



RANZCO

The Royal Australian
and New Zealand
College of Ophthalmologists

Discrimination, Harassment & Bullying Policy

Approved by: Board

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1. POLICY STATEMENT

- 1.1 The Royal Australian and New Zealand College of Ophthalmologists (**RANZCO**) is committed to ensuring that RANZCO is free from Discrimination, Harassment and Bullying (**DHB**).

2. POLICY APPLICATION

- 2.1 This policy applies to:
- 2.1.1 College Business; and
 - 2.1.2 the RANZCO workplace

3. POLICY ADOPTION

- 3.1 Subject to **paragraph 6.3**, this policy governs RANZCO's response to DHB on and from the date of adoption of this policy by RANZCO's Board of Directors (**Board**) unless and until formally revoked, amended or repealed.

4. POLICY PURPOSE

- 4.1 The Board has adopted this policy to confirm RANZCO's position on DHB in relation to College Business and the employment context at RANZCO.
- 4.2 The Board has adopted a zero-tolerance approach to DHB and disciplinary action will be taken by the college against anyone who breaches this policy.

5. POLICY SCOPE & LIMITS

- 5.1 This policy acknowledges that DHB occurs within hospital and clinical employment contexts.
- 5.2 Members should note that employer policies apply in the workplace. This policy is not a substitute for employer policies and is not capable of addressing employment issues arising in employment contexts regulated by contracts of employment between Members and third parties.
- 5.3 It is expected that Members will engage relevant employer policies and that complaints concerning DHB will be made to relevant employment organisations in the first instance.
- 5.4 In the College Business context, this policy is applicable to situations which involve offending conduct by Members including a person appointed by RANZCO such as a Supervisor, Director of Training, Inspector, QEC Chair or Trainee.
- 5.5 For employees of RANZCO, this policy directly relates to their place of work at RANZCO.

6. APPLICABLE LAW

- 6.1 This policy recognises that DHB is the subject of case law, legislation and regulations of Australia, its States and Territories and New Zealand (**Law**). Relevant definitions of DHB may differ from jurisdiction to jurisdiction and over time.

- 6.2 It is the responsibility of all Members and RANZCO staff to ensure that they understand and abide by all relevant Law at all times.
- 6.3 To the extent to which this policy applies definitions of DHB that differ from those arising under the Law, definitions within the Law shall replace relevant definitions within this policy and shall be taken to be incorporated into this policy pending formal amendment and adoption by the Board.
- 6.4 Without limiting **paragraph 6.3**, when impugned conduct occurs in New Zealand, this policy specifically incorporates definitions of DHB arising under New Zealand legislation including the New Zealand Bill of Rights Act 1990, Human Rights Act 1993, Employment Relations Act 2000 and the Harassment Act 1997.
- 6.5 Where this policy is to incorporate new definitions of DHB pursuant to **paragraphs 6.3** and/or **6.4**, the onus is upon the person against whom a relevant allegation has been made to bring the applicable Law to the attention of RANZCO and to establish its applicability (given the location in which the impugned conduct is alleged to have taken place) in order to obtain any relevant benefit from the Law. Where the person against whom a relevant allegation has been made fails to bring any applicable Law to the attention of RANZCO or to establish the applicability of any relevant DHB definition, the definitions of DHB within this policy shall prevail.

7. RESPONSIBILITY FOR IMPLEMENTATION OF THIS POLICY

- 7.1 This policy recognises that:
- 7.1.1 victims of DHB are often in junior positions and may be unwilling to lodge a complaint;
 - 7.1.2 perpetrators of DHB may occupy senior positions and may have significant influence within RANZCO;
 - 7.1.3 notwithstanding **paragraphs 7.1.1 and 7.1.2**, instances of DHB do not always reflect established levels of seniority or influence and each complaint shall be assessed on its individual merits.
- 7.2 All Members and employees of RANZCO are responsible for the implementation of this policy regardless of whether they consider themselves directly affected by offending conduct or not.
- 7.3 All Members and employees of RANZCO are encouraged to:
- 7.3.1 report all instances of DHB in connection with College Business and at RANZCO;
 - 7.3.2 participate in RANZCO initiatives aimed at eliminating DHB in connection with College Business and at RANZCO; and
 - 7.3.3 practice “leadership by example” by engaging at all times in respectful and inclusive interactions in connection with College Business and at RANZCO.

8. MAKING A COMPLAINT

- 8.1 Instances of alleged DHB must be brought to the attention of RANZCO by way of complaint lodged in accordance with RANZCO’s *Complaints Resolution Policy*.
- 8.2 All Complaints will be responded to promptly ensuring always that relevant risks are identified and managed appropriately.

- 8.3 Subject to **paragraph 8.6**, alleged DHB shall be referred by RANZCO's *Complaints Committee* to RANZCO's *Code of Conduct Committee* for determination.
- 8.4 Subject to **paragraph 8.6**, the *Code of Conduct Committee* shall determine instances of alleged DHB in accordance with RANZCO's *Code of Conduct Procedure Policy*.
- 8.5 In view of the seriousness and in some cases, unlawful or criminal nature of DHB, RANZCO cannot respond to complaints other than those lodged in accordance with the *Complaints Resolution Policy*.
- 8.6 If, in the context of the investigation of a complaint, a breach of the Law is alleged or appears to have been committed, **paragraph 22** of the *Complaints Resolution Policy* shall apply.
- 8.7 RANZCO shall monitor complaints with a view to identifying systemic issues that may contribute to the incidence of DHB in connection with College Business and in the employment context at RANZCO.

9. BREACH OF THIS POLICY AND THE CODE OF CONDUCT

- 9.1 All instances of DHB are a breach of this policy.
- 9.2. All instances of DHB are also a breach of RANZCO's *Code of Conduct*.
- 9.3 Breaches of the *Code of Conduct* may attract sanctions that may include revocation of RANZCO membership.

10. LIMITS TO POLICY

- 10.1 To the fullest extent permitted by Law, this policy does not oblige RANZCO to take any steps which are not in its interest.

11. PRIORITY

- 11.1 To the extent of any inconsistency, between this policy and RANZCO's Constitution, the Constitution shall have priority.
- 11.2 This policy is also a Bylaw for the purpose of the Constitution.

12. DEFINED TERMS

- 12.1 In this policy:
- 12.1.1 Capitalised words defined in the text of this policy have their defined meaning;
- 12.1.2 undefined words have their normal meaning;
- 12.1.3 Subject to **paragraphs 6.3, 6.4 and 6.5**, the following Capitalised words have the following meaning unless amended or replaced in accordance with this policy:
- “College Business”** means all interactions between RANZCO Members in relation to or arising in connection with the business and activities of RANZCO. Without limiting the foregoing, College Business includes, but is not limited to, any all participation in the education and training activities of the College and any work conducted in the Board, Council, Branches, Special Interest Groups and Committees of RANZCO.

“**DHB**” is a collective acronym for the purposes of this policy that covers Discrimination, Harassment and Bullying.

“**Discrimination**” means treating someone less favourably than others on the basis of particular attributes including (under the Australian Human Rights Commission Act 1986) their:

- (i) age;
- (ii) criminal record;
- (iii) impairment, mental, intellectual, psychiatric and physical disability;
- (iv) marital status;
- (v) medical record;
- (vi) nationality;
- (vii) political opinion;
- (viii) race, colour, nationality, national extraction;
- (ix) social origin;
- (x) religion;
- (xi) sex;
- (xii) sexual orientation;
- (xiii) trade union activity.

Discrimination includes imposing an unreasonable requirement or policy that is the same for everyone but has an unfair effect on people with a particular attribute.

Additional forms of discrimination are identified under additional Federal, State and Territory legislation (see below)

“**Harassment**” means behaviour which is unwelcome and unsolicited and creates a hostile environment. Harassment is behaviour that intimidates, offends or humiliates a person on the basis of an attribute such as race, gender, disability, sexual orientation, age or other characteristics specified under relevant antidiscrimination or human rights legislation.

Harassment can be a single act or a series of acts; it does not need to be repeated or continuous to constitute harassment.

Harassment includes behaviour such as:

- (i) telling offensive jokes about a particular racial or religious group;
- (ii) making derogatory comments or taunts about someone’s race, religion, disability or sexual orientation;
- (iii) asking intrusive questions about someone’s personal life.

Harassment may be sexual in nature. Sexual harassment is an unwelcome sexual advance, unwelcome request for sexual favors or other unwelcome conduct of a sexual nature which makes a person feel offended, humiliated or intimidated, where a reasonable person would anticipate that reaction in the circumstances.

Examples of sexually harassing behavior include:

- (i) unwelcome touching;
- (ii) staring or leering;
- (iii) sexually explicit pictures or posters;
- (iv) unwanted invitations to go out on dates;
- (v) requests for sex;

- (vi) intrusive questions about a person's private life or body;
- (vii) unnecessary familiarity, such as deliberately brushing up against a person;
- (viii) insults or taunts based on sex;
- (ix) sexually explicit physical contact;
- (x) sexually explicit emails or SMS text messages.

While all forms of sexual harassment are unlawful, some types of harassment are also criminal offences, such as:

- (i) sexual assault;
- (ii) stalking;
- (iii) obscene communications, including using electronic devices to send inappropriate messages or images.

“Bullying” is *Repeated, Unreasonable Behaviour* directed towards a person or group of persons which creates a *Risk to Health and Safety*

“Repeated” refers to the persistent or ongoing nature of the behaviour, not the specific type of behaviour (which may vary). For example, bullying may comprise a combination of behaviours including unwarranted criticism or insults, spreading malicious rumours, deliberately withholding information or resources and influencing others to exclude or isolate the targeted person or persons. In many instances, bullying appears to begin as discreet and indirect behaviours escalating over time into more open and direct behaviours.

“Unreasonable Behaviour” means behaviour that a reasonable person, having regard to the circumstances, would expect to victimise, humiliate, undermine or threaten. It includes overt and covert types of behaviour such as:

- (i) abusive, insulting or offensive language;
- (ii) excluding, isolating or marginalising others, deliberately or otherwise, behaving in a way that frightens or intimidates;
- (iii) humiliating others through sarcasm, belittling someone's opinions or unjustified criticism, including criticism delivered by yelling or screaming;
- (iv) teasing or making others the brunt of practical jokes;
- (v) deliberately intruding on a person's space by pestering, spying or tampering with their work equipment or personal effects;
- (vi) spreading misinformation or malicious rumours;
- (vii) participating in 'collective bullying' or 'mobbing' which is characterised by passive aggressive group behaviour used as a deliberate strategy to drive an individual from the workplace;
- (viii) setting impossible assignments or deadlines;
- (ix) assigning meaningless tasks or unfairly assigning unpleasant tasks;
- (x) treating someone unfairly in relation to work rosters or workplace entitlements such as leave or training;
- (xi) deliberately withholding information or resources necessary for effective work performance;
- (xii) carrying out initiation pranks;
- (xiii) displaying offensive material.

“Risk to Health and Safety” includes the risk to the emotional, mental or physical health of the targeted person(s)ⁱ

Bullying does not include a robust and respectful exchange of views or a lawful and reasonable management direction or training/supervisory request.

“**Members**” means RANZCO Members, Associate Members and for the purpose of this policy only, prospective trainees.

Sources of Information and Legislation

Information

Australian Human Rights Commission
Australian Government (Comcare)
Royal Australasian College of Surgeons
The Royal College of Pathologists of Australasia
The Royal Australian and New Zealand College of Psychiatrists
NSW Health Bullying - Prevention and Management of Workplace Bullying in NSW Health
Prevention and Management of Unacceptable Workplace Behaviours in NSW Health
Bullying Guidelines Work Safe New Zealand

Australian Federal Legislation

Age Discrimination Act 2004
Australian Human Rights Commission Act 1986
Disability Discrimination Act 1992
Racial Discrimination Act 1975
Sex Discrimination Act 1984

Australian State and Territory Legislation

Australian Capital Territory – *Discrimination Act 1991*
New South Wales – *Anti-Discrimination Act 1977*
Northern Territory – *Anti-Discrimination Act 1996*
Queensland – *Anti-Discrimination Act 1991*
South Australia – *Equal Opportunity Act 1984*
Tasmania – *Anti-Discrimination Act 1998*
Victoria – *Equal Opportunity Act 2010*
Western Australia – *Equal Opportunity Act 1984*

New Zealand Legislation

New Zealand Bill of Rights Act 1990
Human Rights Act 1993
Employment Relations Act 2000
Harassment Act 1997

ⁱ *Bullying in the workplace A guide to prevention for managers and supervisors*, Australian Government Comcare 2007 and *Workplace Bullying Taskforce Report*, Queensland Government Department of Industrial Relations 2002