



Australasian College
for Emergency Medicine

Whistleblower Policy

v4 COR450

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acem.org.au

Document Review

Timeframe for review: every two years, or earlier if required.
Document authorisation: ACEM Board
Document implementation: ACEM Chief Executive Officer
Document maintenance: Manager, Governance and Standards

Revision History

Version	Date	Pages revised / Brief Explanation of Revision
v1	Feb-2016	Approved by Board
v2	Aug-2018	Revisions to reflect Recommendation 8.33 of the Final Report of the Expert Advisory Group on Discrimination (EAG) and appointment of Independent External Reviewer..
v3	Oct-2020	Minor administrative revisions arising from two-yearly review.
v4	Dec-2022	Minor administrative revisions arising from two-yearly review.

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1. Purpose and Scope

A whistleblower policy is an important element in detecting corrupt, illegal or other undesirable conduct. It is expected that all ACEM members, trainees and staff will conduct themselves in a manner consistent with current community and College standards and in compliance with all related legislation.

The purpose of this policy is to promote a culture of corporate compliance, honesty and ethical behaviour and to provide an environment where any potential, perceived or actual wrongdoing within the College or by the College, its members, trainees or staff can be raised by members, trainees or staff freely without fear of reprisal or retribution. This will be achieved by:

- minimising the risk of illegal, corrupt or other improper conduct within the College through appropriate policies, procedures, regulations and good governance practices
- creating an environment of transparency
- encouraging staff, members and trainees to report their concerns, and
- establishing procedures which enable protection for those reporting their concerns and enabling resolution of the issue(s) identified.

This policy applies to all ACEM Officers (including Directors and Company Secretary), staff, contractors and consultants (including employees of such contractors and consultants) and all College members and trainees.

2. Definitions

ACEM/the College

means the Australasian College for Emergency Medicine.

College member

means a person admitted as a member of the College pursuant to the provisions of the ACEM Constitution and associated regulations, and, for the purposes of this policy, also includes any other person serving on any College entity or as a College representative.

Discloser

means a person who makes a disclosure under this policy.

Trainee

means trainees enrolled in and undertaking the FACEM Training Program and, for the purposes of this policy, also includes Emergency Medicine Certificate, and Emergency Medicine Diploma, Emergency Medicine Advanced Diploma and Diploma of Pre-Hospital and Retrieval Medicine (DipPHRM) trainees, and Specialist International Medical Graduates (SIMGs) undertaking College requirements for the purpose of attaining eligibility for election to Fellowship of the College.

Whistleblower

A person who discloses serious wrongdoing in accordance with this policy.

Whistleblowing

Means the disclosure by or for a witness of actual, suspected or anticipated wrongdoing in the College that relates to fraud corruption, illegal activities, gross mismanagement, malpractice or other serious wrongdoing.

3. Making a Disclosure

3.1 Making a disclosure

The College has a number of channels through which a person who becomes aware of suspected or actual improper conduct may make a relevant disclosure.

In the first instance, the College Chief Executive Officer (CEO) shall receive any disclosures of alleged wrongdoing. If the allegations involve the CEO, the matter should be referred to the ACEM President.

The College has appointed an Independent External Reviewer to assist individuals who are concerned that initiating a complaint through regular College processes may result in a breach of confidentiality or privacy or reprisal or retribution. Details of the functions of the Independent External Reviewer are contained in the College *Independent External Reviewer Policy* (COR642).

The Independent External Reviewer may be contacted via email: independentexternalreviewer@acem.org.au. Further contact details for the Independent External Reviewer may be obtained from the College by contacting complaints@acem.org.au. Such enquiries will be treated confidentially.

For workplace grievances, College staff should report these instances in accordance with the ACEM *Grievance Policy* (HR346).

3.2 Disclosable Conduct

Disclosable conduct includes, but is not limited to, conduct that:

- is fraudulent or corrupt
- is an abuse of public trust
- is illegal, such as theft, drug sale or use, violence, harassment, criminal damage to property or other serious breaches of laws in Australia or Aotearoa New Zealand
- is unethical, such as acting dishonestly, altering College records without cause or permission
- making false entries in College records, engaging in questionable financial practices
- is contrary to, or a serious breach of, College codes and policies
- breaches of the ACEM *Code of Conduct* that are not appropriate to discuss with the staff member's supervisor/manager/director or Human Resources
- is potentially damaging to the College, by compromising its training and educational activities, or
- represents significant breaches of occupational health and safety laws.

It is not appropriate to make a disclosure if the conduct is excluded under the relevant whistleblower laws. Examples include, but are not limited to, conduct relating to:

- industrial relations
- trivial or vexatious claims or
- personal workplace related grievances.

3.3 Form of Report

A disclosure may be made verbally or in writing. A person making a disclosure should have reasonable grounds for believing that the information provided is accurate. The disclosure should include as much information and evidence as possible, including where possible information on:

- the nature of the alleged improper conduct has occurred
- when and how the alleged conduct occurred
- the people involved in the conduct.

3.4 Anonymity

A whistleblower may make a disclosure anonymously. However, an anonymous report makes it more difficult to investigate the disclosure and take appropriate action. As such, anonymous disclosures will be examined, but may not be able to be progressed to the extent that would otherwise be possible. For this reason, ACEM would prefer the whistleblower to disclose their identity.

Alternatively, the whistleblower could provide their name and contact details and request that their details be kept confidential. In such circumstances, ACEM will, as far as reasonably possible, protect the person's identity unless the Discloser consents or if disclosure is required by law. If it is necessary to identify the whistleblower, this will first be discussed with the whistleblower, where practicable.

Any such disclosure should be in writing and include as much information as possible so as not to compromise the ability to fully investigate the disclosure.

3.5 False Reporting

Anyone making a disclosure must act in good faith and have reasonable grounds for believing the information disclosed constitutes improper conduct as stated in clause 3.1.

If it is found that a whistleblower has knowingly made a false or vexatious disclosure or has not made a disclosure in good faith, the Discloser may not be eligible for protections under this Policy. Further, such conduct itself will be considered a serious matter and may lead to disciplinary action, including termination of employment or ACEM membership, or removal from an ACEM training program as the case may be.

3.6 Confidentiality

The College commits to absolute confidentiality, fairness and impartiality in respect of any matter raised however, when a disclosure is investigated the details of the allegations may need to be disclosed to key personal of ACEM, external persons involved in the investigation process, relevant law enforcement agencies and/or as otherwise required or authorised by law. In this context ACEM will ensure that all reasonable steps are taken to reduce the risk of the complainant being identified.

Disclosures may be submitted anonymously. However, this may have significant limitations on a full and complete investigation occurring and will impact whistleblower protection under legislation and this policy.

It should be noted that maintaining confidentiality of the identity of the whistleblower may be difficult where the nature of the matter points to one particular individual and others may be able to deduce their identity.

3.7 Protection of Whistleblowers

The College is committed to providing protection to those who bring a disclosure of wrongdoing. In Australia, protections are available for whistleblowers under Part 9.4AAA of the Corporations Act 2001 (Cth) and, where relevant, state and federal Public Interest Disclosure Acts. The Protected Disclosures (Protection of Whistleblowers) Act 2022 provides corresponding information in Aotearoa New Zealand.

The act of whistleblowing should not protect whistleblowers from the consequences of any involvement in the improper conduct disclosed in the disclosure. Involvement in the improper conduct may lead to disciplinary action, including termination of employment or ACEM membership, or removal from an ACEM training program.. However, an admission may be a mitigating factor when considering disciplinary action.

3.8 Protection from Retaliation

ACEM will not tolerate any retaliation against a person because they have made a disclosure under this policy and is committed to protecting and respecting the rights of a person who discloses any wrongdoing in good faith.

The person (or entity) must not be disadvantaged or victimised for having made the disclosure by:

- dismissal or termination of services or supply
- demotion
- any form of discrimination or harassment, current or future bias or threats of any kind.

Any such retaliatory action or victimisation due to whistleblowing will be treated seriously and may be considered serious misconduct resulting in disciplinary action, which may include termination of employment or ACEM membership. or removal from an ACEM training program.

Note that where a whistleblower makes a disclosure in accordance with this policy, it will not prevent management from taking any reasonable management action, carried out in a reasonable manner, to manage the conduct and/or performance of College staff, where this is warranted.

4. Investigation Process

All disclosures of alleged or suspected wrongdoing received will be initially assessed as to the seriousness of the disclosure. Factors relating to the seriousness may include, but are not limited to:

- the gravity of the conduct itself
- the context in which the conduct occurred

- the extent of the potential or actual consequence(s), and
- the potential to expose systematic wrongdoing beyond the allegation made.

On receipt of a disclosure, ACEM has the discretion to determine whether it is appropriate to conduct an investigation. ACEM may decide not to investigate a disclosure if it is considered that:

- the alleged conduct is not disclosable conduct under this policy
- the disclosure is not made in good faith or is frivolous, vexatious or malicious
- the disclosure is made anonymously and there is insufficient information to undertake an investigation
- the subject matter of the disclosure has been satisfactorily dealt with or resolved through another grievance or reporting procedure
- some other more appropriate procedure is available in relation to the matter – for example, the matter may be able to be reported through Workplace Health and safety reporting mechanisms.

4.1 Conduct of Investigation

An investigation will generally be conducted if the matter is deemed to be serious. However, the investigation process will vary, depending on the nature of the disclosure and the amount of information provided.

In some cases, an external investigator(s) may be appointed to conduct the investigation. Terms of reference for the external investigation may be developed in order to provide guidance and a reference tool. The investigators will be able to consult with any other external expert advisors as considered necessary.

All investigations will be conducted in a fair, independent and timely manner that affords procedural fairness to all involved.

If the disclosed matter involves an allegation of a criminal nature, the matter may be referred directly to the College solicitor and/or appropriate authorities. If the matter is deemed to be of a minor nature, College regulations, policies and the Constitution shall be used to address the issue.

4.2 Person against whom a disclosure is made

The College recognises that individuals against whom a disclosure is made must also be supported during the handling and investigation of the allegation. The College will take reasonable action to ensure that the person who is the subject of the allegations is treated fairly and that procedural fairness is applied.

Once an investigation has commenced, the person who is the subject of the disclosure will be informed that an investigation has commenced and have the opportunity to respond to any allegations made.

4.3 Reporting of Findings

On completion of an investigation, a written report of the findings will be provided by the Investigator(s) to the ACEM Board. If the disclosure relates to a Director, that Director will be excluded from the Board's review of the Investigator's report and the making of any recommendations with respect to the report. The report will, to the extent possible, summarise the conduct of the investigation and the evidence collected and should detail any conclusions drawn, as well as making recommendation(s) for response by the College.

If any wrongdoing has been found to have occurred, the ACEM Board will take appropriate action, either on an internal basis or refer the matter to an appropriate external body.

The College will also take reasonable steps to review policies and processes to prevent the conduct, which is the subject of the report, continuing or occurring in the future.

Where applicable and to the extent permitted, the ACEM Board may provide feedback to the person who made the initial report regarding the progress of the investigation and/or the final outcome.

5. Associated Documents

- Grievance Policy (HR346)
- Independent External Reviewer Policy (COR642)

6. Associated Legislation

Australia

- Corporations Act 2001 (Cth)
- Public Interests Disclosure Act 2013 (Cth)
- Public Interests Disclosure Act 2012 (Vic)

Aotearoa New Zealand

- Protected Disclosures (Protection of Whistleblowers Act 2022)



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