



Australian Government

National Health and Medical Research Council



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Australian Research Council

Australian Research Integrity Committee Framework

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Introduction

Background

Through the public funding of research, the Australian Government seeks to foster Australian research, including medical and public health research, and innovation globally, to benefit the community. Institutions and individuals in receipt of public funds are expected to apply the highest ethical and professional standards to their work and workplace relations. It is a condition of funding that institutions ensure research is conducted according to the *Australian Code for the Responsible Conduct of Research* (2007) (the Code) and that institutions have procedures in place for managing allegations of research misconduct that are consistent with Part B of the Code and other internal institutional procedures.

In 2009, the Australian Research Council (ARC), the National Health and Medical Research Council (NHMRC) and the Department of Innovation, Industry, Science and Research (DIISR) engaged with key stakeholders—notably Universities Australia and the National Tertiary Education Union (NTEU)—to develop what became the draft *Proposal to establish an Australian Research Integrity Committee (ARIC)*. On 12 April 2010, the Minister for Innovation, Industry, Science and Research, Senator the Hon Kim Carr, announced the establishment of the ARIC: a committee jointly administered by the ARC and the NHMRC.

On 11 January 2011, the Chief Executive Officers (CEOs) of the ARC and the NHMRC announced the Chair and members of the new committee. On 01 February 2011, the Minister for Innovation, Industry, Science and Research and the Minister for Mental Health and Ageing announced the framework (this document) to underpin the new committee. The ARIC became operational in February 2011.

Establishment of the Australian Research Integrity Committee

The Australian Research Integrity Committee (ARIC) was established by the Australian Research Council (ARC), in consultation with its Minister, and the National Health and Medical Research Council (NHMRC).

The ARIC operates as:

- ARIC-NHMRC, established under s39 of the *National Health and Medical Research Council Act 1992*.
- ARIC-ARC, established under the executive powers of the Chief Executive Officer (CEO) of the ARC.

Reporting and advice is provided directly to the CEO of the relevant agency (according to whether the committee is operating as ARIC-NHMRC or as ARIC-ARC). Secretariat support for the ARIC comes from the relevant agency.

Purpose

The ARIC provides a review system of institutional processes to respond to allegations of research misconduct. This system is intended to ensure that institutions investigate such allegations and observe proper process in doing so. The ARIC contributes to quality assurance and public confidence regarding the integrity of Australia's research effort.

Specifically, the ARC and the NHMRC jointly administer the ARIC to:

- Review the process by which a nominated institution has managed an allegation of research misconduct;
- Provide findings and, where relevant, recommendations to the CEO of the ARC and/or the CEO of the NHMRC; and
- Publish de-identified information on its activities at least annually.

In all matters the ARIC considers whether the institution's response to the allegation of research misconduct was consistent with the framework outlined in the Code and with the institution's policies and procedures for investigating allegations of research misconduct.

Section 1: Organisation of convened ARIC panel

Composition of ARIC panels

Each ARIC panel comprises no fewer than three appropriately qualified members of the ARIC, including the Chair, who have been appointed by the CEO of the ARC and the CEO of the NHMRC.

Secretariat

ARIC Secretariat support is provided by the relevant funding agency. The Secretariat processes applications for review according to the ARIC Request for Review form and, where appropriate, directs the application to the appropriate funding agency.

Organisation support

The ARC and the NHMRC, through their Comcover policies, provide an assurance of legal protection for ARIC members.

Committee procedures

An ARIC Operating Procedures document has been developed in consultation with ARIC members. This document includes the ARIC Request for Review form.

Section 2: Terms of Reference

Terms of reference

The ARIC panel will:

- 1) Receive and consider requests for review of the process followed by a nominated institution in response to specific allegation/s of research misconduct.

Applications for ARIC review may be made only in relation to:

- i) Allegations of research misconduct involving any health or medical research conducted at or under the auspices of institutions in receipt of research funding under the *National Health and Medical Research Council Act 1992*; or
 - ii) Allegations of research misconduct involving any research (excluding any health or medical research defined above) conducted at or under the auspices of institutions in receipt of research funding under the *Australian Research Council Act 2001* and/or of funding under any of the research grants specified in the table at section 41-10(1) of the *Higher Education Support Act 2003* at items 7, 8, 10 and 11(b).
- 2) Conduct an independent review, considering whether the institutional process followed by a nominated institution in the relevant case of alleged research misconduct was conducted in accordance with the processes outlined in the Code (as amended from time to time) and with relevant institutional policy and procedures.
 - 3) Advise the CEO of the ARC or the CEO of the NHMRC of the outcome of the review, who will, in turn, advise relevant parties of the outcome of the review.
 - 4) Where relevant, include in the advice to CEOs, recommendations for further action to be taken by the institution, or by the ARC or NHMRC.
 - 5) Provide annual, de-identified reports to the CEOs on all activities of the Committee. This information may be included in ARC and NHMRC Annual Reports.

Functions outside an ARIC panel's terms of reference

An ARIC panel will not enquire into:

- 1) Allegations of research misconduct (as distinct from allegations or complaints about institutions' processes in response to allegations of research misconduct).
- 2) The merits of any findings made by a research misconduct inquiry (whether internal or external) at the institutional level, except to the extent that a finding of an error or flaw in the institution's processes necessarily reflects on the merits of the finding of the inquiry conducted under those processes.
- 3) Institutional processes involving allegations of misconduct on the part of an employee other than research misconduct, and any sanctions applied to such a matter.
- 4) Institutional decisions regarding sanctions consequent upon a finding of research misconduct.
- 5) Funding agency decisions regarding sanctions consequent upon a finding of research misconduct.
- 6) Institutional processes still underway.

Relation to industrial agreements

The ARIC will at all times respect the legal status of instruments, including collective agreements, regulating employment conditions.

Section 3: Requests for ARIC Review

Who can seek review

A person, group or organisation may request that the ARIC review the process undertaken by an institution in relation to research misconduct. A request for an ARIC review should (except where indicated as 'must') be accompanied by the following information:

- 1) Applicant/s name and contact details
 - ARIC accepts anonymous complaints; however, anonymity can make it difficult to obtain the evidence required for review. ARIC often requires additional information to progress a review. The inability to contact the applicant or other persons who have standing in the matter may make this process more difficult.
- 2) The name and contact details of the relevant person/s (i.e. who has had an allegation of research misconduct made against them).
NB: If the contact details of a relevant person are also the same as those of the applicant, these details must be supplied.
- 3) Names of agencies, institutions and public sector officials involved.
- 4) If applicable, the research directly involved in the allegation and any funding support (e.g. an NHMRC or ARC grant or fellowship).
- 5) The date on which the institution finalised its inquiry/investigation into the matter
 - The ARIC will not review institutional processes which are still underway. If the matter is not yet finalised, the applicant will be referred to the institution until the institution has finalised the matter.
 - Where a review is requested alleging institutional delay and/or inaction, the ARIC will notify the institution that a request for ARIC review has been received. This letter will be a notification only and no action will be required from the institution at this stage. If, after receiving an ARIC notification, the institution has not completed (or progressed satisfactorily) its inquiry within 1 month, an ARIC panel may be able to review whether the *delay* is unreasonable or breaches the Code.
- 6) A summary of the matter
 - This must include relevant dates (even if approximate) and locations.
 - This must detail the allegation/s of how the institution has not observed proper process in accordance with the Code and/or with institutional policy and procedures.
- 7) Other relevant persons aware of the matter.
- 8) Other organisations or regulators contacted
 - This should include the matters reported, the initial and subsequent date/s of contact and the response/s, if any, received.
- 9) Documentary evidence
 - Include details and, where applicable, copies of any relevant documents and correspondence related to the allegation/s.

The ARIC will only review requests where the applicant has sufficiently addressed the criteria as outlined above. Where the ARIC Secretariat of the relevant council assesses this not to be the case, the applicant's request for review will not be processed until the required information is provided.

The ARIC will only accept requests for review addressed in writing to:

ARIC-NHMRC Secretariat [IN CONFIDENCE]
National Health and Medical Research Council
GPO Box 1421
Canberra ACT 2601
Email: aric@nhmrc.gov.au

or

ARIC-ARC Secretariat [IN CONFIDENCE]
Australian Research Council
GPO Box 2702
Canberra ACT 2601
Email: aric@arc.gov.au

Referral mechanisms

Where a request for ARIC review does not meet the criteria for ARIC review but can be referred to another appropriate body, the ARIC Secretariat will endeavour to refer individuals and organisations to such relevant bodies. Information on relevant bodies and appropriate avenues for pursuing allegations related to research misconduct will be provided online on both the ARC and NHMRC websites.

Grounds for review

Grounds for review include that the nominated institution's process allegedly:

- involved a breach of procedural fairness;
- was carried out in an untimely manner that compromised procedural fairness; or
- deviated from the processes defined in the Code and/or from the nominated institution's documented processes.

Limitations

Time limitations within which the ARIC can accept requests will apply. Persons, groups or organisations can submit requests for ARIC review up to 60 working days following formal notification from an institution that it has finalised its investigation/inquiry into the allegation of research misconduct. Later requests may be assessed on a case by case basis, taking exceptional circumstances into account.

Commencement and timing of reviews

The ARIC commenced operations in February 2011. Subject to the above limitations, the ARIC may consider applications to review cases where an allegation of research misconduct was formally received by an institution within the 12 months prior to the establishment of ARIC.

Within five working days of receiving an application the Secretariat will write to the applicant acknowledging receipt of their application. Within 30 working days of receiving an application for ARIC Review, the Secretariat will write to the applicant, providing them with an update of their review, seeking additional information, or informing them that their review has been refused.

The benchmark for conducting an ARIC review is 60 working days, beginning with the receipt of a valid application for review and concluding with the presentation of the final Review Report to the CEO. The benchmark time does not include periods when the ARIC is waiting for further information or responses from an institution or applicant.

Procedural fairness

The ARIC extends procedural fairness to parties subject to ARIC review. An ARIC panel will present the institution with its preliminary findings, allowing right of reply, prior to making recommendations to the CEOs of the ARC or the NHMRC.

The rules of procedural fairness require:

- a hearing appropriate to the circumstances;
- a lack of bias;
- evidence to support a decision; and
- an inquiry into matters in dispute.

In rare cases, such as a serious risk to safety or to substantial amounts of public funds, the procedural fairness requirements may need to be restricted or disregarded due to overriding public interest. If the ARIC panel convened to examine the case believes this circumstance exists, expert or legal advice will be sought and documented. Definitions for aspects of procedural fairness can be located in the Glossary of Terms.

Privacy

The ARIC Secretariat of the relevant funding agency will implement technology and security policies to manage information received and take reasonable steps to protect information from misuse and loss, and from unauthorised access, modification and disclosure. The ARIC Secretariat will publish a privacy statement. Subject to requirements under the *Archives Act 1983*, the ARIC Secretariat will only keep information that is relevant and necessary.

Whistleblowers

Individuals or organisation should be aware that the ARIC is unable to provide protection to whistleblowers, except where the disclosure is made in accordance with section 16 of the *Public Service Act 1999* (Cth).¹ Employees should ensure that information relied upon in an ARIC application is not confidential information, as unauthorised disclosure may render an individual or organisation liable to prosecution or civil action by their employer or a local authority. Australian Public Service employees are reminded of their obligation under section 70 of the *Crimes Act 1914* (Cth) and Regulation 2.4 of the *Public Service Regulations 1999* (Cth) to not disclose Commonwealth information without authorisation.²

When applicants and other parties are unavailable

If the applicant or persons involved in an ARIC matter are unavailable during the course of their review, steps will be taken to ensure they are not disadvantaged. Applicants or persons involved in an ARIC matter may choose to provide supplementary information by correspondence or other means, may request that a person act on their behalf, or may request that the ARIC panel concludes its findings and makes recommendations based on the information and material already provided.

¹ Public Service Act 1999. Section 16:

A person performing functions in or for an Agency must not victimise, or discriminate against, an APS employee because the APS employee has reported breaches (or alleged breaches) of the Code of Conduct to:

- (a) the Commissioner or a person authorised for the purposes of this section by the Commissioner; or
- (b) the Merit Protection Commissioner or a person authorised for the purposes of this section by the Merit Protection Commissioner.
- (c) an Agency Head or a person authorised for the purposes of this section by an Agency Head.

² Employees of universities are not public servants for the purposes of the Public Service Act, except where they are employed under the Public Service Act in another capacity.

Appendix A: Glossary of Terms

- 'Research misconduct' is as defined at p.10.1 of the Code.
- 'Nominated institution' is an institution whose process in response to an allegation of research misconduct is the subject of an ARIC Request for Review.
- 'Relevant parties' may include: the person, group or organisation seeking ARIC review; the nominated institution; the researcher(s) allegedly involved in research misconduct; and such other persons, groups or organisations who are identified by an ARIC panel as having an interest in a specific review.
- 'Procedural fairness' is used when referring to administrative decision-making as it pertains to the procedures used by a decision-maker, rather than any outcome reached. It requires a fair and proper procedure be used when making a decision.
- 'Delay and/or inaction' means a delay or inaction which, in all the circumstances, could prejudice the findings or fairness of an investigation/inquiry or imposes hardship on the relevant person.
- 'A person, group or organisation' may include: those who are alleged to have committed research misconduct; professional journals; funding agencies; and the persons, groups or organisations that raised the original allegation of research misconduct. The Committee may receive and consider requests from other persons, groups or organisations as determined on a case-by-case basis.
- 'ARIC' means the Australian Research Integrity Committee and comprises no fewer than four members. ARIC should be seen as distinct from an ARIC panel (see below).
- 'ARIC Panel' comprises no fewer than three members of ARIC convened to review a specific ARIC case or cases.
- 'ARIC Secretariat' refers to both the NHMRC-ARIC and ARC-ARIC Secretariat staff who are engaged to work for the Committee. The Secretariat comprises a number of administrative staff and, in some instances, research staff. As the organising or administrative element of the relationship, the Secretariat will work closely with the ARIC Chair.