

Bullying and harassment in relation to Trainees and International Medical Graduates.

Policy

1. Policy Statement

The Royal Australian and New Zealand College of Psychiatrists (the College) has a zero tolerance stance on bullying/harassment in training. The purpose of this College policy is to ensure that Fellows, Trainees, International Medical Graduates and employees are provided with a working environment that is free from bullying and harassment.

This Policy reflects the College's expectations of Fellows as set out in the College's Code of Conduct and Code of Ethics.

The College recognises that for Trainees and International Medical Graduates, most instances of bullying or harassment will occur in their place of work and complaints will be most appropriately handled within that organisation. Thus, for Trainees and International Medical Graduates, this Policy relates primarily to incidents in the workplace which may involve a Supervisor, Director of Service, Director of Training or other person appointed by the College.

2. Bullying & Harassment in the Workplace

The College expects training locations will:

- provide a working environment which is free from bullying and harassment where all Fellows, Trainees, International Medical Graduates and employees are treated with dignity, courtesy and respect.
- ensure that policies and procedures about bullying and harassment are available.
- provide an effective complaints procedure based on the principles of natural justice.
- treat all complaints in a sensitive, fair, timely and confidential manner.
- encourage the reporting of behaviour which breaches this Policy.
- promote appropriate standards of conduct at all times¹.

3. What is Harassment?

Harassment may involve unwanted behaviour and can take many forms, including inappropriate actions, behaviour, comments or physical contact that is objectionable or causes offence. Unlawful harassment may relate to any of the attributes protected in various equal opportunity legislation.

It is important to note that it is irrelevant at law as to whether or not the inappropriate behaviour was intended. It is also important to understand that it is the person being subjected to the behaviour, who determines whether the behaviour is welcome or unwelcome.

¹ RACS –

http://www.surgeons.org/Content/NavigationMenu/WhoWeAre/ReportsandPublications/Publications/Code_of_Ethics.htm

Harassment may be seen to have occurred if the behaviour makes the victim feel:

- offended and humiliated,
- intimidated or frightened, and/or
- uncomfortable at work².

4. What is Bullying?

Workplace bullying is repeated, unreasonable behaviour directed toward an employee, or group of employees, that creates a risk to health and safety. Bullying behaviour includes, but is not limited to the following:

- Manipulation
- Intimidation
- Offensive remarks or behaviour
- Degrading remarks or behaviour
- Belittling remarks; ridiculing someone's opinion
- Unreasonable persistent criticism which is not part of the performance review process
- Nitpicking and fault finding without justification
- Verbal and physical abuse (for example shouting or throwing things)
- Isolation of colleagues
- Withholding information employees need to perform their job
- Setting of unachievable targets with the intent of causing individuals to fail
- Sabotaging someone's work³

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.⁴

5. Where to report instances of bullying/harassment

Anyone who experiences or witnesses bullying or harassment within the training environment should report it as soon as possible. In the event that a Trainee, International Medical Graduate or other person associated with the College is harassed or bullied in the workplace, the employer has primary responsibility to address the conduct and provide a safe workplace.

However, those reporting the incident of bullying or harassment may refer the matter to the College, where the issues relate directly to training or the gaining of psychiatric qualifications. The Trainee or International Medical Graduate is encouraged to follow this pathway in parallel with their local workplace processes.

Bullying or harassment is reported to the RANZCP via the College Complaints Officer. It will be investigated quickly and in accordance with College procedures. The Council, Boards, Committees and Management of the College will ensure that any complaint of bullying or harassment will be dealt with in accordance with College policies and regulations. Where necessary, a formal investigation will be undertaken and disciplinary

² RANZCP – Equal Opportunity, Harassment & Bullying Policy - July 2003

³ RANZCP – Equal Opportunity; Harassment & Bullying Policy – 1 July 2003

⁴ RACS – Policies & procedures – Bullying in the Workplace – Jan 2008

action may result. All formal complaints to the College will be treated seriously and confidentially with due regard for the rights of both complainants and respondents.

Complainants have the right to seek assistance from any other relevant external bodies at any time.

6. Overview of dealing with complaints

The following information outlines the College's preferred process for dealing with concerns or complaints in relation to harassment and bullying.

Through these procedures, the College aims to ensure that:

- any unfair treatment or offending behaviour ceases;
- there are no reprisals for having made a complaint; and
- where disadvantage has occurred, the situation is redressed as far as possible to the complainant's satisfaction.

The College also has the responsibility to:

- promote an environment in which harassment and bullying does not occur;
- ensure that fair process in handling complaints is observed at all times;
- initiate complaint procedures within a reasonable time frame; and
- provide adequate support to ensure that all parties are able to participate in the resolution process.

6.1 Confidentiality

Confidentiality is paramount when dealing with issues of harassment or bullying. Spreading gossip or rumours about harassment or bullying issues is against College policy and action will be taken against anyone who is inappropriately discussing such matters.

6.2 Rights and responsibilities during the complaints process

Individuals involved in a complaint have rights and responsibilities.

A complainant has the right to:

- have the complaint treated promptly and seriously by the workplace or College;
- express views and opinions without intimidation or victimisation for having made the complaint.

And will be required to:

- provide specific details of any allegations and to ensure that false or deliberately misleading claims are not lodged; and
- maintain confidentiality as far as possible throughout the procedures.

A respondent has the right to:

- natural justice in the procedures used to pursue a complaint;
- not to be defamed or to be the subject of unfounded or malicious complaints; and
- not to be punished unfairly, harshly or unreasonably.

7. Consequences

Issues of Bullying and Harassment reported to the RANZCP may have consequences in relation to: training status, accreditation of training posts/positions and/or hospitals/institutions and accreditation of supervisors.

Addendum: Relevant Legislation

NZ

Human Rights Act 1993
Employment Relations Act 2000

AUST - FEDERAL

Sex Discrimination Act 1984
Racial Discrimination Act 1975
Disability Discrimination Act 1992
Human Rights and Equal Opportunity Commission Act 1985
Workplace Relations Act 1996
Occupational Health & Safety Act 1985
Trade Practices Act 1974
Age Discrimination Act 2004

QLD

Workplace Health and Safety Act 1995
Whistleblower Protection Act 1994
Industrial Relations Act 1999
Anti-Discrimination Act 1991
Queensland Health's Code of Conduct
Public Service Act 1996
Crime and Misconduct Act 2001

WA

Equal Opportunity Act 1984 (WA) (as amended)
Occupational Safety and Health Act 1984 (WA) (as amended)
Occupational Safety and Health Regulations 1996 (WA) (as amended)
Public Sector Management Act (1994) (WA) (as amended)
Workers' Compensation and Injury Management Act 1981 (WA) (as amended)

Public Sector Code of Ethics
Codes of Conduct applicable within WA Health

VIC

Equal Opportunity Act 1995
Racial and Religious Tolerance Act 2001
Occupational Health and Safety Act 2004 (VIC)

NSW

Occupational Health & Safety Act 2000
Anti Discrimination Act 1977
NSW Health Policy Directives & Guidelines
Equal Opportunity Act 1984

SA

Occupational Health, safety & Welfare Act 1986
South Australian Equal Opportunity Act 1984

TAS

Anti-Discrimination Act 1998

NT

Anti-Discrimination Act 1992

The Work Health Act 1986