



<b>Document reference</b>	IC-20	<b>Date established</b>	March 2016
<b>Document category</b>	Professional	<b>Date reviewed</b>	2024
<b>Document type</b>	Policy	<b>Date of next review</b>	2029

## PREVENTION OF BULLYING, DISCRIMINATION AND HARASSMENT IN THE WORKPLACE

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### 1. PURPOSE

The College of Intensive Care Medicine of Australia and New Zealand (the College/CICM) is committed to equality of opportunity and ensuring that all members work in culturally sensitive and respectful environments, where they can thrive and deliver quality patient care.

The purpose of this policy is to identify what is considered unacceptable behaviour by Fellows, Trainees, International Medical Graduates (IMGs), volunteers and staff and define the role of the College in preventing and addressing their occurrence. The policy also provides information on key instruments and initiatives that workplaces and employers can implement to prevent bullying, discrimination, and harassment in the workplace.

### 2. BACKGROUND

The College is committed to equality of opportunity and ensuring that working and training environments are free from bullying, discrimination and harassment.

The College is committed to:

- ensuring that policies and procedures about bullying, discrimination and harassment are available
- taking proactive and meaningful action to prevent bullying, discrimination, and harassment in areas where College activities take place
- promoting appropriate standards of conduct
- encouraging the reporting of behaviour that breaches this policy
- administering an effective complaints procedure based on the principles of natural justice
- treating all complaints in a sensitive, fair, timely and confidential manner
- encouraging (where appropriate) the local resolution of issues
- providing information on the appropriate legislative organisation or body to which complaints regarding bullying, discrimination and harassment can be directed.



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## 3. POLICY

Fellows, Trainees, IMGs, are to be treated in a fair and equitable manner regardless of:

- gender
- age
- marital, domestic relationship, or relationship status
- pregnancy, or potential pregnancy, childbirth and breastfeeding
- parenthood or parental status
- carer status
- race
- ethnicity
- disability or impairment
- physical features
- sexual preference (including gender identity)
- religious beliefs
- political beliefs, affiliations or activity
- profession trade or occupation
- being affected by domestic violence.

The College expects work and training environments to be free of bullying, unlawful discrimination, and harassment. These behaviours are unacceptable and should be identified and addressed as a matter of priority.

### 3.1 Unacceptable behaviours

Fellows, Trainees, IMGs, staff and volunteers involved in College activities (e.g. Supervisors of Training, Examiners etc.):

- a) must not bully, discriminate against or harass:
  - an employee of the College
  - a contractor of the College
  - a patient, family member or visitor or any other member of the public
  - another Fellow, trainee, IMG, committee member or volunteer
  - any other person within their workplace.
- b) must not victimise another person, or subject a person to any detriment because that person:
  - has made a complaint in line with their employer's or College policies
  - has made a complaint or brought proceedings under their employer's or College policies
  - has, or proposes to, give evidence or information in connection with proceedings relating to a complaint.

### 3.2 Prevention of bullying, discrimination, and harassment in the workplace

As articulated in all relevant jurisdictional Occupational Health and Safety and Anti-Discrimination Laws, all employers have a legal responsibility to provide a safe workplace and ensure the health and wellbeing of employees whilst at work.



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There are various instruments and initiatives that employers can put in place to eliminate or reduce the risk of bullying, discrimination, and harassment in the workplace.

Key instruments and initiatives could include:

- defining appropriate workplace culture through shared goals and values
- actively working towards (and maintaining) a positive workplace culture
- adopting meaningful values, standards, and codes of conduct
- fostering effective leadership within the organisation and ensuring leaders model acceptable behaviour
- establishing, maintaining, and promoting policies and procedures for managing and preventing bullying, discrimination and harassment in the workplace
- openly encouraging the reporting of bullying, discrimination, and harassment
- ensuring transparency by providing appropriate and regular reporting to employees regarding bullying, discrimination and harassment claims including what the organisation has done to resolve the claims
- providing regular education and training on bullying, discrimination, and harassment in the workplace.

## **4. WHAT IS NOT BULLYING, DISCRIMINATION AND HARASSMENT**

### **4.1. Single incidents**

A single incident of unreasonable behaviour is not considered to be workplace bullying (although it could be considered discrimination or harassment if the unreasonable behaviour is directed towards a protected attribute (see definition of Discrimination)). Single incidents may have the potential to escalate and should never be ignored.

### **4.2 Workplace conflict**

Low-level workplace conflict is not considered to be workplace bullying. This is because not all conflicts or disagreements have negative health effects. When conflict is at a low level and is task-based, it can be beneficial, for example, where debate leads to new ideas and innovative solutions. Conflict does not always pose a risk to health and safety. However, in some cases, a conflict that is not managed safely may escalate to the point where it meets the definition of bullying.

### **4.3 Reasonable management action taken in a reasonable way**

There are times when reasonable management action may be necessary to effectively direct and control the way work is carried out. Reasonable management action is not bullying.

It is reasonable to allocate work and give fair and reasonable feedback on a person's performance, so long as they are carried out reasonably.

Examples of reasonable management action include:

- setting reasonable performance goals, standards and deadlines
- rostering and allocating working hours where the requirements are reasonable



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- deciding not to select a worker for promotion where a reasonable process is followed and documented
- informing a worker about unsatisfactory work performance when undertaken in accordance with any workplace policies or agreements that have been communicated to the worker
- informing a worker about inappropriate behaviour in an objective and confidential way
- termination of employment while adhering to relevant legislation and workplace policies and procedures.

## 5. SCOPE OF POLICY

### 5.1 In scope complaints

The College recognises that bullying, discrimination, and harassment does occur in hospitals in Australia and New Zealand. When such behaviours happen at an accredited training site, there may be a negative effect on trainees and their capacity to work and learn. These complaints fall within the remit of the [CICM's Complaints policy and handling process](#) and may be reviewed and addressed by the Hospital Accreditation Committee's (HAC) process.

In the case where bullying, discrimination, and harassment does take place on College premises or at a College-organised program or event, the College has the primary responsibility for investigating the complaint.

### 5.2 Out of scope complaints

Complaints about bullying, discrimination, and harassment in which the complainant wants particular action taken against a person or persons can only be addressed by the employer, hospital, or health service. The College does not have adequate or legal powers to conduct investigations into these complaints.

Where the College is not the employer and does not control the workplace of the complainant, respondent, or witnesses, it faces significant hurdles in seeking to conduct a sound, defensible and prompt fact finding investigation. For these reasons, any formal investigation regarding bullying, discrimination and harassment will need to be conducted by the employer, who has the primary responsibility for ensuring a safe workplace for all its employees.

If a complaint about bullying, discrimination or harassment is received by the College and is deemed to be out of scope of the College policy or process, College staff will provide advice to the complainant on the appropriate entity to direct the complaint (e.g. the employer/hospital's Human Resources (HR) Department).

### 5.3 Concerns regarding bullying, discrimination, or harassment

If you have concerns regarding bullying, discrimination, or harassment, please refer to the College's website which has information on the [College's complaints policy and handling process](#).



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Any member (Fellow, trainee, or IMG) experiencing bullying, discrimination or harassment may be adversely impacted in the workplace. It is highly recommended that support from an appropriate senior trusted colleague and via the College's [Member Assistance Program](#) is sought.

## 6. RELATED DOCUMENTS

### 6.1. CICM Policies

- IC-2 Statement on the Role of Intensive Care Specialists
- IC-9 Complaints Policy
- IC-21 Code of Conduct for College Members Acting in College Roles
- IC-23 Appeals, Review and Reconsideration Processes
- IC-34 Statement on Racism in the Healthcare System

### 6.2. Relevant Legislation

Jurisdiction	Legislation
Aotearoa New Zealand	<ul style="list-style-type: none"><li>• Human Rights Act 1993</li><li>• Employment Relations Act 2000</li><li>• New Zealand Bill of Rights Act 1990</li></ul>
Australia	<ul style="list-style-type: none"><li>• Sex Discrimination Act 1984 (Cth)</li><li>• Racial Discrimination Act 1975 (Cth)</li><li>• Disability Discrimination Act 1992 (Cth)</li><li>• Australian Human Rights Commission Act 1986 (Cth)</li><li>• Work Health and Safety Act (2011)</li><li>• Age Discrimination Act 2004 (Cth)</li><li>• Fair Work Act 2009 (Cth)</li></ul>

### 6.3. External Agencies

External advice with respect to bullying, discrimination and harassment in the workplace can be found through the following agencies in Australia and New Zealand:

Agency	Contact information
Australian Human Rights Commission	1300 656 419 <a href="https://www.humanrights.gov.au/">https://www.humanrights.gov.au/</a>
ACT Human Rights Commission	(02) 6205 2222 <a href="http://hrc.act.gov.au/">http://hrc.act.gov.au/</a>
Anti-Discrimination Board of NSW	(02) 9268 5544 <a href="http://www.antidiscrimination.justice.nsw.gov.au/">http://www.antidiscrimination.justice.nsw.gov.au/</a>



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Agency	Contact information
NT Anti-Discrimination Commission	(08) 8999 1444 <a href="http://www.adc.nt.gov.au/">http://www.adc.nt.gov.au/</a>
Anti-Discrimination QLD	1300 130 670 <a href="http://www.adcq.qld.gov.au/">http://www.adcq.qld.gov.au/</a>
Equal Opportunity Commission SA	(08) 8207 1977 <a href="http://www.eoc.sa.gov.au/">http://www.eoc.sa.gov.au/</a>
TAS Anti-Discrimination Commission	(03) 6165 7515 <a href="http://www.antidiscrimination.tas.gov.au/">http://www.antidiscrimination.tas.gov.au/</a>
VIC Equal Opportunity and Human Rights Commission	1300 292 153 <a href="http://www.humanrightscommission.vic.gov.au/">http://www.humanrightscommission.vic.gov.au/</a>
Equal Opportunity Commission WA	(08) 9216 3900 <a href="http://www.eoc.wa.gov.au/">http://www.eoc.wa.gov.au/</a>
Human Rights Commission NZ	0800 496 877 <a href="https://www.hrc.co.nz/">https://www.hrc.co.nz/</a>

## 6.4. Further Resources

### Medical and professional Codes of Conduct

- [Good medical practice: A code of conduct for doctors in Australia](#)
- [Medical Council of New Zealand's Standards](#)

### Workplace authorities

- [Fair Work Ombudsman Australia](#)
- [WorkSafe ACT](#)
- [SafeWork New South Wales](#)
- [Northern Territory WorkSafe](#)
- [WorkSafe Queensland](#)
- [SafeWork South Australia](#)
- [WorkSafe Tasmania](#)
- [WorkSafe Victoria](#)
- [Employment New Zealand](#)
- [Safework Australia](#)

### Employee Support

- [CICM Member Assistance Program](#)
- [Fair Work Commission](#)



**7. GLOSSARY OF KEY TERMS**

Term	Definition
Bullying	<p>Bullying is unreasonable behaviour that creates a risk to health and safety. It is behaviour that is repeated over time or occurs as part of a pattern of behaviour.</p> <p>'Unreasonable behaviour' is behaviour that a reasonable person, having regard to all the circumstances, would expect could victimise, humiliate, undermine, or threaten the person to whom the behaviour is directed. There are two broad categories of bullying- direct and indirect bullying.</p>
College activities	<p>College activities refers to any circumstance in which the person is engaged in activities supported by the College, or activities relating to the training and supervision of trainees and oversight of IMGs, and where the person is representing the College in those activities.</p>
Direct bullying	<p>Direct bullying is behaviour that is overt and usually involves conduct directed at a person to belittle or demean them.</p> <p>Examples include:</p> <ul style="list-style-type: none"> <li>• aggressive and intimidating behaviour</li> <li>• belittling, degrading or humiliating comments</li> <li>• spreading misinformation or malicious rumours</li> <li>• interfering with a person's property or work equipment</li> </ul> <p>displaying offensive material (e.g. pornography).</p>
Discrimination	<p>Discrimination is treating a person with an identified attribute or personal characteristic (as set out in legislation) less favourably than a person who does not have the attribute or personal characteristic.</p> <p>This includes unlawful discrimination in any aspect of the employment relationship including selection for employment, treatment during employment, promotion, employee benefits, conditions of employment, remuneration, transfer, discipline, training, work environment, supervision, and termination of employment.</p> <p>The Australian Federal Jurisdiction, the States and Territories of Australia, and New Zealand all have broadly similar legislation under human rights and equal</p>



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Term	Definition
	<p>opportunity legislation covering attributes that are grounds for unlawful discrimination.</p> <p>These include:</p> <ul style="list-style-type: none"> <li>▪ gender</li> <li>▪ gender identity including transgender identity</li> <li>▪ sex characteristics</li> <li>▪ pregnancy and potential pregnancy</li> <li>▪ childbirth or breastfeeding</li> <li>▪ family status and responsibilities</li> <li>▪ employment status</li> <li>▪ sexual orientation (including gender identity, gender history or intersex or transsexual status)</li> <li>▪ lawful sexual activity</li> <li>▪ disability or impairment</li> <li>▪ race (including colour, nationality, descent, and origin)</li> <li>▪ physical features</li> <li>▪ age,</li> <li>▪ carer status and family responsibilities</li> <li>▪ persons affected by domestic violence</li> <li>▪ religious belief or activity</li> <li>▪ political belief or activity</li> <li>▪ profession, trade, occupation or trade union membership and/or industrial activity; and</li> <li>▪ associated with a person who is identified by reference to any of these attributes.</li> </ul>
Direct discrimination	<p>Direct discrimination is when a person treats or proposes to treat a person with an attribute unfavourably because of that attribute.</p> <p>It is irrelevant:</p> <ul style="list-style-type: none"> <li>• whether that person is aware of the discrimination or considers the treatment to be adverse</li> <li>• whether or not the main or only reason for the treatment is the attribute, so long as it is a substantial reason.</li> </ul> <p>Examples of direct discrimination include:</p> <ul style="list-style-type: none"> <li>• a residential care home refusing to accept someone because of their sexual orientation.</li> </ul>





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Term	Definition
Harassment	<p>Harassment is any type of unwanted behaviour that offends, humiliates, or intimidates a person, and targets them because of a characteristic covered by anti-discrimination law (refer to definition on discrimination above).</p> <p>In general, harassment is any behaviour that is:</p> <ul style="list-style-type: none"> <li>▪ unwelcome, not asked for and not returned</li> <li>▪ likely to humiliate (put someone down), seriously embarrass, offend or intimidate (threaten or scare) someone</li> <li>▪ based on a personal characteristic (or family or friend's characteristic) protected by law.</li> </ul> <p>Examples of harassment include:</p> <ul style="list-style-type: none"> <li>• telling insulting jokes about racial groups</li> <li>• making derogatory comments or taunts about a person's disability</li> <li>• asking intrusive or offensive questions about someone's personal life</li> <li>• displaying racially offensive or pornographic posters or screen savers.</li> </ul> <p>Harassment does not have to be repeated or continuous to be against the law.</p>
Indirect bullying	<p>Indirect bullying is behaviour that excludes or removes benefits from a person.</p> <p>Examples include:</p> <ul style="list-style-type: none"> <li>• assigning meaningless tasks unrelated to the job</li> <li>• setting tasks that are unreasonably below or beyond a person's skill level</li> <li>• deliberately changing work rosters to inconvenience particular employees</li> </ul> <p>deliberately withholding information that is vital for effective work performance.</p>
Indirect Discrimination	<p>Indirect discrimination is when a person imposes or proposes to impose a requirement, condition or practice that is or is likely to disadvantage someone with an attribute.</p> <p>Examples of indirect discrimination include:</p>



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Term	Definition
	<ul style="list-style-type: none"> <li>• a company has a dress-code policy that does not allow employees to wear headgear. This could be indirect discrimination against women who wear headscarves for religious or cultural reasons</li> <li>• requiring employees to work full time may put employees who are the primary carer for children or a relative at a disadvantage, as they may need to work part time or flexibly. This could be indirect discrimination on the basis of carer status or family responsibilities.</li> </ul> <p>The intention or motive of discrimination is not relevant when determining whether discrimination has taken place.</p>
Sexual Harassment	<p>Sexual harassment is unwelcome sexual advances, unwelcome requests for sexual favours, or any other unwelcome conduct of a sexual nature that could be reasonably expected to result in a person feeling offended, humiliated or intimidated.</p> <p>Conduct of a sexual nature includes subjecting a person to any act of physical intimacy, making any remark or statement with sexual connotations to a person or about a person, or making any gesture, action or comment of a sexual nature in a person's presence.</p> <p>It can be physical, verbal or written and may involve:</p> <ul style="list-style-type: none"> <li>▪ behaviour that is accompanied by a direct or implied threat, benefit or promise. This type of sexual harassment is sometimes termed 'quid pro quo' harassment or 'sexual blackmail' because compliance is demanded in return for employment advantages or the avoidance of employment detriment</li> <li>▪ physical contact, verbal comments, jokes, propositions, graphic verbal commentaries about an individual's body, questions or insinuations about a person's sexual or private life, and unnecessary touching of an individual or the display of offensive material. This includes offensive material accessed from the internet or sent electronically</li> <li>▪ behaviour that creates a sexually permeated or hostile working environment</li> </ul>



Term	Definition
	<ul style="list-style-type: none"> <li>▪ behaviour that would also be an offence under criminal law. For example, physical assault, indecent exposure, sexual assault, stalking or obscene communications.</li> </ul> <p>The intention or motive of an alleged harasser is not relevant when determining whether the behaviour was unwelcome. Sexual harassment does not have to be repeated or continuous to be against the law.</p> <p>Sexual harassment does not include behaviour based on mutual attraction, friendship and respect. Sexual harassment does not include interactions that are consensual, welcome and reciprocated.</p>
Unconscious Bias	<p>Unconscious bias is when attitudes and stereotypes change our perceptions or understanding of our experiences, affecting behaviour, interactions with others, and decision-making<sup>1</sup>.</p> <p>These biases operate subconsciously, influencing us without our conscious awareness, and can contribute to unintentional discrimination or unequal treatment. Recognising and addressing these biases is crucial to promoting equity, diversity, and inclusion.</p> <p>Unconscious biases are often subtle and unrecognised and are partially a result of learned stereotypes shaped by our childhood, social structures, and community beliefs.</p> <p>Examples of unconscious bias include:</p> <ul style="list-style-type: none"> <li>• not offering extra work commitments or opportunities to female employees with children because it is assumed they are too busy with childcare responsibilities</li> <li>• assuming that older patients will be more offensive, demanding, or unwilling to receive treatment<sup>2</sup></li> </ul> <p>When unconscious bias is unrecognised, and uninterrogated, it can lead to incidences of discrimination and harassment. As intentions are irrelevant when</p>

<sup>1</sup> Marcelin J, Dawd S, Victor R, Kotadia S, Maldonado Y. The Impact of Unconscious Bias in Healthcare: How to Recognize and Mitigate It. *The Journal of Infectious Diseases* 2019;220(S2):S62–73. Available from: [https://academic.oup.com/jid/article/220/Supplement\\_2/S62/5552356](https://academic.oup.com/jid/article/220/Supplement_2/S62/5552356)

<sup>2</sup> Ben-Harush A, Shiovitz-Ezra S, Doron I, Alon S, Leibovitz A, Golander H, Haron Y, Ayalon L. Ageism among physicians, nurses, and social workers: findings from a qualitative study. *Eur J Ageing*. 2016 Jun 28;14(1):39-48. doi: 10.1007/s10433-016-0389-9. PMID: 28804393; PMCID: PMC5550621.



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Term	Definition
	determining whether discrimination or harassment has taken place, it is important for College employees, Fellows, Trainees, and IMGs to try to recognise and mitigate their unconscious biases.
Victimisation	Victimisation occurs when a person is threatened or treated unfairly due to that person: <ul style="list-style-type: none"><li>• making a complaint of bullying, harassment or discrimination</li><li>• helping someone else make a complaint</li><li>• giving evidence or information in connection to a complaint</li><li>• intending or is believed to intend to make a complaint</li><li>• refusing to do something because it would be bullying, sexual harassment, or discrimination.</li></ul>

*Published: 2016  
Revised: 2024*

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