to report back to the College and inform it of its findings. At the moment, the complainant has the burden of re-opening the College's complaint file upon conclusion of the third-party's investigation. The College could make it easier for it to act if in the case there was a finding of unprofessional conduct. The College should also consider automatically monitoring complaints that were referred to third parties for investigation. In my review, I found that not all letters to complainants indicated the College would await the outcome of the investigation. In five matters, the College indicated that it would monitor the investigation outcome, however, the College did not indicate this in four matters (C11, C12, C14 and C15).

9) *The College could consider referring a matter to third parties on behalf of the complainant, with the complainant's consent.* It is best practice to provide a 'one-stop shop' or a hub so that complainants do not get bounced around. A victim-centred approach recognises that complainants experience anxiety dealing with investigating bodies. The College offering to relay a complaint to AHPRA or to a hospital employer would be best practice and would offer seamless referrals. The College may have to establish some protocols for this to occur, including channels of communication with AHPRA, etc. However, this would not be unusual as AHPRA, for example, already works with health complaints bodies and have established protocols.

10) *There could be improvements in dealing with anonymous or confidential complaints.* The College accepts these complaints, registers the concerns, but is unable to progress the matter. There are significant reasons for complainants to remain anonymous, including protecting their career and fear or retribution. In this situation, it is important for the complaint handling officer to provide accurate advice and support to the complainant. In the case of an anonymous or confidential complaint, it is important to explain to the complainant that there is limited value of the information they are providing as it cannot be tested or proven in an investigation. A trained complaint handling officer could encourage a complainant, in a sensitive and thoughtful manner, to come forward and substantiate a complaint. In general, complainants are often motivated to come forward so what they have experienced does not happen to others.

In cases where the complainant wishes the complaint to be anonymous or confidential, it is important for the complaint handling officer to obtain as much information from the complainant for data analysis in the future. For example, in complaint C8, details of the allegations relating to bullying were not provided.

Conclusion

The College handled complaints in 2022-2023 efficiently and with care. As the College's complaint handling system matures, I encourage the College to consider the ten recommendations in this report as part of its continuous improvements.