



COMPLAINTS POLICY

1. PURPOSE AND SCOPE

The purpose of this policy is to provide a process to address and resolve matters or complaints against any member of the Australasian College for Emergency Medicine (ACEM; the College) made by other members, colleagues, ACEM staff or volunteers other than members, the general public or other sources where the complaint relates to:

- (a) the professional or ethical standards of conduct of a member, or
- (b) the conduct of a member which affects the honour, good reputation, interests, or work of the College.

This includes complaints made in relation to allegations of bullying, discrimination and sexual harassment, as described in the College *Discrimination, Bullying and Sexual Harassment Policy* (COR133)).

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 trainees as well as any other person serving on any College entity or as a College representative

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 trainees, and Specialist International Medical Graduates (SIMGs) undertaking College requirements for the purpose of attaining eligibility for election to Fellowship of the College

Vexatious complaint

means a complaint that is considered to be:

- instituted or pursued without reasonable ground;
- initiated to harass or annoy, to cause delay or detriment, or for any other inappropriate purpose; or
- an abuse of process.

3. GENERAL PRINCIPLES

3.1 Confidentiality

The matter or complaint shall be dealt with, as far as possible, on a confidential basis and consistent with the protection offered by the legal principle of qualified privilege. The College does not, however, guarantee anonymity of those making complaints.

3.2 Procedural Fairness

The procedures should be conducted in a fair and equitable manner at all times and in accordance with the principles of procedural fairness in accordance with the ACEM *Procedural Fairness Policy* (COR140) and any relevant legal requirements.

3.3 Timeframes

The College undertakes to address all complaints in as efficient and timely a manner as possible.

3.4 Victimisation

Victimisation is unlawful and will not be accepted or tolerated against a person who:

- has made, or intends to make, a complaint
- has 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
- has acted in good faith in bringing information or making a complaint in accordance with this policy.

Should such victimisation occur, disciplinary action will be considered against those involved.

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).

3.5 Defamation

Complaints 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 complaint handling processes.

Individuals appointed to assist in complaint handling processes are protected under the doctrine of 'qualified privilege' provided they act in accordance with the complaint resolution procedures and not maliciously.

3.6 False, Vexatious or Malicious Accusations/Complaints

Complaints that are considered to be vexatious or found to be malicious will be viewed seriously and may expose the complainant to risk of defamation proceedings or disciplinary action.

3.7 Intent

Perceptions and interpretations are likely to differ because of diverse backgrounds, cultures and views. 'Innocent intent' is not a defence or excuse against behaviours that may lead to complaints.

3.8 Support Person

A support person is responsible for providing assistance to the complainant or the respondent of a complaint allegation(s). 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.

3.9 Counselling and Support

A complainant may wish to seek counselling or assistance from someone independent. There is a range of organisations external to the College who can assist with this, including employer Employee Assistance Programs (EAPs), and organisations such as Beyond Blue (1300 224 636) or Lifeline (13 11 14), or Samaritans New Zealand (0800 726 666).

For College members and staff of ACEM, support is available through Converge International (1300 687 327 in Australia; 0800 666 637 in New Zealand).

3.10 Summary of Parties Rights

In relation to complaints, a complainant who is making a complaint, and a respondent against whom a complaint is made have the rights outlined below.

A complainant has a right:	A respondent has a right:
<ul style="list-style-type: none"> To have their complaint investigated and conciliated if requested and as appropriate. 	<ul style="list-style-type: none"> To be informed of what he/she is accused of and who is making the complaint(s) To respond to the complaint(s)
<ul style="list-style-type: none"> To have support or representation throughout the process 	<ul style="list-style-type: none"> To have support or representation throughout the process
<ul style="list-style-type: none"> To express concerns without fear of retribution or of suffering detriment 	<ul style="list-style-type: none"> To fair treatment and procedures, and not to be prejudged or discriminated against
<ul style="list-style-type: none"> To withdraw a complaint 	<ul style="list-style-type: none"> Not to be dismissed unfairly or otherwise treated unfairly, harshly or unreasonably (taking into account all the circumstances) To be protected from defamation and malicious complaints.
<ul style="list-style-type: none"> To privacy – to have the matter kept confidential on a ‘need to know’ basis. 	<ul style="list-style-type: none"> To privacy – to have the matter kept confidential on a ‘need to know’ basis

4. COMPLAINTS PROCESS

The process by which ACEM deals with complaints is described in the companion document to this policy, *Procedures for Submission and Resolution of Complaints* (COR656). In general, complaints will be dealt with as outlined in that document, cognisant of the principles outlined therein and in this Policy.

ACEM recognises that complaints may also be dealt with by other bodies, such as employers (Including hospitals) or regulatory authorities. Generally, if a complaint is being investigated by another body, ACEM will not initiate its own investigation until the other body(ies) have completed their investigations and the College is able to consider the matter in the context of the outcome of that work.

It is important to note that the College is limited in the range of outcomes available as a result of complaints progressed. The College is not a statutory body and cannot award compensation or other remedies to complainants, nor can it compel respondents to comply with outcomes of investigations other than that described in the *Procedures for Submission and Resolution of Complaints* (COR656) and other relevant College documents.

5. ASSOCIATED DOCUMENTS

- ACEM Constitution
- ACEM Regulations
- Code of Conduct (COR235)
- Independent External Reviewer Policy (COR642)
- Policy on Discrimination, Bullying and Sexual Harassment (COR133)
- Policy on Procedural Fairness (COR140)
- Procedures for Submission and Resolution of Complaints (COR656)
- Reconsideration, Review & Appeals Policy (COR355)
- Whistleblower Policy (COR45)

6. DOCUMENT REVIEW

Timeframe for review: every two (2) years, or earlier if required.

6.1 Responsibilities

Document authorisation: Board
 Document implementation: CEO
 Document maintenance: Governance and Standards Manager

6.2 Revision History

Version	Date of Version	Pages revised / Brief Explanation of Revision
v1	Sep-2014	Approved by the Board; the policy replaced Regulation 5.30 - Complaints
v2	Dec-2016	Approved by the Board
v3	Feb-2018	Revisions clarify: the applicability of the policy to College staff and volunteers as potential complainants; the inclusion of the definition of 'Vexatious Complaint', inclusion of Vexatious Complaint to s3.6; the addition of an Informal Resolution pathway as s4.3(3); and a description of that pathway as s5, with appropriate renumbering of subsequent sections.
v4	Aug-2018	Broad revisions arising from review as a result of recommendations contained in the report of the Expert Advisory Group on Discrimination (EAG).