



Royal Australasian College  
of Dental Surgeons  
*Let knowledge conquer disease*

# POLICY ON BULLYING, HARRASSMENT AND DISCRIMINATION

July 2016

#### **Document Information**

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<b>Related Policies:</b>	<ol style="list-style-type: none"><li>1) Reconsideration, Review and Appeals Policy</li><li>2) Special Consideration in Assessment Policy</li><li>3) Handbook for Accredited Education and Training in OMS (The Handbook)</li><li>4) MRACDS Program Guide</li><li>5) GDP Handbook</li><li>6) SDP Handbook</li></ol>
<b>Policy Replaces:</b>	Bullying & Harassment Policy June 2016

## **1. SCOPE AND OBJECTIVES**

The College is committed to ensuring fair and equitable workplace practices and has a zero tolerance of all forms of harassment.

The purpose of this policy is to provide direction regarding the standards of behaviour expected of Fellows, Members, candidates<sup>1</sup> and employees of the College (subsequently referred to as 'members of the College community') in preventing harassment in the College workplace. This policy relates to the conduct of all members of the College community.

For the purposes of this document, bullying, harassment and discrimination includes personal harassment, sexual harassment, unlawful discrimination, abuse of supervisory or managerial authority, threatening behaviour, intimidation, victimisation, exclusion and physical violence. It may also include to debase or corrupt someone in a supervisory or managerial role. Appendix A outlines what constitutes bullying, harassment and discrimination.

The College workplace includes training, examination, meeting and education sites in public and private settings, electronic communications regarding members of the College community, and within the College offices.

## **2. COLLEGE POLICY**

The College is committed to ensuring a safe, fair and equitable workplace environment which is free from harassment and where members of the College community are treated with dignity and respect. The College will take all practical steps to resolve issues of harassment without delay. Members of the College community have a responsibility to behave in a professional, collegial and respectful manner.

Workplace harassment can have significant adverse effects on those subjected to it, including, increased anxiety, stress, fear and ill-health. Harassment has adverse effects on workplace culture affecting morale, creativity, productivity, performance and personal safety.

The prevention of harassment is the collective responsibility of all of the College community requiring all to work collaboratively to ensure such behaviour is not tolerated.

The objectives of this policy are:

- To confirm that the College is committed to a zero tolerance of harassment.
- To outline the process to be followed should a member of the College community feel that they are subject to harassment from within the College community.
- To outline the process for dealing with an allegation of harassment.

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<sup>1</sup> For this purpose 'Candidates' include those working toward Membership or Fellowship of the RACDS through the various MRACDS/FACDS Training Programs, including OMS or a Specialist International Medical Graduate (IMG) assessed as being Partially Comparable to an Australian or New Zealand trained specialist in OMS, or those post-Fellowship working toward certification in a subspecialty.

Members of the College community are expected to familiarise themselves with this policy and are required to follow these procedures if an incident of harassment is alleged, suspected or reported.

### **3. Concern about potential harassment**

Any member of the College community who feels they are subject to harassment within the College community should act promptly to report the matter. A detailed written record of the behaviour(s) in question should be made. This record should contain; details of the incident(s), including the date, time and place of the incident(s) and the names and details of people who were present at the time.

The issue should be addressed by using one or more of the following avenues (listed below), noting that the individual is able to make a formal written complaint (allegation) at any time. The goal of the processes is to promptly resolve situations of alleged harassment, in a fair, constructive and respectful manner.

**Self-help** In the first instance, if the individual feels confident to do so they should communicate (face-to-face or in writing) their concerns with the person they believe is harassing them. They should outline the behaviours that they have experienced and the consequences of those behaviours on them. They should ask the individual to stop the behaviour. At this stage there is no requirement for a written complaint to be lodged.

**Seeking assistance and raising a concern** If the individual feels unable to approach the person directly regarding the allegation, they should seek assistance from a more senior employee (e.g. direct supervisor), or responsible College person (e.g. Chair of the relevant Board or Committee, Director of Education or CEO). Should any of these individuals be inappropriate then the individual should approach the President, or a neutral third-party. The assistance provided may include the provision of advice or guidance, the facilitation of dialog and/or mediation between the two parties or further referral to an external party.

The use of an appropriately skilled independent mediator may be considered and can assist the parties in understanding their differing points of view and may lead to constructive resolution of the issues. Where mediation is required, the CEO of the College will negotiate, with all parties, the appointment and terms of reference for an appropriate mediator. In the case where the CEO may be involved in the allegation, the President or nominee will act as mediator. Mediation is usually confidential between the complainant and the alleged harasser and is aimed at reaching agreement, resolving the issues and setting expectations that ensure the behaviour does not recur.

The use of mediation does not imply that there is a case to answer or that any conduct complained of has occurred. It is not the mediator's role to make a formal finding but only to assist the parties

reach a mutually agreed resolution to the problem. Each party may have a support person<sup>2</sup> of their choosing present during the mediation process. It is not the role of the support person to act as an advocate or spokesperson for the complainant. Mediation may be sufficient to settle the matter satisfactorily. This stage does not limit the right to make a formal complaint.

**Formal (allegation) complaint** If the matter cannot be satisfactorily resolved through self-help and/or following receipt of advice a formal complaint should be made, in writing, to the CEO. Once a complaint has been received by the CEO the process detailed under ('Managing an allegation') will be followed. The College will not take action on anonymous allegations.

### **Alternate avenues of complaint**

The complainant has other avenues of complaint including:

- The Anti-Discrimination Board and Human Rights and Equal Opportunity Commission
- The WorkCover Authority in the relevant state or territory
- Fair Work Australia
- Human Rights Commission (NZ)
- Specific entities of the relevant jurisdiction

## **4. Managing an allegation**

Formal allegations are to be made, in writing, to the CEO of the College.<sup>3</sup> Allegations are a serious matter and are to set out the complaint (allegation) in detail and should include supporting documentation and evidence concerning the allegation.

The CEO will determine if the allegation should be dealt with by the College or by another authority. Where instances of harassment occur in a College workplace where another employing authority has precedence, that employing authority will be advised and shall ordinarily be responsible for investigating and addressing the allegation(s). The CEO is to advise the College President of the complaint without undue delay. The CEO is also to advise the complainant in writing that the complaint has been received.

Where the College is determined to be the 'responsible' authority, the CEO and President will review the allegation(s) and authorise a fact-finding inquiry (investigation) if appropriate. If an investigation is to be undertaken the President is to advise the Council Executive of the College of this.

### **Allegations are to be dealt with promptly as follows**

A detailed and impartial investigation of the allegation is to be undertaken expeditiously. The investigation should be conducted in a confidential manner and follow the principles of procedural

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<sup>2</sup> A support person should not be a legally trained representative acting in that capacity

<sup>3</sup> If the allegation relates to the behaviour of the CEO the President should be the first point of contact

fairness. The person subject to the allegation is to be informed of the allegation and who made it, noting that, it is important that during the investigation those involved are clear that the matter is only an allegation and that no conclusions have been reached about the alleged behaviour. It may be necessary to involve other agencies in the investigation.

Consideration is to be taken of the circumstances and appropriate measures taken to ensure that there is no opportunity for additional actual or perceived harassment

Detailed, confidential file notes are to be maintained of the allegation(s) and subsequent investigation.

It is essential that the environment is safe and support and assistance is available for all parties during the investigation process. This includes referral to appropriate support services as necessary.

At the conclusion of the investigation a decision regarding the allegation is to be made. If the allegation is upheld then the person subject to the allegation is to be advised of this. The decision is to be confirmed in writing and a copy maintained on their personal file.

Harassment of any kind constitutes unacceptable behaviour. The response to the behaviour needs to balance the responsibility of the College to provide a safe workplace and prevent a repetition of the behaviour with the obligation to act fairly in relation to the alleged harasser. The CEO is to consider appropriate corrective and/or disciplinary actions consistent with the intent of preventing a repetition of the behaviour.<sup>4</sup> If the harasser has a confirmed history of similar behaviour previously the potential outcomes will be at a more serious level.

Any member of the College community found to have harassed another member of the College community may be subject to the disciplinary provisions set out in their employment agreement in the case of an employee, or the College Constitution in the case of a member of the College.

The CEO is to follow up with all the parties at an appropriate time to ensure actions to resolve the issues have been implemented and are sustained.

It may be necessary for the CEO to seek advice (including independent legal advice) at any stage in the process.

### **Dissatisfaction at the outcome**

If a complainant is dissatisfied with the outcome of the process they have a right to make a complaint to: Australian Human Rights Commission (Australia), the Human Rights Commissioner (NZ), Equal Opportunities Commission (Hong Kong), or the specific entity of the relevant jurisdiction

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<sup>4</sup> Involvement of the complainant is usually helpful as they can express any views as to the appropriateness of the steps taken.

## **5. Malicious allegations**

An allegation of harassment is a serious matter with significant potential consequences. Allegations or complaints of harassment that are found to be malicious, frivolous, vexatious or vengeful may in themselves be considered an act of harassment and responded to accordingly.

## **6. Related Documents**

### **Australian legislation**

Occupational Health and Safety Act 2004 (Victoria)

Work Health & Safety Act 2011/2012

Prevention of Bullying and Violence at Work Guidance Note (WorkSafe Victoria)

Occupational Safety & Health Act 1984 (Western Australia)

Equal Opportunity Act 2010 (Victoria);

Racial & Religious Intolerance Act 2000 (Victoria);

Racial Discrimination Act 1972 (Commonwealth);

Sex Discrimination Act 1984 (Commonwealth);

Racial Hatred Act 1995 (Commonwealth);

Disability Discrimination Act 1992 (Commonwealth);

Human Rights & Equal Opportunity Act 1995 (Commonwealth)

Fair Work Commission Australia, [www.fairwork.gov.au](http://www.fairwork.gov.au)

Further information is available at the Australian Human Rights and Equal Opportunity Commission (AHREOC) website. The website contains a summary of the sexual harassment, human rights, anti-discrimination and equal opportunity legislation in Australia:

[www.humanrights.gov.au](http://www.humanrights.gov.au)

### **New Zealand legislation**

Employment Relations Act 2000

Human Rights Act 1993

Health and Safety in Employment Act 1992

## **Appendix A        DEFINITIONS**

### **Bullying**

Bullying behaviour is generally any deliberate, repeated, unreasonable or less favourable treatment of a person or group by another or others in the workplace. The key features of bullying are that it is deliberate, unreasonable, repeated and perceived to have a detrimental effect on the recipient. Bullying may breach anti-discrimination laws and/or criminal law.

Direct bullying behaviours can include:

- Physical or verbal abuse or insults
- Yelling screaming, or offensive language
- Psychological harassment including belittling, offensive or degrading remarks, isolation or exclusion
- Intimidation, manipulation, and/or unreasonable and persistent criticism

Indirect bullying behaviours can 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

### **What is NOT bullying?**

Reasonable management actions carried out in a fair way are not 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 inappropriate behaviour
- Implementing organisational changes
- Performance management processes
- Constructive feedback

## **Harassment**

Harassment is an unwelcomed behaviour, comment, conduct or gesture that offends, humiliates, intimidates, or degrades a person. It may be overt or implied, it may be direct or may be imposed by indirect means. It may be an isolated incident or may be repeated. In most cases harassment is an attempt by one person to inappropriately exert power over another person. It may be unintentional. Harassment can include threatening, degrading or intimidating behaviour, abuse of power or position, isolation, discrimination, sexual and/or racial harassment and to debase or corrupt.

Sexual harassment may occur irrespective of the recipient's sexual orientation or gender. Sexual harassment is any behaviour that includes:

- Sexual advances and/or requests for sexual favours
- Sexual innuendo
- Offensive verbal comments of a sexual nature including sexual or smutty jokes
- Comments about someone's alleged sexual activity or private life
- Unwelcome physical contact
- Persistent, unwelcome social contacts (e-mails, txt, telephone calls, following someone home)
- Use of pornography

## **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. The College includes the following as prohibited grounds for discrimination:

- Ethnic or national origins (including skin colour, nationality, citizenship, national extraction, descent or origin)
- Sex, gender (including gender history);
- Sexual orientation
- Lawful sexual activity
- Age
- Marital status and family responsibilities (including, including pregnancy, childbirth breastfeeding)
- Carer and employment status

- Disability or impairment (Physical, psychiatric, intellectual, abnormality of anatomic structure, physical features, irrelevant medical history)
- Religious belief or activity
- Political belief or activity
- Membership of a lawful organisation
- Irrelevant criminal record;
- Association with a person who is identified by reference to any of these attributes.

Affirmative actions or policies of the College to assist or advance persons are not considered discriminatory.