



Australian Government  
National Health and Medical Research Council

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## NHMRC POLICY ON MISCONDUCT RELATED TO NHMRC FUNDING

2016

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## Revision history

<b>Release Date</b>	<b>Title</b>	<b>Revision description</b>
December 2010	<i>NHMRC policy on actions to be taken in response to misconduct involving NHMRC funding, 2010</i>	New document
October 2015	<i>NHMRC policy on misconduct related to NHMRC funding</i>	Updates to the 2010 document to align with the 2015 Funding Agreement
November 2016	<i>NHMRC policy on misconduct related to NHMRC funding</i>	Substantially revised policy

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# 1. Introduction

The National Health and Medical Research Council (NHMRC) is a statutory agency established under the *National Health and Medical Research Council Act 1992* (the NHMRC Act) and a listed entity under the *Public Governance, Performance and Accountability Act 2013* (the PGPA Act). In accordance with these Acts, the Chief Executive Officer (CEO) of NHMRC has a duty to govern NHMRC affairs in a way that promotes the efficient, effective, economical and ethical use and management of public resources for which NHMRC is responsible.<sup>1</sup>

NHMRC expects the highest levels of research conduct and integrity to be observed in the research that it funds. Institutions that administer NHMRC funding are bound by a Funding Agreement and, as part of this agreement, agree to observe the requirements of the *Australian Code for the Responsible Conduct of Research (2007)* (the Code).

The purpose of this policy is to clarify the role and responsibilities of NHMRC Administering Institutions (Institutions) with regard to notifying NHMRC about breaches of the Code and any research misconduct matters and to set out NHMRC's approach to managing and mitigating risks to the use of public resources that may arise from actual or suspected misconduct.

This policy replaces the *NHMRC Policy on Misconduct related to NHMRC Funding (October 2015)*.

This policy may be amended from time to time, and will be reviewed in response to any changes made to the Code. Any changes to the policy will be made available on the NHMRC website and advised via Research Tracker. A log of changes will be maintained by NHMRC and made available with this policy.

Definitions of terms used in this policy are provided at Appendix A.

**Note:** for information on how to make an allegation of research misconduct, or to find out more about the responsible conduct of research and how enquiries, complaints and allegations are handled, see the NHMRC website at <http://www.nhmrc.gov.au/research/responsible-conduct-research/nhmrc-policy-on-misconduct>. [Fact Sheet 1](#) provides information about how to make an allegation or raise concerns and [Fact Sheet 2](#) provides advice about research misconduct concerns that may arise during NHMRC peer review. [Section 9](#) of this policy briefly summarises how NHMRC responds to allegations of or concerns about research misconduct that it receives from members of the public or peer reviewers.

## 2. Scope of policy

This policy applies to actual or suspected misconduct or a breach that may have occurred in relation to NHMRC funding, including research misconduct and fraud. Note that allegations in the past that were dismissed without any finding of research misconduct or a breach of the Code do not fall within the scope of this policy.

This policy does not apply retrospectively, and its application depends on when an Institution receives allegations and when notifications are made to NHRMC. For allegations that were received by an Institution before 1 February 2017 **and** the Institution had notified NHMRC under the previous policy before 1 February 2017, the previous *NHMRC policy on misconduct related to NHMRC funding* applies.

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<sup>1</sup> The *NHMRC policy on misconduct related to NHMRC funding* (the policy) supports the CEO in discharging responsibilities under these Acts as well as the *Commonwealth Grants Rules and Guidelines 2014*; *Commonwealth Procurement Rules 2014*; *Commonwealth Fraud Control Framework 2014*; and *Privacy Act 1988*.

This policy applies to the management of misconduct matters where allegations are received by an Institution on or after 1 February 2017, even if the alleged misconduct may have occurred prior to 1 February 2017. In addition, where allegations are received before 1 February 2017 but the Institution has not notified NHMRC of the matter before that date, this policy applies. Examples of the application of this policy are provided in Box 1.

### Box 1 When does this policy begin to apply?

#### Example 1:

Institution A receives an allegation of a research misconduct matter related to NHMRC funding a week after the commencement date of this policy. The allegations relate to authorship concerns about a paper published in 2015. Because the allegation was received on or after the commencement date of this policy, Institution A must abide by **this policy** in considering whether and when a notification to NHMRC is required (see Section 3.2 for notification requirements). All other aspects of this policy also apply to this matter.

#### Example 2:

Institution B received an allegation of research misconduct four months before the commencement date of this policy. The allegation relates to concerns about possible data fabrication in work currently being undertaken at the Institution. Institution B is in the process of conducting a preliminary investigation into the allegation, and, in accordance with the previous policy has not yet notified NHMRC of the matter (the Institution has not suspended funding to the research and it has determined that there is no immediate risk to safety). Although the allegation was received before the commencement of this policy, because notification has not been made before the commencement date, **this policy applies** and Institution B should abide by this policy in considering whether and when a notification to NHMRC is required (see Section 3.2 for notification requirements). All other aspects of this policy also apply to this matter.

#### Example 3:

Institution C received an allegation of research misconduct four months before the commencement date of this policy. The allegation relates to concerns about possible data fabrication in work currently being undertaken at the Institution. Institution C concluded its preliminary investigation of the allegation two weeks prior to the commencement of this policy, and immediately notified NHMRC that a *prima facie* case of research misconduct had been found, and a formal inquiry would now take place. As the allegation was received **and** the notification made prior to the commencement of this policy, **the previous NHMRC policy on misconduct related to NHMRC funding** will continue to apply to this matter.

**Note:** In these examples, references to allegations of research misconduct should be taken to also include allegations of breaches of the Code.

Misconduct (alleged or proven) **is related to NHMRC funding** if the allegations or findings relate to:

- current or past NHMRC grants
- current NHMRC grantees, regardless of whether the matter relates to their current NHMRC grants
- application/s in a current NHMRC funding round
- current NHMRC applicants, regardless of whether the matter relates to an NHMRC grant application.

NHMRC acknowledges that Institutions will not always have records of all applications made by or grants awarded to a researcher, including activity that may have occurred during a researcher's previous employment. Institutions are only expected to consider those matters of which they are aware (or could be reasonably expected to be aware) when considering whether or not a misconduct matter is related to NHMRC funding.

Box 2 provides some examples of the scope of this policy, which should be read in conjunction with the information about notification requirements in [Section 3.2](#).

## Box 2 What matters fall within the scope of this policy?

### Example 1:

Dr A works for University B. She received an NHMRC fellowship in 2008 that finished in 2012. She is not currently receiving any NHMRC funding and has no current applications for NHMRC funding submitted. In 2017, University B receives an allegation of research misconduct that relates to some more recent research Dr A has been conducting (not funded by NHMRC). University B **is not required** to notify NHMRC of this research misconduct matter, as it does not relate to Dr A's previous fellowship or any other previous NHMRC funding she has held, and she is not currently applying for or in receipt of funding.

### Example 2:

Dr F works for University G. He received an NHMRC fellowship in 2008 that finished in 2012. He is not currently receiving any NHMRC funding, and has no applications currently under review. In 2017, University G receives an allegation of research misconduct that relates to research that Dr F conducted in 2010 as part of his fellowship. If University G is aware of Dr F's receipt of the fellowship (irrespective of whether Dr F was employed by University G when he was receiving the fellowship), then **the notification requirements set out in Section 3.2 of this policy apply** to the allegations, as they relate to a past NHMRC grant.

### Example 3:

Professor X works for University Y and has a current NHMRC project grant. University Y receives an allegation of research misconduct (on or after the commencement date of this policy) that relates to other research being conducted by Professor X that is not related to the project grant. Because Professor X is a current grantee, **the notification requirements set out in Section 3.2 of this policy apply**, even though the alleged misconduct is not related to the project grant.

**Note:** In these examples, references to allegations of research misconduct should be taken to also include allegations of breaches of the Code.

## 3. Responsibilities of Administering Institutions and researchers

### 3.1 Research misconduct and breaches of the Code

Institutions have a responsibility to ensure that the requirements of Part A of the Code are met. Institutions bear primary responsibility for the prevention, detection, investigation and reporting of research misconduct.

NHMRC provides funding for Research Support Grants and People Support Grants to Institutions, not individual researchers. In order to receive NHMRC funds, Institutions must enter into and comply with an [NHMRC Funding Agreement](#). This policy should be read in conjunction with the Funding Agreement and with the [NHMRC Funding Rules](#), which provide information about the requirements and processes applicable to NHMRC funding.

The primary responsibility of researchers is to conduct research with integrity and in accordance with the Code. Researchers or Institutions that become aware of potential research misconduct are expected to follow the processes outlined in Part B of the Code. Administering Institutions should maintain, and effectively communicate to their staff, appropriate policies and procedures related to handling allegations of research misconduct.

Specific responsibilities of Institutions in regard to notifying NHMRC about breaches and research misconduct matters are set out below.

## 3.2 Requirement to notify NHMRC of a breach or a research misconduct matter

Institutions must notify NHMRC of a breach of the Code or research misconduct matters that are related to NHMRC funding (refer to [Section 2](#) for an explanation of what 'related to NHMRC funding' means) in accordance with the timing or circumstances detailed below.

Institutions must notify NHMRC **within 10 business days** of:

- The outcomes of preliminary investigations undertaken in accordance with the Code where:
  - a breach of the Code is found and/or
  - a *prima facie* case of research misconduct is found and/or
  - a finding of research misconduct is made with no further investigation necessary (e.g. if there is an admission of research misconduct) and/or
  - the Institution had advised NHMRC of allegations before the completion of the preliminary investigation.

Note: Breaches of the Code that the Institution considers minor or technical do not require notification. Minor or technical breaches could include, for example, administrative or clerical errors, or minor oversights due to careless practice.

- The outcome of any research misconduct inquiries undertaken in accordance with the Code.
- A finding of research misconduct or breach of the Code (that the Institution does not define as a minor or technical breach) that is proven prior to or during a research misconduct inquiry, such as where there is an admission of research misconduct.

Institutions must also notify NHMRC of:

- Allegations of research misconduct where a preliminary investigation has taken, or will take, longer than 40 business days from the date of receipt of the allegation. Notifications should be made as soon as it is determined that the preliminary investigation will take more than 40 business days or on the 40th business day of the investigation if the investigation is not complete.

In addition, Institutions must notify NHMRC of allegations of research misconduct **before** the completion of the preliminary investigation if:

- an Institution has suspended funding to an individual or team involved in NHMRC funded research before the completion of the preliminary investigation, or
- the allegations or preliminary findings suggest an immediate risk to human, animal or environmental safety.

In these circumstances, Institutions must notify NHMRC as soon as possible and no later than **five business days** after the risks have been identified or the funding suspended. If these issues are only identified or a suspension is put in place at a later point in the investigation, NHMRC should be informed of the identification and/or suspension as soon as possible, and at the latest, within **five business days**.

[Appendix B](#) provides a reference table to assist Institutions in understanding when a notification to NHMRC is required. Figure A provides a flowchart that illustrates points at which notification is required. Some examples of notification requirements are provided in Box 3.

If in doubt about whether or not notification is required, Institutions are encouraged to contact NHMRC and seek advice (see contact details in [Section 10](#)).

### Box 3 At what stage of a matter does NHMRC require notification?

#### Example 1:

Institution M receives allegations of research misconduct (on or after the commencement date of this policy). The allegations relate to possible inaccuracies in the track record of a Chief Investigator in a previous successful NHMRC grant application. Institution M does not identify any immediate risks associated with the allegations and does not suspend funding to the researcher, and proceeds to conduct a preliminary investigation. This investigation is completed within 40 business days and concludes that there is no *prima facie* case of research misconduct or breach of the Code. Institution M is **not required** to notify NHMRC of this matter.

#### Example 2:

University J receives allegations of research misconduct (on or after the commencement date of this policy) that relate to possible data fabrication related to research being undertaken as part of a current NHMRC grant. University J does not identify any immediate risks associated with the allegations and has not suspended funding to the research, and proceeds to conduct a preliminary investigation. The preliminary investigation is completed within 40 business days and finds that there is a *prima facie* case of research misconduct. University J **is required** to notify NHMRC of this outcome. University J then proceeds to a formal inquiry, which finds that no research misconduct has occurred and there have been no breaches of the Code. University J **is required** to notify NHMRC of this outcome, as this policy requires notification of any outcome of a research misconduct inquiry.

#### Example 3:

University Q receives allegations of research misconduct (on or after the commencement date of this policy) that relate to possible data fabrication related to research that is part of a current NHMRC grant. University Q does not identify any immediate risks associated with the allegations and has not suspended funding to the research, and proceeds to conduct a preliminary investigation. The preliminary investigation experiences a number of delays, and it becomes obvious that it will not be completed within 40 business days. University Q **is required** to notify NHMRC of the allegations, as the investigation will not be completed within the 40 day framework. Some weeks later, the preliminary investigation is completed and finds that no research misconduct or breaches of the Code have occurred. University Q **is required** to notify NHMRC of this outcome, as this policy requires notification of the outcome of a preliminary investigation where NHMRC had previously been notified of the allegations.

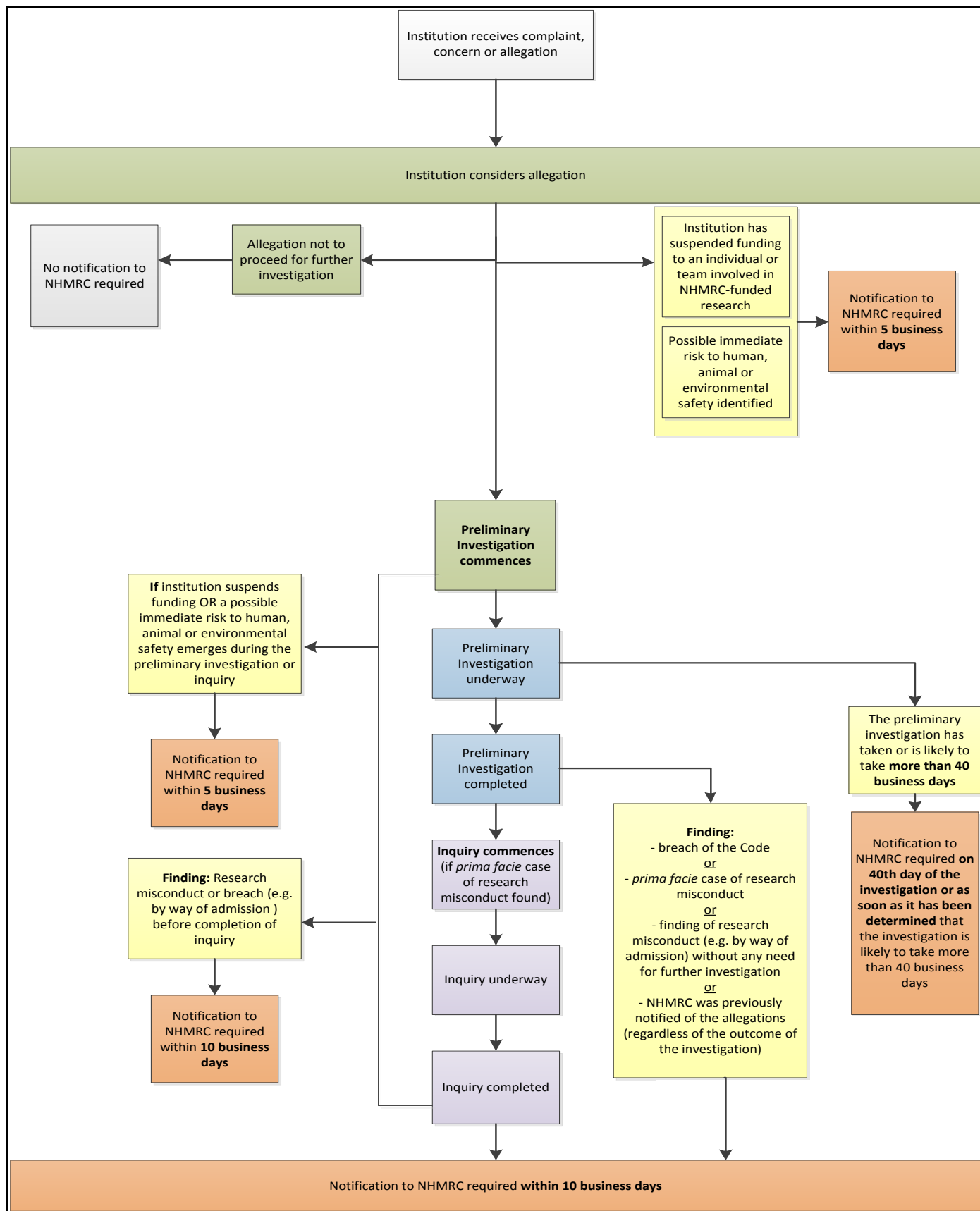
**Note:** In these examples, references to allegations of research misconduct should be taken to also include allegations of breaches of the Code.

### *Information to be provided with notification*

Prior to notifying NHMRC, Institutions should review [Appendix C](#) of this policy, which gives advice about the information that should be included in a notification to NHMRC. Should the Institution consider that there is a legal reason why certain information cannot be provided, the Institution should still advise NHMRC of the reasons why, noting the requirements in the Funding Agreement concerning the provision of information to NHMRC. Even where information has not been provided, NHMRC might need to take precautionary or consequential action (see [Sections 5](#) and [6](#) of this policy) to protect Commonwealth resources and NHMRC activities.



**Figure A Research misconduct notification requirements**



### 3.3 Fraud and other misconduct

Institutions must notify NHMRC if they have received an allegation of fraud that relates to NHMRC funding (as defined in [Section 2](#) of this policy).

The notification must be made as soon as possible and **within five business days** of a decision by a senior employee of the Institution that the allegations warrant formal investigation and must specify, to the extent legally possible:

1. the name/s of the subjects of the allegations
2. a broad description of the alleged fraud, and
3. whether the Institution or another investigatory agency will be conducting the investigation.

If the Institution conducts the investigation into the alleged fraud, it must notify NHMRC within **10 business days** of the end of the investigation if:

- the allegations have been dismissed, or
- there is a finding of misconduct, or
- the investigation was inconclusive.

Allegations of fraud may overlap with allegations of research misconduct (for example, where it is alleged that falsified data was used in a grant application). If this is the case, the allegations are likely to trigger an institutional research misconduct investigation.

In relation to any other types of misconduct, under the NHMRC Funding Agreement Institutions are required to notify NHMRC immediately if an Institution becomes aware of a Probity Event or a conflict of interest (both defined in the Funding Agreement).

## 4. NHMRC responses and actions

NHMRC may take precautionary action prior to the final outcome of a research misconduct matter being determined by an Institution, and NHMRC may take consequential action in response to findings of research misconduct. Findings of a breach of the Code will not usually trigger consequential action. Precautionary or consequential action may also be taken in response to notifications of investigations about, or findings related to, other forms of serious misconduct, including fraud.

Once NHMRC has determined the appropriate action, a recommendation will be made to the CEO of NHMRC or delegate. [Sections 5](#) and [6](#) below provide additional detail about precautionary and consequential action.

**Under the NHMRC Funding Agreement, Institutions are required to inform affected researchers (Specified Personnel and any Associate Investigators) of any proposed action or action taken in accordance with this policy. This includes Specified Personnel and Associate Investigators who are employed at other institutions.**

## 5. Precautionary action by NHMRC

Precautionary action refers to any temporary action initiated by NHMRC to manage any risks, at any time prior to the conclusion of a misconduct matter. Risks may be actual, perceived or potential and may relate to:

- the proper use of Commonwealth resources administered by NHMRC
- public and parliamentary confidence in NHMRC
- the integrity of NHMRC activities (for example, NHMRC peer review processes).

Precautionary action is not a sanction against a researcher or a decision which is pre-emptive of the findings of a misconduct investigation. **It is a decision to mitigate the risk to NHMRC.** Types of precautionary actions that NHMRC may take are listed in Box 4. Additional information about each action is described further on the NHMRC website (see [Fact Sheet 3](#)).

While all these types of action are available to NHMRC if required, the decision as to which type of action to take, if any, will depend on the scope of the research misconduct matter and the level of risk to NHMRC. Decisions will be made on a case-by-case basis, and every effort will be made to consult with the Institution prior to imposing actions c–e in Box 4, and on actions relating to participation in peer review and other NHMRC activities (actions a and b in Box 4) where such participation is already underway.

The withholding of invitations to participate in NHMRC peer review is the most common type of precautionary action taken. This is at NHMRC's discretion, and Institutions will be informed of this action, but will generally not be consulted prior to it being implemented. Where a researcher is actively involved in a peer review process at the time precautionary action is being considered, such involvement would generally be allowed to continue, unless exceptional circumstances exist related to risks to the integrity of the peer review process or to the reputation of, and confidence in, this process.

### Box 4 Types of precautionary action

The types of precautionary actions that can be taken by NHMRC include, but are not limited to:

- a) Limitations on, or suspension from, participation in peer review.
- b) Limitations on, or suspension from, participation in other NHMRC activities (e.g. other committees).
- c) Placing conditions on grants that address or mitigate any identified risks.
- d) Withholding of one or more grant recommendations to the relevant Minister.
- e) Temporary suspension of grant payments.

### *Circumstances in which precautionary action may be considered*

NHMRC will consider precautionary action to manage risks in a range of circumstances, including the following:

- NHMRC is advised that there is a *prima facie* case of misconduct following a preliminary investigation.
- Investigations are significantly delayed.
- NHMRC lacks sufficient information to evaluate the risk associated with an alleged misconduct matter (for example, where an Institution refuses to, or is unable to, provide information to NHMRC in accordance with this policy).
- Where there is a Probity Event.

## *Implicated researchers*

An allegation of research misconduct may affect a number of researchers collaborating on a project or co-authoring a publication. In deciding whether all or only some of a group of researchers may be implicated in any research misconduct matter prior to its final resolution (and therefore be the subject of potential NHMRC precautionary action), NHMRC may seek advice from Institutions about the scope of an investigation and the extent of involvement of particular researchers. However, the following considerations apply:

- NHMRC will generally consider that any researchers specifically identified in the allegations are implicated.
- Where allegations relate to a body of research rather than a specific researcher (e.g. to a published paper with multiple authors or to a grant application with several Chief Investigators), NHMRC will generally consider all researchers are implicated.
- A Chief Investigator A (CIA) is regarded by NHMRC as having primary responsibility for the scientific oversight and the management of a research activity. In considering whether and to what extent a CIA should be the subject of precautionary action, NHMRC may seek assurances from Institutions as to whether a CIA has exercised all their responsibilities with due care and diligence, and if such assurances can be provided before the conclusion of an investigation or inquiry.
- NHMRC will consider any advice from the Institution regarding the scope of the allegations in reaching a decision on these issues.

## *Precautionary action consultation*

Except in regard to suspension from peer review (as noted above), and provided it is practical and reasonable to do so, NHMRC will consult Institutions on any precautionary action being considered.

Institutions should communicate in writing to NHMRC, within the consultation timeframe, any reasons why the precautionary action should not be taken.

If NHMRC decides to take precautionary action, it will:

- provide the decision to the relevant Institution in writing
- identify the information relied on in the decision-making process
- include reasons for the decision
- provide advice on any opportunities for reconsideration of the decision.

## *Duration of precautionary action*

Should NHMRC take precautionary action, the action will remain in effect until at least one of the following circumstances occurs:

- NHMRC concludes there is no longer an outstanding actual, perceived or potential risk to human or animal safety or to NHMRC (financial or reputational).
- Following advice from the Institution, NHMRC concludes that the risk has been sufficiently reduced such that precautionary action is no longer warranted.
- NHMRC is satisfied the allegations are adequately resolved.
- There is a misconduct finding and the precautionary action is replaced with consequential action (see [Section 6](#)).

The Institution will be advised when any precautionary action has ceased.

## 6. Consequential action by NHMRC

Consequential action refers to action initiated by NHMRC in response to a finding of misconduct or, in some circumstances, a finding of a breach of the Code. Types of consequential action that NHMRC may take are listed in Box 5. Additional information is available on the NHMRC website about each of these actions (see [Fact Sheet 3](#)). Such action may relate to the individual researcher (e.g. additional requirements regarding a researcher's future applications) and/or to the Institution (e.g. the recovery of grant funds).

### *Circumstances in which consequential action may be considered*

NHMRC may consider consequential action where:

- a finding of misconduct or a breach of the Code has been made, or a Probity Event has occurred **and**
- NHMRC is of the view that the finding or event poses a risk to NHMRC if funding was to be awarded or was to continue, or the subject of the finding or event was to participate in NHMRC activities.

NHMRC may consider taking consequential action in relation to any NHMRC applications, grants or NHMRC activities with which the researcher or researchers against whom the finding has been made are involved.

In exceptional circumstances, NHMRC may also consider consequential action where an Institution refuses, or is unable, to provide the information that NHMRC would need in order to evaluate the risk associated with a misconduct matter.

A decision to proceed with consequential action will replace any precautionary actions that have been in place.

### *Types of consequential action*

#### **Box 5 Types of consequential action**

The types of consequential action that may be taken by NHMRC include, but are not limited to:

- a) Exclusion from involvement in peer review and other NHMRC activities.
- b) Excluding current or future applications from peer review or placing conditions on their consideration.
- c) A decision not to recommend funding of a researcher's application(s) to the Minister.
- d) Placing of conditions on grants that address or mitigate any identified risks.
- e) Termination of grants.
- f) Recovery of grant funds.

Where a finding of research misconduct or other serious misconduct has been made, NHMRC's decisions about the type of consequential actions that may be taken will be made on a case-by-case basis depending on the scope of the misconduct findings and the level of risk involved. A principle of proportionality will be applied in all cases, and NHMRC aims to implement actions that are appropriate and effective in the context of the particular circumstances of each case.

A breach of the Code will not usually trigger consequential action under this policy, but NHMRC will seek assurance from the Institution that an appropriate program of support, mentoring, training or other guidance has been put in place and complied with. Findings of a breach of the Code will be taken into account in considering participation of researchers in any additional NHMRC activities (such as committees), or in the granting of special awards or honours.

Institutions will be advised of any consequential actions being considered. The exclusion of researchers from participation in NHMRC peer review and other NHMRC activities is at NHMRC's discretion, and Institutions will be informed of this action, but will generally not be consulted prior to it being implemented. In regard to other consequential actions, Institutions will be informed of the intention to take such actions and given the opportunity to provide reasons why such actions should not proceed.

### *Duration of consequential action*

Should NHMRC take consequential action, the action will remain in effect until at least one of the following circumstances occurs:

- The term of the consequential action has expired.
- NHMRC concludes, and advises the Institution, that there is no longer an outstanding actual, perceived or potential risk to NHMRC (financial or reputational).
- Following advice from the Institution, the risks identified have been adequately addressed with the result that consequential action is no longer appropriate.

## 7. Confidentiality

### *Disclosure of information by NHMRC*

Information provided to NHMRC about misconduct matters involving research or researchers will be treated by NHMRC as confidential. All files related to misconduct matters are stored in locked, secure filing cabinets and only a small number of officers will have access to either electronic or hard copy information, on a need-to-know basis.

However, NHMRC may provide information about a matter to a third party when permitted under the *Privacy Act 1988* or if required in response to a request for access to documents under the *Freedom of Information Act 1982*. The NHMRC Privacy Policy is available from the [NHMRC website](#). Where reasonable and appropriate, NHMRC will consult the Institution on any information proposed to be disclosed. Where access to NHMRC documents is requested under the *Freedom of Information Act 1982*, decisions on such requests will be made by an authorised NHMRC decision-maker, who will consult third parties where appropriate. Details of NHMRC's Freedom of Information (FOI) procedures are available on the [NHMRC website](#).

Where NHMRC applications or grants affected by precautionary or consequential actions include investigators outside the institution investigating a misconduct matter or employing an implicated researcher, NHMRC expects that, in line with the Funding Agreement, the responsible Institutions will inform external Specified Personnel and, where relevant, any Associate Investigators of any actions or potential actions at the earliest possible opportunity. However, NHMRC reserves the right to contact other Institutions regarding such actions if this is necessary to ensure the appropriate use of Commonwealth resources and/or to minimise the impact of such actions on collaborating researchers.

NHMRC may refer research misconduct matters to the Australian Research Integrity Committee (ARIC), following an investigation by an Institution. The members of ARIC are bound by confidentiality agreements.

As a matter of standard practice, where other Australian Government agencies are affected or likely to be affected by a matter, NHMRC will, to the extent legally possible, share information with those agencies.

### *Correspondence from NHMRC*

NHMRC expects that any correspondence sent by NHMRC to an Institution will be treated as confidential and will not be disclosed without the Institution first consulting NHMRC except where:

- the correspondence is required by law to be produced by the Institution
- **or**
- where the Institution is giving effect to its responsibility under the NHMRC Funding Agreement to inform affected researchers (Specified Personnel) of actions proposed or taken by NHMRC under this policy.

The intention is to facilitate full and frank communications between NHMRC and an Institution.

### *Media policy*

In order to protect the privacy of all parties involved and to ensure procedural fairness while a matter is under investigation, NHMRC will not comment on individual matters in the media. Should NHMRC respond to a media enquiry, it will only refer to information:

- publically released by the relevant Institution, or
- agreed for release by relevant parties, or
- about NHMRC's policies and processes.

## 8. Reviews and complaints

### *Reconsideration of NHMRC decisions under this policy*

Unless otherwise provided under this policy, any requests for reconsideration of an NHMRC decision under this policy must be lodged in writing, via email to [integrity@nhmrc.gov.au](mailto:integrity@nhmrc.gov.au), within 20 business days of the notification of NHMRC's decision to the Institution. Requests must set out the reasons and provide all supporting information. NHMRC's preference is that all requests for reconsideration be submitted via the relevant Institution's Research Integrity Office or Research Administration Office.

The reconsideration will be undertaken by the NHMRC General Manager or an independent person or panel appointed by the NHMRC General Manager. The NHMRC General Manager will advise the Institution of the outcome of the reconsideration within 40 business days of receiving the request.

### *Commissioner of Complaints*

The Commissioner of Complaints (the Commissioner) is a Statutory Officer under Part 8 of the NHMRC Act. The functions of the Commissioner are to investigate complaints concerning action taken by the CEO of NHMRC (or delegate) or the NHMRC Research Committee in relation to an application for funding. The grounds on which the Commissioner can review decisions are outlined in section 58 of the NHMRC Act. Note that the Commissioner cannot review the merits of a decision.

For more information on the grounds for making a complaint, and how to make a complaint to the Commissioner of Complaints see: [www.nhmrc.gov.au/grants-funding/policy/commissioner-complaints](http://www.nhmrc.gov.au/grants-funding/policy/commissioner-complaints).

## *Commonwealth Ombudsman*

The Commonwealth Ombudsman considers and investigates complaints from people who believe they have been treated unfairly or unreasonably by an Australian Government department or agency. For more information visit the Commonwealth Ombudsman website, [www.ombudsman.gov.au](http://www.ombudsman.gov.au).

## *Australian Research Integrity Committee*

The Australian Research Integrity Committee (ARIC) was jointly established by NHMRC and the Australian Research Council in 2011. The NHMRC-ARIC is established under section 39 of the NHMRC Act. ARIC provides a review system of institutional processes to respond to allegations of research misconduct.

Any actions taken by NHMRC under this policy are distinct from processes considered by ARIC and are not reviewable by ARIC.

For more information on ARIC see: <http://www.nhmrc.gov.au/research/responsible-conduct-research/australian-research-integrity-committee>.

# 9. Concerns about research misconduct raised with NHMRC

NHMRC is sometimes contacted by members of the public who wish to raise concerns about or make allegations of research misconduct or breaches of the Code. Participants in NHMRC peer review processes also sometimes raise concerns about these issues. Information about how NHMRC responds in these circumstances is available on the [NHMRC website](#). Key points include the following:

### **Concerns raised by members of the public**

- Members of the public are encouraged to raise their concerns directly with the Institution. Where a person does not feel able to contact the Institution directly, and where the concern relates to NHMRC-funded research, NHMRC will refer the allegation to the relevant Institution. NHMRC's strong preference is for complainants to identify themselves, but anonymous complaints will be accepted, or complaints de-identified before referral.
- Concerns will not be referred if insufficient information has been provided to make a referral, or if the matter has already been raised with the Institution.
- NHMRC will not provide further information to the complainant about a matter it has referred. This applies to both identified and anonymous complainants. However, the person will be advised whether or not a matter has been referred. Where NHMRC has provided the Institution with the name and contact details of the person raising the concern, NHMRC expects that Institution to provide some assurance to this person that the matter has been addressed.

### **Concerns arising during NHMRC peer review**

- Where a peer reviewer has a concern regarding research misconduct or a breach of the Code, the concern will first be referred to the director of the relevant NHMRC funding scheme, and where appropriate the director will refer the matter to NHMRC's Ethics and Governance section, which will consider the concerns and, where appropriate, contact the relevant Institution.
- NHMRC will generally not provide the identity of the peer reviewer when referring a matter to an Institution, in order to maintain as far as possible the anonymity of the peer review process.
- In referring a concern from peer review to an Institution, NHMRC will expect the Institution to provide notifications to NHMRC in accordance with [Section 3](#) of this policy.



## 10.Contact details

NHMRC can be contacted about this policy or the handling of research integrity or misconduct matters by:

**Email:**

[integrity@nhmrc.gov.au](mailto:integrity@nhmrc.gov.au).

**Phone:**

(02) 6217 9150

Ask for the Director, Ethics and Governance Section.

**Mail:**

Director  
Ethics and Governance Section  
National Health and Medical Research Council  
GPO Box 1421  
Canberra ACT 2601

# Appendix A Definitions

For the purposes of this policy, the following definitions apply.

**Breach** is as defined in the [Australian Code for the Responsible Conduct of Research \(2007\)](#), noting that the Code identifies breaches as less serious deviations from the Code, and that repeated or continuing breaches of the Code may also constitute research misconduct.

**Code** means the [Australian Code for the Responsible Conduct of Research \(2007\)](#).

**Consequential action** means any action initiated by NHMRC in response to a finding of misconduct or, in some circumstances, a finding of a breach of the Code.

**Fraud** is as defined as 'dishonestly obtaining a benefit, or causing a loss, by deception or other means'. For further information see NHMRC's [Fraud Control Framework](#). Note: some forms of fraud may also constitute research misconduct (for example, the fabrication of information in an application for NHMRC funding).

**Implicated researcher/s** means the researcher/s which NHMRC considers, in the context of advice from Institutions, to be the subject of an allegation of misconduct and/or responsible for research that is the subject of an allegation/investigation as set out in [Section 5](#).

**Institution** means an NHMRC Administering Institution, which is an Institution approved by NHMRC to receive and administer NHMRC funding. A list of these Institutions is available on the [NHMRC website](#).

**Institutional action** means any precautionary, disciplinary or preventative action taken by an Institution in response to an allegation of misconduct, a *prima facie* finding of misconduct or proven misconduct.

**Misconduct** includes:

- alleged or proven research misconduct related to NHMRC funding or activities
- alleged or proven fraud related to NHMRC funding or activities.

**NHMRC activities** include, but are not limited to, NHMRC committees and peer review processes.

**NHMRC applicant** means any person who is listed under applicant (i.e. a Chief Investigator, Scholar, Fellow, Associate Investigator, etc.) on an NHMRC grant application in a current funding round.

**NHMRC grant** means a grant application for which NHMRC funding has been approved.

**NHMRC grantee** means a Chief Investigator, Scholar or Fellow who is listed on a Schedule (to the NHMRC Funding Agreement) as a person who is required to perform all or part of a research activity. An NHMRC Grantee also means the same as 'Specified Personnel' under the NHMRC Funding Agreement.

**Precautionary action** means any temporary action initiated by NHMRC to manage any risks, at any time prior to the conclusion of a misconduct matter.

**Preliminary investigation** means the initial investigation of an allegation (usually to determine whether the allegations have merit and should be investigated further). For allegations of research misconduct, a preliminary investigation is usually conducted by a Designated Person in accordance with the [Australian Code for the Responsible Conduct of Research \(2007\)](#).

**Probity Event** is as defined in the [NHMRC Funding Agreement](#).

**Research misconduct** is as defined in the [Australian Code for the Responsible Conduct of Research \(2007\)](#). Some forms of research misconduct may also constitute fraud (e.g. the fabrication of information in an application for NHMRC funding).

**Research misconduct inquiry** means a formal Institutional investigation into allegations of research misconduct as described in Part B of the [Australian Code for the Responsible Conduct of Research \(2007\)](#). It is usually triggered by a finding of a *prima facie* case of research misconduct by a preliminary investigation.

**Research misconduct matter** is a reference to an entire research misconduct case from start to finish. It includes the receipt of allegation (which may relate to an alleged breach of the Code or alleged research misconduct), the preliminary investigation, inquiry (where relevant) and any actions taken by the Institution in response to allegations or findings.

**Specified Personnel** is as defined in the [NHMRC Funding Agreement](#).

## Appendix B Notifications to NHMRC: summary table

Notifications required to be made regardless of the stage of the research misconduct matter		
Circumstance	Notification to NHMRC required	Timeframe
Institution, investigation or inquiry identifies immediate risk to human, animal or environmental safety.	<b>Yes</b>	As soon as possible and no later than 5 business days after the risks have been identified.
Institution decides that the allegation warrants suspension of funding to the subject/s of the allegation.	<b>Yes</b>	As soon as possible and no later than 5 business days after the decision to suspend funding is made.
A finding of research misconduct or breach of the Code (that is not minor or technical) is proven prior to or during a research misconduct inquiry, such as where there is an admission of research misconduct.	<b>Yes</b>	Within 10 business days of the finding by the Institution.

Stage of Research Misconduct Matter	Notification to NHMRC required	Timeframe
<b>Upon receipt of allegation</b>		
Allegation received – no immediate risks identified by the Institution and no precautionary suspension of funding by the Institution warranted prior to the preliminary investigation.	<b>No</b>	N/A
<b>Preliminary investigation</b>		
Preliminary investigation finalised.	<b>Yes</b> , if the outcome is that there was either: <ul style="list-style-type: none"> <li>- A breach of the Code that is not minor or technical.</li> <li>- A <i>prima facie</i> case of research misconduct.</li> <li>- Research misconduct is determined such that further investigation is not required.</li> </ul>	Within 10 business days of the outcome of the preliminary investigation.

	<p><b>Yes</b>, regardless of the outcome, if the Institution had previously notified NHMRC of the allegation.</p> <p><b>No</b>, if NHMRC had not previously been notified about the allegation and the outcome is that there was:</p> <ul style="list-style-type: none"> <li>- no breach of the Code or a breach that is only minor and technical in nature and</li> <li>- there is no <i>prima facie</i> case of, or finding of, research misconduct.</li> </ul>	
Preliminary investigation takes longer than 40 business days from the date of receipt of the allegation.	<b>Yes</b>	As soon as it is determined that the preliminary investigation will take more than 40 business days or on the 40th business day of the investigation if the investigation is not complete.
<b>Research misconduct inquiry</b>		
Research misconduct inquiry finalised.	<b>Yes</b> – regardless of the outcome.	Within 10 business days of the completion of the research misconduct inquiry.

## Appendix C Content of notifications

If an obligation to notify NHMRC of research misconduct matters arises (see [Section 3](#)), the table below provides guidance to Institutions about information they should provide with the notification. NHMRC may seek more information if required.

Note that the information in this table should be applied as relevant to each case. The type of information provided will depend on the timing of the particular notification (e.g. whether the notification is being made upon receipt of an allegation, during or upon conclusion of a preliminary investigation or during or upon conclusion of an inquiry) and whether any information has previously been provided by the Institution.

1.	<i>Allegations or outcomes</i>	<p>a) If required as per <a href="#">Section 3</a> of this policy to notify NHMRC at allegation stage or during a preliminary investigation, a copy of the allegation as received or a brief summary.</p> <ul style="list-style-type: none"> <li>• Summaries should include the names of any NHMRC-funded researchers involved in the grant application or research (including the NHMRC grant identification number) and their role in the alleged misconduct or funded research if available. Refer to <a href="#">Section 5</a> of this policy regarding who NHMRC considers an implicated researcher.</li> <li>• Where a researcher or body of research appears to be the subject of multiple similar allegations, a single summary notification of the similar allegations, and how many received, is acceptable.</li> </ul> <p>b) If notifying NHMRC following completion of a preliminary investigation, a copy of the report, or a brief summary of the report.</p> <p>c) If notifying NHMRC following completion of a research misconduct inquiry, the inquiry report or a summary of the report.</p> <p>If reports are provided in full, redactions are permissible for sections of reports that contain personal or sensitive information that does not concern NHMRC-funded researchers, NHMRC-funded research or NHMRC activities.</p>
2.	<i>Risks</i>	Advice on and details of any immediate risks identified by the Institution including, but not limited to, human or environmental safety, animal welfare or national security and the reputation of NHMRC.
3.	<i>Decisions</i>	<p>Advice on any relevant decisions the Institution has made in relation to the matter. This will differ depending on the stage of the research misconduct matter, but could include, for example, the Institution's decisions about:</p> <ul style="list-style-type: none"> <li>• whether particular researchers are implicated in allegations</li> <li>• investigation or inquiry findings and further progress of a matter</li> <li>• whether any NHMRC grants or applications are affected by the alleged or proven research misconduct.</li> </ul>
4.	<i>Institutional action</i>	Advice on and details of any action the Institution has taken, or is considering, in response to the research misconduct matter.
5.	<i>Timeframe</i>	<p>An indicative timeframe for the Institution's preliminary investigation (if notified prior to completion) and/or inquiry.</p> <p>NHMRC acknowledges this will only be an estimate. NHMRC uses this information as a prompt to seek updates and, where there are potential risks, to make an informed decision about any action it may need to take.</p>

6.	<i>Referrals</i>	Details of any referrals that the Institution has made, or is actively considering, in response to the research misconduct matter, for example, to the relevant state or territory Crime and Misconduct Commission or the Health Complaints Commissioner.
7.	<i>Use of process under the Code</i>	Confirmation that the allegation has been or is being investigated by the Institution in accordance with the <a href="#">Australian Code for the Responsible Conduct of Research (2007)</a> and assurances that all implicated researchers have been advised of the allegations and this policy.