

**Baker Heart and Diabetes Institute**

ACN 131 762 948

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# Research conduct policy and procedures

Investigating and managing potential Breaches

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# Section 1: Introduction

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## 1.1 Background

The Baker Institute expects that its research measures up to the highest international expectations for the responsible conduct of research. The Australian and international community expects research to be conducted responsibly, ethically and in order to maximise human health.

The responsible conduct of research includes management of research data and primary materials, supervision of students and research trainees, scientific authorship and dissemination of research findings, peer review, management of conflicts of interest, management of collaborative research, adherence to ethical principles applied to human research, and minimisation of impacts on animals.

“The [Australian Code for the Responsible Conduct of Research](#) (the Code) articulates the broad principles that characterise an honest, ethical and conscientious research culture. It establishes a framework for responsible research conduct that provides a foundation for high-quality research, credibility and community trust in the research endeavour. It outlines the expectations for the conduct of research in Australia or research conducted under the auspices of Australian institutions. The primary responsibility for ensuring the integrity of research lies with individual researchers and institutions. The Code sets out principles and responsibilities that both researchers and institutions are expected to follow when conducting research. Critical to this endeavour is the moral leadership and espoused values of the institution and the shared values and expectations of honesty and integrity that characterise an institution’s leadership and culture.”

In addition, better practice guidelines released by the NHMRC support the principles-based Code.

Compliance with the Code is a requirement of Baker Researchers, a prerequisite for receipt of National Health and Medical Research Council (NHMRC) and Australian Research Council (ARC) funding, and an expectation of the National Heart Foundation and other Australian research funding bodies.

The Baker Institute also administers funding from international funding bodies whose funding agreements may impose obligations with respect to the conduct of research. Such obligations should be read in conjunction with this Policy.

## 1.2 Purpose

The purpose of this Policy is to provide a clear outline of the policy and procedures for reporting, assessing, investigating, managing and resolving complaints and Allegations of breaches of the standards expected in the conduct or reporting of research at the Baker Institute, including potential Breaches of the Code.

## 1.3 Scope

This Policy applies to all Baker Institute Researchers. It also applies to former Baker Institute Researchers who have been engaged in research activities in any way connected with

conduct that is the subject of, or related to the subject of, a complaint or allegation of a breach.

## **1.4 Definitions**

### **Affiliate**

Clinical title holders, adjunct, conjoint and honorary appointees, visiting scientists, consultants and contractors to the Baker Institute, volunteers, visitors and any persons appointed or engaged by the Baker Institute to conduct research, or who use Baker Institute Resources, including those funded by external sponsors.

### **Allegation**

A claim or assertion arising from a Preliminary Assessment that there are reasonable grounds to believe a Breach has occurred. May refer to a single Allegation or multiple Allegations.

### **Balance of probabilities**

The civil standard of proof, which requires that, on the weight of evidence, it is more probable than not that a Breach has occurred.

### **Breach**

A failure to meet the principles and responsibilities of the Code or other relevant law, regulation, disciplinary standard, ethic, guideline, contractual agreement, or Institutional or external policy that applies to the conduct of research, including this Policy; may refer to a single Breach or multiples Breaches.

### **Code**

Australian Code for the Responsible Conduct of Research 2018, as amended from time to time.

### **Complainant**

A person(s) who has made a complaint about the conduct of research.

### **Designated Officer (DO)**

A senior professional or academic institutional officer or officers appointed to receive complaints about the conduct of research or potential Breaches and to oversee their management and investigation where required.

### **Investigation**

The action of investigating an Allegation of a Breach by the Panel, following the Preliminary Assessment.

### **NHMRC**

National Health and Medical Research Council.

### **Panel**

The person(s) appointed by an institution to investigate a potential Breach.

### **Policy**

This *Research conduct policy and procedures*.

### **Preliminary Assessment**

The gathering and evaluating of evidence to establish whether a potential Breach warrants Investigation.

**Procedural Fairness**

That a fair and proper procedure is used when making a decision.

**Researchers**

All Baker Institute Staff, Affiliates and Students who conduct research activities at the Baker Institute.

**Research Integrity Advisor (RIA)**

A person(s) with knowledge of the Code and institutional processes nominated by the Baker Institute to promote the responsible conduct of research and provide advice to those with concerns or complaints about potential Breaches.

**Research Integrity and Support Manager (RISM)**

A person(s) appointed by the Baker Institute to conduct a Preliminary Assessment of a complaint or concern about research, overseen by the Designated Officer.

**Research misconduct**

A serious Breach which is also intentional or reckless or negligent.

**Resources**

Any form of funds, facilities, services, or resources, including background IP, equipment, consumables and human resources of, or awarded or donated to, the Baker Institute.

**Respondent**

The person(s) subject to a complaint or Allegation about a potential Breach,

**Staff**

Employees of the Baker Institute.

**Student**

Undergraduate and postgraduate students of a university or other academic institution including but not limited to honours, masters and PhD students who are conducting research at the Baker Institute.

**Support Person**

A person who accompanies a party to an interview to provide personal support to a Respondent and/or Complainant.

## 1.5 Key policies and guidelines

In addition to the Code, a range of other laws, regulations, policies, guidelines and codes impose requirements or provide guidance regarding the responsible conduct of research.

Key materials that should be read in conjunction with this Policy include:

**AIATSIS**

[Guidelines for ethical research in Australian Indigenous studies, 2012](#)

**NHMRC/ARC**

[Australian Code for the Responsible Conduct of Research, 2018](#)

[Australian code for the care and use of animals for scientific purposes 8th edition, 2013](#)

**NHMRC**

[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 Australian Code for the Responsible Conduct of Research, 2018](#)

[Keeping research on track II, 2018](#)

[National statement on ethical conduct in human research, 2007](#) (updated May 2018)

[NHMRC policy on misconduct related to NHMRC funding, 2016](#)

[Statement on Consumer and Community involvement in Health and Medical Research, 2016](#)

[Guidelines to promote the wellbeing of animals used for scientific purposes: the assessment and alleviation of pain and distress in research animals, 2008](#)

Related Baker Institute research policies:

- Authorship of Research Outputs policy and procedures
- Disclosure of interests and paid outside work policy
- Research data and primary materials management policy

## Section 2: Policy

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### 2.1 Research conduct

Baker Institute Researchers will ensure the responsible conduct of research is manifest in all aspects of their research. More specifically, Researchers will comply with the principles and responsibilities of researchers set out in the Code and with all other relevant laws, regulations, disciplinary standards, ethics and other guidelines, contractual agreements, and Institutional and external policies that apply to the conduct of research, including this Policy.

### 2.2 Breaches

A Breach is a failure to meet the principles and responsibilities of the Code, or other relevant law, regulation, disciplinary standard, ethic, guideline, contractual agreement, or Institutional or external policy that applies to the conduct of research, including this Policy. It may refer to a single Breach or multiples Breaches.

Some examples of Breaches of the Code, as outlined in the *Guide to managing potential breaches of the Australian Code for the responsible conduct of research*.

#### 2.2.1 Not meeting the required research standards

- Conducting research without ethics approval as required by the National Statement on Ethical Conduct in Human Research and the Australian Code for the Care and Use of Animals for Scientific Purposes.
- Failing to conduct research as approved by an appropriate ethics review body.
- Conducting research without the requisite approvals, permits or licences.
- Misuse of research funds.
- Concealment or facilitation of Breaches (or potential Breaches) of the Code by others.

### **2.2.2 Fabrication and falsification**

- Fabrication of research data or source material.
- Falsification of research data or source material.
- Misrepresentation of research data or source material.
- Falsification and/or misrepresentation to obtain funding.

### **2.2.3 Plagiarism**

- Plagiarism of someone else's work, including theories, concepts, research data and source material.
- Duplicate publication (also known as redundant or multiple publication, or self-plagiarism) without acknowledgement of the source.

### **2.2.4 Research data management**

- Failure to appropriately maintain research records.
- Inappropriate destruction of research records, research data and/or source material.

### **2.2.5 Supervision**

- Failure to provide adequate guidance or mentorship for Researchers or research trainees under their supervision.

### **2.2.6 Authorship**

- Failure to acknowledge the contributions of others fairly.
- The misleading ascription of authorship including failing to offer authorship to those who qualify or awarding authorship to those who do not meet the requirements.

### **2.2.7 Conflicts of interest**

- Failure to disclose and manage conflicts of interest.

### **2.2.8 Peer review**

- Failure to conduct peer review responsibly.

Breaches occur on a spectrum, from minor to major. The minor end of the spectrum includes, for example, administrative errors, clerical errors or oversights due to careless practice. At the major end of the spectrum are serious/repeated Breaches; a serious Breach which is also intentional or reckless or negligent is, commonly referred to as 'Research Misconduct'.

Major Breaches would typically require an Investigation. Some minor Breaches can be addressed at the Preliminary Assessment stage (see further below). The seriousness of a Breach is determined on a case-by-case basis.

Allegations of a Breach may overlap with allegations of fraud that relates to funding (for example, where it is alleged that falsified data was used in an NHMRC grant application).

Factors that will be considered in determining whether a Breach represents a minor or major Breach include:



- the extent to which the principles and responsibilities outlined in the Code or relevant law, regulation, disciplinary standard, ethics, guideline, contractual agreement or policy have been Breached
- the extent to which research participants, the wider community, animals and the environment are or may have been affected by the potential Breach
- the extent to which the Breach affects the trustworthiness of research
- whether the conduct represents a significant departure from accepted standards within the research and scholarly community for proposing, conducting or reporting research.

Consideration will also be given to any mitigating or extenuating circumstances that may have contributed to the Breach, including:

- systematic failures, such as where the Baker Institute has not provided appropriate resources or facilities to Researchers
- the level of experience of the Researcher
- whether there is a pattern of Breaches by the Researcher
- whether the behaviour was accidental or intentional.

The Baker Institute's processes, investigations, corrective actions and disciplinary actions will be appropriate and proportional to the seriousness of the potential Breach and will respect the rights of all parties involved. Disciplinary actions will be determined in accordance with the Institute's *Disciplinary policy and procedure*.

Other types of misconduct, such as harassment, bullying or financial misconduct (unrelated to research funding) are outside the scope of this Policy.

## **2.3 Reporting, assessing, investigating, managing and resolving potential Breaches**

The Baker Institute is accountable to funding organisations and the Australian community for how research is undertaken. To foster responsible research conduct, and in compliance with the responsibilities of institutions in the Code with regard to managing potential Breaches, the Institute will:

- Facilitate the prevention and detection of potential Breaches.
- Identify and train Research Integrity Advisors (RIAs), who can assist in the promotion and fostering of responsible research conduct and provide advice to those with concerns about potential Breaches.
- Investigate and resolve potential Breaches, and have mechanisms in place to receive concerns or complaints about potential Breaches.
- Ensure that the process for managing and investigating concerns or complaints about potential Breaches is timely, effective and in accordance with Procedural Fairness.
- Support the welfare of all parties involved in an Investigation of a potential Breach.
- Base findings of Investigations on the Balance of Probabilities and ensure any actions are commensurate with the seriousness of the Breach.

Researchers must report suspected Breaches involving Baker Researchers according to the procedures set out in this Policy, or, in the case of suspected Breaches involving external Researchers, to the relevant institution and/or authority.

## 2.4 Corrupt or criminal behaviour

Some matters may involve corrupt conduct and/or criminal behaviour. These matters will trigger other Institutional responsibilities and processes and require referral to an appropriate agency, depending on local or state regulations, for example, a crime commission and/or the police. Where an external agency chooses to investigate, Baker Institute will seek advice on whether internal processing of the complaint as a Breach under this Policy can continue and, if so, with what authority and parameters, if any. Following completion of an external investigation, the Baker Institute will consider whether there are outstanding matters relevant to this Policy to be addressed internally, and may decide to initiate or re-activate internal processing.

## Section 3: Procedures for reporting, assessing, investigating, managing and resolving potential Breaches

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### 3.1 Institutional roles and responsibilities

Commitment at all levels in the Baker Institute is essential to effective complaint handling. All complaints or concerns about research conduct at the Baker Institute will be taken seriously and responded to promptly.

The table below summarises the roles and responsibilities of Baker Institute personnel involved in the assessment, Investigation, management and resolution of potential Breaches.

The Baker Institutes Responsible Officers are:

#### **Institute Director**

Final responsibility for receiving reports of the outcomes of processes of assessment or Investigation of potential or actual Breaches and deciding on actions to be taken.

#### **Designated Officer (DO)**

Receives complaints or concerns about the conduct of research or potential Breaches, and oversees their management and Investigation, where required.

#### **Research Integrity and Support Manager (RISM) or equivalent**

Conducts the Preliminary Assessment of a complaint or concern about research overseen by the DO.

#### **Research Integrity Advisor(s) (RIA)**

Person(s) nominated by the Baker Institute (may be employees or external appointees) with knowledge of the Code and relevant institutional processes to promote the responsible conduct of research and provide advice to those with concerns or complaints about potential Breaches.

Contact details for RIAs are provided on the [Intranet](#).

## **Research Office**

Responsible for management of research integrity at the Baker Institute.

All stages of handling concerns and complaints about potential Breaches must be:

- a. **Proportional**  
Handling of complaints, Allegations and subsequent actions need to be proportional to the seriousness of the potential Breach.
- b. **Fair**  
Handling of complaints and Allegations need to afford Procedural Fairness at all stages in the process to Respondents and, where appropriate, Complainants and others who may potentially be adversely affected. The principles of Procedural Fairness encapsulate the hearing rule (a right to be heard), the rule against bias (decision-makers do not have a personal interest in the outcome) and the evidence rule (decisions are based on evidence).
- c. **Impartial**  
Investigators and decision-makers are to be impartial and any actual or perceived conflicts of interest should be disclosed and managed.
- d. **Timely**  
Handling of complaints and Allegations should be conducted in a timely manner to avoid the damaging effects on those involved that can result from a drawn-out and unresolved process and decision-making.
- e. **Transparent**  
Institutional processes should be readily available and/or provided to Respondents, Complainants, all employees and students engaged in research. Institutions need to ensure all decisions and reasons for those decisions, including but not limited to, whether to proceed to a Preliminary Assessment, whether to investigate an Allegation, or whether to cease an Investigation are accurately documented and maintained in accordance with the relevant legislation.
- f. **Confidential**  
Information should not be shared unless required.

Complaints may be dismissed at any stage of the process for a variety of reasons, including if the complaint appears to have been in bad faith.

## **3.2 Raising a concern or complaint**

A Researcher with a concern regarding research conduct at the Institute should, in the first instance, discuss their concerns with and/or seek advice from their supervisor or Laboratory or Domain Head.

Alternatively, concerns may be discussed in confidence with a Research Integrity Advisor (RIA), verbally or in writing. RIAs are people with research experience, analytical skills, empathy, good communication skills, knowledge of the Baker Institute's processes and the Code, and familiarity with the processes set out in this Policy. The RIA can explain the institutional processes and available options, including how to make a written complaint.

Sometimes, it may be appropriate to approach an external RIA if, for example, the complaint involves a senior staff member, or an internal RIA is perceived to have a conflict of interest.

A supervisor, Laboratory Head, Domain Head or RIA is not to advise on matters where they have an actual or perceived conflict of interest.

A Researcher may also seek advice from the Research Integrity and Support Manager (RISM) about the Code and Institutional procedures related to this Policy, including how to make a formal complaint.

Outcomes of a discussion with a supervisor, Lab or Domain Head, or RIA may include:

- not proceeding if the concern or complaint is clearly not related to a Breach
- concern or complaint resolved locally and/or corrective actions implemented
- concern or complaint referred to other institutional processes
- making a formal Allegation in writing to the Designated Officer (DO).

An RIA's role does not extend to the Preliminary Assessment or Investigation of a complaint, including contacting the person who is the subject of the complaint or being involved in any subsequent Investigation other than as a witness or to provide testimony.

A concern or complaint raised by an external source about research at the Baker Institute must be referred directly to the DO.

In some situations, the impartial third person may need to be someone external to the organisation, such as a professional mediator.

### **3.3 Making a written complaint**

A complaint must be reported in writing to the DO: [integrity@baker.edu.au](mailto:integrity@baker.edu.au).

The complaint must:

- clearly state the person(s) about whom the complaint relates
- clearly outline the complaint
- provide sufficient supporting information to enable a Preliminary Assessment.

While anonymous Complainants and/or complaints lodged by third parties may make the subsequent process more challenging, they may identify significant Breaches, and will therefore still be considered, based on the information provided.

The Complainant may seek the assistance of an RIA to construct a complaint that is complete and as thorough as possible. It is not the responsibility of the Complainant to provide all of the necessary material to reach a conclusion, nor to identify the parts of the Code or other relevant policy, law, regulation or guideline that may have been Breached.

### **3.4 Preliminary assessment**

Upon receipt of a written complaint, the DO determines whether the complaint represents an apparent Breach, and if it does, the matter proceeds to a Preliminary Assessment. If the complaint does not represent an apparent Breach, then it may be discussed or referred to another institutional process. If the DO has a real, potential or perceived conflict of interest at the time of receiving a complaint, or one arises at any time throughout the matter, an alternate DO must be engaged.

#### **3.4.1 Purpose of preliminary assessment**

The purpose of the Preliminary Assessment is to gather and evaluate the evidence to establish whether or not the potential Breach warrants Investigation.

### 3.4.2 Conduct of the Preliminary Assessment

The RISM is responsible for the conduct of the Preliminary Assessment, including:

- liaising with the Complainant, Respondent and other relevant parties
- consulting with the DO, and others in the Baker Institute and external experts where necessary.

See Appendix 1 for a sample checklist for the Preliminary Assessment.

The DO oversees the Preliminary Assessment and provides advice to the RISM, as required.

Expertise may be required from other sources, such as researchers from the same or aligned disciplines, especially where the complaint relates to specific disciplinary practice.

During the Preliminary Assessment, the RISM identifies, collects, inventories and secures evidence. The correct collecting and securing of evidence at the Preliminary Assessment stage is important as it can have implications for the management and resolution of the complaint, particularly if the matter progresses to an Investigation. The RISM and DO also consider whether an expert needs to be engaged to provide specific and/or independent advice about the collection and storage of evidence.

Where it is considered necessary to interview a Respondent during the Preliminary Assessment, the RISM notifies the Respondent and provides:

- sufficient detail for the Respondent to understand the nature of the complaint
- an opportunity to respond in writing within a nominated timeframe. This may include an invitation to attend an interview with the option to bring a Support Person. The Respondent may seek advice from another RIA who has not been involved in the complaint.

Where interviews are conducted, they should be documented (for example, by recording or through written notes) and the interviewee(s) offered a copy.

The RISM should consider:

- consultation with relevant others in the Baker Institute
- the involvement of those in supervisory roles in the potential Breach
- the need to involve other institutions in the matter.

### 3.4.3 Outcomes from the Preliminary Assessment

On completion of the Preliminary Assessment, the RISM provides a written report to the DO in a timely manner.

The report is to include:

- a summary of the process that was undertaken
- an inventory of the evidence that was gathered and analysed
- evaluation of evidence
- whether the Respondent admitted to a Breach
- how the potential Breach relates to the principles and responsibilities of the Code and/or relevant institutional policies and processes

- recommendations for further action.

The Preliminary Assessment report will be considered by the DO, who determines, on the basis of the evidence presented, whether the matter should be:

- dismissed
- resolved locally with or without corrective actions taken
- referred to other institutional processes
- referred as an Allegation for Investigation.

An admission by the Respondent should not be seen as an endpoint. It may still be necessary to conduct an Investigation to identify appropriate corrective actions or other necessary steps.

Where a Respondent contests a finding that there is evidence to support a Breach, an Investigation is required.

The resignation of the Respondent should also not be seen as an endpoint. In cases where a Respondent resigns following a complaint or Allegation, the Baker Institute has an obligation to address the complaint or Allegation, including taking corrective actions where appropriate.

The DO should provide the outcomes to the Complainant and Respondent at the conclusion of a Preliminary Assessment in a timely manner.

Where the outcome of the Preliminary Assessment is that there is no evidence of a Breach, the following actions should be considered:

- If the complaint has no basis in fact (for example, due to a misunderstanding or because the complaint is frivolous or vexatious), then efforts, if required, should be taken to restore the reputation of any affected Researchers.
- If a complaint is considered to have been made in bad faith, efforts to address this with the Complainant should be taken under appropriate institutional processes.

## **3.5 Investigation**

### **3.5.1 Purpose of the Investigation**

The purpose of the Investigation is to provide information, evidence and advice to allow the Institute Director to determine whether a Breach has occurred, and if so, the extent of the Breach and the recommended actions.

### **3.5.2 Preparing for the Investigation**

After the DO determines an Investigation is required, the DO, with assistance from the RISM, will:

- prepare a clear statement of the Allegation
- develop the terms of reference for the Investigation panel (the Panel); a sample checklist for the Panel terms of reference is at Appendix 2
- nominate the Panel and Chair
- notify all those required to attend the Investigation
- provide to the Respondent sufficient detail about the Allegation to enable a response.

See Appendix 3 for a sample checklist for the Investigation procedure.

The appropriate number of members of a Panel, and the skills and expertise required will require consideration of:

- the need for an appropriate level of experience and expertise in the relevant discipline(s)
- whether Panel members who are external to the Institution are required (e.g. if the Respondent is a senior or prominent Researcher, if the matter involves other institutions, if the Allegation relates to a major Breach)
- the need for a person with prior experience of an Investigation
- whether any conflicts of interest preclude some members from serving on the Panel
- gender/diversity of Panel members.

Once a Panel is established, it should be provided with all relevant information and documentation.

Panel members will be provided with written appointments, including in the case of external members, assurance and conditions of indemnity.

The members of the Panel must agree to:

- work within the Baker Institute's processes
- follow the procedures of the Investigation
- follow the procedure established for the Panel
- work within the terms of reference for the Panel
- respect the confidentiality of the proceedings
- adhere to the principles of Procedural Fairness
- complete the Investigation in a timely manner
- provide a written report.

The Baker Institute will provide appropriate resources to the Panel, including secretariat support (e.g. staff from the Research Office or Legal Services). The secretariat will maintain the record of evidence.

### **3.5.3 Conduct of the Investigation**

During the initial meeting of the Panel, members should:

- disclose relevant interests
- review the case and Investigative processes
- develop an Investigation plan (described in Appendix 3).

The Respondent should be provided with an opportunity to respond in writing to the Allegation and have access to all evidence upon which the Panel may rely. If the Respondent chooses not to respond to, or appear before, the Panel, the Investigation continues in their absence.

All those asked to give evidence are to be provided with relevant, and if necessary de-identified, information including:

- the schedule of meetings they are asked to attend

- the relevant parts of the terms of reference for the Investigation, if appropriate
- advice as to how the Panel intends to conduct interviews
- whether they may be accompanied by a Support Person
- advice about whether the interviews will be recorded
- whether an opportunity will be provided to comment on matters raised in the interview
- the need to disclose interests
- the need for confidentiality
- information about the Panel's procedures.

Legal counsel may be engaged to assist the Panel on matters of process only, but should not be present during interviews with the Respondent, Complainant or others who appear before the Panel. Legal counsel should not be engaged to represent any of the parties involved in the Investigation.

The support person is solely present to provide personal support to the Respondent and/or Complainant and not to represent or speak on the other person's behalf. The support person should not be a practising solicitor or barrister.

The Panel is to determine whether, having regard to evidence and on the Balance of Probabilities, the Respondent has committed a Breach.

To do this, the Panel:

- assesses the evidence and considers if more may be required
- may request expert advice to assist the Investigation
- arrives at findings of fact about the Allegation
- identifies whether there has been a Breach, and if so, document this Breach
- makes recommendations as appropriate regarding further actions.

If a Panel finds during the Investigation that the scope and/or the terms of reference are too limiting, it should refer the matter to the DO. The DO may decide to amend the scope of the Investigation and the terms of reference. Should this occur, the Respondent and relevant others are to be advised, and the Respondent given the opportunity to respond to any new material arising from the increased scope.

#### **3.5.4 Outcomes from the Investigation**

On completion of the Investigation, the Panel will prepare a draft written report of the Investigation.

See Appendix 4 for a sample checklist for reporting the findings of the Investigation.

Given that the report will be relied on by the Institute Director to make a decision about whether a Breach has occurred, it is essential that the report is detailed, accurate and cogent, and fully addresses the terms of reference. The Research Office will provide secretariat support to assist in the preparation of the draft report if required.

The draft report should contain findings of fact and any recommendations. The draft report should be provided to the Respondent for comments on factual inaccuracies with a prescribed timeframe to respond.



The final Panel report is provided to the DO, who will consider the findings of fact, the evidence presented and any recommendations made by the Panel. The DO will also consider the extent of the Breach, the appropriate corrective actions and if referral to disciplinary procedures is required, having regard to the factors and mitigating circumstances outlined in Section 2.

The DO will provide the final report to the Institute Director with advice and recommendations. The Institute Director will decide the outcome as outlined below.

### **3.5.5 No evidence to support a finding of a Breach**

If the Institute Director decides that there has been no Breach, the following will need to be considered:

- if the Allegation has no basis in fact, then efforts should be taken to restore the reputation of those alleged to have engaged in improper conduct
- if the Allegation is considered to have been frivolous or vexatious, action to address this with the Complainant should be taken under appropriate Institute processes
- the mechanism for communication with, and support for, the Respondent and Complainant.

### **3.5.6 Insufficient evidence for Panel to make recommendations**

The Panel may be unable to make findings of a potential Breach with sufficient confidence or to reach a conclusion. The Institute Director should consider whether a further Investigation is required. This may be with a different Panel, different terms of reference and/or additional resources.

### **3.5.7 Evidence to support a finding of a Breach**

Where the Institute Director accepts that a Breach has occurred, the Institute Director decides the response and actions, taking into account the seriousness of the Breach and whether other institutions should be advised.

Possible sanctions or disciplinary actions include:

- further education, training or advice
- increased supervision of future research
- written warnings
- demotion
- correction of published information
- inclusion into the staff member's personnel file of a letter indicating that the staff member's good standing at the Baker Institute has been called into question
- restrictions on the staff member's external professional relationships
- restrictions on the staff member's supervision of staff and/or students
- ineligibility of the staff member to conduct research
- non-renewal of appointment
- recommendation for dismissal.

In the case of joint, adjunct, students and/or honorary appointments of the Respondent, the Baker Institute's own processes relating to these appointments will be followed. How the Baker Institute will manage these appointments with other institutions will be considered on a case-by-case basis in consultation with the relevant institution.

### 3.5.8 Communicating the findings

Once the Institute Director has considered the Panel's report, any decisions or actions are to be communicated to the Respondent and the Complainant.

Subsequent actions may include informing relevant parties (such as funding bodies, publishers, other relevant authorities, or other institutions) of the outcome.

It is a requirement of the *NHMRC funding agreement* and the *NHMRC policy on misconduct related to NHMRC funding*, for the Baker Institute to notify the NHMRC within specified timeframes of certain Allegations or findings of a Breach of the Code, if the Allegations or findings related to:

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

The Baker Institute requires all Researchers to sign a consent form to permit the disclosure of their personal information to the NHMRC and other relevant parties in relation to an Allegation or finding of a Breach if Baker reasonably determines such disclosure is necessary to fulfil its obligations under the NHMRC Funding Agreement, the Code or other funding/cooperative agreement. The timeframes for notification are set out in the *NHMRC funding agreement* and the *NHMRC policy on misconduct related to NHMRC funding*.

In cases where a Respondent resigns, the Baker Institute still has an obligation to address the findings of the Investigation. The matter may also need to be referred to the new employing institution. In this case, institutions should consider seeking legal advice to ensure that any information exchange is done appropriately and lawfully.

The Institute Director should consider whether a de-identified public statement should be made to communicate the outcome of an Investigation.

## 3.6 Mechanisms for Review of an Investigation

The Complainant and Respondent have 10 days from the date on which they are informed of the outcome of an Investigation, or from the date on which they become aware of new and relevant information, to lodge a request to reopen the Investigation or lodge an appeal in writing to the Institute Director.

Appealing or reopening an Investigation may be appropriate where new and relevant information not available to the Panel comes to light, to correct errors or injustice, or where there is a perceived denial of Procedural Fairness. However, an Investigative process will not be reopened to simply try to achieve a different outcome. For example, a conflict of interest could invalidate a process and require that it be redone without conflict. However,

this would not be the case if the conflict of interest was considered, addressed and managed appropriately.

In the event that the Institute Director determines that there are grounds for reopening, or accepting an appeal of the outcome of an Investigation, the matter will be referred to a higher authority, such as an independent adjudicator or Panel comprised of a larger number of members or having greater experience / expertise, more rigorous processes, or greater resources.

In accordance with the principles of Procedural Fairness, Respondents will be given as much warning of the decision to reopen or accept an appeal of the outcome.

The Australian Research Integrity Committee (ARIC) provides a review system of institutional processes responding to Allegations of Breaches of the Code for institutions that are in receipt of funding from the NHMRC or the ARC. More information about ARIC and how to request a review form ARIC is available on the NHMRC website.

Given that confirmed Breaches can lead to serious penalties, Respondents who are the subject of such findings may also have an entitlement to appeal to the courts.

### **3.7 Investigating potential Breaches that involve collaborative research across multiple institutions**

The Baker Institute will consider how Preliminary Assessments and Investigations into potential Breaches are to be conducted for multi-institutional collaborations on a case-by-case basis, taking into consideration issues such as the lead institution, where the complaint was lodged, contractual arrangements or where the events occurred. Generally, it would be expected that only one Preliminary Assessment/Investigation is conducted. There should be clear communication between all parties throughout the handling of the matter. Special consideration will be given to international collaborations since research practices and guidelines about research conduct matters differ between countries.

## Appendix 1

### Sample checklist for the Preliminary Assessment

- DO assigns the complaint to the RISM.
- Prepare and retain records of the Preliminary Assessment.
- Obtain information provided by the Complainant and seek further facts and information as required.
- Gather and secure facts and information.
- Clarify facts and/or information with the Respondent if appropriate.
- Obtain facts, information and/or advice from across the institution if required.
- Determine if and how other institutions need to be involved in the matter.
- Written advice provided to DO that includes:
  - a summary of the process that was undertaken
  - an inventory of the facts and information that were gathered and analysed
  - an evaluation of facts and information
  - how the potential Breach relates to the principles and responsibilities of the Code and/or relevant institutional policies and processes
  - recommendations for further action
- Assess all facts and information to determine the outcome, i.e. complaint is to be:
  - dismissed
  - resolved locally
  - referred for Investigation
  - referred to other institutional processes.
- The outcome of Preliminary Assessment advised to the Complainant, Respondent and other relevant parties such as funding bodies, as appropriate.

## Appendix 2

### Sample checklist for the terms of reference for the Panel

The terms of reference for a Panel may include the following:

- The date the complaint was received, the name of the Complainant (where appropriate), a brief description of the matter.
- The name of the Respondent and a list of the specific Allegation.
- A statement that the Panel is constituted in accordance with the Code and the Baker Institute's *Research conduct policy and procedures*.
- List of the Panel members.
- A detailed outline of the scope and purpose of the Panel, which may include the following:
  - to investigate the matter
  - to ensure that Procedural Fairness is afforded at all stages in the process to all involved
  - where possible, to maintain the confidentiality of all persons involved
  - to consider the protection of all involved
  - to review the Allegation
  - to review the responses to the Allegation provided by the Respondent
  - to review the Preliminary Assessment report (including any external expert advice)
  - to identify and gather any other relevant evidence
  - to meet with the relevant parties
  - to consider the evidence in the context of the principles and responsibilities of the Code, and any other relevant laws, regulations, disciplinary standards, ethics, guidelines, policies and contractual agreements that apply to the conduct of research, including the Baker Institute's *Research conduct policy and procedures*.
  - to make findings in accordance with the Code and the Baker Institute's *Research conduct policy and procedures*
  - to provide a report to the DO in a timely manner.
- A statement about the secretariat support to be provided by the Baker Institute.
- An indicative timetable for the conduct of the Investigation.

## Appendix 3

### Sample checklist for the Investigation Procedure

- Develop terms of reference and scope for a Panel that are appropriate and proportionate to the nature of the Allegation (see Appendix 2).
- Determine size and composition of the Panel.
- Establish provision of secretariat support.
- Where the Allegation involves outside parties, determine whether the involvement of other institutions, or of their staff, is necessary, and if so, whether an agreement needs to be established setting out the scope of their involvement.
- Inform the relevant institutional office (for example, Executive, Human Resources, Research Office) of the Investigation as required.
- Provide Respondent with an opportunity to comment on the composition of the Panel.
- Appoint the Panel.
- Provide the Panel with an opportunity to comment on the terms of reference and scope of the Investigation.
- Provide guidance on the appropriate procedures for the Investigation to the Panel, such as Baker Institute's *Research conduct policy and procedures*, the Code and NHMRC better practice guidelines, and any relevant government or institutional processes.
- Provide the Panel with all available information that will inform the Investigation, which may include:
  - the initial concern or complaint
  - all relevant information assembled by the RISM
  - records of the conduct of the Preliminary Assessment
  - the report of the Preliminary Assessment
  - records of any communications on the matter involving the DO, the RISM, the Complainant and/or the Respondent.
- Ensure that the Panel has the authority to access all relevant information and documentation.
- Support the Panel to develop an Investigation plan that includes the following:
  - identification of the avenues of inquiry, including interviewing people who the Panel considers relevant to the matter
  - the frequency of Panel meetings
  - the timeline for conducting interviews
  - the timeframe for submitting a draft report to Respondent
  - the timeframe for submitting the report to the DO.
- Inform the Panel of the reporting requirements (Appendix 4).

## Appendix 4

# Sample checklist for reporting the findings of an Investigation

A Panel should formulate a comprehensive report that includes the following:

- The names and affiliations of the Panel members.
- The name of the Respondent.
- A summary of all relevant research projects, including project summary, duration and funding.
- The specific Allegation considered.
- The terms of reference of the Panel.
- A description of the processes that were followed.
- A description of the evidence considered, including the documents and other information and the names of all persons interviewed.
- Summaries of the interviews conducted (with transcripts attached).
- The findings of fact that have been reached.
- A conclusion as to whether or not a Breach occurred and whether or not the Respondent is responsible for the Breach.
- Any recommendations (for example, for corrective action), where appropriate and consistent with the terms of reference.
- Any recommendations about other institutions/organisations that should be advised of the outcome (for example, funders, external stakeholders).