

Policy

Subject: **Anti-Discrimination, Harassment and Bullying**
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March 2011, May 2011, November 2013, January 2015,
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1 Purpose

- 1.1. The purpose of this Policy is to give effect to the commitment of the Royal College of Pathologists of Australasia (hereafter, the “**College**”) to establish and maintain a harmonious environment free from unlawful harassment, discrimination, vilification, victimisation and bullying, for those with whom it interacts.
- 1.2. This Policy describes the behaviour expected of all Stakeholders (as defined below) within the various College workplaces and training environments in which they are located.
- 1.3. This Policy can be updated or amended from time to time by the College at its absolute discretion.

2 Scope

- 2.1. This policy applies to:
 - (a) Fellows, Associates, Members, Affiliates, and Associates of Faculties (in respect of activities undertaken in connection with the College);
 - (b) Registered Trainees of the College and its Faculties (in respect of activities involving a Supervisor or other person appointed by the College or otherwise in connection with the College); and
 - (c) Other individuals who are not employees of the College but who are involved in the activities of the College.
- 2.2. In the balance of this Policy, the abovementioned individuals are referred to as “**Stakeholders**”.
- 2.3. The College recognises that for Trainees, most instances of conduct falling within the scope of this Policy will occur in their place of work and complaints will likely be most appropriately handled within that organisation for whom they work. Thus, for Trainees, this Policy relates primarily to issues which may involve a Supervisor or other person appointed by the College.

3 References

- 3.1. The College has established this Policy in recognition of its obligations under work health and safety, equal opportunity, anti-bullying, anti-discrimination and vilification laws applicable in Australia and New Zealand.

4 Anti-Discrimination

- 4.1. Stakeholders must not unlawfully discriminate against any individual, including other Stakeholders and/or employees of the College.
- 4.2. Discrimination can either be direct or indirect. Generally, direct unlawful discrimination occurs when an individual (or group) is treated less favourably than another person in the same or similar circumstances as a result of direct reference to one or more attributes protected by anti-discrimination legislation (see below example at paragraph 4.5).
- 4.3. Indirect unlawful discrimination occurs when an unreasonable requirement, condition or practice is imposed on an individual (or group) with a protected attribute (see below example at paragraph 4.5) and the individual or group is unable to comply with the condition or practice, compared with a greater proportion of persons without the protected attribute. For example, requiring meetings to commence outside of normal business hours may indirectly disadvantage those individuals who have family responsibilities.
- 4.4. Stakeholders must not treat anyone less favourably, or subject them to any detriment or adverse action on the basis of any protected attribute (implied or actual) which is protected under anti-discrimination legislation. Stakeholders must also take reasonable care to avoid indirect unlawful discrimination. Discrimination does not have to be calculated, intentional or even conscious in order for it to be unlawful.
- 4.5. Examples of attributes which are usually protected by anti-discrimination legislation include, but are not limited to:
- gender;
 - pregnancy or potential pregnancy, breastfeeding;
 - religious/ethical belief;
 - political opinion;
 - race;
 - ethnic or national origins;
 - age;
 - marital status/family status or responsibilities;
 - sexual orientation or status including transgender;
 - disability; and/or
 - employment status/industrial activity (i.e. union membership).

Examples of some types of situations in which an individual or group is not to be treated less favourably or subject to any detriment on the basis of a given attribute include but are not limited to:

- access to interviews;
- job or traineeship offers;
- terms and conditions of employment or traineeship;
- access to promotion, training and transfer opportunities;

- access to benefits relating to employment or traineeship;
- job descriptions and specifications;
- dismissal;
- recruitment advertising; and/or
- retrenchment.

5 Anti-Harassment

- 5.1. Stakeholders must not engage in harassment of any kind (including sexual harassment and/or racial harassment detailed further below) against anyone, including other Stakeholders and/or employees of the College.
- 5.2. Harassment is any uninvited, unwelcomed or unreciprocated behaviour that offends, humiliates or embarrasses another person where a reasonable person would expect this to be the effect of the behaviour. Harassment may be physical, verbal or visual in nature and may occur in a single incident or repeatedly over time. It can include words or statements that are transmitted by post, fax, phone, video, email, computer servers or screen savers.
- 5.3. Harassment can be the result of behaviour that is not intended to offend or harm, such as jokes or unwanted attention. The fact that harassment is not intended does not mean that it is not unlawful. Harassment may also be a form of unlawful discrimination if associated with one or more of the protected attributes set out above.
- 5.4. Harassment can take direct forms such as abuse, threats, name-calling and sexual advances (see below from paragraph 5.5); or less direct forms, such as where a hostile work environment is created but no direct attacks are made on an individual.

Sexual Harassment

- 5.5. Sexual harassment is a specific form of harassment and therefore all of the above-noted considerations are equally relevant in relation to sexual harassment.
- 5.6. Sexual harassment is any unwanted, unwelcomed or uninvited behaviour of a sexual nature that makes a person feel intimidated, insulted, humiliated, embarrassed, or offended, where a reasonable person would expect this to be the effect of the behaviour. Sexual harassment can occur regardless of whether the behaviour was not intended to offend or harm. Sexual harassment can be experienced by both men and women.
- 5.7. Sexual harassment can occur in the College workplace, or another location that has a connection with the College, for example, at a College work function outside of work hours. The fact that the conduct may have occurred away from College premises is irrelevant.
- 5.8. Depending on the circumstances, examples of sexual harassment include, but are not limited to:
 - representations and/or displays of erotic or graphic material of a sexual nature including on posters, pictures, calendars, cartoons, graffiti or in email messages, voice mail messages or screen savers;
 - deliberate and unnecessary physical contact;
 - offensive jokes, comments, innuendoes, suggestions or telephone calls of a sexual nature;

- reference to a person's sexuality, sexual identity (such as transgender); or physical appearance;
- a persistent staring or leering at a person or at parts of his/her body; and/or
- constant requests for drinks or dates, especially after prior refusal.

Racial Harassment

- 5.9. Racial harassment is a specific form of harassment and therefore all of the above-noted considerations regarding harassment are equally relevant in relation to racial harassment.
- 5.10. Racial harassment generally consists of derogatory remarks, racially explicit statements, graffiti, jokes or any action of a racist nature that is directed at an individual or group from a different ethnic background and which results in the individual(s) feeling intimidated, insulted, humiliated, embarrassed or threatened, where a reasonable person would expect this to be the effect of the behaviour.
- 5.11. Racial harassment can be non-verbal, verbal or physical. Examples include, but are not limited to:
- racially offensive gestures;
 - facial expressions or mimicry of accents;
 - racist publications, graffiti, letters or emails;
 - racist comments, abuse, jokes, ridicule or threats; and/or
 - derogatory nicknames.

6 Anti-Victimisation

- 6.1. Stakeholders must not victimise any other individual, including any employee of the College as a result of the individual making a complaint, or participating in an investigation.
- 6.2. Victimisation occurs when a person is subjected to a detriment because they made a complaint in good faith, or because they are involved in the investigation of a complaint of discrimination, harassment, violence, bullying, or vilification.

7 Anti-Vilification

- 7.1. Stakeholders must not vilify any other individual, including any other employee of the College.
- 7.2. Vilification occurs when a person, by a public act, incites hatred towards, serious contempt for, or severe ridicule of a person or a group of persons on the ground of that person's or the group's race, homosexuality, HIV/AIDS status or transgender.

8 Anti-Bullying

- 8.1. Stakeholders must not engage in workplace bullying against anyone, including other Stakeholders and employees of the College.
- 8.2. Bullying is repeated and unreasonable behaviour directed towards an individual or group of individuals that creates a risk to health and safety. Repeated behaviour refers to the persistent nature of the behaviour and can involve a range of behaviours over time.

- 8.3. Unreasonable behaviour means behaviour that a reasonable person, having considered the circumstances, would consider as unreasonable, including behaviour that is victimising, humiliating, intimidating or threatening.
- 8.4. Examples of behaviour, whether intentional or unintentional, that may be considered to be bullying if they are repeated, unreasonable and create a risk to health and safety include, but are not limited, to:
- abusive, insulting or offensive language or comments;
 - unjustified criticism or complaints;
 - deliberately excluding someone from College/workplace activities;
 - withholding information that is vital for effective work performance;
 - setting unreasonable timelines or constantly changing deadlines;
 - setting tasks that are unreasonably below or beyond individual's/group's skill level;
 - denying access to information, supervision, consultation or resources to the detriment of the individual/group;
 - spreading misinformation or malicious rumours; and/or
 - changing work arrangements such as rosters and leave to deliberately inconvenience a particular individual or group.
- 8.5. Bullying is a risk to health and safety, and engaging in workplace bullying may constitute a breach of the College's obligations under work health and safety laws. If bullying behaviour involves violence, for example physical assault or the threat of physical assault, it may also amount to a breach of criminal law and be reported to the police.
- 8.6. A single incident of unreasonable behaviour is not considered to be workplace bullying, however it may have the potential to escalate and, therefore should not be ignored.
- 8.7. Reasonable management action taken in a reasonable way is also not considered to be bullying and reasonable management action may be taken to direct and control the way work is carried out. It is reasonable for Stakeholders to allocate work and give feedback on an individual's performance, provided it is done in a reasonable manner.
- 8.8. The following are examples of types of actions that are not considered to be bullying if they are carried out lawfully and in a reasonable manner, taking the particular circumstances into account:
- setting reasonable performance goals, standards and deadlines;
 - rostering and allocating working hours where the requirements are reasonable;
 - transferring an individual for operational reasons;
 - deciding not to select an individual for promotion where a reasonable process is followed;
 - informing an individual about unsatisfactory work and/or performance in an honest, fair and constructive way (including with respect to trainees);
 - informing an individual about inappropriate behaviour in an objective and confidential way;
 - implementing organisational changes or restructuring; and/or

- taking disciplinary action, including suspension, termination of employment or other arrangement.

9 Policy

- 9.1. The College is committed to the principle that all Stakeholders have the right to attend to College business, train and/or work within an environment free of unlawful discrimination, harassment, bullying, vilification or victimisation.
- 9.2. The College will use its best endeavours to ensure that all Stakeholders are informed of the existence of this Policy and are aware that any unlawful discrimination, harassment, bullying, vilification and victimisation will not be tolerated.
- 9.3. The College expects that the behaviour of Stakeholders will not fall below the standards set out in this Policy.
- 9.4. The College is committed to ensuring that all reported incidents are dealt with promptly and in a confidential manner (in accordance with paragraphs 9.5 and 9.6). The possibility of a complainant being disadvantaged or victimised will not be tolerated.
- 9.5. Confidentiality is an important part of this Policy. Everyone involved in a complaint under this Policy, such as an individual making a complaint or a person involved in an investigation process, is responsible for observing the high level of confidentiality that is required to ensure the integrity of any process undertaken in addressing a complaint made under this Policy.
- 9.6. That said, there may be circumstances in which full confidentiality cannot be maintained if the complaint is to be fully investigated and/or resolved. Details of the investigation and the names of the individuals making and responding to the complaint will be disclosed only on a "need to know" basis.
- 9.7. Stakeholders should be aware of the responsibilities of lodging a complaint and the seriousness of lodging a vexatious complaint.
- 9.8. The College acknowledges that any individual who believes they have been the victim of discrimination, harassment or bullying has the right to consult an external body, such as the Anti-Discrimination Board in NSW, the Human Rights and Equal Opportunity Commission throughout Australia, or if appropriate, the police.
- 9.9. This Policy will be included in the Information Booklet for Trainees, and the Guide for Supervisors.
- 9.10. The College will endeavour to provide training to Stakeholders (including Supervisors) in this Policy, and the topic will be covered in orientation sessions for new Trainees.
- 9.11. Counselling and disciplinary measures will be undertaken in accordance with the College Constitution and College Policies and Procedures.

10 Procedure

- 9.1. In the event a Stakeholder is concerned about conduct they believe contravenes this Policy, they are able to contact their local HR department.
- 9.2. If the conduct relates to another Stakeholder (i.e a Supervisor or other person acting on behalf of the College), then the Stakeholder should contact:

- 1) State or Regional Councillor;
- 2) RCPA Education Advisor;
- 3) Registrar of Board of Education and Assessment;
- 4) RCPA CEO (or RCPA DCEO); or
- 5) College Ombudsman.

9.3. The Policy on Complaints Handling of the College addresses complaints arising from the College's internal or external relationships and may assist the College in determining:

- (a) which dispute process is most appropriate to address the complaint; and
- (b) whether any inappropriate conduct has occurred under this Policy; and

if so, taking appropriate action as necessary, including (but not limited to) counselling and / or disciplinary measures.

9.4 The complaint will be registered by the RCPA Education Advisor using a template accessible only to the BEA Registrar, the CEO and the Deputy CEO. The complaint will then be investigated using principles of natural justice and confidentiality by the CEO/Deputy CEO who must be notified of any such complaints.

11 Related Policies and Procedures

- RCPA Policy on Complaints Handling