

Australian and New Zealand College of Anaesthetists NOTIFICATION OF COMPLAINTS AND CONCERNS POLICY

1. PURPOSE

This policy describes the approach used by the Australian and New Zealand College of Anaesthetists (ANZCA), including the Faculty of Pain Medicine, to address and resolve complaints and concerns.

Complaints against and concerns about Fellows, trainees and specialist international medical graduates (SIMGs) on the pathway to fellowship can be received from:

- The community.
- Patients.
- Other health professionals.
- Employers.
- Tribunals.
- Regulatory or educational bodies.
- Other Fellows, trainees or SIMGs.
- Staff.

2. INTRODUCTION

ANZCA has adopted the following documents which make explicit the standards of ethical and professional conduct expected of doctors by their professional peers and the community:

- [Good Medical Practice: A Code of Conduct for Doctors in Australia](#) (Medical Board of Australia).
- [Good Medical Practice](#) (Medical Council of New Zealand).

These documents are referred to in this policy as the code of conduct.

Notifications may include complaints or concerns about:

- Professional standards including poor clinical standards or outcomes.
- Unacceptable behaviours such as bullying, discrimination or sexual harassment.
- Behaviours inconsistent with the code of conduct or the [Supporting Anaesthetists Professionalism and Performance Guide](#).
- Unacceptable behaviours that occur during training and assessment.

ANZCA is committed to ensuring best practice in managing complaints and concerns. ANZCA therefore is guided by the [AS/NZS 10002:2014 Guidelines for complaint management in organisations](#).

This policy outlines the way the College manages complaints and concerns and the procedures that support a timely, transparent and a rigorous approach to resolution. Throughout this document, complaints and concerns will be referred to as notifications.

This policy will cover notifications by employees about Fellows. Notifications about ANZCA employees are to be directed to Human Resources unit in the College.

A notifier will be treated fairly and in good faith and with a timely, clear and informative response. Consideration of a notification will be objective, impartial and managed confidentially in accordance with the notifier's consent and privacy obligations.

3. BODY OF POLICY

ANZCA's objective is that all Fellows, trainees and SIMGs demonstrate a high standard of performance and professionalism and comply with ANZCA standards, the [Professionalism and Performance Guide](#) and code of conduct.

ANZCA believes that Fellows, trainees and SIMGs are accountable to each other through the College for the maintenance of those standards and will endeavour to support notifiers and the subjects of notifications in order to assist in their resolution.

3.1 Working with other bodies investigating complaints

ANZCA recognises that other groups such as employers, hospitals, health services, health complaints entities, or regulatory authorities can deal with notifications. If a notification is being investigated by one of these bodies, ANZCA will take into account those other processes, assuming the issue still needs to be addressed by ANZCA.

If a notification in New Zealand involves an alleged breach of the Health and Disability Commissioner Code of Health and Disability Services Consumers' Rights (regulation 1996) it must be dealt with according to the provisions of the Health and Disability Commissioner Act 1994.

It is expected that Fellows, trainees and SIMGs will notify ANZCA of any adverse finding by a regulatory authority.

3.2 How complaints are received

Notifications can be received via telephone, post, email or in person and must be put into writing.

ANZCA may also take action in response to a newspaper article, other means of investigative journalism or an external audit outcome provided to ANZCA.

3.3 What ANZCA can and cannot do

ANZCA's primary role under this policy is to facilitate agreed outcomes in the interests of maintaining high standards of professional conduct, consistent with the code of conduct and the [Supporting Anaesthetists Professionalism and Performance Guide](#).

Notifications raised by patients about standards of care will be received and evaluated. However matters that require formal investigation cannot be handled by ANZCA and notifiers will be referred to either the medical regulator or relevant health complaints entity.

The College is not a regulator and does not have statutory powers. It cannot award compensation or compel outcomes. It cannot compel the production of documents. It can take action in accordance with its own regulation 26. It can also refer matters to the Medical Board of Australia or the Medical Council of New Zealand, health complaints entities, health departments or other colleges, where relevant.

The College may decide that a notification is abusive, trivial, misconceived or vexatious and refuse to deal with it any further other than to inform the notifier.

3.4 ANZCA commitment – general principles

3.4.1 Confidentiality

The notification will be dealt with, as far as possible, on a confidential basis. A notifier can choose to be identified, maintain confidentiality or specify anonymity. If the notification is to remain confidential only the outline of the concern raised will be recorded.

ANZCA will only act on a notification with consent from the notifier. ANZCA can take only limited action with anonymous individual notifications. However, where there is a cluster of anonymous notifications raising the same concern ANZCA may initiate action.

3.4.2 Procedural fairness

Any Fellow, trainee or SIMG about whom a notification is received, is entitled to receive sufficient details of the nature and circumstances of the allegations to allow him or her to fully respond to the allegations. This may necessitate the disclosure of the identity of the notifier and will be done only with the notifier's consent. Where that consent is withheld, ANZCA's ability to represent the issues fairly to the respondent will necessarily be limited.

3.4.3 Indemnification

Fellows who act in good faith and within College policies while carrying out College duties will be indemnified for those actions.

3.4.4 Timely responses

ANZCA encourages timely lodgement of notifications to allow for the best resolution for the benefit of all involved.

3.4.5 Collaboration

ANZCA supports resolution of notifications through established health agency pathways and seeks to be informed of notification and investigation outcomes, specifically where allegations of misconduct have been found that might represent a breach of the code of conduct.

3.4.6 Exclusions

If a notification comes under the mandatory scope of a statutory body, then that body's processes takes precedence.

ANZCA cannot get involved in notifications related to findings or decisions made about Fellows, trainees or SIMGs by regulators or in other legal proceedings.

ANZCA cannot provide direct legal assistance or legally represent Fellows, trainees or SIMGs involved in action by regulators or in other legal proceedings.

3.5 Pathway

ANZCA is committed to early intervention and prompt resolution of notifications. This will provide focus to the chosen pathway.

ANZCA has adapted the Vanderbilt Model for the management of notifications concerning professional conduct.

The model involves levels of graduated intervention where minor breaches are dealt with on a local basis. Mediation is used early with a progressive hierarchy to guide interventions.

- Level 1 – single unprofessional incident – informal, advice and assistance offered, point of reflection, non-judgemental.¹ Before being considered by ANZCA local resolution of a notification is preferable.
- Level 2 – apparent pattern – awareness intervention. First stage of formal process. Counselling stage.
- Level 3 – pattern persists – guided intervention by authority. Second stage of formal process. Disciplinary intervention considered. Employer involved.
- Level 4 – no change and potential for high impact or high risk – disciplinary intervention most likely. Employer shares responsibility for outcomes. Notification to medical regulator considered.

All notifications will be received by the ANZCA chief executive officer (CEO).

The CEO will determine where matters can be dealt with quickly in order to bring about an early resolution and may refer to the executive director of professional affairs (EDPA) for clinical advice and intervention.

¹ Note that very occasionally a single incident may be reckless or egregious enough to warrant a level 4 response.

Where matters are considered to be more complex or serious, they may be referred to the Professional Conduct Triage Group or other College committees. For example concerns about non-compliance with continuing professional development (CPD) will be handled by the CPD Committee under this policy. Notifications from trainees concerning their training progression and/or assessments are assessed with reference to related policies.

Notifications about anaesthesia trainees will be dealt with according to the provisions of [Regulation 37: Training in anaesthesia leading to FANZCA, and accreditation of facilities to deliver this curriculum](#).

Notifications about Faculty trainees will be dealt with according to the provisions of [By-law 4: Faculty of Pain Medicine Training Program](#).

Notifications about SIMGs will be dealt with according to the provisions of [Regulation 23: Recognition as a specialist in anaesthesia or pain medicine and admission to fellowship by assessment for Specialist International Medical Graduates \(SIMGs\)](#). For Faculty SIMGs, the provisions of [By-law 16](#) will be applied.

3.6 Triage

Triage enables the identification of the appropriate pathway to progress notification resolution.

- a. A professional conduct triage group comprising ANZCA's CEO, deputy CEO, vice-president, EDPA, will undertake an initial assessment.
- b. Complex notifications may be referred to an appropriate College committee.
- c. ANZCA may engage an external assessor.

Allegations of unacceptable standards of clinical practice and issues of unacceptable or poor behaviour will be assessed with the appropriate pathway being determined.

The professional conduct triage group may manage level 1 and 2 notifications. Levels 3 and 4 require authorisation or determination by the ANZCA Executive Committee and ANZCA Council respectively.

Notifications involving trainees will be forwarded to the Education, Training and Assessment Management Committee for monitoring ANZCA trainees and FPM's Training and Assessment Executive Committee for monitoring Faculty trainees.

3.7 Governance

- 3.7.1 The ANZCA Executive Committee of Council will provide governance oversight of this policy and its implementation.
- 3.7.2 All issues relating to notifications are reported through the ANZCA Executive Committee, although they may also be reported as appropriate to external regulators. Confidentiality will be observed and only relevant points will be communicated. Where notifications involve Fellows or trainees of the Faculty of Pain Medicine, the dean of the Faculty will be invited to join the Executive Committee in its deliberations.
- 3.7.3 The ANZCA Executive Committee may, after consideration of a matter, intervene and make its own determination or refer the matter directly to ANZCA Council.
- 3.7.4 The respondent may appeal a determination according to the reconsideration, review and appeal processes ([regulations 30 and 31](#)). Those outcomes will be reported in a summarised version by the EDPA to the ANZCA Executive Committee.

4. POTENTIAL OUTCOMES:

Potential outcomes may include:

- a) No further action.
- b) Informal discussion with a senior Fellow as quickly as possible, to inquire about:
 - i. Member's welfare.
 - ii. Member's reflections on the matter, and changes to future practice.
 - iii. Assistance ANZCA may give with continuing education

- c) Referral to an individual nominated by ANZCA to assist and support professional practice.
- d) Referral to an external organisation.
- e) Requirement to sign a deed of undertaking (level 2 conduct).
- f) Issue of a reprimand (level 3 conduct).
- g) Referral to [Regulation 26](#) Professional Standards Panel (levels 3 or 4 conduct).
- h) Referral to ANZCA Council for consideration of removal of fellowship, other disciplinary actions, for example, report to medical regulatory authority, publication of details of matter (level 4 conduct).

4.1 Level 1 – show cause

After evaluation of the notification, the Fellow may be required to explain his or her actions or reasons why the notification was raised.

ANZCA may take the following approach.

If it is satisfied with the explanation of the matter, no further action is required.

If it is agreed that the notification is substantiated but it constitutes a single unprofessional incident and is in ANZCA's opinion, unlikely to be repeated, informal counselling with a nominated Fellow may be required but the matter will not be escalated beyond that point.

4.2 Level 2 – deed of undertaking

After assessment and the Fellow's response, where it appears that the Fellow may have breached the code of conduct, the Fellow will be requested to sign a deed of undertaking (the deed) to comply with the code. No further consideration of the notification will be undertaken. By signing the deed, the Fellow is confirming that:

- a) The code of conduct is the standard of behaviour required for all Fellows.
- b) He or she undertakes to comply with the code and the *ANZCA Professionalism and Performance Guide*.
- c) Failure to comply may result in the application of a censure or restrictions on fellowship.

If a Fellow does not sign the deed when requested to do so, the notification will be escalated to level 3 for further consideration.

4.3 Level 3 – reprimand

A reprimand is a written notification informing a Fellow that he or she has been found to have breached the code of conduct or whose standard of practice has been determined to be below that required of a Fellow. The CEO will issue this under the authority of ANZCA Council following a recommendation of a panel convened under [regulation 26](#). Where the action involves a Fellow of the Faculty of Pain Medicine, this will be done in consultation with the Faculty Board.

A reprimand may be given once the notification and response have been evaluated; any further consideration taken into account where necessary, and a finding of a breach of the code of conduct has been made. A Fellow receiving a reprimand will be required to sign the deed of undertaking, and may be required to undertake remediation activities including attendance at certain nominated courses (at own expense), and review after a period of time.

Until the required remediation is undertaken, the Fellow may be unable to, as specified in the reprimand:

- a) Participate in an ANZCA committee or as an examiner.
- b) Supervise trainees or SIMGs.
- c) Teach on an ANZCA course.
- d) Apply for a College scholarship or research grant.
- e) Be eligible to receive a College award.
- f) Be eligible to be elected or appointed to ANZCA Council or committees, or the Faculty of Pain Medicine Board or committees.

4.4 Level 4 – sanctions or termination of fellowship

Where a Fellow is found to have repeatedly breached the code of conduct or if a very serious breach of the code is found to have occurred, ANZCA Council may terminate fellowship under clause 4.2 of the constitution or apply sanctions on membership. Where the action involves a Fellow of the Faculty of Pain Medicine, this will be done in consultation with the Faculty Board.

Until the required remediation is undertaken the Fellow will be unable to:

- a) Participate in an ANZCA committee or as an examiner.
- b) Supervise trainees or SIMGs.
- c) Teach on an ANZCA course.
- d) Apply for a College scholarship or research grant.
- e) Be eligible to receive a College award.
- f) Be eligible to be elected or appointed to ANZCA Council or committees, or the Faculty of Pain Medicine Board or committees.

Withdrawal of fellowship on these grounds will also be reported to the relevant medical regulator.

5. RECONSIDERATION, REVIEW AND APPEAL OF OUTCOMES

The respondent may appeal the resolution of the notification according to the reconsideration, review and appeal policies ([regulations 30 and 31](#)). Those outcomes will be reported in a summarised version by the EDPA to the ANZCA Executive Committee.

6. CHANGES TO POLICY AND PROCEDURE

The College may modify or amend this policy and procedure at any time. Formal notice of changes will not ordinarily be given, but the current policy will be available via the College website www.anzca.edu.au or by contacting the College on 613 9510 6299.

7. COMMENCEMENT

ANZCA Council adopted this policy on May 15, 2017.

ASSOCIATED DOCUMENTS

Good Medical Practice: A Code of Conduct for Doctors in Australia (Medical Board of Australia)
Good Medical Practice (Medical Council of New Zealand)
Supporting Anaesthetists' Professionalism and Performance Guide
Regulation 23 Recognition as a specialist in anaesthesia or pain medicine and admission to Fellowship by assessment for Specialist International Medical Graduates (SIMGs)
Regulation 26 Standards of Professional Practice
Regulation 30 Reconsideration and Review Processes
Regulation 31 Appeals Process
Regulation 37 Training in anaesthesia leading to FANZCA, and accreditation of facilities to deliver this curriculum
FPM By-law 4 FPM training program
FPM By-law 16 Recognition as a specialist in pain medicine for SIMGs
 Discrimination Bullying and Sexual Harassment Policy
 Privacy Policy

CHANGE CONTROL REGISTER

Version	Author	Approved by	Approval Date	Sections Modified
1	CEO	Council	May 15 2017 (via e-vote)	Original document

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APPENDIX 1

DEFINITIONS

Assessment	<p>The documentation of a notification in detail. This will usually include an interview with the notifier and possibly several recommended witnesses.</p> <p>An assessment will usually lead to a recommendation to:</p> <ul style="list-style-type: none">• Take no further action.• Adopt a specific course of action.
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