



Australian Government

National Health and Medical Research Council

**NATIONAL HEALTH AND MEDICAL RESEARCH COUNCIL
POLICY ON COMPLAINTS**

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1.1 BACKGROUND AND PURPOSE

1.1 BACKGROUND

National Health and Medical Research Council (NHMRC) is a statutory authority¹ that consolidates, within a single organisation, the functions of research funding, consideration of ethical issues, development of health advice and regulation of sensitive research activities. It is Australia's leading government organisation, promoting the development and maintenance of health and medical research.

NHMRC provides funding for research relevant to human health and wellbeing. It provides health and medical research support through a variety of mechanisms, including support for individuals' specific research projects and broad programs of research.

1.2 PURPOSE

This policy outlines how the NHMRC will efficiently, effectively and ethically² deal with complaints made to NHMRC. This policy outlines a process for complaints that fall within NHMRC's jurisdiction in relation to three areas:

- the agency
- peer review process and grants decisions
- allegation of scientific fraud, ethical breaches and research misconduct external to NHMRC (ie. made in relation to research funded by NHMRC or of institutions which have signed deed of agreement with NHMRC).

Complaints about the agency relating to administrative issues will be dealt with internally but may be referred to another agency or commission.

With regard to complaints pertaining to the peer review process and research grants decisions, the CEO through this policy has established an internal complaints process under section 7(1)(f) of the *National Health and Medical Research Council Act 1992* (NHMRC Act). Further, following the complaint review by NHMRC, the complainant may have grounds to appeal to the Commissioner of Complaints under section 57 of the NHMRC Act on reviewable matters (see page 7).

Complaints in relation to allegations of scientific fraud, ethical breaches and research misconduct that involves NHMRC funding external to NHMRC are addressed in the first instance by the institution where the allegation is made under guidelines in *The Australian Code for the Responsible Conduct of Research (2007)* (the Code) and the *National Statement on Ethical Conduct in Research (2007)*. The NHMRC on receipt of the institution's investigation report that establishes misconduct may:

- act to recover Commonwealth monies
- consider imposing other sanctions.

¹ In governance terms the NHMRC is a statutory agency within the Health and Ageing portfolio, and operates under the *National Health and Medical Research Council Act 1992* (NHMRC Act), as well as the *Public Service Act 1999* and the *Financial Management and Accountability Act 1997*

² The words "efficient, effective and ethical" follow the obligation imposed upon a Chief Executive, under section 44 of the *Financial Management and Accountability Act 1997* (Commonwealth), which requires a Chief Executive of an FMA Agency to manage the affairs of the Agency in a way that promotes the "proper use" of Commonwealth resources. The phrase "proper use" is, in turn, defined in section 44 to mean "efficient, effective and ethical use"

Table 1 summarises each area of complaint, the relevant legislation and the overarching roles and responsibilities for each area.

ISSUE	REFERENCE	KEY ACTIONS
Of the agency	APS Code of Conduct NHMRC Service Charter NHMRC Probity Policy NHMRC Whistle Blowing Policy	NHMRC investigates NHMRC may impose sanctions NHMRC may refer for action
Research Grants Decisions Peer Review Process	<i>National Health and Medical Research Council Act 1992</i> NHMRC Complaints Policy	NHMRC reviews and decides Avenue to appeal to Commissioner of Complaints
Allegations of: <ul style="list-style-type: none"> • Scientific Fraud • Ethical Breaches • Research Misconduct that is associated with NHMRC funding	<i>The Australian Code for the Responsible Conduct of Research (2007)</i> <i>The National Statement on Ethical Conduct in Human Research (2007)</i> <i>Ethical Guidelines on the Use of Assisted Reproductive Technology in Clinical Practice and Research (2007)</i> <i>The Australian Code of Practice for the Care and Use of Animals for Scientific Purposes (2004)</i> <i>Commonwealth Fraud Control Guidelines (2002)</i> <i>Financial Management and Accountability Act 1997</i> NHMRC Deed of Agreement with an institution in receipt of NHMRC funding	The institution where the misconduct is alleged investigates and provides NHMRC with a copy of the investigation report NHMRC may recover Commonwealth monies NHMRC may impose sanctions NHMRC may undertake compliance audit

2. GLOSSARY

The following words and phrases have the following meanings for the purposes of this paper:

Account means the Medical Research Endowment Account continued in existence by section 49 of the Act.

Act means the *National Health and Medical Research Council Act 1992* (Commonwealth).

CEO means the Chief Executive Officer of the NHMRC referred to in section 6 of the Act, or their delegate.

CEO External Panel means the working committee established by the CEO to which the CEO may refer complaints about matters of scientific merit.

Commissioner means the Commissioner of Complaints referred to in section 55 of the Act, and includes a person appointed under section 76 of the Act to act as the Commissioner of Complaints in relation to a particular complaint.

Interest means any direct or indirect, pecuniary or non-pecuniary interest.

Minister means the Minister administering the Act (in accordance with the Administrative Arrangements Order).

NHMRC means the National Health and Medical Research Council.

NHMRC officer has the meaning given by section 80(1) of the Act.

Research Committee means the committee of that name, established under section 35 of the Act.

Reviewable action means:

- (a) action taken by the CEO in the performance of the CEO's function under section 7(1)(c) of the Act, in relation to an application for funding made on or after 24 June 1993; or
- (b) action taken by the Research Committee in the performance of its function under section 35(2)(a) of the Act, in relation to an application for funding made on or after 24 June 1993,

and includes any unreasonable delay by the CEO or Committee in relation to their or its consideration of such an application or any failure or refusal of the CEO or Committee to consider such an application.

Working committee means a committee established under section 39 of the Act.

Working day means a day that is not a Saturday, Sunday or gazetted public holiday in the place where an activity is to be done and, if an activity is to be done on a day that is not a working day, then it is to be done on the next working day.

3. GUIDING PRINCIPLES

The NHMRC complaints policy is designed in accordance with the following guiding principles that all NHMRC officers involved in the process of handling complaints are required to adhere to:

Visibility

Information about how and to whom a complaint should be made will be readily available to the public.

Accessibility

The complaints process will be made easily accessible to all persons with an interest.

Responsiveness

Receipt of each complaint will be acknowledged in a timely manner and in accordance with relevant time-frames. Complaints should be addressed promptly and in accordance with such time-frames.

Objectivity

Each complaint will be addressed in an efficient, effective and ethical manner, throughout the complaints process.

Confidentiality

Personally identifiable information concerning a complaint will be available to NHMRC officers only where needed for the purposes of addressing the complaint; and, will be actively protected from disclosure outside the NHMRC, unless such disclosure is consented to or is required by law.

4. MAKING A COMPLAINT

NHMRC supports a transparent approach to the handling and resolution of complaints lodged with the agency. The purpose of this policy is to outline how a complaint that falls within NHMRC's jurisdiction is lodged with and processed by the NHMRC.

This policy outlines a process for complaints in relation to:

1. the agency
2. peer review process and research grants decisions
3. allegations of scientific fraud, ethical breaches and research misconduct. external to the NHMRC

Complaints concerning the agency

The NHMRC Service Charter details our values and service level expectations. The receipt and investigation of complaints will be undertaken internally but may also come under other jurisdictions including the Australian Public Service Commission and the Australian Crimes Commission.

Complaints in relation to peer review and research grants

Complaints relating to the NHMRC **peer review process and research grants funded** are processed under section 7(1)(f) of the NHMRC Act. The investigation process is usually internal but the CEO may refer matters of a scientific and technical nature to the CEO's External Panel for advice. NHMRC will acknowledge receipt of the complaint within 3 working days and ensure that a determination is made by the CEO within 60 working days in most cases. On occasions the CEO may seek expert advice as part of the internal process which may extend the period of determination of the complaint.

It should be noted that in matters relating to peer-review grant funding and fellowships, the complainant may have grounds to appeal to the Commissioner of Complaints. Section 58 of the Act provides the grounds for complaint to the Commissioner on matters of process.

A complaint to NHMRC does not preclude any subsequent complaint to the Commissioner. The Commissioner may, however, decide not to investigate a complaint concerning reviewable action, where the complainant has not approached the CEO in relation to the complaint, and the Commissioner is satisfied that it would be reasonable for the complainant to so approach the CEO (following section 61(1)(e) of the Act).

Allegations of scientific fraud, ethical breaches and research misconduct

Advice in relation to allegations of scientific fraud, ethical or individual breaches and research misconduct involving NHMRC funding is received from institutions. NHMRC maintains a register of allegations. If NHMRC receives from an individual an allegation of scientific fraud, ethical or individual breaches and research misconduct involving NHMRC funding, NHMRC will advise the person making the allegation of the Code, and the National Statement and that the information should be referred to the institution involved in the allegation for investigation. Following receipt of the institution's investigation report NHMRC may act to:

- recover Commonwealth monies
- impose sanctions
- undertake a compliance audit

4.1 HOW TO MAKE A COMPLAINT

If you are considering making a complaint that falls within the jurisdiction of NHMRC it may be useful to contact the NHMRC Complaints Officer on (02) 6217 9333 or toll free on 1800 646726 to discuss or seek assistance before lodgement.

In addition, complaints can be made by contacting the Complaints Officer who will record the complaint. The information you provide is up to you. However, if you do not provide your name or other information, it may not be possible for us to refer, respond to, or investigate your complaint or request. To learn how we treat information you provide, please read our **Privacy Policy**.

Formal complaints can be made in writing and directed to the CEO of the NHMRC.

The name and contact details of the person lodging the complaint should be set out (including a contact telephone number). If the contact person for the complainant is different, their details should also be provided, so that questions in relation to the complaint can be quickly discussed, and addressed.

A detailed statement of the basis of the complaint, including in the case of grant decisions why it is thought that the recommendation of the CEO was not correct or preferable and/or affected by poor processes, should be included in order for the complaint to be more efficiently addressed.

So that the subject-matter of the complaint, in the case of grant decisions, can be readily identified, the recommendation of the CEO on expenditure should also be clearly indicated, by description and date.

If possible, an indication of the desired outcome of the complaint should also be included.

The complaint should be signed and dated.

To submit a complaint, download the Complaint Form either in MS Word or PDF Format, complete and send to:

The Chief Executive Officer
 National Health and Medical Research Council
 GPO Box 1421
 CANBERRA ACT 2601

Electronic submission of complaints will be available.

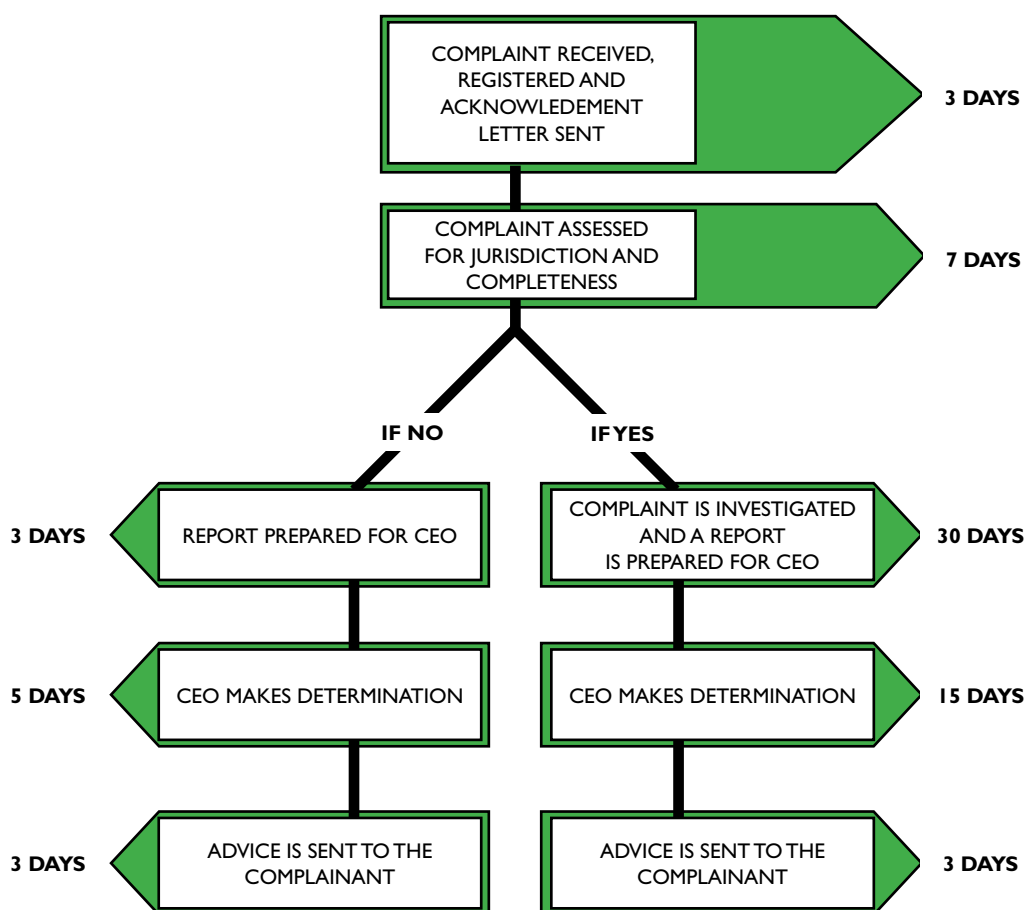
Fax: +61 2 6217 9205

Please email the Complaints Form to complaints@nhmrc.gov.au

Once received, the NHMRC will acknowledge receipt of the complaint within 3 working days and if within the jurisdiction of NHMRC ensure that a determination is made within 60 working days.

Figure 2 illustrates the key stages involved in dealing with a complaint about the agency or complaints about peer-reviews and research grants. NHMRC will endeavour to minimise the time to make a determination on complaints and the working days illustrated on the Figure are a guide to those complaints that are most complex.

Figure 1 Complaint Flow Chart (Generic)



On occasions, the CEO may seek advice to assist in review and evaluation of the scientific merit or probity and that may also extend the period of determination of the complaint.

It should be noted that in the case of complaints relating to peer-review grant funding and fellowships, the complainant may have a right of appeal following NHMRC's internal review. In those situations the complainant can appeal to the Commissioner of Complaints. For further information on the role of the Commissioner of Complaints please visit the NHMRC website at <http://www.nhmrc.gov.au>