

Investigation protocol in relation to potential breaches of the Australian Code (2018)

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Description	A practical and documented protocol for Cancer Council Victoria (CCV) to use in investigating potential breaches of the Australian Code that is informed by the Guide to Managing and Investigating Potential Breaches of the Code , 2018 (the Investigation Guide) and meshes appropriately with the CCV Collective Agreement and any other enterprise bargaining agreements. ¹

Related external codes and guidelines

[Australian Clinical Trial Handbook](#)
[Australian Code for the Care and Use of Animals for Scientific Purposes 8th edition 2013](#)
[Australian Code for the Responsible Conduct of Research \(2018\)](#)
[Conflict of Interest guidance for organisations](#)
[Ethical Conduct in research with Aboriginal and Torres Strait Islander Peoples and communities: Guidelines for researchers and stakeholders 2018](#)
[Guide to Managing and Investigating Potential Breaches of the Code, 2018 \(the Investigation Guide\)](#)
[National Clinical Trials Governance Framework](#)
[National Statement on Ethical Conduct in Human Research \(2007 updated 2018\)](#)
[Research Integrity Advisors: A Guide supporting the Australian Code for the Responsible Conduct of Research](#)
[Statement on Consumer and Community Involvement in Health and Medical Research](#)

Related legislation

[Corporations Act \(Australia\) 2001](#)
[Health Records Act \(Victoria\) 2001](#)
[Privacy Act \(Australia\) 1988](#)
[Privacy Amendment \(Enhancing Privacy Protection\) Act \(Australia\) 2012](#)
[Privacy and Data Protection Act \(Victoria\) 2014](#)
[Public Interest Disclosures Act \(Victoria\) 2012](#)

CCV Internal policies and documents (accessible to CCV employees via the intranet)

Behaviour and Conduct Policy
 Cancer Council Victoria Collective Agreement
 Conflicts of Interest Guide and Procedure
 Equity and Diversity Policy
 Human Research Ethics Policy
 Misconduct and Serious Misconduct Guide and Procedure
[Responsible Conduct of Research Policy](#)
 Whistleblower Policy and Procedure

¹ Recognising that there will be different EBAs for academics with co-appointments at different institutions.

1. Roles and Personnel

- 1.1 The Guide to Managing and Investigating Potential Breaches of the Code (The [Investigation guide](#)) identifies a series of roles and functions that need to be filled during an investigation into potential breaches of the [Australian Code for the Responsible Conduct of Research, 2018](#) (Australian Code 2018). CCV has identified the positions at CCV that map onto the roles required by the Australian Code.

Role indicated in the Investigation Guide	Role description	Equivalent Cancer Council Victoria Role
Responsible Executive Officer (REO)	The senior officer in an institution who has final responsibility for receiving reports of the outcomes of processes of assessment or investigation of potential or found breaches of the Australian Code and deciding on the course of actions to be taken.	Chief Executive Officer
Review Officer (RO)	A senior officer with responsibility for receiving request for a procedural review of an investigation of a breach of the Australian Code.	Head of Research Governance & Optimal Care
Designated Officer (DO)	A senior professional or academic institutional officer or officers appointed to receive complaints about the conduct of research or potential breaches of the Australian Code and to oversee their management and investigation where required.	Head of Cancer Epidemiology Division Head of Behavioural Sciences Division Where a conflict of interest is identified with both nominated DOs the Chair Medical and Scientific Committee will fulfil the function of DO.
Assessment Officer (AO)	A person or persons appointed by an institution to conduct a preliminary assessment of a complaint about research in relation to the Australian Code.	Chrysalis
Research Integrity Advisors (RIAs)	A person or persons with knowledge of the Australian Code and institutional processes nominated by an institution to promote the responsible conduct of research and provide advice to those with concerns or complaints about potential breaches of the Code.	Research Integrity Advisors
Research Integrity Office (RIO)	Staff with responsibility for management of research integrity at an institution.	Chrysalis

2. The Lodgement of Complaints

- 2.1 There is no restriction on who can lodge a complaint, though third parties who are not direct stakeholders may not have sufficient information to inform the conduct of an investigation.
- 2.2 It is preferable that complaints be made in writing. A verbal complaint may not provide sufficient information to inform the conduct of an investigation.
- 2.3 Allegations may be lodged
 - confidentially (where the identity of the complainant will not be disclosed to the respondent but will be known to the Research Integrity Office, Assessment Officer and Designated Officer) or
 - anonymously (where the Research Integrity Office, Assessment Officer and Designated Officer are not aware of the identity of the complainant)
- 2.4 Lodging a complaint anonymously may compromise procedural fairness and natural justice, and therefore limit the degree to which a matter can move beyond the preliminary investigation stage (see s3). If an anonymous complaint is made outside a secure online process, it may be impossible for the Assessment Officer to clarify any component of the complaint and anonymous complainants can neither be kept informed of progress nor seek a procedural review.
- 2.5 If a complaint relating to a potential breach of the Australian Code is received by another area within CCV (for example, by a Manager, or a Head of Unit or Division), it should be forwarded to the Research Integrity Office for processing.

3. Preliminary Assessment

- 3.1 The Designated Officer instructs the Assessment Officer to conduct a preliminary assessment, in which the Assessment Officer identifies, collects, lists and secures facts and information. The Assessment Officer considers whether the matter relates to an alleged breach of the Code requiring investigation, should be dismissed (see s8), or should be handled by another procedure (see s5, 6 and 7).
- 3.2 The nature of the preliminary assessment will be determined by the Assessment Officer and will be shaped by the specifics of the case and proportional to the seriousness of the matters involved or the degree of corporate exposure. The Assessment Officer will decide what communication there should be with the complainant and respondent. Where it is necessary to discuss the matter with a respondent in order to clarify facts or information, the Assessment Officer will notify the respondent and provide sufficient detail for the respondent to understand the nature of the complaint. The complainant will be given an opportunity to respond in writing within a reasonable period of time. Where the Assessment Officer seeks a meeting with a respondent, the respondent will be given the option to bring a support person and, after the meeting, will be provided with a formal note of the meeting.
- 3.3 The Assessment Officer will provide the Designated Officer with a report on the findings of the preliminary assessment. The report should consider appropriate outcomes or actions such as dismissal of the complaint, an investigation and corrective action (see 10.6).
- 3.4 The Designated Officer will decide the next steps based upon the Assessment Officer report discussed at 3.3.

4. Investigation

- 4.1 An investigation will generally only be conducted following receipt of the report of the preliminary assessment if that report provides evidence
 - of a breach, the seriousness and/or the impact of which are sufficient to warrant an investigation, or:

- that there is reasonable disagreement that the breach occurred, or
 - that any corrective action is likely to be more than professional development, a written caution or file note.
- 4.2 The nature and conduct of the investigation should follow the guidelines (see ‘Section 7 Investigation stage’ of the [Investigation guide](#)). This includes establishing an Investigation Panel.
- 4.3 A report from the investigation should be sent to the Responsible Executive Officer, including any recommended actions (see ‘8.6 Outcomes from the investigation’ of the [Investigation guide](#)).

5. Research Misconduct

- 5.1 Research misconduct is a serious breach (see ‘Box 1: Factors to consider when determining the seriousness of a breach’ and ‘Recommended definition of research misconduct’ of the [Investigation guide](#)) that also meets specific qualifying criteria (intentional or reckless or negligent).
- 5.2 If at any point in a preliminary assessment or an investigation it appears a breach might constitute research misconduct, those conducting the preliminary assessment or investigation should promptly notify the Designated Officer of the evidence of such a breach of the Code.
- 5.3 On receipt of a notification under 5.2, the Designated Officer will advise Head of People, Leadership and Teams who will then decide whether to follow CCV’s misconduct proceedings.
- 5.4 Where a matter appears unlikely to be research misconduct, but something for which an educative response is appropriate, those conducting the preliminary assessment or investigation will notify the Designated Officer that such a response is appropriate and the Designated Officer will inform the Head of People, Leadership and Teams. Following the implementation of the recommended response, a note will be made on the Individual staff member’s file by People, Leadership and Teams (in case there is a reoccurrence), but there will be no other action.
- 5.5 Where researchers are students, the agreement between CCV and the student’s home institution may mean that steps 5.3-5.4 will refer to the student misconduct arrangements of the student’s home institution rather than CCV staff misconduct arrangements.

6. Harassment and Bullying

- 6.1 If at any point it appears that research conduct might constitute harassment or bullying, the matter should be reported to the Designated Officer who will refer it to Head of People, Leadership and Teams. At that point, there should be a discussion between the Designated Officer and People, Leadership and Teams about whether the process to evaluate the alleged breach of the Australian Code 2018 should continue or be revisited after any disciplinary procedures for harassment or bullying as a breach of the CCV Behaviour and Conduct Policy and the Equity and Diversity Policy.

7. Corrupt and Criminal Conduct

- 7.1 If at any point it appears research conduct might constitute corrupt or criminal conduct the matter should be reported to the Designated Officer who will refer it to the Responsible Executive Officer (and as appropriate through the REO to the Board) and Head of People, Leadership and Teams for consideration of whether it should be referred to appropriate body (e.g. the Australian Charities and Not-for-profits Commission). At this point, there should also be a discussion with the external corruption or enforcement body about whether the process to evaluate the alleged breach of the Australian Code should continue or be revisited after any disciplinary procedures for corrupt or criminal conduct as a breach of the CCV Behaviour and Conduct Policy.

8. Matter Dismissed

- 8.1 If, as the result of either a preliminary assessment or an investigation, it is recommended that a matter be dismissed, the Designated Officer should consider whether the complaint was vexatious or mischievous and whether the complainant should be subject to investigation.
- 8.2 In all situations in which matters are dismissed, appropriate steps to restore the reputation of the respondent may be warranted.

9. Matters Identified by CCV

- 9.1 Some potential breaches may be identified by an office holder at CCV (e.g. the HREC Chair, Chair of the Medical and Scientific Committee, Chair of the Finance, Risk and Audit Committee), such as the failure to obtain ethics approval prior to the conduct of a project. That Committee should be regarded as a stakeholder (for those with a legitimate interest in notifications see 10.5) and the Committee Chair may need to be involved in the determination of corrective actions (see 10.6).

10. Conduct of these Processes

- 10.1 All the procedures described here must be conducted in accordance with the principles of natural justice and procedural fairness (see 'Section 3 Principles of procedural fairness' of the [Investigation guide](#)).
- 10.2 Anyone involved in the conduct of these procedures or making a determination who has a conflict of interest (whether potential, perceived or actual) must disclose and manage the conflict as per CCV's Conflicts of Interest Guide and Procedure.
- 10.3 A whistleblower who makes a disclosure in good faith and on reasonable grounds to an eligible recipient will be protected by Cancer Council Victoria from detrimental acts or omissions in accordance with the CCV's Whistleblower Policy and Procedure under [Part 9.4AAA of the Corporations Act 2001](#). CCV takes the protection of persons making a public interest disclosure seriously, including those acting under legislative protection and will take action with regard to any recriminations against persons who have made a complaint in good faith.
- 10.4 During the conduct of an investigation, the Designated Officer may direct immediate action be taken to safeguard the welfare of people.
- 10.5 The procedures described here will be conducted transparently, usually involving regular updates to complainants and respondents. Updates may also be sent to other stakeholders (other collaborating researchers/research institutions, research funding bodies, gatekeepers/bodies with a duty of care, publishers and individual and collective participants) in accordance with relevant institutional obligations.
- 10.6 The corrective action from a breach (rather than research misconduct) is generally educative, rather than disciplinary and, in addition to directed participation in a professional development workshop, may include a formal cautionary communication and noting the matter on the individual staff member's file (see 5.4).

11. Appeals

- 11.1 The Review Officer at CCV can consider appeals but only on the question of whether the process of consideration and/or investigation of an alleged breach was procedurally fair.
- 11.2 The [Australian Research Integrity Committee](#) can consider appeals but only in relation to whether the institution followed appropriate processes in reviewing a potential breach of the Australian Code.

12. Disputes Between Researchers

- 12.1 When a matter is still only a dispute between researchers and not yet a complaint (such as a disagreement over the order of authorship of a research output), all parties should make an effort in good faith to resolve it and, failing that, seek mediation at the Division level. The escalation of such a matter to the institutional level is not encouraged, unless the matter is serious or there is little prospect of resolving the matter fairly and appropriately at the Division level.

13. Workplace and whistleblowing complaints

- 13.1 The [Investigation guide](#) notes that workplace agreements and student disciplinary processes may prevail over the Guide. As a result, at various points in these Investigation Procedures, provision is made for a complaint to be referred to other institutional processes and then loop back to the Australian Code-based Investigation Procedures. This might occur:
- when at Preliminary Assessment, there is insufficient evidence of a breach of the Code;
 - when there is evidence of a potential breach of the Code, either after the complaint has been resolved locally or before the complaint is referred for investigation;
 - after investigation by the Panel and no breach of the Code has been found, or
 - after investigation by the Panel and a breach of the Code has been found.