



## NIIM HREC Research Misconduct Complaints and Resolution Procedures

### 1. Procedures Statement

This document sets out the processes for receiving and investigating complaints and allegations of research misconduct by the National Institute of Integrative Medicine (NIIM) Human Research Ethics Committee (HREC). It draws on the Australian Code for the Responsible Conduct of Research<sup>1</sup>.

### 2. Application

These procedures apply to all researchers who are involved in research projects approved by the NIIM HREC.

### 3. Definitions

Breaches of the Code: specific actions or omissions that constitute breaches of the NIIM Research Code of Conduct (NIIM staff and students) and/or Australian Code of Conduct for Responsible Conduct of Research (all researchers) that lack the seriousness of consequences or wilfulness to constitute research misconduct. Such breaches should be remedied by counselling or advice, however their repetition or continuation may lead to more serious consequences which may then constitute research misconduct.<sup>2</sup>

External Researcher: an individual who is not a staff member or student of NIIM, who is conducting or participating in a research project that is approved by the NIIM HREC.

Failure to Implement the Code: failure to take responsibility for achieving the standards aspired to in the NIIM Research Code of Conduct (NIIM staff and students) and the Australian Code of Conduct for the Responsible Conduct of Research (all researchers).

Research Misconduct: serious breaches of the Australian Code for the Responsible Conduct of Research that are sufficiently substantial to warrant formal investigation, and denial or admission. A complaint or allegation relates to research misconduct if it involves the following:

- An alleged serious and/or deliberate breach of the NIIM Research Code of Conduct (NIIM staff and students) and/or Australian Code of Conduct for Responsible Research (all researchers)
- Repeated and/or continual breaches of the Australian Code of Conduct for Responsible Research that may lead to more serious consequences
- Intent and deliberation, recklessness or gross and persistent negligence
- Serious deviation from accepted standards within the research and scientific community

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<sup>1</sup> <http://www.nhmrc.gov.au/guidelines-publications/r39>

<sup>2</sup> Australian Code for the Responsible Conduct of Research. Available at URL: <http://www.nhmrc.gov.au/guidelines-publications/r39>

- Serious consequences eg. false information on a public document, adverse effects on research participants, animals or the environment<sup>1,2</sup>

An allegation of research misconduct may be linked with other types of misconduct eg. bullying.

Examples of research misconduct include: plagiarism, falsification, fabrication or deception in proposing, conducting or reporting research; misleading ascription of authorship (eg. listing authors without their permission, not including someone as an author when they fulfil the requirements, lack of appropriate acknowledgement of work primarily conducted by a research student or trainee); failure to declare or manage a conflict of interest; failure to gain ethical approval for a research project to proceed; failure to follow research protocols approved by the HREC; wilful facilitation or concealment of research misconduct of others; and repeated or continuous breaches of the NIIM Research Code of Conduct (NIIM staff and students) and/or Australian Code of Conduct for the Responsible Conduct of Research (all researchers)<sup>1,3</sup>.

Research misconduct does not include honest differences in judgement in management of research or honest errors that are minor or unintentional<sup>2</sup>.

Serious Research Misconduct: is that which has the potential to endanger the safety of others including research participants.

#### **4. Complaints and Allegations Against NIIM Staff and Students**

4.1 Where an allegation or complaint about research misconduct is made against a NIIM staff member, the allegation or complaint will be investigated under the NIIM Staff Research Misconduct Complaints and Resolution Procedures.

4.2 Where an allegation or complaint about research misconduct is made against a NIIM HDR student, the allegation or complaint is handled under the NIIM HDR Student Research Misconduct Complaints and Resolution Procedures.

#### **5. Allegations and Complaints Against External Researchers**

5.1 Individuals are encouraged to bring to the attention of the HREC any allegations or complaints about the conduct of research by writing to the HREC Secretary.

5.2 The following categories of allegations and complaint are relevant:

- a. Failure to Implement the Code (Australian Code for the Responsible Conduct of Research)
- b. Breaches of the Code (Australian Code for the Responsible Conduct of Research)
- c. Research Misconduct, including Serious Research Misconduct

5.3 On receipt of a written complaint, the HREC Secretary will forward the complaint to the HREC Chair.

5.4 The HREC Chair will assess the preliminary evidence in relation to the allegation and may decide to do one of the following:

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<sup>3</sup> University of Melbourne Office for Research Ethics and Integrity. Research Misconduct. Available at URL: <http://www.orei.unimelb.edu.au/content/research-misconduct>

- Dismiss the allegation; or
- Refer the allegation and any accompanying evidence to the HREC Executive for investigation; or
- Do anything reasonable to resolve the allegation

5.5 Where the allegation or complaint is that of serious research misconduct, the HREC Chair may suspend the HREC approval for the project immediately by notifying the Chief Investigator in writing. In such cases, the NHMRC will also be notified in writing.

## **6. Investigation of Allegations and Complaints Against External Researchers**

6.1 The Chair of the HREC will advise the external researcher in writing of the allegations and any associated evidence, and advise them that an investigation will be conducted. The written communication will advise that they will be given an opportunity to respond in writing to the allegations, as well as in person or by phone or video conferencing where a hearing may be necessary.

6.2 The NIIM HREC Executive will consider the evidence and/or appoint an external investigator to carry out an investigation into the allegations. This may include receiving written submissions from and/or interviewing the following persons:

- The person who made the allegation
- The external researcher against whom the allegation was made, and
- Any other person deemed relevant by the Chair of the HREC in order to investigate the allegation.

6.3 If additional allegations against the external researcher or new evidence or facts emerge as a result of the investigation process these will be communicated to the external researcher in writing via email and the researcher given opportunity to respond to these.

6.4 The external researcher is given an opportunity to respond to the allegations via a meeting with the HREC Executive or external investigator. Where an external researcher is to be interviewed, written notice of the meeting will be sent to the external researcher via reply-receipt email inviting them to attend a meeting either in person or via phone or teleconference. The notification should include a statement of the allegations, evidence provided in relation to the allegation, date, time and place of the meeting, and an invitation to submit written evidence in relation to the allegations prior to the hearing. The notice should state that the external researcher may have in attendance a support person to provide moral support and who may not talk during the meeting. It should also state that the support person may not be a legal representative of the external researcher. Receipt of written notification of the date and time of the meeting will be deemed to be within 48 hours of it being sent via email.

6.5 The HREC Executive or external investigator will complete an investigation report summarising the following:

- Allegations made
- Findings of fact in relation to each allegation
- Conclusions reached and the basis upon which these were made; including whether the allegations relate to:
  - a. Failure to Implement the Code
  - b. Breaches of the Code
  - c. Research Misconduct, including Serious Research Misconduct

- Recommendations for action, including whether due to the seriousness of the findings it is necessary for the Chief Investigator to be advised of the complaint and outcome of the investigation

6.6 In the case where the allegations are not upheld, no further action is taken. The external researcher is advised in writing via email.

6.7 In the case where the allegations are upheld, the external researcher will be advised in writing, by the HREC Executive, of the outcome of the investigation and required actions.

6.8 The external researcher will be required to report to the HREC Executive in relation to the required actions. If the external researcher undertakes actions which in the opinion of the HREC Executive remedies the complaint, then no further action will be taken. If the researcher does not take such action, the Chair of the HREC will inform the Chief Investigator and may take any other actions as deemed necessary including suspending HREC approval of the project and notifying the NHMRC.

6.8 In the case where the allegations are upheld wholly or in part, and where the HREC Executive determines the Chief Investigator should be notified of the complaint and outcome, the HREC Chair will advise the Chief Investigator in writing of the allegations and the findings and recommendations of the HREC Executive.

6.9 If the Chief Investigator undertakes action which in the opinion of the Executive remedies the complaint, then no further action will be taken. If the Chief Investigator does not take such action, the Chair of the HREC will suspend the HREC approval of the project and will notify the NHMRC.

6.10 The complainant is notified of the outcome of the investigation, including any recommendations and actions taken, where relevant, by the HREC Executive in writing.

## **7. Appeals**

8.1 External researchers and complainants have a right to appeal against a decision made in relation to a finding of the HREC Executive.

8.2 Grounds for appeal are:

- The procedure was not followed correctly
- There is additional, substantial and relevant information that was not available at the time of the investigation
- The penalty imposed is unduly harsh and incommensurate with the misconduct

8.3 The external researcher or complainant (where the complainant wants to appeal a decision) must appeal in writing to the NIIM Board of Directors within ten (10) working days of receipt of the outcome of the investigation. The external researcher has the ability to withdraw their appeal at any time.

8.4 The Chair of the NIIM Board of Directors will assess the application for appeal and establish if there are sufficient grounds for the appeal, based on the criteria set out in Section 9.2. In the case where there are clearly no grounds for appeal, the Chair of the Board of Directors will advise the external researcher in writing.

8.5 In the case where the Chair of the Board of Directors forms the opinion that there are grounds for appeal, an Appeal Committee will be constituted with the following members:

- Chairperson: Chair of Board of Directors or their delegate
- Two senior academics external to NIIM with experience in research

8.6 The Chair of the Board of Directors will notify the external researcher or complainant (where the complainant has appealed a decision) in writing, via email, of the date of the appeal hearing, and invite them to bring a support person who is not a legal representative nor in any way involved with the allegation. Receipt of the email is deemed to be 24 hours from the sending of the email.

8.7 The hearing date will be within fifteen (15) working days of receipt of the appeal application.

8.8 The Appeal Committee will consider the evidence supplied by the staff member and decide to:

- Dismiss the appeal, or
- Uphold the appeal in whole or in part

8.9 Where a decision is made to dismiss the appeal, the Chair of the Board of Directors will advise the external researcher or complainant (where the complainant has appealed a decision) in writing of the outcome.

8.10 Where a decision is made to uphold the appeal in part, the Appeal Committee will make a recommendation on any action that should be taken.

8.11 The Chair of the Appeal Committee will submit a written report to the Chair of the HREC.

8.12 The external researcher or complainant (where the complainant has appealed a decision) will be notified of the outcome of the Appeal Committee by reply-read email within ten (10) working days of the hearing, including its decision, the basis upon which the decision was made, and any recommendations for action. Receipt will be deemed to be within 48 hours of sending.

8.13 Where the appeal was instigated by the external researcher, the complainant is notified of the outcome of the Appeal, including any recommendations and actions taken, where relevant, by the Chair of the HREC in writing.

8.14 The decision of the Appeal Committee is final and constitutes the last internal process of appeal at NIIM. Researchers or complainants who are dissatisfied with the decision of the Hearing Panel may appeal to the NHMRC.

## **9. Related Policies and Procedures**

- HREC Research Conduct Complaint Resolution Policy
- NIIM Staff Research Misconduct Complaints and Resolution Procedures
- NIIM HDR Research Misconduct Complaints and Resolution Procedures

## 10. Approvals Summary

Policy/Procedure Code & Name	NIIM HREC Research Misconduct Complaint Resolution Procedures
This Version Number	1.0
Date of Original Version	25 Jan 2018
Approving Authority	NIIM HREC Executive
Approval Date	25 Jan 2018
Next Review Date	25 Jan 2023
Contact Officer	Chief Executive Officer