1. **PURPOSE AND SCOPE**

The purpose of this policy is to describe the approach used by the Royal Australasian College of Surgeons (RACS) to address and resolve complaints. The approach is transparent, robust and based on best practice. Complaints against Fellows, Trainees and International Medical Graduates on the pathway to Fellowship and can be received from the community, patients, other health professionals, employers, tribunals, regulatory or other educational bodies or other Fellows, Trainees or International Medical Graduates (IMGs) of RACS employees where it relates to:

- Professional standards including poor clinical standards or outcomes, unacceptable behaviours such as bullying, discrimination or sexual harassment, excessive fees or other behaviours inconsistent with the requirements of the RACS Code of Conduct.
- Training and Assessment

Complaints about or by RACS employees are to be directed to the RACS Human Resources Department.

2. **KEYWORDS**

Complaints, unacceptable behaviours, code of conduct, sanctions.

3. **BODY OF POLICY**

3.1. **Standards of Performance**

RACS wants to ensure all Fellows, Trainees and International Medical Graduates demonstrate a high standard of performance and professionalism and comply with the RACS Code of Conduct, the RACS Competence and Performance Guide and appropriate codes of the medical regulators in Australia and New Zealand.

3.2. **Working with other Bodies Investigating Complaints**

RACS recognises that complaints can be dealt with by other groups such as employers, hospitals, health services or regulatory authorities. If a complaint is already being investigated by one of these bodies, RACS would not normally initiate a complaints process until hearings of the other bodies are completed, assuming the issue still needs to be addressed by RACS.

3.3. **How Complaints are Received**

RACS receives both enquiries and formal complaints. They can be received via telephone, post, email, newspaper articles, audit outcomes or in person.

3.3.1. **Enquiries**

are defined as queries about issues of concern, whether they are in scope, and about complaint pathways. They can be confidential or anonymous reports without consent or authority to proceed and often involve seeking guidance and support. Enquiries may remain anonymous when advice is being sought on an appropriate course of action, or to register an unacceptable behaviour where it is not expected or desired that RACS takes the matter further.
3.3.2. A complaint is an expression of dissatisfaction with the conduct of another, or with the workplace, training environment, clinical assessment, policy, protocol or service provided. A complaint includes consent and authority to proceed.

If a complainant is unsure about whether to lodge a complaint they can access the RACS Manager, Complaints Resolution to obtain clarification.

What can RACS do?

The College is not a regulator and does not have statutory powers. It cannot award compensation or compel outcomes. It can take disciplinary action in accordance with the Sanctions, Trainee Misconduct and IMG Misconduct policies.

3.4. General Principles – RACS Commitment

3.4.1. 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. A complainant can choose to be identified, maintain confidentiality or specify anonymity. If an anonymous enquiry is lodged or if the concern is to remain confidential the record will only detail the outline of the concern raised. RACS can respond to enquiries yet can only act on a specific complaint when consent from the complainant is received. Individual anonymous enquiries are assessed and registered. RACS can initiate a response or action where there is a cluster of anonymous enquiries raised about the same respondent.

3.4.2. Procedural Fairness

Any Fellow, Trainee or IMG against whom a complaint is made 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 and as the rules of transparency, procedural fairness and natural justice may require. This may necessitate the disclosure of the identity of the complainant and will be done only with the complainant’s consent.

3.4.3. Timely Responses

RACS encourages timely lodgement of complaints to allow for the best resolution of performance and behavioural issues for the benefit of all parties concerned.

3.4.4. Collaboration

RACS supports resolution of complaints through established health agency pathways. RACS seeks to be informed of complaints and investigation outcomes, specifically where allegations of misconduct have been found that might represent a breach of the Code of Conduct. Where RACS has an established MOU with another body, RACS will communicate directly with a nominated representative and by mutual agreement will provide assistance to address the complaint. With the consent of the complainant, the details and progress of a complaint including the parties’ names may be shared by RACS with a hospital or health service at which the respondent practises.
3.4.5. Exclusions

While RACS does accept complaints from Regulators about Fellows, RACS does not accept complaints from Fellows about other Fellows arising out of regulator led reviews, clinical reviews coordinated through Professional Standards or other court based proceedings. The complainant will be directed to raise their concerns in the courts where evidence has already been presented.

3.5. Complaints Data

The complaints process of RACS is centralised with key data recorded on the complaints database. The complaints database is classed as a highly confidential system with access managed by the Manager, Complaints Resolution.

3.6. Triage

Triage enables the identification of the appropriate pathway to progress resolution of the enquiry or complaint. This is initiated by the Manager Complaints Resolution. This may include consultation with the Chief Executive Officer, relevant Executive Director of Surgical Affairs (Australia or New Zealand), Clinical Director International Medical Graduate Assessment and Support, General Counsel, Divisional Directors or key Department Managers.

Unacceptable standards of clinical practice, breaches of the Code of Conduct including issues of unacceptable behaviour and excessive fees will be registered and assessed with the appropriate pathway being determined.

Complaints concerning training and assessment are also registered and assessed with reference to related policies. Requests for review of decision or performance are monitored as they progress through the procedural pathway set by the appropriate Division and oversighted by the Education Board.

A complaint about excessive fees will be treated as a possible breach of the Code of Conduct (section 7(1)). While the pathways below may apply, a complaint about excessive fees may be referred directly to the Professional Conduct Committee.

3.5. Pathway

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

3.6.1. Additional assessment by senior surgeon

The Executive Director for Surgical Affairs or other Fellow confers with the respondent and discusses the allegations raised and considers requirements for changed behaviour and / or action in respect of any alleged breaches of the RACS Code of Conduct.


The Manager Complaints Resolution receives allegations and submits them to the respondent for review and response. A copy or summary of the response is shared with the complainant and others as required by the Manager Complaints Resolution. A view is formed as to whether there has been a possible breach of the Code of Conduct or other RACS policy. In rare cases an investigation may take place. In the case of excessive fees, the treating surgeon is asked to justify the basis of the fees charged in accordance with the Excessive Fees Complaints Policy.
3.6.3. **Meetings**

If both parties to the complaint are willing to engage in a facilitated discussion that is conciliatory in nature, then an agenda can be structured for a meeting. Each party has the option to bring a (non-legal) support person to the meeting. If and when possible agreed actions / outcomes are summarised and shared with the parties for resolution. In some instances complaint matters can be referred for external mediation with the ambition of a mediated agreement.

3.6.4. **Formal Proceedings**

Any complaint against a Fellow may be referred by RACS to the Professional Conduct Committee for determination. Complaints about clinical standards may require a formal review with terms of reference agreed by all parties and supported by appropriate legal indemnities. The EDSAs (Australia and New Zealand) will coordinate the identification of appropriate reviewers to undertake these activities. Egregious or systemic matters can be referred to the Professional Standards Committee, or for external investigation. Applications for formal proceedings will also involve the General Counsel of RACS and, as appropriate, external legal advice.

3.6.5. **Outcomes**

If a breach of the Code of Conduct is identified a sanction may be applied by the person who determines the complaint under the Sanctions policy. If a breach of a misconduct policy by a trainee or IMG is identified a penalty may be applied pursuant to the relevant policy.

Complaints about or by RACS employees will follow RACS employee complaints/grievance policies/procedures.

3.7. **Governance**

3.7.1. All issues relating to complaints are reported through the Professional Standards Committee, although they may also be reported as appropriate to the Education Board or external regulators. Confidentiality will be observed and only necessary points of relevance will be communicated.

3.7.2. The Councillor responsible for overseeing these activities is the Chair of the Professional Development and Standards Board.

3.7.3. A determination by the Professional Conduct Committee may be appealed by the complainant or respondent in accordance with the Appeals Mechanism policy. The outcomes of the Appeals Committee and other significant reviews are reported in a summarised version by the EDSAs to the Executive Committee of Council.

3.8. **External Review**

3.8.1. RACS will internally resource its approach through the offices of Manager Complaints Resolution, General Counsel, Executive Directors of Surgical Affairs (Australia and New Zealand), Chief Executive Officer and Divisional Directors.

3.8.2. RACS may use external contractors to undertake investigations of complaints about Fellows, Trainees and International Medical Graduates as appropriate. RACS will also utilise senior external Medical Educators, the Dean of Education and Clinical Director International Medical Graduate
Assessment and Support to undertake educationally focused reviews when required for Trainees and International Medical Graduates.

3.8.3. A dissatisfied complainant or respondent can request their complaint resolution be referred for review by the Professional Conduct Committee (PCC).

3.8.4. The complaints process will be reviewed at least on an annual basis by an independent expert reviewer appointed by RACS. This report shall be submitted to the February meeting of the RACS Council. If required RACS can request the independent expert to review an individual case.

4. ASSOCIATED DOCUMENTS
Complaints User Guide
Complaints Manual
Complaint Form
Request for Review of Decision Form
Appeals Mechanism Policy
Clinical Reviews Policy
Code of Conduct
Competence and Performance Guide
Excessive Fees Complaints Policy/Excessive Fees Position Paper
External Reviewer Policy (to be devised)
IMG Misconduct policy
Professional Conduct Committee Terms of Reference
Sanctions Policy
SET Misconduct policy
Discrimination Bullying and SH policy
Privacy policy
Natural Justice position paper

Approver  Council Executive
Authoriser  Council