



# **NHMRC Research Integrity and Misconduct Policy**

2019



## Revision history

Release Date	Title	Revision description
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
May 2019	<i>NHMRC research integrity and misconduct policy</i>	<p>Revisions to policy to align with revised <i>Australian Code for the Responsible Conduct of Research, 2018</i> and the <i>Guide to Managing and Investigating Potential Breaches of the Australian Code for the Responsible Conduct of Research, 2018</i>.</p> <p>Extension of policy to include research funded through the Medical Research Future Fund and administered by NHMRC.</p> <p>Other minor changes and clarifications.</p>

# Contents

<b>Revision history</b> .....	<b>1</b>
<b>1. Introduction</b> .....	<b>4</b>
<b>2. Scope of policy</b> .....	<b>5</b>
<b>3. Responsibilities of Institutions and researchers</b> .....	<b>6</b>
3.1 Breaches of the Code, including research misconduct.....	6
<i>Advice to NHMRC on the seriousness of the breach</i> .....	7
3.2 Requirement to notify NHMRC.....	7
<i>Information to be provided with notification</i> .....	9
3.3 Fraud and other misconduct.....	11
<b>4. NHMRC responses and actions</b> .....	<b>11</b>
<b>5. Precautionary action by NHMRC</b> .....	<b>12</b>
<i>Circumstances in which precautionary action may be considered</i> .....	12
<i>Action taken against other researchers involved in a complaint or investigation</i> .....	13
<i>Precautionary action consultation</i> .....	13
<i>Duration of precautionary action</i> .....	13
<b>6. Consequential action by NHMRC</b> .....	<b>14</b>
<i>Circumstances in which consequential action may be considered</i> .....	14
<i>Types of consequential action</i> .....	14
<i>Duration of consequential action</i> .....	15
<b>7. Confidentiality and treatment of information</b> .....	<b>15</b>
<i>Disclosure of information by NHMRC</i> .....	15
<i>Other institutions</i> .....	16
<i>Correspondence from NHMRC</i> .....	16
<i>Media policy</i> .....	16
<b>8. Reviews and complaints</b> .....	<b>16</b>
<i>Reconsideration of NHMRC decisions under this policy</i> .....	16
<i>Commonwealth Ombudsman</i> .....	17
<i>Commissioner of Complaints</i> .....	17
<i>Australian Research Integrity Committee (ARIC)</i> .....	17
<b>9. Other concerns about research integrity raised with NHMRC</b> .....	<b>17</b>
<i>Concerns raised by members of the public</i> .....	17
<i>Concerns arising during NHMRC peer review</i> .....	18
<b>10. Contact details</b> .....	<b>19</b>

<b>Appendix A Definitions .....</b>	<b>20</b>
<b>Appendix B Notifications to NHMRC: summary table .....</b>	<b>22</b>
<b>Appendix C Content of notifications .....</b>	<b>24</b>

# 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 is 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 integrity and conduct 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, 2018* (the Code).<sup>2</sup> This policy also applies to research funded through the Medical Research Future Fund (MRFF) and administered by NHMRC.

The purpose of this policy is to clarify the roles and responsibilities of institutions receiving research funding from NHMRC or the MRFF, including NHMRC Administering Institutions (collectively referred to as Institutions) about notifying NHMRC of potential and actual breaches of the Code, including research misconduct. It sets out NHMRC's approach to managing and mitigating risks to the use of public resources that may arise from suspected or proven breaches. This policy also clarifies the role and responsibilities of Institutions to notify NHMRC of fraud and other forms of serious misconduct where these involve NHMRC-funded or MRFF-funded research or researchers. Adherence to the requirements of this policy forms part of an Institution's obligations under the Funding Agreement.

In this policy a reference to NHMRC funding includes a reference to MRFF funding administered by NHMRC, where the context provides for this.

This policy replaces the *NHMRC Policy on Misconduct related to NHMRC Funding, 2016*.

This policy may be amended from time to time. Any changes to the policy will be notified on the NHMRC website. 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](#) and information on the management of confidential information is provided in [Section 7](#).

For further information on how to make a complaint about a possible breach of the Code or misconduct involving NHMRC-funded research, or to find out more about the responsible conduct of research and how enquiries, complaints and allegations are handled, see the NHMRC website at <https://nhmrc.gov.au/research-policy/research-integrity/our-policy-misconduct>. This page includes information about how to raise concerns or make complaints for:

- researchers, students, members of the public (Fact Sheet 1: [What should I do if I suspect a researcher may be doing the wrong thing?](#)), and
- NHMRC peer reviewers (Fact Sheet 2: [Concerns about research integrity arising during NHMRC peer review](#)).

---

<sup>1</sup> The *NHMRC Research Integrity and Misconduct Policy* (the policy) supports the CEO in discharging responsibilities under these Acts as well as the *Commonwealth Grants Rules and Guidelines 2017*; *Commonwealth Procurement Rules 2019*; *Commonwealth Fraud Control Framework 2017*; and *Privacy Act 1988*.

<sup>2</sup> The *Australian Code for the Responsible Conduct of Research, 2018* replaces the previous 2007 edition of the Code, effective 1 July 2019.

[Section 9](#) of this policy summarises how NHMRC responds to complaints about potential breaches of the Code or other concerns about research integrity that it receives.

## 2. Scope of policy

This policy applies to actual or potential breaches of the Code that may have occurred in relation to NHMRC funding (as defined in this policy), including research misconduct and fraud. This policy will come into effect on 1 July 2019.

This policy does not apply retrospectively. For complaints that were received by Institutions before 1 July 2019, or for preliminary assessments and investigations that were already underway before this date, the previous [NHMRC Policy on Misconduct related to NHMRC Funding](#) applies. This policy applies to complaints received by Institutions on or after 1 July 2019. If you are uncertain about whether this policy applies to a particular matter, please contact NHMRC for advice. Contact details are provided in [Section 10](#).

A matter **is related to NHMRC funding** if the complaint, allegations, investigation 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, and
- 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 a research integrity matter falls within the scope of this policy. NHMRC may sometimes inform an Institution of a researcher's involvement with NHMRC if a potential research integrity matter comes to NHMRC's attention.

Where a researcher did not fall within the scope of the policy at the outset of an assessment or investigation, but comes within its scope as the matter proceeds (e.g. by submitting an application for funding), notification requirements apply.

Box 1 provides some examples of the scope of this policy. **All examples used in this policy are illustrative only.** These should be read in conjunction with the information about notification requirements in [Section 3.2](#). If you are unsure whether a matter falls within the scope of this policy, please contact NHMRC for advice. Contact details are provided in [Section 10](#).

## Box 1 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 2020, University B receives a complaint about a potential breach of the Code 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 integrity 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 2020, University G receives a complaint about a potential breach of the Code that relates to research Dr F conducted in 2010 as part of his NHMRC 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 this complaint, as it relates to a past NHMRC grant.

### Example 3:

Professor X works for University Y and has a current NHMRC grant. University Y receives a complaint about a potential breach of the Code (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 grant. Because Professor X is a current grantee, **the notification requirements set out in [Section 3.2](#) of this policy apply**, despite the alleged breach not being related to the NHMRC grant.

## 3. Responsibilities of Institutions and researchers

### 3.1 Breaches of the Code, including research misconduct

Institutions have a responsibility to ensure that the principles and responsibilities as set out in the Code are met. Institutions bear primary responsibility for the prevention, detection, investigation and reporting of potential breaches of the Code.

NHMRC funding is provided via Institutions, rather than directly to individual researchers. In order to receive NHMRC funding, Institutions must enter into and comply with the [NHMRC Funding Agreement](#). This policy should be read in conjunction with the relevant Funding Agreement and with the relevant grant guidelines, which will provide information about the requirements and processes applicable to NHMRC funding. Under the current Funding Agreement, Institutions are required to notify NHMRC in accordance with this policy.

The primary responsibility of researchers is to conduct research with integrity and in accordance with the principles and responsibilities set out in the Code. Researchers who become aware of suspected breaches of the Code are expected to report these concerns to the relevant Institution and/or authority (see the Code, responsibility R29). Institutions are required to comply with the Code, including its principles for managing concerns and complaints about potential breaches (see the Code responsibilities R10 to R13). Institutions should

implement, maintain, and effectively communicate to their staff, appropriate processes for handling complaints of potential breaches.

The language used in this policy and the structure of notification requirements reflect the processes set out in the Investigation Guide. Where aspects of institutional processes may differ from these, Institutions should interpret and apply the requirements of this policy in a way that aligns with both the overall purposes of the policy (as set out on page 4) and the Institution's own procedures. If uncertain about the application of the policy, Institutions should contact NHMRC for advice. As noted in the Code, the Australian Research Integrity Committee (ARIC) will use the Investigation Guide as a benchmark for its reviews.

### *Advice to NHMRC on the seriousness of the breach*

Where an Institution notifies NHMRC that a breach of the Code has occurred, the Institution **must** provide information on the seriousness of the breach. This will assist NHMRC to apply consequential actions, where required, in a fair and proportionate way.

For matters that have proceeded to an investigation, recommendations made by an investigation panel about the seriousness of the breach can be used to inform this advice and Institutions may also wish to consult the guidance provided in the Investigation Guide about the spectrum of breaches.<sup>3</sup>

Institutions that are using the term 'research misconduct' in their own processes should advise NHMRC whether or not the breach meets the definition of research misconduct.

In line with the approach to investigations set out in the Investigation Guide, NHMRC considers Institutions to have a continuing obligation to address a complaint about a potential breach of the Code even when a respondent leaves the Institution following the complaint.

Specific responsibilities of Institutions for notifying NHMRC about potential and proven breaches of the Code are set out below.

## 3.2 Requirement to notify NHMRC

Institutions must notify NHMRC of research integrity matters that fall within the scope of this policy (refer to [Section 2](#) for an explanation of what matters fall within the scope of this policy) in accordance with the timing or circumstances detailed below.

### ***Preliminary assessments***

Institutions must notify NHMRC **within two weeks** of:

- The outcomes of a preliminary assessment where:
  - it has been established that a complaint, if proven, would constitute a breach of the Code and the complaint has been resolved without the need for an investigation, and/or
  - the matter is referred for investigation, and/or
  - NHMRC had been previously notified about a matter, or has referred a matter to the Institution, irrespective of the outcome of the assessment, including where a matter is referred to other institutional processes.<sup>4</sup>

---

<sup>3</sup> See sections 2.2, 2.3 and Box 1 of the Investigation Guide.

<sup>4</sup> This is to ensure NHMRC can take appropriate action, for example lifting any precautionary actions it may have previously put in place when first made aware of the matter. NHMRC does not need to be told what the other institutional processes



Note: Matters that relate to research administration that can easily be rectified at the local level and resolved prior to the need to consider a preliminary assessment, or once a preliminary assessment has been conducted, do not need to be notified. Unintentional administrative errors, clerical errors or oversights are some examples of these types of matters (see the Investigation Guide for further information about the spectrum of breaches).

### ***Investigations***

Institutions must notify NHMRC **within two weeks** of:

- The outcome of any investigations into potential breaches of the Code.

### ***Prolonged preliminary assessments***

Institutions must also notify NHMRC of:

- Any instance where a preliminary assessment has taken, or will take, longer than twelve weeks from the date of receipt of the complaint. Notifications should be made as soon as it is determined that the preliminary assessment will take more than twelve weeks or at the end of the twelfth week if the assessment is not complete.

### ***Suspension of funding or activity***

In addition, Institutions must notify NHMRC of matters **before** the completion of the preliminary assessment or investigation if:

- an Institution suspends funding to an individual or team involved in NHMRC-funded research before the completion of the preliminary assessment, or
- an Institution identifies an imminent or real risk of harm to humans, animals or the environment before completion of the preliminary assessment **and** has suspended or intends to suspend the research activity.

In these circumstances, Institutions must notify NHMRC as soon as possible and no later than **one week** 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 **one week**.

### ***Other***

In some circumstances, such as where a complaint has been made directly to NHMRC, or NHMRC becomes aware of a concern via other means (e.g. from media reports or from its peer reviewers), NHMRC will know of a complaint before the Institution has had the opportunity to consider it. NHMRC will engage directly with the relevant Institution to seek further information and may advise of future notification requirements.

[Appendix B](#) provides a reference table to assist Institutions in understanding when a notification to NHMRC is required. Some examples of notification requirements are provided in Box 2. Figure A provides a flowchart that illustrates points at which notification is required.

---

are; but will need to be advised if, at the conclusion of those other processes, a determination was made that the researcher breached the Code. Institutional processes include those established under Enterprise Agreements, workplace codes of conduct, student disciplinary agreements or those put in place to comply with other reporting requirements (e.g. to regulators).

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

## Box 2 At what stage of a matter does NHMRC require notification?

### Example 1:

Institution M receives a complaint about a potential breach of the Code (on or after the commencement date of this policy). The complaint relates to possible inaccuracies in the track record of a Chief Investigator in a previous successful NHMRC grant application. Institution M has not suspended funding to the researcher and is not intending to suspend the research activity, and proceeds to conduct a preliminary assessment. This assessment is completed within twelve weeks and concludes that the matter should be dismissed. Institution M is **not required** to notify NHMRC of this matter.

### Example 2:

University J receives a complaint about a potential breach of the Code (on or after the commencement date of this policy) that concerns possible data fabrication related to research being undertaken as part of a current NHMRC grant. University J has not suspended funding to the researcher and is not intending to suspend the research activity, and proceeds to conduct a preliminary assessment. The preliminary assessment is completed within twelve weeks and results in a referral of the matter for investigation. University J **is required** to notify NHMRC of this outcome. University J then proceeds to a formal investigation, which finds that no breach of the Code (including research misconduct) has occurred. University J **is required** to notify NHMRC of this outcome, as this policy requires notification of any outcome of an investigation.

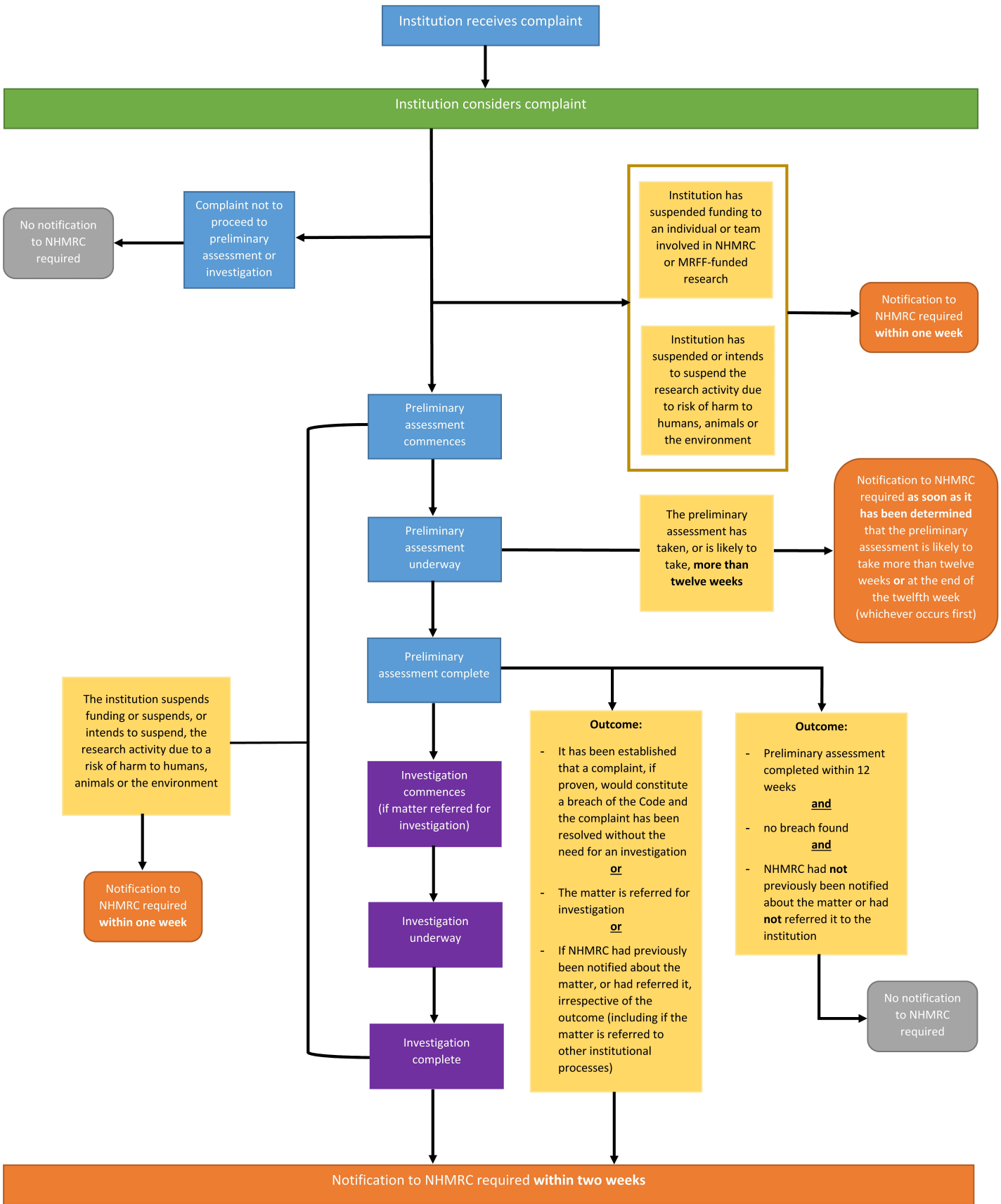
### Example 3:

University P receives a complaint about a potential breach of the Code (on or after the commencement date of this policy) that concerns possible data fabrication related to research that is part of a current NHMRC grant. University P has not suspended funding to the researcher and is not intending to suspend the research activity, and proceeds to conduct a preliminary assessment. The preliminary assessment experiences a number of delays, and it becomes obvious that it will not be completed within twelve weeks. University P **is required** to notify NHMRC, as the assessment will not be completed within the twelve week timeframe. Some weeks later, the preliminary assessment is completed and finds that the complaint should be dismissed. University P **is required** to notify NHMRC of this outcome, as this policy requires notification of the outcome of a preliminary assessment where NHMRC had previously been notified about a matter.

## *Information to be provided with notification*

Before 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 advise NHMRC of its reasons. Even where information has not been provided, NHMRC might need to take precautionary or consequential action (see [Sections 4, 5](#) and [6](#) of this policy) to protect the proper use of Commonwealth resources, and public confidence in, and the integrity of, NHMRC activities.

Figure A Research integrity 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 one week** 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 of the outcome of the investigation within **two weeks**, including where:

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

Complaints or allegations about fraud may overlap with complaints or allegations about potential breaches of the Code (for example, where it is alleged that falsified data were used in a grant application). If this is the case, the complaints may, for example, trigger an institutional preliminary assessment and potentially an investigation under the Code or an external investigation.

For any other types of misconduct, including, for example, corrupt conduct and criminal behaviour, 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 that has not been previously declared to NHMRC (as defined in the Funding Agreement).

Institutions may consult NHMRC where uncertainty exists about notification requirements for issues such as fraud, conflicts of interest or a Probity Event. Contact details are provided in [Section 10](#).

## 4. NHMRC responses and actions

NHMRC may take precautionary action before the final outcome of a research integrity matter is determined by an Institution, and NHMRC may take consequential action in response to findings of a serious breach of the Code (including a finding of research misconduct, where this term is used). Findings of a minor or less serious breach of the Code will not usually trigger consequential action. Precautionary or consequential action may also be taken in response to notifications of investigations or findings related to other forms of misconduct, including fraud.

[Sections 5](#) and [6](#) below provide additional detail about precautionary and consequential action. [Section 8](#) sets out the process for seeking a review of certain decisions under this policy.

**Under the NHMRC Funding Agreement, Institutions are required to inform affected researchers of any proposed action or action taken by NHMRC 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 research integrity matter, and particularly once an Institution has advised that a matter has been referred for a formal investigation. Risks may be actual, perceived or potential and relate to:

- the proper use of Commonwealth resources administered by NHMRC, and/or
- public and parliamentary confidence in NHMRC, and/or
- 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 an investigation. **It is a decision to mitigate the risks to NHMRC and Commonwealth funding.** Types of precautionary actions that NHMRC may take are listed in Box 3. Additional information about each action is described on the NHMRC website (see [Fact Sheet 3: NHMRC precautionary and consequential actions](#)).

A decision as to which type of action to be taken will be made by NHMRC on a case-by-case basis, and will depend on the scope of the research integrity matter and the level of risk to NHMRC.

Every effort will be made to give the Institution an opportunity to make representations about proposed actions before imposing actions (c)–(e) in Box 3, and for actions relating to participation in peer review and other NHMRC activities (actions (a) and (b) in Box 3) where the researcher is already participating in peer review or another NHMRC activity.

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

### Box 3 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 Minister.
- (e) Temporary suspension of grant payments.

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

NHMRC will consider precautionary action when it is advised that an allegation has been referred for investigation following a preliminary assessment. Precautionary action may also be taken to manage risks in a range of circumstances, including the following:

- Preliminary assessments or investigations are lengthy or delayed.
- NHMRC lacks sufficient information to evaluate the risk associated with a 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 (as defined in the Funding Agreement).

## *Action taken against other researchers involved in a complaint or investigation*

A potential breach of the Code may affect a number of researchers collaborating on a project, co-authoring a publication or supervising researchers. In deciding whether all or only some of a group of researchers may be involved in any assessment or investigation 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 assessment or 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 complaint or allegation are involved.
- Where complaints or 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 involved unless (or until) advised otherwise by the Institution.
- 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 that the CIA has exercised all their responsibilities with due care and diligence, and whether such assurances can be provided before the conclusion of an assessment or investigation.
- NHMRC will consider any advice from the Institution about the scope of the complaints or allegations in reaching a decision on these issues.

## *Precautionary action consultation*

With the exception of suspension from peer review (as noted above), and provided it is practical and reasonable to do so, NHMRC will give Institutions an opportunity to make representations about any precautionary action being considered.

Institutions should communicate in writing to NHMRC, within the response timeframe, any reasons why they consider that 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, and
- provide advice on any opportunities to make representations about the proposed actions.

NHMRC will not communicate directly with researchers who are the subject of precautionary action. Institutions will be required to advise researchers about such actions.

## *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 actual, perceived or potential risk to NHMRC (financial or reputational) or a risk of harm to humans, animals or the environment.
- 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 complaints or allegations are adequately resolved.
- There is a finding of a serious breach of the Code or fraud or other misconduct, 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 a serious breach of the Code or other misconduct. Types of consequential action that NHMRC may take are listed in Box 4. Additional information is available on the NHMRC website about each of these actions (see [Fact Sheet 3: NHMRC precautionary and consequential actions](#)). Such action may relate to the individual researcher (e.g. additional requirements concerning 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 a breach of the Code has been made (generally either a serious breach or a finding of research misconduct, where this term is used by an Institution), a Probity Event has occurred, or a finding of fraud or other misconduct has been made,  
**and**
- NHMRC is of the view that the finding or event poses a risk to NHMRC or Commonwealth funding if funding were to be awarded or were to continue, or the subject of the finding or event were to participate in NHMRC activities.

NHMRC may consider taking consequential action in relation to any NHMRC applications or grants or NHMRC activities in 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 matter.

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

### *Types of consequential action*

#### **Box 4 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.

NHMRC's decisions about which consequential actions may be taken will be made on a case-by-case basis depending on the scope of the 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 less serious breach of the Code will not usually trigger consequential action under this policy, but NHMRC will seek assurances from the Institution that appropriate corrective action has been taken and (where relevant) is being complied with, including publication of errata and retraction of publications, training, counselling and systemic improvements. Findings of a less serious 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 may not be given an opportunity to make representations about this action before it is implemented unless there are particular reasons to do so. In regard to other consequential actions, Institutions will be informed of the intention to take such actions and given the opportunity to make submissions as to why such actions should not proceed.

NHMRC will not communicate directly with researchers who are the subject of consequential action. Institutions will be required to advise researchers about such actions.

### *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 or the Commonwealth (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.

While the duration of consequential action will depend on the specifics of the case and the factors above, actions will not generally exceed a period of five years.

## 7. Confidentiality and treatment of information

NHMRC treats all notifications and other matters dealt with under this policy with sensitivity and a high level of discretion. This is particularly important as even unfounded allegations can have adverse reputational effects on researchers.

### *Disclosure of information by NHMRC*

To the extent possible, information provided to NHMRC about research integrity matters will be treated by NHMRC as confidential. NHMRC officers are bound by the *Public Service Act 1999* (including the Australian Public Service Code of Conduct) and Regulations, and the *Criminal Code Act 1995*. All paper files related to research integrity matters are stored in locked, secure filing cabinets and only a small number of officers will have access to either secure electronic or hard copy information, on a need-to-know basis.



NHMRC is subject to the *Privacy Act 1988* in relation to its collection, storage, use and disclosure of personal information. It is also subject to the *Freedom of Information Act 1982*. Consultation with the Institution may occur in relation to an application to access certain documents in accordance with this legislation. Details of NHMRC's [Freedom of Information](#) (FOI) procedures and the [NHMRC Privacy Policy](#) are available on the NHMRC website.

### *Other institutions*

Where NHMRC applications or grants affected by precautionary or consequential actions include researchers outside the Institution which is investigating a research integrity matter or which employs an affected researcher, NHMRC expects the responsible Institutions to inform external affected researchers of any actions or potential actions at the earliest possible opportunity. However, NHMRC will contact other Institutions about 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.

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 to inform affected researchers (e.g. Specified Personnel) of actions proposed or taken by NHMRC under this policy.

An officer at an Institution in receipt of correspondence from NHMRC may disclose that information to other members of the Institution to the extent required to manage and investigate a potential breach of the Code or to give effect to this policy or the Funding Agreement.

### *Media policy*

In order to protect the privacy of all parties involved and to ensure procedural fairness while a matter is under assessment or investigation, NHMRC does 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 must be lodged in writing, via email to [integrity@nhmrc.gov.au](mailto:integrity@nhmrc.gov.au) within four weeks 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 eight weeks of receiving the request.

### *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).

### *Commissioner of Complaints*

The NHMRC 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 NHMRC funding. The grounds on which the Commissioner can review decisions are outlined in section 58 of the NHMRC Act.

The Commissioner cannot review the merits of a decision made under this policy. The Commissioner also has no jurisdiction to consider complaints in relation to MRFF Funding.

For more information on the grounds for making a complaint and how to make a complaint to the Commissioner of Complaints see: <https://nhmrc.gov.au/about-us/publications/commissioner-complaints>.

### *Australian Research Integrity Committee (ARIC)*

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

ARIC does not review actions taken by NHMRC under this policy.

For more information on ARIC see: <https://nhmrc.gov.au/australian-research-integrity-committee-aric>.

## 9. Other concerns about research integrity raised with NHMRC

NHMRC is sometimes contacted by members of the public who wish to raise concerns or make complaints about potential breaches of the Code or other potential misconduct. 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 relevant Institution. When a person does not feel able to contact the Institution directly and contacts NHMRC, and if the concern relates to NHMRC-funded researchers or research, NHMRC may refer the complaint to the relevant

Institution. While NHMRC's strong preference is for complainants to identify themselves, anonymous complaints will be accepted, or complaints de-identified before referral.

- When NHMRC receives an anonymous complaint and the complainant cannot be contacted, NHMRC may forward the complaint in full or in part to the relevant Institution for assessment and investigation.
- Concerns may not be referred if insufficient information has been provided to make a referral, or if the concerns have already been raised with the Institution.
- NHMRC will not provide information to the complainant about a matter it has referred, other than whether or not it has referred the matter to the Institution. This applies to both identified and anonymous complainants. When NHMRC has provided the Institution with the name and contact details of the person raising the concern, NHMRC expects that Institution to contact the complainant.

Where NHMRC has referred a complaint (including an anonymous complaint) to an Institution, the Institution should treat the complaint as if it had been lodged under the Institution's process for managing and investigating potential breaches of the Code.

NHMRC asks those who raise a concern directly with NHMRC if they consent to NHMRC disclosing their name and details to an Institution.

### *Concerns arising during NHMRC peer review*

- When an NHMRC peer reviewer has a concern about a potential breach of the Code, these concerns are raised separately from the peer review process. This is done through contacting the secretariat of the relevant funding scheme in confidence via email, explaining the issue causing concern. When appropriate, the relevant NHMRC Director will then refer the matter to NHMRC's Ethics and Integrity section. This team will consider the concerns raised and, where appropriate, contact the relevant Institution.
- NHMRC does not disclose 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 a member of the public or a peer reviewer to an Institution, NHMRC will expect the Institution to provide notifications to NHMRC in accordance with [Section 3](#) of this policy.

Further information is available in [Fact Sheet Two: Concerns about research integrity arising during NHMRC peer review](#).

## 10.Contact details

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

**Email:**

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

**Phone:**

(02) 6217 9150

Ask for the Director, Ethics and Integrity Section.

**Mail:**

Director  
Ethics and Integrity 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.

**Allegation** (about a breach of the Code) is 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 (as per the Investigation Guide).

**Breach** is a failure to meet the principles and responsibilities of the Code. May refer to a single breach or multiple breaches (as per the Code and Investigation Guide).

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

**Complaint** is used to describe a concern that is raised or identified about a potential breach of the Code (as per the Investigation Guide).

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

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

**Institution** means both an NHMRC Administering Institution (which is an Institution approved by NHMRC to receive and administer NHMRC funding) and any institutions in receipt of MRFF funding administered by NHMRC. A list of NHMRC Administering Institutions is available on the [NHMRC website](#).

**Institutional action** means any precautionary, disciplinary or preventative action taken by an Institution in response to a complaint or allegation of a potential breach of the Code or other misconduct or a proven breach of the Code or other misconduct.

**Investigation** is used to describe the action of investigating an allegation of a breach of the Code by a Panel, following the preliminary assessment. The purpose of the investigation is to determine whether a breach of the Code has occurred, and if so, the extent of that breach, and to make recommendations about further actions (as per the Investigation Guide).

**Investigation Guide** means the *Guide to Managing and Investigating Potential Breaches of the Australian Code for the Responsible Conduct of Research, 2018*.

**Misconduct** includes, but is not limited to:

- research misconduct (as defined in the Code and Investigation Guide)
- fraud related to NHMRC or MRFF funding or activities
- corrupt conduct or criminal behaviour.

**MRFF** means the Medical Research Future Fund established by the *Medical Research Future Fund Act 2015*.

**MRFF funding** is limited in this policy to funding from the MRFF that is administered by NHMRC.

**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 research integrity matter.

**Preliminary assessment** is used to describe the gathering and evaluating of evidence to establish whether a potential breach of the Code warrants further investigation (as per the Investigation Guide).

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

**Research misconduct** is a serious breach of the Code which is also intentional or reckless or negligent (as per the Code and Investigation Guide).

**Research integrity matter** includes the receipt of a complaint (which may relate to an alleged breach of the Code or alleged research misconduct), the preliminary assessment, investigation (where relevant), institutional decisions in response to assessments or investigations and any actions taken by the Institution in response to complaints, 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 matter		
Circumstance	Notification to NHMRC required	Timeframe
Institution identifies an imminent or real risk of harm to humans, animals or the environment and has suspended or intends to suspend the research activity.	<b>Yes</b>	As soon as possible and no later than one week after the decision to suspend the research activity has been made.
Institution suspends funding to an individual or team involved in NHMRC-funded research.	<b>Yes</b>	As soon as possible and no later than one week after the decision to suspend funding is made.

Stage of matter	Notification to NHMRC required	Timeframe
<b>Upon receipt of complaint</b>		
Complaint received – no immediate or real risk of harm to humans, animals or the environment identified by the Institution, with no suspension or intention of suspending research activity, and no suspension of funding by the Institution warranted prior to the preliminary assessment.	<b>No</b>	N/A
<b>Preliminary assessment</b>		
Preliminary assessment finalised.	<p><b>Yes, if :</b></p> <ul style="list-style-type: none"> <li>- it has been established that a complaint, if proven, would constitute a breach of the Code and the complaint has been resolved without the need for an investigation</li> <li>- the matter is referred for investigation under the Code.</li> </ul> <p><b>Yes, regardless of the outcome (including if the matter is referred to other institutional processes), if NHMRC was previously notified of the matter or had referred the</b></p>	Within two weeks of the outcome of the preliminary assessment.

	<p>matter to the Institution.</p> <p><b>No</b>, if NHMRC was not previously aware of the complaint and the outcome is:</p> <ul style="list-style-type: none"> <li>- no potential breach of the Code, or</li> <li>- a breach is found that is otherwise exempt from notification (see section 3.2).</li> </ul>	
Preliminary assessment takes longer than twelve weeks from the date of receipt of the complaint.	<b>Yes</b>	As soon as it is determined that the preliminary assessment will take more than twelve weeks or at the end of the twelfth week if the assessment is not complete.
<b>Investigation of potential breaches of the Code</b>		
Investigation finalised.	<b>Yes</b> – regardless of the outcome.	Within two weeks of the completion of the investigation.



## Appendix C Content of notifications

If an obligation to notify NHMRC of a research integrity matter 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 a complaint or concern, during or upon conclusion of a preliminary assessment or during or upon conclusion of an investigation) and whether any information has previously been provided by the Institution.

1.	<i>Complaints or outcomes</i>	<p>a) If required as per <a href="#">Section 3</a> of this policy to notify NHMRC <b>at the complaint stage or during a preliminary assessment</b>, a copy of the complaint as received or a brief summary. Summaries are to include:</p> <ul style="list-style-type: none"> <li>• The names of any NHMRC-funded researchers involved in the grant application or research (including the grant identification number) and their role in the alleged breaches and/or funded research if available. Refer to <a href="#">Section 5</a> of this policy concerning who NHMRC considers an involved researcher.</li> <li>• Information about the nature of the alleged breaches.</li> <li>• Advice on whether funding for any NHMRC-funded projects has been suspended by the Institution.</li> <li>• Advice on whether the Institution has suspended, or intends to suspend, the research activity.</li> </ul> <p>When a researcher or body of research appears to be the subject of multiple similar complaints, a single summary notification of the similar complaints, and how many received, is acceptable.</p> <p>b) If notifying NHMRC <b>following completion of a preliminary assessment</b>, a copy of the advice provided to the Institution’s Designated Officer (DO) and the DO’s determination about the next steps required, or a summary of this. If a summary is provided, it must at least include the following information:</p> <ul style="list-style-type: none"> <li>• The names of any NHMRC-funded researchers involved in the grant application or research (including, where relevant, the grant identification number), and their role in the alleged breaches and/or funded research.</li> <li>• The nature of the alleged breaches and an outline of and rationale for the findings.</li> <li>• Any relevant contextual information, such as whether the breach was likely to have occurred inadvertently or involved intent, recklessness or negligence, or if there was a single incidence or repeated or persistent instances of the conduct.</li> <li>• In the event an admission has been made by a researcher or the evidence obtained during the preliminary assessment is sufficient to find a breach of the Code occurred, advice about the seriousness of any breach of the Code.</li> <li>• What, if any, corrective action the Institution has already instituted.</li> </ul> <p>c) If notifying NHMRC <b>following completion of an investigation</b>, the investigation report or a summary of the report. If a summary of the report is provided, it must at least include the following information:</p> <ul style="list-style-type: none"> <li>• The investigation panel’s terms of reference and composition.</li> <li>• The names of any NHMRC-funded researchers involved in the grant application or research (including the grant identification number) and their role in the alleged</li> </ul>
----	-------------------------------	---

		<p>breaches and/or funded research.</p> <ul style="list-style-type: none"> <li>• The nature of the alleged breaches and an outline of and rationale for the findings.</li> <li>• Any relevant contextual information, such as whether the breach was inadvertent or involved intent, recklessness or negligence, or if there was a single incidence or repeated or persistent instances of the conduct.</li> <li>• The Responsible Executive Officer's (REO's) decision about whether or not a breach of the Code has occurred.</li> <li>• Advice about the seriousness of any breach of the Code or, for institutions that use the term 'research misconduct', whether the breach meets the Code's definition of research misconduct.</li> </ul> <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 risks identified by the Institution including, but not limited to, possible harm to humans, animals or the environment or the reputation of NHMRC, and how the Institution is managing these risks.
3.	<i>Decisions</i>	Advice on any relevant decisions the Institution has made concerning the matter. This will differ depending on the stage of the research integrity matter, but could include, for example, the Institution's decisions about: <ul style="list-style-type: none"> <li>• whether particular researchers are involved in complaints</li> <li>• assessment or investigation findings and further progress of a matter</li> <li>• whether any NHMRC grants or applications are affected by the alleged or proven conduct.</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 integrity matter, including actions being taken in response to the outcomes of preliminary assessments or investigations. Actions could include, for example, suspension of funding, corrective actions, attention to any systemic issues and advice to other organisations such as relevant funding bodies, authorities or regulators.
5.	<i>Timeframe</i>	An indicative timeframe for the Institution's preliminary assessment (if notified prior to completion) and/or investigation.  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.
6.	<i>Referrals</i>	Details of any referrals that the Institution has made, or is actively considering, in response to the research integrity matter, for example, to the relevant state or territory crime commission or Health Complaints Commissioner.