
DISCRIMINATION, HARASSMENT, BULLYING & VICTIMISATION POLICY

1. PURPOSE

The purpose of this Policy is to set out:

- the College's expectations and requirements as to acceptable standards of conduct for its members and staff when involved in College activities (including activities that take place in external settings);
- the responsibilities of the College, of external settings and of members in giving effect to this policy;
- how complaints about breaches of this policy are to be handled; and
- the consequences of breaching a requirement of this policy.

2. INTENT

The Royal Australasian College of Medical Administrators (the College) is committed to equality of opportunity and to promoting and maintaining working and training environments in which all persons treat each other with dignity, courtesy and respect.

In particular, the College is committed to ensuring that working and training environments for its members and staff are free of unlawful discrimination, harassment, bullying and victimisation.

3. SCOPE

- 3.1.** This Policy applies to all members and staff of the College involved in College Activities. It also sets out obligations that it requires external settings to comply with where members are providing or undertaking training or professional development activities.
- 3.2.** All members are required to comply with this policy when engaged in College activities, including College activities which take place in or which are associated with a workplace. However, some College activities, in particular training and professional development activities, take place in external settings to which workplace laws and policies relating to discrimination, harassment, bullying and victimisation apply.
- 3.3.** Members who are providing or undertaking training or professional development activities in external setting, including as supervisors, assessors and trainees, are subject to and must comply with the workplace laws and policies that apply in the external setting as well as with this policy. However, in the event of an inconsistency between this policy and the workplace laws and policies of an external setting, the workplace laws and policies of the external setting take precedence.
- 3.4.** Conduct of a member (including conduct in an external setting) that is contrary to the requirements of this policy may be a basis for expulsion or suspension of the member in accordance with clause 9.13 of the College Constitution.

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4. KEYWORDS DEFINITIONS

College activities - include training, professional development, networking and social activities carried on by or for the College, meetings of the Board and Committees of the College, administration of the College and College programs.

External setting - means a hospital or health service in which members are employed while providing or undertaking training or professional development by or under an arrangement between the external setting and the College.

Members - includes Fellows, Honorary Fellows, Associate Fellows, Candidates and Affiliates of the College and also includes AFRACMA trainees.

Staff - includes the CE, other employees and contractors of the College.

Workplace activities - means College activities which take place in, or which are associated with a member's employment in an external setting.

5. OBJECTIVES

The College expects that its members and staff at all times:

- treat each other, and treat others, in a fair and equitable manner regardless of gender, marital status, pregnancy, colour, race, ethnicity, disability, sexual preferences, religious and political beliefs;
- refrain from engaging in conduct that may amount to unlawful discrimination, harassment, bullying or victimisation; and
- show leadership, consistent with their status or position, in discouraging, disapproving and eliminating such conduct.

6. POLICY

The Royal Australasian College of Medical Administrators is committed to equality of opportunity and to promoting and maintaining working and training environments in which all persons treat each other with dignity, courtesy and respect. In particular, the College is committed to ensuring that working and training environments for its members and staff are free of unlawful discrimination, harassment, bullying and victimisation. The College will therefore not tolerate its members or staff engaging in such conduct.

6.1. The College recognises that it has a legal duty to its employees under occupational health and safety law to ensure that its workplace and systems of work are as safe as reasonably practicable. Also, every external setting in which members provide or undergo training has a duty to ensure that its workplaces and systems of work are as safe as reasonably practicable.

6.2. While the College does not have the same legal duty to its members (other than members employed by the College), it is committed to doing everything it reasonably can to ensure that members (and in particular, candidates and trainees working in external settings) are not subjected to such discrimination, bullying, harassment or victimisation, and to ensuring that where such conduct occurs, that it is fully investigated and dealt with appropriately.

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7. DISCRIMINATION AND HARRASSMENT

The College will not tolerate unlawful discrimination or harassment in College activities.

7.1. Discrimination

Discrimination may be either direct or indirect.

- Direct discrimination arises when a person with a particular attribute is treated less favourably because of that attribute than a person without that particular attribute would be treated in the same or similar circumstances; and
- Indirect discrimination arises when a requirement, condition or practice is imposed, and a person with a particular attribute cannot comply with the requirement or condition, or engage in the practice, whereas others without that attribute can, and the imposition of that requirement, condition or practice is not reasonable.

7.1.1 While the grounds or attributes on which it is unlawful to discriminate vary across States and Territories and at the Federal level, discrimination on the basis of some or all of the following attributes may be prohibited:

- Marital or relationship status
- Pregnancy or potential pregnancy
- Breast feeding
- Sex
- Parental / Carer status / Family responsibilities
- Age
- Race
- Sexual orientation
- Industrial activity
- Physical features
- Disability / impairment
- Gender identity / intersex status
- Religious belief or activity
- Lawful sexual activity
- Employment activity
- Political belief / activity
- Irrelevant criminal record
- Irrelevant medical record
- Personal association with someone who has, or is assumed to have, one of these attributes.

7.1.2. Discrimination on any of these grounds contravenes this Policy.

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7.2. Harassment

Harassment occurs when someone is made to feel intimidated, insulted or humiliated because of one of the attributes specified above. Sexual Harassment is a form of harassment which is dealt with separately below, Harassment may include (but is not limited to):

- telling insulting jokes about particular racial groups
- making derogatory comments or taunts about someone's race, age, or religion
- making fun of someone's personal circumstances, personal appearance or mental or physical disability
- making remarks about a person's skin colour or ethnic traits
- using racist slang, phrases or nicknames
- sharing inappropriate or offensive material

Harassment can also occur if someone is working in a hostile or intimidating environment. An example of a potentially hostile working environment is where pornographic materials are displayed and where crude conversations, innuendo or offensive jokes are part of the accepted culture. A person has a right to complain about the effects of a hostile working environment even if the conduct in question was not specifically targeted at them.

Harassing behaviour can range in seriousness. One-off incidents can still constitute harassment.

7.3. Sexual Harassment

The College will not tolerate sexual harassment in College Activities.

7.3.1 Sexual Harassment is unwelcome conduct of a sexual nature that is likely to offend, humiliate or intimidate a reasonable person in the circumstances of the person at whom it is directed. Sexual Harassment can take many different forms. It may include, but is not limited to:

- unwelcome physical contact (e.g. kissing, touching, patting, embracing or brushing against a person)
- demands for sexual favours
- offensive or demeaning comments
- sexual jokes and innuendo
- staring or leering at a person or parts of a person's body
- touching or fiddling with a person's clothing including lifting up skirts or shirts, flicking bra straps or putting hands in a person's pocket
- sexually explicit conversations or gestures
- insults, taunts, teasing or name-calling of a sexual nature
- gender based insults
- displaying, sending, emailing or downloading offensive material
- questions, remarks or insinuations about a person's sexual activities or private life.

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7.3.2 A single act and a continuing course of conduct are equally capable of constituting harassment. Sexual harassment is not behaviour which is based on mutual attraction, friendship and respect. An interaction that is consensual, welcome and reciprocated is not sexual harassment. It is irrelevant whether or not the inappropriate behaviour was intentional. Whether the behaviour is unwelcome is determined by reference to a reasonable person in the particular circumstances of the person who is subjected to the behaviour.

7.4. Bullying

Is repeated, unreasonable behaviour directed towards a person or group that creates a risk to health and safety (including to the mental or physical health of a person). This behaviour is considered to be repeated if an established pattern can be identified. Behaviour includes actions of individuals or groups and may involve using a system of work as means of victimising, humiliating, undermining or threatening.

7.4.1 Unreasonable behaviour means behaviour that a reasonable person, having regard to all the circumstances, would expect to humiliate, intimidate, undermine or threaten. Examples of the types of behaviour, which if repeated or occurring as part of a pattern of behaviour may be considered to be bullying, include (but are not limited to):

- abusive, insulting or offensive language
- assigning meaningless tasks unrelated to the job
- giving employees impossible assignments
- deliberately changing work rosters to inconvenience particular employees
- deliberately withholding information that is vital for effective work performance
- teasing or regularly making someone the brunt of practical jokes
- spreading gossip, rumours and innuendo of a malicious nature
- harmful or offensive initiation practices
- deliberately excluding, isolating or marginalising a person from normal workplace activities
- deliberately withholding work-related information or resources or supplying incorrect information
- intimidating a person through inappropriate personal comments, belittling opinions or unjustified criticism
- inappropriate tampering with an individual's personal effects or equipment

7.4.2 What is not considered as Bullying

Bullying does not arise where legitimate and reasonable:

- performance management processes are being undertaken
- constructive feedback or advice is provided about work or training related behaviour and performance
- disciplinary or other managerial action is taken; or
- allocation of work responsibilities or duties is undertaken

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7.4.3 Employers and training providers have the right to direct, control and monitor how work or a task is performed. For example, comments which are objective and indicate observable deficiencies in performance or conduct do not constitute bullying. Constructive feedback or counselling intended to assist employees or trainees to improve their performance or the standard of their behaviour is not bullying. Occasional differences of opinion, non-aggressive conflicts and problems in working relations also do not constitute bullying.

7.4.4 By contrast, comments unrelated to performance that are used to embarrass or humiliate may constitute bullying, especially when they occur in conjunction with other bullying behaviours.

8. VICTIMISATION

The College will not tolerate victimisation in College activities. Victimisation is unlawful including under applicable State and Federal Discrimination legislation. Victimisation may include (but is not limited to):

- threats to the employee
- adverse changes in the working environment
- denial of training or promotion
- making negative, unfounded or belittling comments
- exclusion from training opportunities
- unjustifiably harsh assessment or marking of practical or written work
- exclusion by peers

9. CONSEQUENCES OF BREACH OF THIS POLICY

9.1. Breaches by Members

A breach of a requirement of this Policy by a Member may be 'prejudicial conduct' for the purpose of clause 9.13 of the College Constitution. Under that clause, the Board may, by three-quarters majority, resolve that the reputation or interests of the College would be harmed by the Member's continuing membership of the College.

In those circumstances the Board may:

- Expel the Member from membership of the College
- Suspend the membership of the Member (and all rights associated with the membership)
- Impose conditions on the membership.

9.1.1 This applies where an investigation, including an investigation conducted by an external setting, has found that unlawful discrimination, harassment, bullying or discrimination has occurred.

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9.2. Breaches by Staff

A breach of a requirement of this Policy by an employee of the College may constitute unsatisfactory performance, misconduct and/or serious misconduct and may result in the employee being subject to disciplinary action, up to and including termination of employment. The consequences of breach for a particular employee will be determined in accordance with the applicable workplace agreement or employment contract.

- 9.2.1** A breach of the requirements of this Policy by a contractor may be grounds for termination of the contract.

10. COMPLAINTS AND INVESTIGATIONS

10.1. Complaints arising out of College activities (other than in external workplaces). Complaints about discrimination, harassment, bullying and victimisation made by or concerning a Member of the College, other than complaints arising out of a workplace activity in or related to an external setting, are dealt with in accordance with the College of the Code of Conduct policy. This applies in particular to:

- College social and networking activities
- Conferences and training and education activities provided by the College
- College Board and Committee meetings.

- 10.1.1** A person who believes that he or she is being or has been discriminated against, harassed, bullied or victimised by a Member, or who has witnessed another person being discriminated against, harassed, bullied or victimised by a Member, may, if the matter cannot be resolved informally, lodge a complaint to the College.

10.2. Complaints Arising out of Workplace Activities in External Settings

Where discrimination, harassment, bullying or victimisation involving a Member occurs in relation to a workplace activity that occurred or is occurring in an external setting, a complaint should be made to, and must be investigated and dealt with by, the external setting in accordance with the policies and procedures of that setting.

- 10.2.1** This applies irrespective of whether:
- the person making the complaint is a Member
 - the subject of the complaint is a Member
 - the person making the complaint and the subject of the complaint are both Members

- 10.2.2** Where it is unclear whether the conduct that is the subject of a complaint occurred or is occurring in relation to a workplace activity of an external setting, the complaint must be made to the external setting, which will decide whether the complaint is one which the external setting is responsible for investigating and dealing with under applicable workplace laws and policies.

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10.2.3 The College has limited capacity and power to conduct investigations into complaints about misconduct of its Members, and therefore expects external settings to undertake such investigations in accordance with their obligations under applicable workplace laws and policies obligations.

10.2.4 The College will not investigate or otherwise become involved in complaints about discrimination, harassment, bullying or victimisation that arise in relation to a workplace activity except in the following circumstances:

- Where the external setting has advised the College that it has decided that it is not required to investigate or deal with the complaint, and the College is satisfied (having utilised any dispute resolution mechanisms under its arrangement with the external setting) that the complaint did not arise in relation to a workplace activity, the College will investigate the complaint.
- Where the complaint relates to discrimination against or the harassment, bullying or victimisation of, a Member who is a candidate or trainee, the College may move the trainee to another setting and/or provide any other support that is reasonably appropriate.
- Where the external setting notifies the College that it has investigated a complaint against a Member and has found that the Member engaged in conduct that would breach this Policy, the conduct may, at the discretion of the Board, be investigated for the purposes of enabling the Board to determine whether to deal with the Member in accordance with clause 9.13 of the College Constitution.

10.3 Complaints about College Staff

Complaints about discrimination, harassment, bullying and victimisation by College Staff shall be dealt with in accordance with the applicable workplace agreement or contract.

10.4 External complaints bodies

A range of external complaints bodies have been established to receive and investigate complaints about discrimination, harassment, bullying and victimisation. They include:

- Australian Human Rights Commission
- Human Rights Commission (NZ)
- Equal opportunity commissions established in some Australian States;
- Occupational health and safety agencies (such as WorkSafe)
- Australian Fair Work Commission.

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11 OBLIGATIONS AND RESPONSIBILITIES

11.1 The College

The College has a legal duty under occupational health and safety law to ensure that it provides a workplace and systems of work for its employees are as safe as reasonably practicable. In accordance with that obligation the College is committed to taking such measures as are reasonably practicable to eliminating victimisation, bullying, harassment or victimisation in the College workplace.

11.2 External Settings

11.2.1 Many College training and professional development activities take place in hospitals and health services (external settings).

11.2.2 Each external setting has a legal duty under occupational health and safety law to ensure that its workplaces and systems of are as safe as reasonably practicable.

11.2.3 Members may be employed in such settings in supervisory / facilitation roles and/or as trainees. In those circumstances, the legal duty of the external setting requires it to do everything that is reasonably practicable to ensure that discrimination, harassment, bullying or victimisation of its employees does not occur. Members working in external settings must comply with the workplace policies and procedures of the setting.

11.2.4 All external settings in which College related training and/or professional development activities are carried out must:

- have in place discrimination, harassment, bullying and victimisation policies that are acceptable to the College, together with processes and procedures to ensure that those policies are complied with and complaints are properly investigated and dealt with
- provide to the College, on request, such information as the College reasonably requires in order to satisfy itself that the external setting has appropriate and effective discrimination, harassment, bullying and victimisation policies and complaints procedures in place
- immediately notify the College in writing if a complaint is made to it about discrimination, harassment, bullying or victimisation by, against or of, a Member
- if the external setting decides that a complaint made to it about discrimination, harassment, bullying or victimisation by, against or of, a Member is not a workplace matter which it has a legal responsibility to deal with - immediately notify the College in writing of that decision and the reasons that it believes it is not responsible for dealing with the complaint
- if the external setting investigates a complaint made to it about discrimination, harassment, bullying or victimisation by, against or of, a Member - immediately notify the College upon the conclusion of the investigation of the outcome of the investigation.

- 11.2.5** If the College believes that an external setting has not adequately investigated or dealt with a complaint made to it about discrimination, harassment, bullying or victimisation by, or against or of, a Member, the College may terminate the accreditation or funding arrangement with that external setting, and where the complaint relates to discrimination against, or the harassment, bullying or victimisation of, a candidate or trainee, will endeavour to move the trainee to another setting, and provide any other support that is reasonably appropriate.
- 11.2.6** Before accrediting or providing funding to an external setting for the training of candidates and/or trainees make such inquiries as it considers necessary to satisfy itself that the external setting has appropriate and effective discrimination, harassment, bullying and victimisation policies and complaints procedures in place.
- 11.2.7** Further, the College will include in its accreditation and funding arrangements with external settings, provisions requiring compliance with the responsibilities of an external setting under this clause. The College will not accredit or provide funding to any organisation that it believes will or not comply with those responsibilities.

11.3 College Members

All Members who are involved in College activities (including as Censors, Preceptors, Supervisors and in other formal roles) are expected to show leadership in the promotion of and compliance with this policy, including by:

- carrying out functions in relation to selection, recruitment, promotion, assessment, training and work allocation on the basis of performance or merit.
- being alert to the kind of behaviour that might indicate the existence of discrimination, harassment, bullying or victimisation.
- proactively dealing with inappropriate behaviour or conduct, even if it has not been complained about.
- role modelling appropriate behaviours and leading by example
- responding promptly, sensitively and confidentially in situations where inappropriate behaviour is exhibited or alleged to have occurred.
- where possible and appropriate, assisting individuals to informally resolve complaints, and where this is not practicable or possible, to refer complaints about breaches to the relevant persons or bodies.

11.4 Candidates and Staff

Every individual is responsible for their own conduct. Persons not in a supervisory or management role, including candidates, trainees, and employees and contractors of the College, are also expected to take responsibility by:

- ensuring compliance with this policy and maintaining acceptable standards of behaviour and conduct at all times.
- being aware of and identifying inappropriate behaviour and dealing with it in accordance with this policy or the relevant policies and procedures of the external setting.
- taking such steps as they reasonably can to prevent discrimination, harassment, bullying or victimisation from occurring.

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12 ASSOCIATED DOCUMENTS

- RACMA *Breaches within the College of the Code of Conduct* policy
- Equal Opportunity Act 2010 (Vic)
- Anti-Discrimination Act 1977 (NSW)
- Anti-Discrimination Act 1991 (Qld)
- Equal Opportunity Act 1984 (WA)
- Race Discrimination Act 1975 (Cth)
- Sex Discrimination Act 1984 (Cth)
- Disability Discrimination Act 1992 (Cth)
- Age Discrimination Act 2004 (Cth)
- Australian Human Rights Commission Act 1986 (Cth)
- Fair Work Act 2009 (Cth)
- Human Rights Act 1993 (NZ)

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