

Managing and Investigating Potential Breaches of the VCCRI Research Code of Conduct (2019).

Effective 28 April 2020

1. SCOPE OF THIS POLICY¹

This Policy establishes the procedures to be followed by the Victor Chang Cardiac Research Institute (VCCRI) when managing and investigating potential Breaches of the VCCRI Research Code of Conduct (2019)². This Policy reflects the NHMRC and Australian Research Council Guide to Managing and Investigating Breaches of the Australian Code for the Responsible Conduct of Research (2018).

VCCRI is committed to the highest standards of research conduct, ethical behaviour, research integrity and corporate governance. VCCRI is committed to complying with VCCRI Research Code of Conduct (2019) and confirms this commitment regularly to funding bodies, contract counterparts and in our own governance framework. Compliance with this Policy ensures VCCRI is meeting these obligations and has appropriate procedures in place in the event of a suspected Breach of VCCRI Research Code of Conduct (2019).

WHO DOES THIS POLICY APPLY TO?

This Policy applies to all employees and students of the Institute (whether full-time, part-time or casual) and all persons performing work at the direction of, in connection with, or on behalf of the Institute (for example board directors, contractors, subcontractors, honorary appointments, volunteers, consultants and temporary staff) (**Workplace Participants**).

This Policy should be read in conjunction with other VCCRI policies including:

1. The VCCRI Research Code of Conduct (2019) and associated Policies including:
 - a. Authorship Policy
 - b. Management of Data and Information in Research Policy
 - c. Peer Review Policy
 - d. Disclosure of Interests and Management of Conflicts of Interest Policy
 - e. Supervision Policy
 - f. Publication and Dissemination of Research Policy

¹ Not the NHMRC Guide states that processes for receiving and managing concerns and complaints should be readily accessible on an institution's external website

² The VCCRI Research Code reflects the Australian Code for the Responsible Conduct of Research (2018) – accordingly, a Breach of the VCCRI Research Code will also be a Breach of the Australian Code for the Responsible Conduct of Research

- g. Collaborative Research Policy
2. The VCCRI Code of Conduct
3. VCCRI Whistleblower Protection Policy (see below)
4. Incident Reporting Guideline

VCCRI WHISTLEBLOWER PROTECTION POLICY

The Board of VCCRI has approved the VCCRI Whistleblower Protection Policy (available on the intranet). This Whistleblower Protection Policy provides guidance to Whistleblowers about how to make a Whistleblower disclosure and what procedures will be followed once a disclosure is made. The Whistleblower Protection Policy also explains that VCCRI is required to protect Whistleblowers from detriment and victimisation relating to their Whistleblower disclosure, and that VCCRI is required to maintain the confidentiality of the Whistleblower unless the Whistleblower consents otherwise.

To make a disclosure and receive these protections, the Whistleblower must have reasonable grounds to suspect that the information concerns misconduct or an improper state of affairs or circumstances in relation to VCCRI. This may include conduct which is fraudulent, dishonest, negligent, corrupt or illegal.

Some concerns that may be raised under this Policy in relation to a Breach of the VCCRI Research Code of Conduct (2019) may also be concerns that fall under the Whistleblower Protection Policy. In this case, the protections under the Whistleblower Protection Policy may apply, even though any Preliminary Assessment or Investigation may still follow the process set out under this Policy.

SUMMARY OF THIS POLICY

This Policy sets out the process VCCRI will follow when managing potential Breaches of VCCRI Research Code of Conduct (2019) including:

1. **How to make a Complaint about a potential Breach** (*Section 3*):
 - Individuals to consider discussing their concern with a Research Integrity Advisor, who can advise on relevant VCCRI processes and available options, including how to make a Complaint under this Policy
 - Complaints must be made to a Designated Officer and should be made in writing.
2. **How a Designated Officer considers the Complaint** (*Section 4*):
 - If the Complaint relates to a potential Breach of VCCRI Research Code of Conduct (2019) the Designated Officer will refer the Complaint to a Preliminary Assessment
3. **Conducting a Preliminary Assessment** (*Section 5*), which involves:
 - The Designated Officer appointing an Assessment Officer

- The Assessment Officer conducting the Preliminary Assessment by gathering all facts and information and then preparing the Preliminary Assessment Report with recommendations
 - The Designated Officer determining whether to dismiss or resolve the Complaint or refer the Complaint for an Investigation or another VCCRI process
4. **Conducting an Investigation** (*Section 6*), which involves:
- Appointing an Investigation Panel and preparing Terms of Reference for the Panel
 - Conducting the Investigation by further collecting and assessing facts and information
 - The Panel preparing the draft Investigation Report and providing it to the Designated Officer
 - The Designated Officer finalising the Investigation Report and providing it to the Executive Director
 - The Executive Director determining whether or not a Breach of VCCRI Research Code of Conduct (2019) has occurred, what further actions, including appropriate communications and disciplinary actions, are required
5. **The option to request a review of the findings** of the Investigation (*Section 7*):
- Complainants and Respondents can request a review of Investigation findings where there is concern that procedural fairness (defined below) was not provided
 - Requests for review must be provided to the designated Review Officer within 30 days of the receipt of the Investigation Report
 - A review of the Investigation findings could be a full review, or focused on specific aspects of the findings. The Complainant and Respondent will be informed of the outcome.

DEFINITIONS

Balance of Probabilities means that it is more probable than not that something is true.

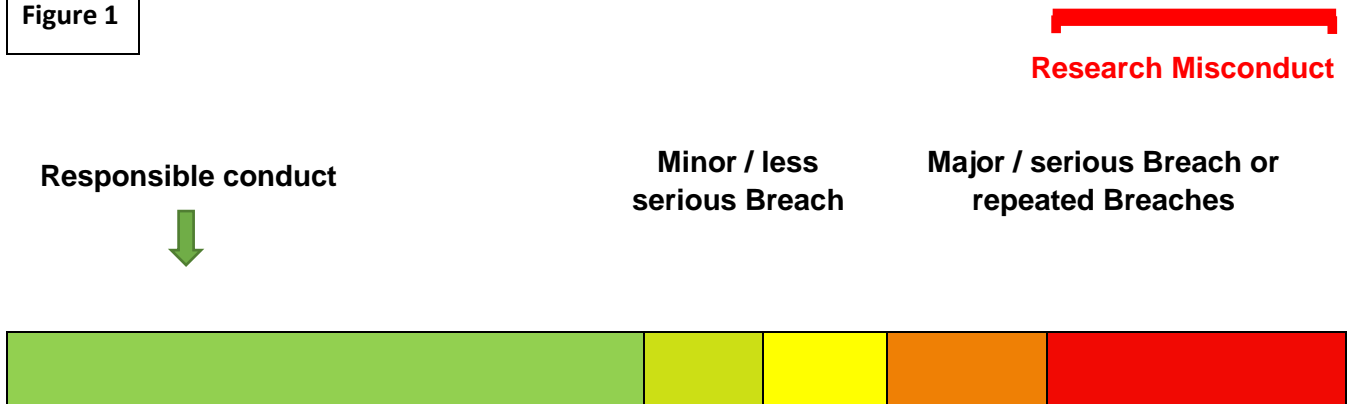
A **Complaint** is made when a concern is provided in writing to a Designated Officer that one or more researchers at VCCRI have conducted research that represents a Breach of VCCRI Research Code of Conduct (2019).

A **Complainant** is the person who raises the concern and a **Respondent** is the person about whom the concern is raised.

WHAT IS A BREACH OF VCCRI RESEARCH CODE OF CONDUCT (2019)?

A **Breach** is defined as a departure from the principles and responsibilities of VCCRI Research Code of Conduct (2019). Breaches occur on a spectrum and can be minor (less serious or an innocent error) or major (more serious, including intentional, reckless or negligent behaviour) (see Figure 1 below). All Breaches may attract disciplinary action by supervisors or VCCRI management.

Figure 1



WHAT IS RESEARCH MISCONDUCT?

Research Misconduct is a serious Breach of VCCRI Research Code of Conduct (2019) which is also intentional, reckless or negligent. Research Misconduct does not include honest differences in judgement or innocent error. Unintentional errors generally do not constitute Research Misconduct unless they result from behavior that is reckless or negligent. Examples of conduct which may amount to Research Misconduct include:

1. Fabrication, falsification or deception in proposing, carrying out or reporting the results of research
2. Repeated or persistent Breaches, particularly where those Breaches have been the subject of previous counselling or specific direction
3. Plagiarism in proposing, or carrying out, a research design or reporting the outcomes of research
4. Misleading attribution of authorship
5. Failure to declare or manage a serious conflict of interest
6. Conducting research without the required human or animal ethics committee approvals
7. Failing to follow protocols and directives approved by a research ethics committee, particularly where this failure may result in unreasonable risk to humans, animals or the environment
8. Risking the safety of human participants or the wellbeing of animals or the environment
9. Wilful concealment or facilitation of Research Misconduct by others or coercing others to conceal or facilitate Research Misconduct

2. ROLES AND RESPONSIBILITIES

ROLE	CONTACT DETAILS	DESCRIPTION
Executive Director	Jason Kovacic	The Executive Director at VCCRI has final responsibility for receiving Preliminary Assessment Reports and Investigation Reports and deciding on the course of action to be taken. Where the Complaint relates to the Executive Director, final responsibility will be held by an appropriate member of the Board.
Designated Officers	<p>Professor Richard Harvey R.Harvey@victorchang.edu.au 02 9295 8620</p> <p>Professor Jamie Vandenberg J.Vandenberg@victorchang.edu.au 02 9295 8771</p> <p>Professor Terry Campbell (External Designated Officer) T.Campbell@unsw.edu.au</p>	A senior officer at VCCRI appointed to receive Complaints about the conduct of research or potential Breaches of VCCRI Research Code of Conduct (2019) and to oversee their management and Investigation where required.
Assessment Officer	A Faculty or Administrative Department Head, or appropriate external person, appointed in relation to a specific Complaint by a Designated Officer	A person or persons appointed by VCCRI to conduct a Preliminary Assessment of a Complaint about research. Note that the role of Designated Officer and Assessment Officer may be performed by the same individual in any one matter ³ .
Research Integrity Advisors	<p>Professor Diane Fatkin d.fatkin@victorchang.edu.au 02 9295 8618</p> <p>Adam Hill a.hill@victorchang.edu.au 02 9295 8686</p> <p>Livia Hool l.hool@victorchang.edu.au 08 6488 3307</p> <p>Alastair Stewart</p>	<p>An experienced researcher with a sound knowledge and understanding of VCCRI Research Code of Conduct (2019) and this Policy. Role of the Research Integrity Advisor is to promote the responsible conduct of research and provide advice to those with concerns about potential Breaches of VCCRI Research Code of Conduct (2019) including with respect to how to make a Complaint. After a discussions with the Complainant the Research Integrity Advisor could advise whether:-</p> <ul style="list-style-type: none"> • The Complaint is not related to a Breach of VCCRI

³ Note that where a matter appears to indicate a potentially serious Breach, it may be preferable for the role of Assessment Officer and Designated Officer to be allocated to separate people, to enable the Assessment Officer to be a member of the Investigation Panel

	<p>a.stewart@victorchang.edu.au 02 9295 8660</p>	<p>Research Code of Conduct (2019)</p> <ul style="list-style-type: none"> • The Complaint could proceed under another VCCRI process or • That the Complainant should make a Complaint about a potential Breach of VCCRI Research Code of Conduct (2019) in writing to the Designated Officer. <p>The Research Integrity Advisor does not investigate or assess the Complaint or contact the person who is the subject of the Complaint. The Research Integrity Advisor is not involved in any subsequent Investigation other than as a witness or to provide testimony.</p>
Research Integrity Office	<ul style="list-style-type: none"> • Executive Director • Designated Officer/s • Assessment Officer and • Research Integrity Advisors • Head, Human Resources 	<p>The team at VCCRI with responsibility for management of responses to potential and found Breaches of VCCRI Research Code of Conduct (2019) at VCCRI. Its functions include:</p> <ul style="list-style-type: none"> • Education and advice about responsible conduct of research to Workplace Participants, particularly Research Integrity Advisors • Supporting a network of Research Integrity Advisors • Developing and managing processes related to the responsible conduct of research • Receiving Complaints about potential Breaches of VCCRI Research Code of Conduct (2019) • Supporting conduct of Preliminary Assessments and Investigations • Promoting a consistent and robust approach to managing and investigating potential Breaches of VCCRI Research Code of Conduct (2019)
Investigation Panel	<p>Assessment Officer and other appropriate individuals to be appointed to each Investigation</p>	<p>The Investigation Panel is appointed by the Designated Officer and involves the Assessment Officer and other nominated persons. It is responsible for conducting an investigation into the Complaint and providing a draft Investigation Report to the Designated Officer, following the process set out in this Policy.</p>
Review Officer	<p>Mary-Jane McCormack m.mccormack@victorchang.edu.au 02 9295 8603</p>	<p>A senior officer with responsibility for receiving requests for a procedural review of an Investigation of a Breach of the VCCRI Research Code. The Review Officer must be impartial in relation to the relevant Investigation and declare and</p>

		manage any conflicts of interests that jeopardize, or may be perceived as jeopardizing, their impartiality.
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PRINCIPLES OF PROCEDURAL FAIRNESS

The principles of procedural fairness apply to all aspects of managing and investigating potential Breaches of VCCRI Research Code of Conduct (2019). As such, VCCRI is committed to ensuring that the process set out in this Policy is at all times applied:

1. **Proportionally** – Investigations and any subsequent actions will be proportional to the extent of the potential Breach
2. **Fairly** – Investigations will afford procedural fairness to Respondents and, where appropriate, Complainants and others who may be adversely affected by any Investigation
3. **Impartially** – investigators and decision makers must be impartial and declare any conflicts of interests that jeopardize, or may be perceived as jeopardizing, their impartiality. These interests must be appropriately managed
4. **In a timely manner** – Investigations into potential Breaches should be conducted in a timely manner to avoid undue delays and to mitigate the impact on those involved
5. **Transparently** – information about VCCRI processes should be readily available and VCCRI must ensure that all records are maintained for all parts of the Investigation process with records held centrally and in accordance with regulations
6. **Confidentially** – information related in an Investigation will be treated as confidential and not disclosed unless required by law or reasonably required in order to ensure the Preliminary Assessment or Investigation can proceed. Any disclosure of confidential information for these purposes should only be made with the consent of the person affected and may require the recipient of the information to sign a confidentiality agreement.

In addition to the elements of procedural fairness, all assessments and decisions in relation to a Complaint must be documented and all records and documentation should be retained in accordance with VCCRI institutional processes.

3. HOW TO MAKE A COMPLAINT

Anyone who suspects that a Breach of VCCRI Research Code of Conduct (2019) has occurred should raise their concerns in a timely manner via the procedure outlined in this Policy.

STEP 1 – DISCUSS YOUR CONCERN WITH A RESEARCH INTEGRITY ADVISOR

A person considering making a Complaint should consider discussing their concerns with a Research Integrity

Advisor. The Research Integrity Advisor can advise the potential Complainant about the application of VCCRI Research Code of Conduct (2019) and process for making a Complaint. The Research Integrity Advisor may alternatively advise that the issue is not related to a Breach of the VCCRI Research Code of Conduct (2019) and/or that the issue may be best managed under another VCCRI process.

There may be circumstances in which it is not appropriate to follow the procedure set out in this Policy. A Research Integrity Advisor can advise which option is most appropriate in such circumstances. For example, a Complaint against a Designated Officer or the Executive Director may need to be referred to the Board (directly to the Chairman or via a Deputy Director or Chief Operating Officer).

Even where a person decides not to proceed with a formal Complaint in relation to their concern, VCCRI may nonetheless have an obligation to assess the nature of the concern. In this scenario, the person who raised the concern may be consulted with respect to details of the concern, but would not be listed as the Complainant in relation to any Preliminary Assessment or Investigation process.

STEP 2 – MAKE A FORMAL COMPLAINT IN WRITING WITH AS MUCH DETAIL AS POSSIBLE

In order to make a Complaint, your Complaint should be in writing and should specify that the Complaint is being raised in connection with this Policy. A Complaint must be given or sent to a Designated Officer. The Complaint should set out as much detail (including factual evidence) as possible in order to support the Complaint.

YOU SHOULD NOTE THAT:

Complaints may be anonymous - Complaints may be made anonymously but should, as much as possible, be made in a manner that enables two-way communication so that questions can be asked, facts can be clarified and findings can be shared, as appropriate. To the extent that a Complainant wishes to remain anonymous, the Complainant should consider communicating in a way that enables two way communication (such as an anonymous email address) as VCCRI's capacity to consider a Complaint in compliance with this Policy may be limited if there is no way to contact a Complainant.

Complaints must be made in good faith - Complainants must be acting in good faith and Complaints must be soundly based. Giving intentionally false or misleading information may constitute a Breach of the VCCRI Code of Conduct or criminal offence. If allegations by staff are deemed to be frivolous or vexatious, the Complaint will be dismissed and disciplinary action may be taken.

External parties can make Complaints - An external person or entity, such as UNSW or a recognised ethics committee, may also make a Complaint by providing a written statement directly to a Designated Officer, Executive Director or Chief Operating Officer.

Additional actions may be taken if corrupt or criminal activity or harm is possible - VCCRI encourages early identification of any matters that may involve potentially corrupt conduct or potential criminal behaviour. Reports of such conduct can also receive protection if made in compliance with the VCCRI Whistleblower Protection Policy as noted in section 1 above. A Complaint may trigger other processes or require immediate

action if corrupt or criminal behaviour is potentially involved. If at any time it becomes apparent that a Complaint relates to an activity that could harm humans, animals or the environment, immediate action must be taken to minimise the risk of harm. Referral of such information to an external agency may be necessary. These actions are independent of the process set out in this Policy, but this Policy may still apply. Such Breaches may attract disciplinary action by supervisors or VCCRI management.

4. DESIGNATED OFFICER CONSIDERS THE COMPLAINT

The Designated Officer will consider the Complaint and will determine whether the Complaint relates to a potential Breach of VCCRI Research Code of Conduct (2019). If it does, the Complaint will proceed to a Preliminary Assessment and if it does not, the Complaint may be dismissed or dealt with under another VCCRI process, such as the Disciplinary Policy. Complaints may be dismissed at any stage of the process for many reasons, including where the Complaint appears to have been made in bad faith or is vexatious.

Even where a Complaint is withdrawn, VCCRI may nonetheless decide to assess the nature of the concern. In this scenario, the person who raised the concern may be consulted with respect to details of the withdrawn Complaint, but would not be listed as the Complainant in relation to any Preliminary Assessment or Investigation process.

The Designated Officer will ensure that communication with the Complainant occurs, as is appropriate in the circumstances.

5. CONDUCTING A PRELIMINARY ASSESSMENT

PURPOSE OF A PRELIMINARY ASSESSMENT

The purpose of a Preliminary Assessment is to gather and evaluate facts and information, and assess whether the Complaint, if proven, would constitute a Breach of VCCRI Research Code of Conduct (2019). The Preliminary Assessment process acts as a filter to allow identification of matters that require further Investigation and those that can be appropriately handled through other processes.

STEP 1 - DESIGNATED OFFICER ASSIGNS THE COMPLAINT TO ASSESSMENT OFFICER.

The Designated Officer assigns the Complaint to an appropriate Assessment Officer, who is now responsible for conducting the Preliminary Assessment⁴⁴. The Designated Officer may choose to act as the Assessment Officer.

STEP 2 - THE ASSESSMENT OFFICER CONDUCTS A PRELIMINARY ASSESSMENT

The Preliminary Assessment must occur in a timely manner, though the time taken for a Preliminary Assessment

⁴⁴ The role of Designated Officer and Assessment Officer may be performed by the same individual if appropriate

will vary depending on the complexity of the Complaint.

The Assessment Officer must ensure:

1. The Designated Officer, other appropriate individuals at VCCRI and external experts as required, are consulted and kept informed throughout the process
2. All relevant information is gathered, assessed, clarified and secured
3. Where the Assessment Officer determines that communication with the Respondent is necessary to clarify the Complaint, the Respondent is given:
 - Sufficient detail to enable the Respondent to understand the nature of the Complaint
 - An opportunity to respond in writing within a nominated timeframe
 - If considered appropriate, an opportunity to meet with the Assessment Officer with the option to bring a support person. The Assessment Officer should prepare a record of all meetings, which may be in the form of minutes, and provide the Respondent with a copy.
4. The actions of those in supervisory roles in the potential Breach are considered
5. Consideration is given to whether other institutions or external experts should be involved in the matter
6. All records associated with the Preliminary Assessment are prepared and retained and, where required, specific advice is sought regarding the collection and storage of facts and information – this is critical as and may have implications for the management and resolution of a Complaint, particularly where the matter proceeds to an Investigation

STEP 3 – THE ASSESSMENT OFFICER PREPARES A PRELIMINARY ASSESSMENT REPORT

On completion of the Preliminary Assessment, the Assessment Officer will provide a written Preliminary Assessment Report to the Designated Officer in a timely manner. The Preliminary Assessment Report should include:

1. A summary of the process that was undertaken
2. An inventory of the facts and information that was gathered and analysed
3. An evaluation of facts and information
4. How the potential Breach relates to the principles and responsibilities of VCCRI Research Code of Conduct (2019) and / or VCCRI processes
5. Recommendations for further action.

STEP 4 – THE DESIGNATED OFFICER DETERMINES HOW TO PROCEED

The Designated Officer considers the Preliminary Assessment Report and determines, on the basis of the facts and information presented, whether the matter should be:

1. Dismissed (see below)
2. Resolved locally with or without corrective actions (including any actions under the Disciplinary Policy).
3. Referred for Investigation (see below)
4. Referred to other VCCRI processes

Where the Preliminary Assessment Report indicates that the Breach could represent Research Misconduct, the matter will generally be referred for Investigation.

Where the Designated Officer determines that the facts and information do not support an allegation of a Breach of VCCRI Research Code of Conduct (2019) for further Investigation, the following actions should be considered:

1. If Complaint has no factual basis (for example, if it was a misunderstanding or was vexatious), whether steps need to be taken to restore the reputation of any affected parties
2. Where the Complaint appears to have been made in bath faith, whether efforts should be made to address this with the Complainant under any other VCCRI processes
3. Whether the Complaint raised any systemic issues which need to be addressed

It may still be necessary for the Designated Officer to refer a Complaint for Investigation where a Respondent admits to a Breach, or where a Complainant or Respondent leaves VCCRI following a Complaint.

STEP 5 – OUTCOMES PROVIDED TO THE COMPLAINANT AND RESPONDENT, WHERE APPROPRIATE

The Designated Officer may provide, if considered appropriate, the outcomes of the Preliminary Assessment to the Complainant and Respondent and other relevant parties such as funding bodies. This may be a summary of the Preliminary Assessment Report.

6. CONDUCTING AN INVESTIGATION

PURPOSE OF AN INVESTIGATION

The purpose of an Investigation is to further consider information collected in the Preliminary Assessment process, as well as seeking additional information where necessary, to make a final finding of fact with appropriate recommendations. These findings allow the Executive Director (or the Board member, where the Complaint relates to the Executive Director) to determine whether a Breach has occurred, the extent and seriousness of the Breach (including whether it constitutes Research Misconduct) and the recommended actions⁵.

⁵ Note that the Investigation is not a court of law and cannot make legally binding findings.

Once the Designated Officer has determined that an Investigation is required, the Designated Officer must prepare a clear statement of the allegations, seek legal advice on matters of process where appropriate, and follows these steps:

STEP 1 – APPOINT THE INVESTIGATION PANEL

The Designated Officer will appoint an Investigation Panel. The size and composition of the Panel will depend on a range of factors including the potential consequences of the Investigation, the seniority of those involved in the Investigation and the need to maintain public confidence in research. There may be occasions where some or all members of the Panel should be external to VCCRI.

Where the Complaint does not relate to the Executive Director, the Executive Director may be appraised of the process of any Investigation by the Designated Officer from time to time as determined appropriate. However, the Executive Director will not be a member of the Investigation Panel. This measure will assist the Executive Director (where the Complaint does not relate to him or her) in assessing the final Investigation Report and determining appropriate outcomes in an impartial and objective manner. The Designated Officer will also not be a member of the Investigation Panel but is integral to selecting the Panel, establishing the Terms of Reference and reviewing and finalising the Investigation Report. The Assessment Officer may be a member of the Investigation Panel where the Designated Officer considers this is appropriate in the circumstances and is comfortable that the Assessment Officer is able to execute his or her role free from conflict or bias.

In selecting the Panel the Designated Officer should consider factors such as:

1. The expertise and skills required, including the appropriate qualifications for the Chair, appropriate expertise and experience of Panel members in the relevant discipline, whether a person with prior experience of similar Investigations would be beneficial, and the knowledge and understanding of VCCRI Research Code of Conduct (2019) among Panel members
2. What number of Panel members is appropriate in the circumstances
3. Whether secretariat support will be required for the Panel
4. The need for members to be free from conflict or bias – prospective Panel members are required to disclose all actual, potential or perceived potential conflicts of interest and must not be appointed where these may influence impartiality
5. Whether there is diversity among the Panel members

The Designated Officer must advise the Respondent of the Panel's composition and provide an opportunity for the Respondent to raise concerns.

The Panel should be appointed in writing and provided with adequate notification. External members should be appropriately indemnified, and the Chief Financial Officer should be consulted to ensure VCCRI has appropriate insurance in place.

STEP 2 – PREPARING THE TERMS OF REFERENCE FOR THE INVESTIGATION

Every Investigation Panel must have a Terms of Reference established by the Designated Officer. The Terms of Reference may be reviewed and amended by the Panel members, and should include:

1. A description of the Complaint, including the date it was received
2. The name of the Complainant(s) and Respondent(s) (where appropriate)
3. A statement that the Panel is constituted in accordance with VCCRI's processes and this Policy
4. A list of Panel members, specifying the Chair of the Panel
5. The scope and purpose of the Panel which should include to:
 - Review the allegations, the responses and the Preliminary Assessment Report (including any external expert advice)
 - Investigate the matter further as required, including identifying and gathering additional evidence where necessary (for example, from outside institutions)
 - Where the Complaint involves external parties, what involvement of external parties is required in the Investigation and whether a written document setting out these parameters should be agreed with the external party
 - Interview the Complainant and Respondent and other relevant parties as required
 - Make findings in accordance with this Policy
 - Provide an Investigation Report to the Designated Officer in a timely manner
6. An indicative timetable for the conduct of the Investigation
7. A statement that the Panel will, where possible, maintain confidentiality and consider protections of all involved and will seek legal advice on matters of process where appropriate
8. A Statement that the Panel will adhere to the principles of procedural fairness at all times, which may include considering additional measures to ensure fairness for all parties involved such as whether a Complainant or Respondent:
 - is able to appropriately represent themselves
 - may require extra time to respond to questions
 - may need to rely on written rather than verbal evidence
 - may need a support person in order that the Investigation is fair (noting that support persons should generally not advocate or speak on the Complainant or Respondent's behalf)⁶

⁶ Procedural fairness does not require legal representation of the Complainant or Respondent, and the Panel should consider any such requests on a case by case basis. Where the Panel does allow legal representation of a party, it should consider whether the Panel also requires legal

If, during the Investigation, the Panel considers that the Terms of Reference are too limited, it should refer the matter to the Designated Officer. The Designated Officer may decide to amend the scope of the Investigation in the Terms of Reference. Should this occur, the Respondent and relevant others must be given the opportunity to respond to any new material arising from the increased scope in the Terms of Reference.

STEP 3 – ENSURE THE PANEL IS PREPARED

Prior to its first meeting, the Panel members must be provided with all relevant information and documentation including:

1. The Terms of Reference for the Panel
2. Guidance on the appropriate procedures for the Investigation, including this Policy, VCCRI Research Code of Conduct (2019) and any other governmental or VCCRI procedures and policies
3. The Preliminary Report and all supporting information assembled by the Assessment Officer including all records of the conduct of the Preliminary Assessment
4. Records of any communications relating to the Complaint between the Designated Officer, Assessment Officer, the Complainant and the Respondent

The Panel is also required to be given all necessary authority to access any additional relevant information and documentation.

At the first meeting, the Panel must:

1. Disclose and manage relevant conflicts of interest
2. Develop an Investigation Plan which may include setting out the avenues of inquiry (including a list of interviewees) and timelines for conducting any interviews within the timeframe set out in the Terms of Reference

STEP 4 – CONDUCTING THE INVESTIGATION

In conducting an Investigation, members of the Panel required to consider whether, in its view and having regard to evidence and on the Balance of Probabilities (defined in section 1), the Respondent has Breached VCCRI Research Code of Conduct (2019).

In compliance with its Terms of Reference and this Policy (and other relevant VCCRI policies), the Panel must:

1. Assess the evidence (including its veracity) and consider if more information is required

representation, noting that legal representation may extend the timeframe of the Investigation, introduce another level of formality for the representation and increase costs.

2. Provide the Respondent with the opportunity to respond to the Complaint and inform the Respondent about the conduct of the Investigation, including the role of a support person and the circumstances under which legal representation would be allowed⁷
3. Consider whether expert advice is required to assist the Investigation
4. Arrive at findings of fact about the Complaint
5. Identify whether there has been a Breach and if so, the specific sections of VCCRI Research Code of Conduct (2019) that have been Breached
6. Consider the seriousness of any Breach and whether it could constitute Research Misconduct
7. Prepare recommendations with respect to the specific Breach and any steps which should prevent the Breach from occurring again
8. Complete the Investigation in a timely manner
9. Prepare a written draft Investigation Report for the Designated Officer

Conducting interviews

When arranging and conducting interviews, the Panel must ensure that all those asked to give evidence are to be provided with relevant, and if necessary de-identified, information including:

1. The schedule of meetings and/or hearings they are asked to attend
2. The relevant parts of the Terms of Reference for the Investigation, if appropriate
3. Advice as to how the Panel intends to conduct interviews
4. Whether the interviewee may be accompanied by a support person
5. Advice about whether the interviews will be recorded
6. Whether an opportunity will be provided to comment on matters raised in the interview
7. The confidentiality obligations the Panel will uphold, if any
8. Other relevant aspects of the Panel's procedures

STEP 5 – PREPARING A DRAFT INVESTIGATION REPORT FOR THE DESIGNATED OFFICER

On completion of the Investigation, the Investigation Panel must prepare a draft Investigation Report. The Investigation Panel may appoint a specific member to be responsible for preparing the draft Investigation Report, circulating it to all members for feedback, and incorporating any comments.

⁷ As noted in footnote 4 above, "procedural fairness" does not include a right to legal representation, and the Panel will consider carefully whether to permit legal or specialist representation on request and on a case by case basis.

The draft Investigation Report must be detailed and accurate and must fully address the Terms of Reference. The draft Investigation Report should contain:

1. The names and affiliations of the Panel members and the Terms of Reference of the Panel
2. The name of the Respondent(s) and Complainant(s)
3. A summary of any research projects relevant to the Complaint, including project summary, duration and funding
4. The specific allegations considered
5. A description of the processes that were followed
6. A description of the evidence considered, the names of all persons interviewed and summaries of the interviews
7. The findings of fact that have been reached by the Panel
8. A conclusion with respect to whether a Breach of VCCRI Research Code of Conduct (2019) occurred and whether the Respondent is responsible for the Breach
9. Identification of any systemic issues that were contributing factors
10. A recommendation about the seriousness of any Breach and whether it constituted Research Misconduct
11. Any other recommendations that may be consistent with the Terms of Reference
12. Any recommendations regarding whether any other institutions or organisations should be advised of the findings (for example, funding bodies)

Where there are dissenting views among the Panel, the dissenting view should also be included in the draft Investigation Report.

The draft Investigation Report will be provided to the Designated Officer. The draft Investigation Report, or a summary of relevant information, should be provided to the Respondent with a reasonable timeframe to comment, and the timeframe given should reflect the complexity of the matter. The draft Investigation Report, or a summary of the information, may also need to be provided to the Complainant if they will be affected by the outcome.

STEP 6 – INVESTIGATION REPORT FINALIZED BY DESIGNATED OFFICER AND GIVEN TO EXECUTIVE DIRECTOR OR APPROPRIATE BOARD MEMBER

The Designated Officer will consider the findings of fact in the draft Investigation Report as well as evidence presented and any recommendations made by the Panel. The Designated Officer will also consider the extent and seriousness of the Breach and whether the Breach constitutes Research Misconduct, the appropriate corrective actions and whether referral to disciplinary procedures is required.

Following consideration of any further information, the Designated Officer will finalize the Investigation Report and provide it to the Executive Director (or the nominated appropriate Board member, where the Complaint relates to the Executive Director) with recommendations.

Where systemic issues are identified as a contributing factor, these need to be referred to the appropriate personnel at VCCRI to be addressed.

STEP 7 – DETERMINATION BY EXECUTIVE DIRECTOR OR APPROPRIATE BOARD MEMBER

Conclusion - No Breach of VCCRI Research Code of Conduct (2019)

Where the Executive Director (or alternative appropriate Board member) determines, on the basis of the Investigation Report, that no Breach of VCCRI Research Code of Conduct (2019) has occurred, the following will need to be considered:

1. If the allegation has no basis in fact, whether efforts must be taken to restore the reputations of those alleged to have engaged in improper conduct
2. If an allegation is considered to have been frivolous or vexatious, whether action should be taken to address this with the Complainant under appropriate VCCRI processes
3. The most appropriate mechanism for communication with, and support for, the Respondent and Complainant and whether the Executive Director (or alternative appropriate Board member) should disclose the findings to protect the reputation of the Respondent

Conclusion - Breach of VCCRI Research Code of Conduct (2019)

Where the Executive Director (or alternative appropriate Board member) accepts that a Breach of VCCRI Research Code of Conduct (2019) has been found, the Executive Director (or alternative appropriate Board member) decides VCCRI's response based on recommendations in the Investigation Report, taking into account the seriousness of the Breach and whether it constitutes Research Misconduct and the application of other VCCRI Policies including VCCRI's Disciplinary Policy.

The Executive Director (or alternative appropriate Board member) will also determine what levels of communication are appropriate in light of the finding of a Breach, as set out below.

STEP 8 – COMMUNICATION OF FINDING OF BREACH

To the Respondent and Complainant - Any decisions or actions based on the findings of the Investigation Report are to be communicated to the Respondent and the Complainant, however, the level of information will depend on factors including confidentiality requirements and the impact of the findings on the Complainant and Respondent.

Other institutes and interested parties - relevant parties, such as funding bodies, other relevant authorities or other institutions may also need to be informed of the outcome. A public statement may be appropriate to

communicate the outcome of an Investigation. In the case of joint, adjunct and/or honorary appointments of the Respondent, VCCRI will follow internal processes relating to these appointments and should consider seeking legal or other expert advice in relation to the management of these appointments with other institutions.

Publications - all efforts should be taken to correct the public record of the research, including publications if the Breach has affected the accuracy or trustworthiness of research findings and their dissemination. Journal co-authors and journal editors must be notified and consulted when a retraction or correction of the public record is required.

Future employees - where a Respondent has resigned, VCCRI will still have the obligation to address the findings of the Investigation and may also consider referring the matter to the new employing institution. In this case, institutions should consider seeking legal advice to ensure that any information disclosure can be made and is done appropriately and lawfully.

7. REVIEWING THE FINDINGS OF AN INVESTIGATION

A Complainant or a Respondent is entitled to request a review of the findings of the Investigation, however findings will only be reviewed if there is a concern that procedural fairness was not applied in the Investigation. This means that findings will only be reviewed where there is concern that the Complaint was not investigated proportionally, fairly, impartially, in a timely manner, transparently or in keeping with confidentiality obligations (see section 1 for more information with respect to *Procedural Fairness*).

A Complainant or Respondent requesting a review of the Investigation findings should, preferably, put their request in writing. The request should specify the reasons why procedural fairness was not applied in the Investigation and provide as much detail to support the request as possible.

The request for review should be provided to the Review Officer within 30 calendar days of receipt of the Investigation Report by the Complainant or Respondent.

The Review Officer will determine whether or not the request does in fact relate to procedural fairness and may seek advice and consultation from any person considered necessary by the Review Officer in order to make that determination, including the Assessment Officer, any Designated Officer, any Panel member and any external or internal expert. The Review Officer must inform the person requesting the review of their decision as soon as reasonably practicable after the decision is made.

If the Review Officer considers the request does relate to procedural fairness, the Review Officer will refer the request to a Designated Officer who was not involved in the previous Investigation. This Designated Officer will determine whether a new Investigation of the Complaint is required, or whether only limited and specific aspects of the Investigation should be revisited. Based on this, the Designated Officer will determine whether the original Panel should reconsider the Investigation findings, or whether a new Panel should be formed.

The outcome of the review should involve affirming the Investigation findings or issuing revised Investigation findings. Once the review of the Investigation findings is complete, the Review Officer will ensure that the findings of the review (or a summary) will be provided in writing to the Complainant and Respondent.

Complainants and Respondents are also entitled to request an external review of any Investigation process into potential Breaches of the VCCRI Research Code of Conduct by the Australian Research Integrity Committee (ARIC). Additional review options may be available (such as via an ombudsman or another authority) however that is outside the scope of this Policy.

8. PROTECTION OF COMPLAINANTS AND RESPONDENTS

The welfare of Complainants and Respondents is a key concern for VCCRI at all stages of the process of investigating a Complaint. VCCRI has various Policies and processes in place to support Complainants and Respondents, including the Workplace Bullying Policy, our workplace health and safety obligations as well as VCCRI's confidential Employee Assistance Program which can be accessed via information in this link:

<https://intranet.victorchang.edu.au/intranet/index.php/hr/health-wellbeing>

VCCRI will take measures to protect the Complainant from adverse consequences for making a Complaint. Reprisals and threatening behavior will not be tolerated and may trigger other VCCRI processes including the Disciplinary Policy. Depending on the nature of the Complaint, the Complainant may also have protections set out in the VCCRI Whistleblower Protection Policy.

COMMUNICATION WITH COMPLAINANTS

The level of involvement of, and communication with, a Complainant throughout the Preliminary Assessment and Investigation stage will depend on a variety of factors including confidentiality considerations and the extent to which the Complainant is directly affected by the outcome. Generally, a Complainant directly affected by an outcome should receive more detailed information than a Complainant who only has a general concern.

9. NHMRC RESEARCH INTEGRITY AND MISCONDUCT POLICY

Where actual or potential Breaches of the Research Code of Conduct (2019) may have occurred in relation to NHMRC funding, VCCRI is obliged to notify NHMRC in accordance with the NHMRC Research Integrity and Misconduct Policy (2019).

A matter is related to NHMRC funding if the Complaint, allegations, Investigations or findings relate to:

1. current or past NHMRC grants
2. current NHMRC grantees, regardless of whether the matter relates to their current NHMRC grants
3. application/s in a current NHMRC funding round, and
4. current NHMRC applicants, regardless of whether the matter relates to an NHMRC grant application.

In this policy a reference to NHMRC funding includes a reference to Medical Research Future Fund funding administered by NHMRC.

This policy should be read in conjunction with the relevant NHMRC 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 section of this Policy.

WHEN NOTIFICATION TO NHMRC IS REQUIRED

Preliminary Assessments

VCCRI must notify NHMRC within two weeks of the outcomes of a Preliminary Assessment where:

1. it has been established that a Complaint, if proven, would constitute a Breach of the VCCRI Research Code of Conduct (2019) and the Complaint has been resolved without the need for an investigation, and/or
2. the matter is referred for Investigation, and/or
3. NHMRC had been previously notified about a matter, or has referred a matter to VCCRI irrespective of the outcome of the assessment, including where a matter is referred to other institutional processes.

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, including unintentional administrative errors, clerical errors or oversights.

Investigations

VCCRI must notify NHMRC within two weeks of the outcome of any Investigations into potential Breaches of the VCCRI Research Code of Conduct (2019).

Prolonged Preliminary Assessments

VCCRI must 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, VCCRI must notify NHMRC of matters before the completion of the Preliminary Assessment or Investigation if:

1. VCCRI suspends funding to an individual or team involved in NHMRC funded research before the completion of the Preliminary Assessment, or
2. VCCRI 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, VCCRI 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.

Allegations of fraud or other misconduct

VCCRI must notify NHMRC if VCCRI has received an allegation of fraud that relates to NHMRC funding. This notification must be made as soon as possible and within one week of a decision by a Designated Officer or the Executive Director 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 VCCRI or an external agency will be conducting the Investigation.

If VCCRI conducts the Investigation into the alleged fraud, VCCRI must notify NHMRC of the outcome of the Investigation within two weeks from the finalisation of the Investigation Report, including where:

1. the allegations have been dismissed, or
2. there is a finding of misconduct, or corrupt or criminal conduct, or
3. the Investigation was inconclusive.

INFORMATION TO BE PROVIDED TO THE NHMRC

Where VCCRI provides NHMRC with notification that a Breach has occurred, as set out above, VCCRI must provide information on the seriousness of the Breach, and specify whether the Breach has been determined to be Research Misconduct. For matters that have proceeded to an Investigation, recommendations made by an Investigation Panel about the seriousness of the Breach should also be provided. VCCRI should inform NHMRC if it considers that there is a legal reason why certain information cannot be provided.

10. COLLABORATIVE RESEARCH

Where a potential Breach is related to collaborative research projects that reach across multiple institutions and jurisdictions, VCCRI will consider the assessment process on a case by case basis, taking into consideration issues such as who is the lead institution, where was the Complaint lodged and by whom, what are the contractual arrangements and where did the alleged Breach occur. Clear communication between the institutions should occur, and only one Investigation should be conducted where possible.

QUESTIONS

Any questions about this Policy should be directed to the Research Integrity Advisor. VCCRI reserves the right to vary, replace or terminate this Policy from time to time. The most current version of this policy is located on the VCCRI Intranet.

Responsibility	Head Governance, Compliance, Legal		
Approved	Jason Kovacic		
Authorised	Richard Harvey		
Consultation	Faculty		
Informed	All Staff		
Review date	April 2022		
Version		Commencement date	Amendment
1.0		13 December 2012	New policy
1.1		April 2015	Research Code reformatted into separate individual policies. This policy updated to include Fair Work Act 2009 and role of HR Manager in disciplinary actions.
1.2		June 2015	Minor edits to clarify presumption of innocence and role of RIA.
1.3		May 2016	Minor edits to add two Research Integrity Advisors and Designated Officers. Expanded explanation of role of RIA and dealing with Breaches/minor issues. Added national security Breach as an example of Research Misconduct. Removed distinction between internal and external inquiry.
1.4		April 2020	Redraft to comply with the 2018 Guide to Managing and Investigating Potential Breaches of the Australian Code for the Responsible Conduct of Research (2019) and to comply with the NHMRC Research Integrity and Misconduct Policy (2019)