



Australian Government
National Health and Medical Research Council



Australian Government
Australian Research Council

Australian Research Integrity Committee Framework

2019

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Terminology

Unless otherwise specified, a reference in this document to ‘the Code’ is a reference to the *Australian Code for the Responsible Conduct of Research, 2018*.

Introduction

Background

The Australian and international community expects institutions and individuals in receipt of public funds to apply the highest ethical and professional standards to their work and workplace relations. The *Australian Code for the Responsible Conduct of Research, 2018* (the Code), jointly authored by the Australian Research Council (ARC), National Health and Medical Research Council (NHMRC) and Universities Australia, clearly articulates the broad principles that underpin an ‘honest, ethical and conscientious research culture’.¹ It is a condition of NHMRC and ARC funding that institutions ensure research is conducted according to the Code. This also requires institutions to facilitate the prevention and detection of potential breaches of the Code, to provide mechanisms to receive concerns or complaints about potential breaches of the Code and to investigate and resolve potential breaches of the Code.²

The Code requires that institutions have processes for managing and investigating concerns or complaints about potential breaches of the Code in a timely and effective way and in accordance with procedural fairness.³ In managing and investigating potential breaches of the Code, institutional processes must support the welfare of all parties (including complainants), result in findings based on the balance of probabilities and lead to actions (including corrective actions) that are commensurate with the seriousness of the breach.⁴ Further guidance for institutions on the management of potential breaches of the Code is set out in the *Guide to Managing and Investigating Potential Breaches of the Code* (the Investigation Guide).

The ARIC Framework sets out the background to ARIC, its scope and purpose, the process for seeking an ARIC review and an overview of how the committee operates. This Framework was updated in 2019 to align with the Code and Investigation Guide.

Establishment and purpose of the Australian Research Integrity Committee

ARIC was established by the Australian Government in February 2011. ARIC undertakes reviews of institutional processes used to manage and investigate potential breaches of the Code. ARIC aims to ensure that in investigating potential breaches of the Code, institutions observe proper processes. In this way, ARIC contributes to public confidence in the integrity of Australia’s research effort.

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.

ARIC provides its advice to the Chief Executive Officer (CEO) of the relevant agency (either NHMRC or ARC). In this Framework, a reference to ‘ARIC’ is a reference to ‘ARIC-NHMRC’ and ‘ARIC-ARC’.

To support ARIC, NHMRC and ARC may establish one or more subcommittees. These subcommittees will be established on the same legislative basis as ARIC (i.e. with members appointed under the respective ARC and NHMRC Acts). Where a matter is reviewed by a subcommittee of ARIC, the Chair of the subcommittee will provide their advice to the CEO via the ARIC Chair. Unless specified otherwise, a reference in this Framework

¹ Preamble, *Australian Code for the Responsible Conduct of Research, 2018*.

² R9, R10, *Australian Code for the Responsible Conduct of Research, 2018*.

³ R11, *Australian Code for the Responsible Conduct of Research, 2018*.

⁴ R12, R13, *Australian Code for the Responsible Conduct of Research, 2018*.

to ARIC includes a subcommittee of ARIC and a reference to the Chair, includes the Chair of a subcommittee of ARIC.

Responsibilities of ARIC

ARC and NHMRC jointly administer ARIC to:

- review, on receipt of a valid request, the *processes* by which an institution that is eligible to receive funding from the ARC and/or NHMRC has managed and/or investigated a potential breach of the Code
- provide findings and, where relevant, recommendations to the CEO of the ARC and/or the CEO of NHMRC
- provide reports or verbal advice to the Council of NHMRC or other Principal Committees, as requested, on the activities of ARIC-NHMRC, and
- publish de-identified information on its activities at least annually.

In all matters, ARIC considers whether the institution's response to a potential breach of the Code was consistent with the principles and responsibilities in the Code, the guidance in the Investigation Guide, and the institution's policies and procedures for investigating potential breaches of the Code.

It is not the role of ARIC to determine whether a breach of the Code occurred.

Secretariat and funding agency support

ARIC secretariat support is provided by the relevant funding agency. The Secretariats process requests for review following the submission of an ARIC Request for Review form and, where appropriate, direct the request to the appropriate funding agency. The Secretariats are also responsible for ensuring applications meet any formal requirements and will advise applicants on changes that may be required.

Committee procedures

The funding agencies are responsible for developing internal operating procedures to govern the functions of ARIC, duties of members and functions of the Secretariat.

The funding agencies will also maintain an ARIC Request for Review Form that should be used for all external requests for an ARIC Review.

An ARIC review may take up to 12 months to complete, depending on the complexity of the matter.

Section 1: Scope of an ARIC review, outcomes and interaction with institutional legal frameworks

Following acceptance of a request by the Secretariat and ARIC Chair (see Section 2), the Chair will convene a panel (an ARIC panel) of usually three or more members, drawn from the members of ARIC to:

- 1) Conduct an independent review of the processes followed by an institution in the management or investigation of a potential breach of the Code to determine whether they were in accordance with the Code and the Investigation Guide and/or with relevant institutional policy and procedures.
- 2) Develop advice to the relevant CEO on the outcome of the review and, where relevant, on any recommendations for further action by an institution.

The relevant CEO will communicate some or all of ARIC's recommendations and advice to relevant parties.

A panel will be chaired by the ARIC Chair or the Chair of a subcommittee of ARIC.

Matters outside the scope of an ARIC review

ARIC will not enquire into:

- 1) The conduct, act or omission that is alleged to be a potential breach of the Code (as distinct from complaints about institutions' processes in response to potential breaches of the Code).
- 2) The merits of any findings made by the institution in a preliminary assessment or by an investigation panel (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 preliminary assessment or findings of the investigation panel conducted under those processes.
- 3) Institutional processes involving allegations of misconduct on the part of an employee other than potential breaches of the Code, and any sanctions applied to such a matter.
- 4) Institutional decisions regarding sanctions consequent upon a finding of a breach of the Code.
- 5) Funding agency decisions about actions consequent upon a finding of a breach of the Code.
- 6) Institutional processes still underway (but see Grounds for Review below).
- 7) Any other matter that the CEO directs ARIC in writing to disregard.

Possible outcomes of an ARIC review

In preparing any recommendations to the relevant CEO, ARIC must consider the extent to which its proposed recommendations are proportional, having regard to the nature of the complaint and the community's trust in research integrity.

An ARIC review may result in general or specific advice or recommendations being provided to the CEO. The advice from ARIC may include:

- advice on improvements an institution could or should make to manage or investigate potential breaches of the Code in the future
- that an institution should offer an apology to the complainant or the applicant

- that an independent individual or individuals should be engaged by an institution to provide an independent review of the merits of any finding of a breach of the Code, or
- that an institution should conduct a new preliminary assessment or investigation.

In deciding how to proceed with ARIC's findings, the relevant CEO may take into account advice from ARIC as well as other relevant factors. For example, the CEO may consider information provided by the relevant parties in response to correspondence from ARIC and any other matters which are relevant to the respective funding agency.

Use of the Investigation Guide (for the Code)

The Investigation Guide outlines the preferred model for institutions to use to manage and investigate potential breaches of the Code, determine any corrective actions to ensure the integrity of the research record and when a finding of 'research misconduct' may be appropriate. The Investigation Guide provides examples of the range of behaviours that can constitute a breach of the Code, a range of factors to consider when determining the seriousness of a breach and a recommended definition of 'research misconduct'.

From 1 July 2019, ARIC will use the Investigation Guide as the benchmark for reviewing how an institution funded by the ARC or NHMRC has managed a potential breach of the Code **(see Box 1)**.⁵

Institutions must ensure their investigations are 'procedurally fair' and the Investigation Guide provides a model as to how this can be achieved. ARIC will assess the extent to which an institution's investigation has incorporated the principles of procedural fairness set out in Section 3 of the Investigation Guide, i.e. whether the process was proportional, fair, impartial, timely, transparent and confidential.⁶ ARIC will also be guided by the institutional responsibilities in the Code, in particular R9-R13 and any other aspect of the Investigation Guide that is relevant to the review. At the commencement of a review, ARIC will seek advice from the relevant institution on which edition of the Code they applied to their investigation and copies of all relevant institutional policies.

Where a term is not defined in an institution's policy but is defined in the Code or Investigation Guide, ARIC will adopt the Code or Investigation Guide's definition. A glossary of some terms used in the Code and Investigation Guide is at the end of this Framework.

⁵ Preamble, *Australian Code for the Responsible Conduct of Research, 2018*.

⁶ Section 3, *Guide to Managing and Investigating Potential Breaches of the Code*.

Box 1

ARIC reviews during the transition period for the 2018 Code

NHMRC, ARC and Universities Australia expect institutions to meet the requirements of the 2018 Code and Investigation Guide by 1 July 2019.

Complaints or concerns received by an institution **on or after 1 July 2019** should be managed and investigated consistently with the 2018 Code and Investigation Guide. From 1 July 2019, ARIC will apply the 2018 Code and Investigation Guide as its benchmark for reviewing how an institution funded by NHMRC or ARC has managed a potential breach of the Code.

For complaints, concerns or allegations received by an institution **before 1 July 2019, but for which a preliminary assessment or investigation has not commenced by 1 July 2019**, it is recommended that institutions undertake any subsequent management or investigation consistently with the 2018 Code and Investigation Guide. ARIC will apply the 2018 Code and Investigation Guide as its benchmark for reviewing how an institution conducted the preliminary assessment, investigation and outcome processes.

For complaints, concerns or allegations received by an institution **before 1 July 2019, and for which a determination has been made that a *prima facie* case exists (as per the 2007 Code) or where an inquiry is in progress**, ARIC will apply the 2007 Code as its benchmark.

ARIC will seek advice from institutions on which edition of the Code they applied to pre-1 July 2019 investigations.

Note: The above applies to the *processes* that an institution is expected to apply when investigating a potential breach of the 2007 or 2018 Code. Institutions will need to ensure procedural fairness if they seek to apply the principles and responsibilities in the 2018 Code to *conduct* that occurred before the institution implemented the 2018 Code.

Relationship to enterprise agreements

ARIC reviews will respect the legal status of instruments, including enterprise agreements that regulate employment conditions. In particular, ARIC will be mindful that, in implementing the Code and Investigation Guide, institutions will need to consider the legal framework within which they operate, as processes established in workplace and student disciplinary agreements may prevail over the model set out in the Investigation Guide.

Section 2: Requests for ARIC Review

What can ARIC review

Under ARIC's terms of reference, applications for an ARIC review may be made only in relation to the processes used by institutions to investigate:

- i) potential breaches of the Code involving research at or under the auspices of institutions in receipt of research funding under the *National Health and Medical Research Council Act 1992*, or
- ii) potential breaches of the Code involving research 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).

The ARIC Secretariat will determine whether a matter should be referred to ARIC-NHMRC or ARIC-ARC depending on the nature of the research, the institution at which the research occurred and whether the research in question was funded by one of the Funding Agencies.

Grounds for review

Grounds for review include that the institution's processes allegedly:

- involved a breach of procedural fairness as defined in the Code and section 3 of the Investigation Guide
- were carried out in an untimely manner that compromised procedural fairness or resulted in detriment to the complainant or respondent, or
- did not follow the processes defined in the Code and Investigation Guide and/or the institution's documented processes.

Except in limited circumstances (see below), ARIC will not review institutional processes that 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 request for review alleges institutional delay and/or inaction, 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) a preliminary assessment or investigation within one month, an ARIC panel may review whether the delay, in all the circumstances, could prejudice the findings or fairness of a preliminary assessment or investigation, or impose hardship on a relevant person.

How to seek a review

Any person or group or organisation may request that ARIC review the process undertaken by an institution in relation to a potential breach of the Code. A request for an ARIC review should be made via the online ARIC Request for Review form and should be accompanied by the following information:

- 1) Applicant/s name and contact details
 - ARIC accepts anonymous requests for review, 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 institutional affiliation of the relevant person/s (i.e. who has had a complaint or concern made against them) – if different from the above.
- 3) Names of agencies, institutions and staff involved in managing and/or investigating the complaint.
- 4) The date on which the institution finalised its preliminary assessment (e.g. with a recommendation to not proceed to an investigation or a decision to resolve the matter locally) or investigation into the matter.

- 5) A summary of the matter (word limits apply) including:
 - relevant dates (even if approximate) and locations
 - details of how the institution has not observed procedural fairness in accordance with the Code, Investigation Guide and/or with institutional policy and procedures.
- 6) 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.
- 7) Documentary evidence
 - Evidence should be limited to copies of any relevant, formal documents and correspondence related to the allegation/s.

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

Requests for review will be received in confidence by the Secretariat and by ARIC. However, where appropriate, it will be necessary to provide certain information to an institution to enable ARIC to carry out its review.

ARIC will only accept requests for review submitted online or emailed 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 an ARIC review does not meet the criteria for review but can be referred to another appropriate body, the ARIC Secretariat will endeavour to refer individuals and organisations directly to those bodies or suggest the applicant approach them themselves. Information on relevant bodies and appropriate avenues for pursuing allegations not about a potential breach of the Code will be provided online on the NHMRC website.

Limitations

Time limitations within which ARIC will accept requests apply. Requests for ARIC reviews can be made up to 12 weeks following formal notification from an institution that it has finalised its preliminary assessment or investigation into the potential breach of the Code. Requests that are outside of this timeframe will be assessed on a case by case basis at the discretion of the ARIC Chair.

Referral of matters by the CEOs of the ARC and NHMRC

The CEO of the ARC or NHMRC may refer a matter to ARIC for review. In referring a matter to ARIC, the CEO of the ARC or NHMRC may specify matters to be included or excluded from an ARIC review.

A referral from the CEOs of the ARC and NHMRC is not subject the time limitations specified above.

Commencement and timing of reviews

Within one week of receiving an application, the Secretariat will write to the applicant acknowledging receipt of their application. Within six weeks 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 ARIC has determined to not proceed with the review.

Applicants should be aware that time frames may be extended during reduced activity periods, i.e. Christmas/New Year and Easter.

Section 3: Other matters

Procedural fairness and draft reports

ARIC extends procedural fairness to parties subject to ARIC review. Once an ARIC panel has finalised its review, the institution will be provided with ARIC's draft report and given an opportunity to correct any factual errors. The applicant may also be provided with the draft report, relevant parts of the report or a summary, to ensure that the facts and issues of the matter have been accurately represented.

ARIC or the relevant funding agency may determine that it is also appropriate to provide the draft report, or relevant parts of the report, to other parties who are directly affected by the report or who have provided significant input to the considerations, to ensure that their input has been accurately represented. 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 will not apply due to overriding public interest. Definitions for the principles of procedural fairness (i.e., proportionality, fairness, impartiality, timeliness, transparency and confidentiality) are located in the Glossary of Terms and in Section 3 of the Investigation Guide.

The decision to provide information relating to an ARIC review, including the draft or final report, is ultimately at the discretion of the relevant CEO and may be subject to binding confidentiality obligations.

Privacy

The ARIC Secretariat of the relevant funding agency will manage personal information received in accordance with the *Privacy Act 1988* and take reasonable steps to protect information from misuse and loss, and from unauthorised access, modification and disclosure. Further information can be found in the Privacy Policies for NHMRC and the ARC. Subject to requirements under the *Archives Act 1983*, the ARIC Secretariat will only keep information that is relevant and necessary.

NHMRC and ARC may share information, including personal information, to support the operation of ARIC and to ensure consistency in recommendations and advice. Information sharing arrangements will be established through common Standard Operating Procedures between the two funding agencies. NHMRC

and ARC may also share information about ARIC reviews on an in-confidence basis where both agencies have an interest in a matter that is the subject of a review.

Whistleblowers

Individuals or organisations should be aware that ARIC is unable to provide protection to whistleblowers. Employees should ensure that the provision of information in an ARIC application does not breach a workplace confidentiality agreement, 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.⁷

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.

⁷ Employees of universities are not public servants for the purposes of the *Public Service Act 1999*, except where they are employed under the Public Service Act in another capacity.

Appendix A: Glossary of Terms

Allegation means a claim or assertion arising from a preliminary assessment that there are reasonable grounds to believe a breach of the Code has occurred. May refer to a single allegation or multiple allegations.

Applicant means a person, organisation or persons who have made a request for an ARIC review.

ARIC means the Australian Research Integrity Committee.

ARIC Chair means the person appointed as the Chair of the Australian Research Integrity Committee.

ARIC Secretariat refers to both NHMRC-ARIC and ARC-ARIC Secretariat staff who are engaged to work for ARIC. As the organising or administrative element of the relationship, the Secretariat will work closely with the ARIC Chair and the Chair of any subcommittees of ARIC.

Breach means a failure to meet the principles and responsibilities of the Code. It may refer to a single breach or multiple breaches.

Complainant means a person or persons who have made a complaint to an institution about the conduct of research.

Conflict of interest exists in a situation where an independent observer might reasonably conclude that the professional actions of a person are or may be unduly influenced by other interests. In relation to ARIC members, 'interest' is defined in the *National Health and Medical Research Council Act 1992* and is subject to rules issued under section 29 of the *Public Governance, Performance and Accountability Act 2013*.

Corrective action include retractions or errata of publications, training, counselling and systemic improvements.

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.

Funding Agency means either the ARC or NHMRC.

Investigation Guide means the *Guide to Managing and Investigating Potential Breaches of the Code, 2018*.

Institution includes universities, independent research institutes, hospitals or any other organisation that conducts research. May refer to one or multiple institutions.

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. A fair and proper procedure for managing and investigating potential breaches of the Code is one that satisfies the principles in Section 3 of the *Guide to Managing and Investigating Potential Breaches of the Code, 2018*.

Processes includes the specific series of actions taken in response to a particular complaint, as well as the policies, procedures, guidelines and standards used in managing the complaint.

Relevant parties may include: the person, group or organisation seeking ARIC review; the institution at which the research or investigation occurred; the researcher(s) allegedly involved in a breach of the

Code; and such other persons, groups or organisations who are identified by ARIC as having an interest in a specific review.

Research misconduct is a serious breach of the Code which is also intentional *or* reckless *or* negligent.

Researcher means a person (or persons) who conducts, or assists with the conduct of, research.

Respondent means the person the subject of a preliminary assessment or investigation into whether their conduct breached the Code.