

BULLYING, HARRASSMENT AND DISCRIMINATION COMPLAINTS PROCEDURES

1. Purpose

- 1.1 This is to detail the appropriate procedures for making and responding to complaints about bullying, harassment or discrimination associated with the work and College-related activities of ACRRM members. These procedures should be read with the [College Bullying, Harassment and Discrimination Policy](#).

2. Key aspects of procedures

2.1 Confidentiality

Confidentiality needs to be maintained in procedures in order to protect the rights and welfare of all those involved in a complaint resolution process. If an allegation of bullying, harassment or discrimination is made, information should only be accessible to people who 'need-to-know' or other relevant people such as witnesses, except where the College is compelled by law to produce documents.

2.2 Impartiality

The procedures should be conducted in a fair and equitable manner at all times.

2.3 Victimization

Victimization should not be accepted or tolerated against a person who has:

- made, or intends to make a complaint;
- been, or intends to be a witness;
- is a support person to any of the parties involved in the complaint;
- is involved in resolving the complaint;
- acted in good faith in bringing information or making an allegation under anti-discrimination and harassment legislation.

Should such victimisation occur, disciplinary action should be considered against the offender.

2.4 Timeframes

All disputes, both informal and formal, should be addressed efficiently and in a timely manner.

2.5 Defamation

Allegations of unlawful bullying, harassment or discrimination are serious matters and can potentially damage an individual's reputation. To minimise the risk of defamation it is important to maintain confidentiality and involve as few people as possible in the dispute resolution process. Individuals appointed to assist in dispute management, are protected under the doctrine of 'qualified privilege' provided they act in accordance with the dispute resolution procedures and not maliciously.

2.6 False Accusations

False accusations of bullying, harassment or discrimination will be viewed seriously and, where found to be malicious, may expose the complainant to risk of defamation proceedings or disciplinary action.

2.7 Intent

Behaviour or comments acceptable to one person may offend or be unwelcome to another. Perceptions and interpretations are likely to differ because of diverse backgrounds, cultures and views. “Innocent intent” is not a defence or excuse against harassment or discrimination complaints nor a justification for bullying behaviour.

2.8 Support Person

A support person is responsible for providing assistance to the complainant or the respondent of a bullying, harassment or discrimination dispute. A support person may be a family member, trusted advisor or a co-worker. The support person’s role is to be conducted in the spirit of conciliation as well as fair and equitable outcomes. A support person is also bound by the requirement for confidentiality and cannot act as a witness and a support person in the same complaint.

2.9 Counselling and Support

A complainant may wish to seek counselling or assistance from someone independent.

3 Summary of Parties Rights

Rights of the Complainant	Rights of the Respondent
<ul style="list-style-type: none"> • To have their complaint treated informally or formally, at their option. • To have their complaint investigated and conciliated if requested. • To have support or representation throughout the process. • To express concerns without fear of retribution or of suffering detriment. • To withdraw a complaint. • To have the situation remedied. • To privacy – to have the matter kept confidential on a “need to know” basis. 	<ul style="list-style-type: none"> • To be informed of what he/she is accused of and who is making the allegations. • To respond to the allegations. • To fair treatment and procedures. • Not to be prejudged or discriminated against. • To have support or representation throughout the process. • Not to be dismissed unfairly or otherwise treated unfairly, harshly or unreasonably (taking into account all the circumstances). • To have privacy – to have the matter kept confidential on a “need to know” basis. • To be protected from defamation and malicious complaints.

4. Summary of Resolution Processes

4.1 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.

Issue resolution for bullying, harassment or discrimination should occur in the local workplace as an employment issue. The employer’s human resources department can provide advice on the complaints and resolution process in addition to counselling and support. This should be the first port of call.

4.2 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 person¹ 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.

4.3 Make a Complaint to an External Body

Complainants may also lodge a complaint with an external body relevant to the issue such as the Human Rights Commission, WorkSafe, or Fairwork Commission. These bodies have stronger powers to investigate and apply sanctions.

4.4 Make a Complaint to the College

A complainant may proceed with a complaint of bullying, harassment or discrimination under this policy as follows:

- a. Submit a formal complaint through hospital or workplace policies or mechanisms. The College can provide general guidance.
- b. Submit a formal complaint through other appropriate complaint handling bodies (anti-discrimination bodies, WorkSafe bodies, Medical Board of Australia). The College can provide general guidance.
- c. Seek College assistance for informal complaint resolution including by nominating an independent mediator.
- d. Use the College's formal complaint mechanism to lodge a formal complaint with the College against a Fellow, doctor in training or other ACRRM member (*Note: the [ACRRM Workplace Anti-Bullying Policy](#) will apply for College employees*). Complaints may be lodged for issues arising out of conduct at official College activities (e.g. College committees and training

¹ A support person should not be a legally trained representative acting in that capacity

activities). This process has limited investigative power for issues in the primary place of employment due to jurisdictional considerations. The powers of the College to deal with these complaints are limited to disciplinary powers, and not compensation or other remedies.

Complainants wishing to lodge a formal complaint with the College should address this in writing to:

Chief Executive Officer
ACRRM
GPO Box 2507
BRISBANE QLD 4001

5. Formal Complaint Procedures

5.1 Definition of a Formal Complaint

Formal complaints focus on whether a complaint can be substantiated. They are complaints that will need to be put into writing and will necessitate a formal investigation.

5.2 Action Taken by the Complainant

Where an allegation is of a serious nature, or where conciliation is either rejected or has failed, formal investigation may be the appropriate response.

A formal investigation is where a statement is prepared and provided to the respondent for a response. The complaint is then investigated to the extent that the College is able. The College cannot compel the participation of individuals, compel an individual to give evidence or compel an individual or employer to produce documents or records. The investigator will work to establish what evidence or facts can either substantiate or refute the allegations, based on a reasonable assumption of innocence.

Although individual employees may wish to withdraw a bullying, harassment or discrimination complaint, there may be instances; for example, sexual harassment, where the Employer is required to fulfil legal obligations and continue to investigate the matter.

Report findings will form the basis of appropriate action in responding to both the individual and organisational matters addressed in the findings.

The parties must adhere to the following steps:

5.2.1 Lodgement of a Formal Complaint

All complaints (whether written or verbal) should be lodged directly with The Chief Executive Officer.

5.2.2 Arranging an Interview with the Complainant

The complainant may elect to have a support person with them at the time of the interview. Note: If there is more than one complainant, it is essential they are interviewed separately.

Prior to the interview, it is essential the Investigator reflects on the level of seriousness of the allegation. For example, if the allegation is substantiated, could it lead to disciplinary action?

Following an investigation, co-ordination of the implementation process of any recommendations arising from the investigation is required.

The interview should take place in a private and confidential environment where there will be no interruptions. The complainant should feel comfortable at all times and, if necessary, breaks should be included during the interview process.

The complainant may wish to seek counselling or assistance from someone independent.

5.2.3 Conducting an Interview with the Complainant

Inform the complainant about the investigation process. Obtain information from all relevant sources and ensure the complainant knows that formal records will be kept. Advise the complainant where the records will be stored, and who will have access to them.

Ensure the complainant and the support person are fully aware of, and understand their responsibility in relation to, confidentiality.

Explain to the complainant that the major purpose of the interview is to clarify the nature of their complaint. This will include a detailed description of what took place, how the bullying, harassment or discrimination has affected him/her, and if there have been any reprisals, threats or unfavourable treatment directed towards him/her since the incident was reported.

Clarify the complainant's understanding of the incident or situation. If possible, the complainant should provide specific details about incidents, times, dates, places, frequency of occurrence and the names of possible witnesses (copies of any notes, diary entries or records should also be produced).

- Allow time: you may need more than one interview
- Be sensitive to 'power perceptions' and watch for gender balances.

Where possible, the Investigator should provide feedback to the complainant advising him/her, on the basis of the initial interview, whether the incident appears to contravene College Policies.

The complainant should be asked to clarify what they believe will resolve the problem, for example:

- What is their desired outcome?
- Is the complainant seeking more than feedback to be given to the respondent about their perceived unacceptable behaviour?
- Are they seeking assurances that such behaviour will not occur again?
- Do they want a formal apology from the respondent?

At the conclusion of the interview, the Investigator will review the procedure to date and advise the complainant when the respondent will be interviewed, and an expected time when the Investigator can report back to the complainant.

Remind the complainant of the requirement for confidentiality.

Ensure the complainant knows where he/she can also access internal and external confidential advice, support and counselling.

5.2.4 Arranging an Interview with the Respondent

The respondent should be advised that someone has made a serious complaint about him/her.

Advise the respondent that he/she may have a support person present with them to hear the allegation. Ensure that both the respondent and the support person are fully aware of and understand their responsibility in relation to confidentiality.

Advise the respondent of the principles and purpose of the investigation, and that a written or verbal response to the allegation(s) is required.

The respondent should be provided with a detailed description of the allegations. If relevant, explain that the complaint appears to be in relation to a form of unfair treatment, bullying, harassment or discrimination that is against College Policies.

Obtain the respondent's account of the alleged events and ensure open rather than closed questions are used.

If an allegation is denied, the respondent should be asked for their view as to why he/she believe the complaint was made, and how the issue may be resolved. The respondent should also be asked to nominate any witness(es) to be interviewed during the investigation.

The Investigator will review all information obtained from both the complainant and the respondent and will interview any witness(es) if deemed necessary. Feedback will be given to both the complainant and respondent, followed by an arranged meeting between all parties involved to advise the resolution options.

Remind the respondent of the requirement for confidentiality.

Ensure the respondent knows where he/she can access internal and external confidential advice, support and counselling.

5.2.5 Conducting an Interview with the Respondent

The respondent may wish to seek counselling or assistance from someone independent. The respondent may elect to have a support person with them at the time of the interview. Note: If there is more than one respondent, it is essential they are interviewed separately.

Prior to the interview, it is essential the Investigator reflects on the level of seriousness of the allegation. For example, if the allegation is substantiated, could it lead to disciplinary action? If disciplinary action is an outcome of the investigation process then implementation of the recommendation/s should meet the relevant award or contract of employment disciplinary provisions.

The interview should take place in a private and confidential environment where there will be no interruptions. The respondent should feel comfortable at all times and, if necessary, breaks should be included during the interview process.

5.2.6 Witnesses

Witnesses cannot be compelled to participate. Witnesses should only be interviewed in circumstances where:

- the Investigator does not have enough information and believes witness statements will assist in making a determination; or
- the complainant or respondent is concerned that the Investigator does not have enough information to make a determination; or
- the allegation or counter-allegation is serious enough to result in disciplinary action.

It is strongly recommended that the Investigator should only interview enough witnesses to make a determination.

Ensure the witness(es) and the support person are fully aware of and understand their responsibility in relation to confidentiality and the confidentiality agreement, and that potentially the evidence they provide could be referred to in an external legal hearing.

5.2.7 Conducting Interviews with Witnesses

An identified witness should be interviewed privately and advised of the confidentiality, privacy and record keeping issues. He/she will be informed that there will be no reprisals for providing information that may assist with the investigation, and that this information will not be disclosed to either party without his/her permission.

In instances where the witness does not give permission to disclose his/her submission to either party, the Investigator will only refer to the information provided in “general terms”. For example, by using phrases such as “I have spoken to various people about the allegation and it appears there is some evidence to support the complaint” or “Other people in the work area confirmed that they have observed the alleged incidents occurring.”

In order for the Investigator to maintain confidentiality and to not influence the witness, the witness should not be told any more than they already know. It is essential the witness does not discuss the complaint with individuals who are not involved in the complaint resolution procedures.

5.2.8 Determining the Outcome of the Complaint

Before determining a final outcome to the complaint, the Investigator will review all relevant documentation and evidence.

To determine the outcome of the complaint, the Investigator should consider two main points:

- How serious is the allegation?
- Is there agreement between the complainant and the respondent on the major facts of the allegation? (This does not necessarily require agreement on the interpretation of those facts.)

6. Remedies to a formal complaint

Where bullying, harassment or discriminatory behaviour is found to have occurred, a successful outcome to a complaint can be that this behaviour stops and more respectful behaviour is put in place.

6.1 Disciplinary Action

If the Investigator assesses the complaint to be “of a serious nature” disciplinary action may need to be considered. At this stage, the Investigator should forward the recommendations arising from the investigation to the CEO of the College.

The CEO will refer the recommendation of the investigation to the appropriate College Committee for endorsement and action.

Disciplinary action and outcomes recommended by the investigator include:

6.1.1 In relation to a complaint against a Fellow:

- Censure
- Suspension of Fellowship
- Termination of Fellowship

6.1.2 In relation to a complaint against a doctor in training:

- Censure
- Suspension from the Training Program
- Termination from the Training Program
- Advice to certifying or licencing bodies as required

6.1.3 In relation to a supervisor of training, withdrawal of supervision rights.

6.1.4 In relation to a workplace involving training, initiation of a review of the relevant training post(s).

7 Acting on unsubstantiated complaints

If the complaint is **not** substantiated the following outcomes may be considered:

- both parties to be informed of the finding and the relevant reasons;
- the complainant will be advised that if he/she is unsatisfied with the outcome, he/she can lodge a complaint either internally through the appeals process, or externally through the relevant statutory bodies.

8 Internal Review

The *complainant* may request review of the investigation process and the findings from the investigation, if the complainant is dissatisfied with either the process or the outcome. The *respondent* may request an internal review if they are dissatisfied with the investigation process (not the outcome).

It will then be determined if an internal Review Panel, of personnel nominated by himself/herself, is necessary to assist in either a complainant or respondent's request for an appeal.

9. Document Control Management

9.1 Policy Information

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8.2 Document History

Version	Date Approved	Author	Description of revision	Internal Distribution	
				Date	Recipient/s
1.0	April 2021	M Cowie	New policy	Apr 2021	Board, ELT, OCEO

ACRRM acknowledges Australian Aboriginal People and Torres Strait Islander People as the first inhabitants of the nation. We respect the traditional owners of lands across Australia in which our members and staff work and live, and pay respect to their elders past present and future.