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Guide to Managing and Investigating Potential Breaches of the Australian Code for the Responsible Conduct of Research

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Abbreviations used in this document

Abbreviation	Term
AO	Assessment Officer
ARC	Australian Research Council
ARIC	Australian Research Integrity Committee
DO	Designated Officer
NHMRC	National Health and Medical Research Council
RIA	Research Integrity Advisor
RIO	Research Integrity Office
REO	Responsible Executive Officer
RO	Review Officer
UA	Universities Australia

1 Introduction

Maintaining high research standards is the responsibility of all Australian research institutions, researchers and funding agencies.

Institutions that conduct research and train and employ researchers have primary responsibility for the prevention, detection, investigation and resolution of complaints about the conduct of that research.

This *Guide to Managing and Investigating Potential Breaches of the Australian Code for the Responsible Conduct of Research* (the Guide) forms a critical part of the framework established by the *Australian Code for the Responsible Conduct of Research* (the Code), which articulates the broad principles and responsibilities that underpin the conduct of Australian research. The purpose of this Guide is to assist institutions to manage, investigate and resolve complaints by outlining a model that can be implemented regardless of the size or type of institution, or field of research.

1.1 Purpose, scope and limits of this Guide

This Guide applies to departures from the principles and responsibilities of the Code by researchers, which are referred to as breaches.

This Guide provides examples of the range of behaviours that can constitute a breach of the Code. The seriousness of a breach is to be determined on a case-by-case basis and requires good judgement, careful deliberation and an appreciation of the context and accepted academic disciplinary norms. Institutions may choose to designate some serious breaches as 'research misconduct'. This document provides guidance on the use of the term.

This Guide describes the rigour required when investigating potential breaches of the Code and provides a benchmark for the Australian Research Integrity Committee (ARIC) to assess institutional processes used to investigate a potential breach of the Code.

Institutions must ensure that all investigations are procedurally fair. Investigations must be proportional, fair, impartial, timely, transparent and confidential. Investigations must also result in findings of fact to determine whether a breach of the Code has occurred. The guidance in Sections 5–7 assists institutions to meet these responsibilities.

This Guide sets out a model for managing and investigating potential breaches of the Code which, for many institutions, will operate separately from and prior to other institutional processes. However, institutions need to consider the legal framework within which they are operating as processes established in workplace and student disciplinary agreements may prevail over the guidance in this document.

Ultimately, institutions must ensure that the processes they use to manage and investigate potential breaches of the Code are procedurally fair and do not hinder the timely implementation of all corrective actions.

Disciplinary issues are matters for the institution and are outside the scope of this Guide.

Figure 1 provides an overview of the stages involved in managing and investigating a potential breach of the Code. These stages are described in detail in Sections 5–7. Section 8 contains additional considerations for collaborative research (Section 8.1), and for special circumstances— such as corrupt and/or criminal behaviour or safety issues (Sections 8.2 and 8.3)— that may arise at any stage of the management of investigation of a potential breach of the Code and trigger more immediate action.

1.2 Institutional responsibilities

Institutions are required to manage concerns or complaints and investigate potential breaches of the Code related to research for which they are responsible.

Institutions have a range of accountability mechanisms for implementing the Code, including responsibilities to funding agencies and their own governance frameworks.

Further, to be consistent with the Code, institutions should:

- promote a culture that fosters and values responsible conduct of research generally
- develop, disseminate, implement and review institutional processes that promote adherence to the Code
- demonstrate processes that enable a complainant to lodge complaints formally in the knowledge that these will be addressed sensitively and with care, to avoid adverse consequences for the individual
- regularly review the effectiveness of their processes
- ensure those involved in the management and investigation of potential breaches of the Code have the requisite skills and expertise and are appropriately resourced
- determine the appropriate composition of any investigation Panel
- address any systemic issues relating to matters of research integrity
- implement corrective actions
- consider advising other institutions of the outcome of a preliminary assessment or investigation where appropriate.

1.3 Researcher responsibilities

Researchers must ensure that their research conduct and practice reflects the principles and responsibilities as set out in the Code.

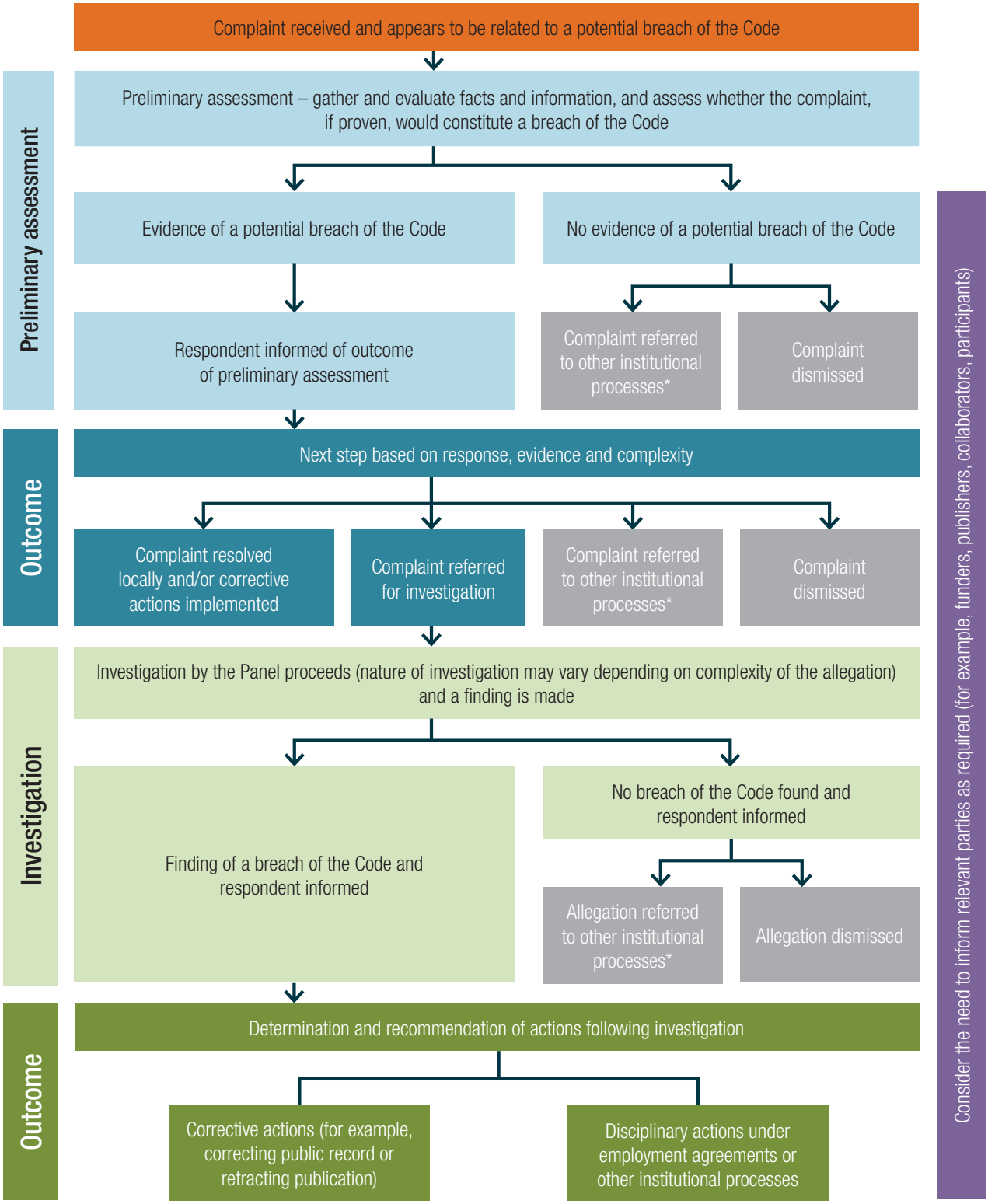

Figure 1: Overview of the recommended approach for managing and investigating a potential breach of the Code. The initial receipt of the complaint is discussed in Section 5. If it is decided that the complaint relates to a potential breach of the Code, a preliminary assessment (Section 6) and investigation (Section 7) may ensue. A complaint may require immediate action, e.g. if there is a risk of harm to humans, animals or the environment (Section 8.3). The institutional roles involved in the preliminary assessment and investigation are summarised in Tables 4 and 5. Consideration of the need to inform relevant parties may be required at any stage of managing and investigating a potential breach of the Code (purple box).

*Other institutional processes may include those in enterprise agreements.

2 Breaches of the Code

2.1 Definition of breach

A breach is defined as a failure to meet the principles and responsibilities of the Code, and may refer to a single breach or multiple breaches.

Examples of breaches of the Code include, but are not limited to, the following:

i. Not meeting 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

ii. Fabrication, falsification, misrepresentation

- 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

iii. 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 acknowledgment of the source

iv. Research data management

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

v. Supervision

- Failure to provide adequate guidance or mentorship on responsible research conduct to researchers or research trainees under their supervision

vi. Authorship

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

vii. Conflicts of interest

- Failure to disclose and manage conflicts of interest

viii. Peer review

- Failure to conduct peer review responsibly

2.2 Breaches occur on a spectrum

Breaches of the Code occur on a spectrum, from minor (less serious) to major (more serious) (as shown in Figure 2). Major breaches would typically require investigation while some minor breaches may be addressed at the preliminary assessment stage. There are also some 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. Unintentional administrative errors, clerical errors or oversights are some examples of this.

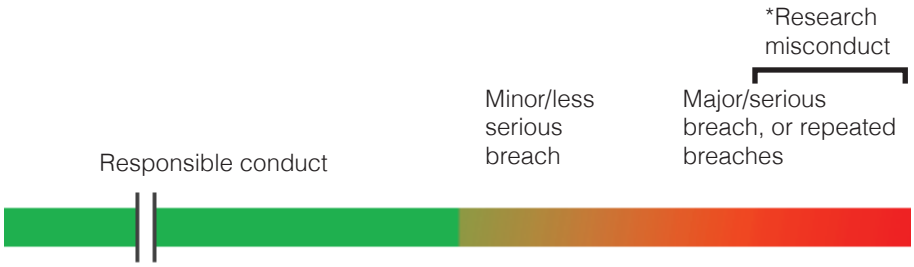

Figure 2: Breaches fall on a spectrum. Responsible conduct of research is represented by the green region of the spectrum. The increasing seriousness of a breach of the Code is indicated by the orange and red regions of the spectrum. Breaches can be minor (less serious) or major (more serious, including intentional or reckless or negligent behaviour). Some major/serious breaches could also be labeled as 'research misconduct' if an institution decides to use the term (indicated by the *; see Section 2.3). Repeated or persistent breaches will likely constitute a serious breach.

Once a breach has been found, the seriousness of a breach should be determined (Box 1). This will require deliberation and an exercise of judgement.

Box 1: Factors to consider when determining the seriousness of a breach

In considering the seriousness of a breach of the Code, the factors to be considered (without excluding other factors) are:

- the extent of the departure from accepted practice
- the extent to which research participants, the wider community, animals and the environment are, or may have been, affected by the breach
- the extent to which it affects the trustworthiness of research
- the level of experience of the researcher
- whether there are repeated breaches by the researcher
- whether institutional failures have contributed to the breach
- any other mitigating or aggravating circumstances.

2.3 Guidance on using the term research misconduct

To acknowledge the egregious nature of some serious (major) breaches, institutions may decide to refer to those breaches of the Code as 'research misconduct'. An institution needs to consider whether and how to use the term 'research misconduct' in relation to serious breaches of the Code (see Box 1 for some factors to consider when determining the seriousness of a breach).

Box 2: Recommended definition of research misconduct

Research misconduct is a serious breach of the Code which is also intentional or reckless or negligent.

Use of the term research misconduct for serious breaches must be considered in the context of other institutional processes, such as employment or student disciplinary agreements. Regardless of whether a Code investigation and an investigation done under an employment or student disciplinary agreement are separate or integrated, institutions must ensure that these do not conflict, or hinder the timely implementation of all corrective actions. The use of the term 'research misconduct', or any processes triggered by its use, must not prohibit any corrective actions, such as amendments to the public record.

Consideration of the type of behaviour may be used to infer whether the breach is intentional or reckless or negligent. Fabrication and falsification are types of breaches that are commonly recognised as being undertaken intentionally or recklessly and are examples of research misconduct.

Research misconduct does not include honest differences in judgement. Unintentional errors do not usually constitute research misconduct unless they result from behaviour that is reckless or negligent.

Repeated or persistent breaches will likely constitute a serious breach, which will trigger consideration of research misconduct.

3 Principles of procedural fairness

The principles of procedural fairness (also referred to as natural justice) apply to managing and investigating potential breaches of the Code. These principles encapsulate the hearing rule (an opportunity 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).

It is expected that an institution's process for managing and investigating potential breaches of the Code is:

i. Proportional

Investigations and subsequent actions need to be proportional to the extent of the potential breach of the Code.

ii. Fair

Investigations need to afford procedural fairness to respondents and, where appropriate, complainants and others who may be adversely affected by any investigation.

iii. Impartial

Investigators and decision-makers are to be impartial and declare any interests that do, may, or may be perceived to jeopardise their impartiality. These interests are to be appropriately managed.

iv. Timely

Investigations into potential breaches should be conducted in a timely manner to avoid undue delays and to mitigate the impact on those involved.

v. Transparent

Information about institutional processes should be readily available and/or provided to respondents, complainants, all employees and students engaged in research.

Institutions need to ensure accurate records are maintained for all parts of the process, with records held centrally and in accordance with the relevant legislation.

vi. Confidential

Information will be treated as confidential and not disclosed unless required.

4 Institutional roles

Institutions need to identify and clearly document the roles and responsibilities of those involved in the management and investigation of potential breaches of the Code and should indemnify individuals involved in the investigation process appropriately.

Table 1 sets out the key roles recommended for the investigation and management of potential breaches of the Code. Institutions may need to adapt these functions to their particular circumstances and may delegate these roles or use different titles.

The processes that the Responsible Executive Officer (REO), Designated Officer (DO) and Assessment Officer (AO) should follow to investigate and manage a potential breach of the Code are discussed in Sections 5–7. The roles of the Research Integrity Advisors (RIAs) and Research Integrity Office (RIO) are discussed below.

Table 1: Terms used in this Guide for the recommended individuals involved in the process of managing and investigating potential breaches of the Code. While the roles of DO and AO may be performed by the same individual in any one matter, the role of REO must be performed by a different individual.

Term in this Guide	Recommended individuals	Definition (Section 9)
Responsible Executive Officer (REO)	Chief Executive Officer or Vice- Chancellor, Deputy Vice-Chancellor or otherwise as determined by the institutional governing body.	A senior officer in an institution who has final responsibility for receiving reports of the outcomes of processes of assessment or investigation of potential or found breaches of the Code and deciding on the course of action to be taken.
Designated Officer (DO)	Deputy Vice-Chancellor, Pro Vice- Chancellor, Director/Manager of the Research Integrity Office (RIO), senior researcher or nominated equivalent.	A senior professional or academic institutional officer or officers appointed to receive complaints about the conduct of research or potential breaches of the Code and to oversee their management and investigation where required.
Assessment Officer (AO)	RIO staff, senior staff member, senior researcher or nominated equivalent.	A person or persons appointed by an institution to conduct a preliminary assessment of a complaint about research.
Research Integrity Advisor (RIA)	Person(s) nominated by the institution.	A person or persons with knowledge of the Code and institutional processes nominated by an institution to promote the responsible conduct of research and provide advice to those with concerns or complaints about potential breaches of the Code.
Research Integrity Office (RIO)	RIO staff or nominated equivalent.	Staff with responsibility for management of research integrity at an institution.
Review Officer (RO)	Senior officer of the institution not fulfilling any of the roles described above.	A senior officer with responsibility for receiving requests for a procedural review of an investigation of a breach of the Code.

4.1 Research integrity advisors (RIAs)

Institutions are required to nominate an RIA (or network of RIAs) to promote the responsible conduct of research and provide advice to those with concerns about potential breaches of the Code. An RIA must have knowledge of the Code and relevant institutional processes.

The role of the RIA includes informing someone with concerns about research conduct about the relevant institutional processes and available options, including how to make a complaint. Outcomes of the discussion between the RIA and the complainant may include:

- not proceeding if the complaint is clearly not related to a breach of the Code
- proceeding under other institutional processes
- making a complaint about a potential breach of the Code in writing to the DO.

RIAs are people with research experience, analytical skills, empathy, good communication skills, knowledge of the institution's processes and the Code, and familiarity with accepted practices in research. Institutions should offer ongoing training to RIAs to maintain their skills and knowledge base.

An RIA is not to advise on matters where they have a potential, perceived or actual conflict of interest.

The RIA's role does not extend to investigation or assessment of the complaint, including contacting the person who is the subject of that complaint or being involved in any subsequent investigation other than as witness or to provide testimony.

4.2 Research integrity office (RIO)

The RIO is the unit with responsibilities that include the management of responses to potential and found breaches of the Code at an institution. It is integral to the promotion of the responsible conduct of research in an institution.

Provision of, or access to, an RIO function promotes the responsible conduct of research in an institution. Its functions include:

- education and advice on responsible conduct of research to all staff, research students and RIAs
- supporting a network of RIAs
- developing and managing processes related to the responsible conduct of research
- receiving complaints about potential breaches of the Code
- supporting the conduct of preliminary assessments and investigations
- promoting a consistent and robust approach to managing and investigating potential breaches of the Code.

5 Consideration and management of complaints

5.1 Overview of receiving and considering complaints

A complaint about a potential breach of the Code occurs when a concern is raised or identified that one or more researchers have conducted research that is not in accordance with the principles and responsibilities of the Code.

Well-defined processes for receiving and managing concerns and complaints (hereafter only referred to as complaints) and communicating with the complainant are essential and these processes should be readily accessible on an institution's external website. The key considerations for these processes are described below.

Complaints may be dismissed at any stage for a variety of reasons, including if the complaint appears to have been made in bad faith or is vexatious. Alternatively, a complaint may trigger other processes or require immediate action if corrupt or criminal behaviour is potentially involved (refer to Section 8.2) or if it relates to an activity that could harm humans, animals or the environment (refer to Section 8.3).

It is important to document all decisions and reasons for those decisions. These decisions include, but are not limited to, whether to proceed to a preliminary assessment, whether to investigate a complaint or whether to cease investigating a complaint. Records and documentation should be retained in accordance with institutional processes.

5.2 Initial receipt of complaints

Complaints may arise from a range of sources, including from the institution itself. The processes for submitting, receiving and documenting a complaint about a potential breach of the Code should address:

- where to lodge a complaint
- how written and verbal complaints are managed and documented
- the limitations of submitting anonymous complaints and/or complaints lodged by a third party
- what information should be provided, and in what form, to enable a preliminary assessment.

The complainant should be encouraged to provide all information they hold pertinent to the complaint; however the process of making a complaint should not be onerous. The complainant is not required to identify parts of the Code or relevant processes that may have been breached. The institution may assist the complainant to lodge a complaint.

Where a complainant chooses not to proceed with a complaint, the institution still has an obligation to assess the nature of the complaint and whether to proceed to a preliminary assessment.

5.3 Managing complaints about potential breaches of the Code

After the complaint is received, the DO determines whether the complaint relates to a potential breach of the Code and, if it does, the matter proceeds to preliminary assessment.

While anonymous complaints may make subsequent processes more challenging, they may nonetheless identify potential breaches of the Code and therefore should still be considered, based on the information provided.

To avoid compromising the assessment, anyone involved in managing a complaint should not share information unless required.

Institutional processes should outline protections available to the complainant. Depending on the nature of the complaint, relevant legislation may protect the complainant, for example, 'whistle-blower' or 'public interest disclosure' legislation.

Ultimately, in its handling of any assessment or investigation, the institution is responsible for ensuring the complainant is protected from adverse consequences for having made the complaint.

Institutions have a responsibility to appropriately manage matters where a power imbalance exists, such as complaints brought by students and/or staff in more junior positions.

Reprisal and threatening behaviour must not be tolerated by the institution. Institutional processes should reflect this and parties should be advised that any reprisals will trigger other institutional processes.

5.4 Engagement with complainants

It is important to engage effectively with complainants as this can reveal additional information relevant to the matter and also provides complainants with confidence that their complaint is being/has been considered appropriately.

Consideration should be given to the extent to which a complainant may be affected by an outcome of a Code investigation and whether a complainant has direct interests at stake. This will help institutions determine the appropriate level of involvement of, and communication with, a complainant throughout the preliminary assessment and investigation.

Complainants who may be directly affected by the outcome of a Code investigation (for example, someone who is involved in a dispute with the respondent) should be provided with as much detail as possible to provide assurance that their complaint is being/has been considered appropriately.

In contrast, for complainants who have only a general concern in the matter, it may be sufficient to provide minimal details to convey the outcome. These complainants will generally not have direct interests at stake and will not be directly affected by the outcome (for example, someone conducting peer review on a paper).

5.5 Summary

Upon receipt of a complaint, the DO decides how to proceed. If the complaint represents a potential breach of the Code, then the process continues to preliminary assessment. If the complaint does not represent a potential breach of the Code, then it may be dismissed or referred to other institutional processes.

Throughout the investigation or management of a complaint, the welfare of the complainant and respondent is a key concern for the institution and support should be offered where available.

Table 2: Role and functions of officer involved in the management of complaints.

	Role	Functions
Consideration and management of complaints	Designated Officer (DO)	• DO determines whether the complaint relates to a potential breach of the Code and, if it does, the matter proceeds to preliminary assessment. • Ensure appropriate communication with the complainant occurs.

6 Preliminary assessment stage

6.1 Purpose of the preliminary assessment

The purpose of the preliminary assessment is to gather and evaluate facts and information, and assess whether the complaint, if proven, would constitute a breach of the Code (Figure 1).

A structured approach and careful collection and recording of facts and information are essential to conducting a robust preliminary assessment able to withstand subsequent scrutiny. Section 6.2 and the checklist in Appendix 1 outline a comprehensive approach to conducting a preliminary assessment.

6.2 Conduct of the preliminary assessment

The time taken for the preliminary assessment will vary significantly depending on the complexity of the complaint.

The DO assigns the complaint to a suitable AO. The AO is responsible for the conduct of the preliminary assessment, ensures timeliness and consults with the DO, as required. The AO should ensure records of the preliminary assessment are prepared and retained, and that appropriate processes are followed.

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 (for example, authorship).

During the preliminary assessment the AO identifies, collects, inventories and secures facts and information.

To avoid compromising the preliminary assessment, information should not be shared unless required.

The correct collecting and securing of facts and information 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 AO also considers whether an expert needs to be engaged to provide specific and/or independent advice about the collection and storage of facts and information.

It might be necessary to discuss the matter with the respondent during a preliminary assessment to clarify the facts and/or information. In this case, the AO 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 meet with the option to bring a support person.

A record of meetings should be prepared and the respondent provided with a copy.

The AO should consider:

- consultation with others in the institution
- the involvement of those in supervisory roles in the potential breach
- the need to involve other institutions in the matter (Section 8.1).

6.3 Outcomes from the preliminary assessment

On completion of the preliminary assessment, the AO provides written advice to the DO in a timely manner. This should include:

- a summary of the process that was undertaken
- an inventory of the facts and information that was gathered and analysed
- an evaluation of facts and information
- how the potential breach relates to the principles and responsibilities of the Code and/or institutional processes
- recommendations for further action.

The preliminary assessment advice will be considered by the DO who determines, on the basis of the facts and information presented, whether the matter should be:

- dismissed
- resolved locally with or without corrective actions
- referred for investigation
- referred to other institutional processes.

Where an evaluation of facts and information collected as part of a preliminary assessment does not support a referral of an allegation of a breach of the Code for investigation, 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, must be made to restore the reputation of any affected parties
- if a complaint is considered to have been made in bad faith or is vexatious, efforts to address this with the complainant should be taken under appropriate institutional processes
- addressing any systemic issues that have been identified.

An admission by the respondent of a breach of the Code should not be seen as an end point. It may still be necessary to conduct an investigation to identify appropriate corrective actions, any other parties that may be complicit or any other necessary steps.

Where a respondent leaves the institution following a complaint, the institution has a continuing obligation to address the complaint.

The institution should provide the outcomes, if appropriate, to the respondent and complainant at the conclusion of a preliminary assessment in a timely manner.

6.4 Summary

The preliminary assessment is critical and should be handled with due care and attention. It serves as a filter to allow identification of matters that require further investigation and those that can be appropriately handled through other processes.

The roles of the DO and AO during the preliminary assessment are summarised in Table 3.

Table 3: Roles and functions of officers involved in the preliminary assessment.

	Role	Functions
Preliminary assessment	Designated Officer (DO)	• Assigns a suitably qualified AO • Oversees the preliminary assessment • Decides whether a complaint is referred to an investigation, resolved without need for investigation, referred to other institutional processes (including local resolution), or dismissed
	Assessment Officer (AO)	• Conducts a preliminary assessment • Consults with DO, others in the institution and external experts where necessary • Liaises with the respondent and other relevant parties as appropriate • Secures evidence • Manages records • Provides a report to DO

7 Investigation stage

7.1 Purpose of the investigation

The purpose of the investigation is to make findings of fact to allow the REO to assess whether a breach of the Code has occurred, the extent of the breach and the recommended actions. This is done by examining the facts and information from the preliminary assessment, and gathering and examining further relevant evidence if required.

7.2 Preparing for the investigation

After the DO determines an investigation is required, the following steps should be taken:

- prepare a clear statement of allegations
- develop the terms of reference for the investigation (a sample checklist is at Appendix 2)
- nominate the investigation Panel (Panel) and Chair when the Panel is more than one person
- seek legal advice on matters of process where appropriate.

7.3 Composition of the Panel

A range of factors should be considered when determining the size and composition of the Panel including the potential consequences for those involved, the seniority of those involved and the need to maintain public confidence in research. These factors will affect the level of independence that is required of members from both the institution, and the respondent and complainant. There will be occasions where some or all members should be external to the institution.

In selecting members for the Panel, the DO must also consider:

- the expertise and skills required
    - selection of a person appropriately qualified as Chair
    - appropriate level of experience and expertise in the relevant discipline(s)
    - the need for a person with prior experience of similar investigation panels or relevant experience
    - knowledge and understanding of the responsible conduct of research
- appropriate number of members
- the need for members to be free from conflicts of interest or bias
- gender/diversity of members.

Once potential panel members have been selected, the DO will advise the respondent of the Panel's composition and provide an opportunity for the respondent to raise concerns.

The RIO may assist the DO in deciding on the composition of the Panel and its final establishment.

7.4 Panel preparation

Once the Panel is established, it should be provided with all relevant information and documentation. A sample checklist is at Appendix 3.

It is expected that all Panel members are appointed in writing and external members are appropriately indemnified.

Members of the Panel are expected to:

- work within the institution's processes
- follow the procedure established for the Panel
- work within the terms of reference for the Panel
- respect any undertakings of confidentiality
- adhere to the principles of procedural fairness
- complete the investigation in a timely manner
- prepare a written report.

Appropriate resources are to be provided to the Panel including secretariat support (for example, RIO staff). The secretariat maintains the record of evidence.

7.5 Conduct of the investigation

The principles of procedural fairness (see Section 3) must always be applied when undertaking the investigation. Investigations are to be thorough, robust and free from bias.

During the investigation, Panel members must ensure that relevant interests are disclosed and managed. If an interest cannot be managed, i.e., where a perceived or actual conflict of interest might be viewed as influencing the impartiality of the Panel, relevant Panel members must be recused.

All those required to attend the Panel should be given adequate notification.

Where the Panel is of the view that a party may be unable to represent themselves adequately due to the complexity of the matter, the Panel may need to take extra steps to ensure a fair investigation. This may include allowing extra time for parties to consider matters or encouraging a greater reliance on written evidence.

Where the process includes a support person, their role is to provide personal support, within reasonable limits, to the respondent and/or complainant. Their role is not to advocate, represent or speak on the other person's behalf. However, there may be times when a respondent and/or complainant requires a higher level of involvement from the support person and the Panel should consider this on a case-by-case basis.

The principles of procedural fairness do not include a right to legal representation, and the Panel should consider carefully whether to permit legal or specialist representation on request and on a case-by-case basis.

If the Panel allows a party or parties to have legal representation, the Panel should consider whether it also needs to be assisted with a similar level of representation. Legal representation may extend the timeframe of the investigation, increase the costs and overly formalise the investigation. Regardless of whether parties are legally represented, the investigation is not a court of law and cannot make legally binding findings.

As part of the investigation, the respondent should be provided with an opportunity to respond to the allegation and relevant evidence, and to provide additional evidence upon which the Panel may rely. If the respondent chooses not to respond or appear before the Panel where requested, the investigation continues in their absence. The complainant may also be given the opportunity to see relevant evidence used in the investigation (e.g., if they are directly affected by the investigation).

During its initial meeting, the Panel should:

- disclose and manage relevant interests
- be provided with all available information that will inform the investigation, which includes:
    - the initial complaint
    - all relevant information assembled by the AO
    - 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 AO, the complainant and/or the respondent
- develop an investigation plan (described in Appendix 3).

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

- the schedule of meetings and/or hearings 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
- disclosing interests
- the confidentiality requirements
- the Panel's procedures.

The Panel is to determine whether, having regard to evidence and on the balance of probabilities, the respondent has breached the Code. To do this, the Panel:

- assesses the evidence (including its veracity) 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 the principles and responsibilities of the Code have been breached
- considers the seriousness of any breach
- provides a report into its findings of fact consistent with its terms of reference
- makes recommendations as appropriate.

If the 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.

7.6 Outcomes from the investigation

On completion of the investigation, the Panel prepares a draft written report of the investigation. Given that the report will be relied on by the REO to make a decision about whether a breach of the Code has occurred, it is essential that the report is detailed, accurate and cogent, and fully addresses the terms of reference. It is expected that the institution provides secretariat support (for example, RIO) to assist in the preparation of the draft report.

The draft report should contain findings of fact and any recommendations (see Appendix 4 for a sample checklist for the report of the investigation findings). The draft report, or a summary of all relevant information on which the DO's decision will be based, should be provided to the respondent with a reasonable timeframe to comment. The timeframe given should reflect the complexity of the matter. The draft report, or a summary of the information, may also need to be provided to the complainant if they will be affected by the outcome.

Following consideration of any further information, the report is finalised. The DO will consider the findings of fact, 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 outlined in Section 2.2. The DO will provide the final report to the REO with recommendations.

Where systemic issues are identified as a contributing factor, these need to be referred to the institution to be addressed.

7.6.1 Finding of no breach of the Code

If the REO decides that there has been no breach, the following will need to be considered:

- if the allegation has no basis in fact then efforts must be taken to restore the reputations of those alleged to have engaged in improper conduct
- if an allegation is considered to have been frivolous or vexatious, action to address this with the complainant should be taken under appropriate institutional processes
- the mechanism for communication with, and support for, the respondent and complainant.

7.6.2 Finding of a breach of the Code

Where the REO accepts that a breach of the Code has been found, the REO decides the institution's response, taking into account the extent of the breach (Section 2.2) and whether other institutions should be advised.

In the case of joint, adjunct and/or honorary appointments of the respondent, institutions should follow their own 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.

All efforts should be taken to correct the public record of the research, including publications if a breach of the Code has affected the accuracy or trustworthiness of research findings and their dissemination.

7.6.3 Dissenting views

The Panel is encouraged to come to a consensus. If there are dissenting view(s), there should be opportunity for the Panel member to provide this view for inclusion in the draft and final report.

As the dissenting view forms part of the draft report, it must be provided to the respondent and in some circumstances the complainant, if they will be affected by the outcome.

7.7 Communicating the findings

When the REO has considered the Panel's report, any decisions or actions are to be communicated to the respondent and the complainant (Section 5.4). Subsequent actions may include informing relevant parties (such as funding bodies, other relevant authorities or other institutions) of the outcome.

The REO should consider whether a public statement is appropriate to communicate the outcome of an investigation.

In cases where the respondent resigns, the institution 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 disclosure can be made and is done appropriately and lawfully.

7.8 Mechanisms for review of a Code investigation

Only requests for a review of a Code investigation on the grounds of procedural fairness should be considered. The aim of a review is to affirm or not the outcome of the investigation. Institutions must have processes for review. Ideally these processes should include:

- where requests for review should be directed and timeframes for lodgement
- how a decision to proceed with a review will be made (i.e., who will make that decision and on what basis, such as an RO; see Table 1)
- ways a review may be conducted (i.e., refer back to Panel or to a more senior officer than the DO)
- how the outcomes of the review will be communicated.

When communicating the outcome of the investigation, institutions must inform the respondent, and possibly the complainant if they are directly affected by the outcome, of their right to request a review and how to lodge a request for review, including timeframes and the information required for a request to be considered.

The Australian Research Integrity Committee (ARIC) can provide an external review of any investigative processes into potential breaches of the Code used by institutions that receive any funding from the National Health and Medical Research Council (NHMRC) or the Australian Research Council (ARC). Institutions should inform the respondent and possibly the complainant of their right to request a review by ARIC.

Additional review or complaints options will vary across jurisdictions (such as via ombudsman, court or other authorities) and are outside the scope of this Guide.

7.9 Summary

The roles of the DO, Panel, REO and RIO during the investigation are summarised in Table 4.

Table 4: Roles and functions of officers involved in the investigation. Note: Officers must adhere to the principles of procedural fairness (Section 3).

	Role	Functions
Investigation	Designated Officer (DO)	• Prepares statement of allegation • Establishes terms of reference • Nominates Panel (including a Chair) • Receives the investigation report and may make recommendations to REO
	Research Integrity Office (RIO)	• Notifies all those required to attend or participate in the investigation, in particular the respondent • Provides Panel with all relevant documentation • Ensures the Panel works within the institution's processes and this Guide • Schedules meetings and/or hearings, and records interviews if necessary • Provides relevant written information to respondent and relevant others • Assists the Panel
	Panel	• Completes an investigation into a potential breach of the Code • Produces a report on the findings of facts and may make recommendations
	Responsible Executive Officer (REO)	• Determines whether a breach of the Code has occurred • Decides on the extent of a breach • Decides on course of action, which may include corrective actions, referral to institution's disciplinary processes and/or other institutional processes

8 Additional considerations

8.1 Collaborative research across multiple institutions

Research is increasingly an inter-disciplinary, multi-institutional and a multi-national endeavour. This involves all aspects of research, including the initial collaboration, peer review, data management and dissemination of research output. Consideration should be given to how potential breaches of the Code will be investigated at the outset for collaborative research projects that reach across multiple institutions and jurisdictions.

Institutions should consider how preliminary assessments and investigations into potential breaches of the Code 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. Institutions should cooperate if there is a potential breach of the Code to ensure that only one investigation is conducted. There should be clear communication between all parties throughout the investigation.

Special consideration needs to be given to international collaborations since research practices and guidelines about the conduct of investigations differ between countries.

8.2 Corrupt conduct and/or criminal behaviour

Some matters may involve potentially corrupt conduct and/or potential criminal behaviour. These matters require referral to an appropriate agency, for example, a crime commission and/or the police. They may also trigger other institutional responsibilities and processes.

Institutions should have processes that encourage early identification of these matters.

Where an external agency chooses to investigate, the institution should seek advice on whether internal processing of the complaint as a potential breach of the Code can continue and, if so, with what authority and parameters, if any.

Following completion of an external investigation, an institution may need to consider if there are outstanding matters, relevant to the Code, to be addressed internally, and may decide to initiate further internal processing.

8.3 Safety issues

If at any time it becomes apparent that the complaint relates to an activity that could harm humans, animals or the environment, immediate action must be taken to minimise the risk of harm. This action is at the discretion of the institution and is independent of the Code investigation.

These matters may require referral or notification to an appropriate agency (e.g., regulatory agencies, WorkSafe). They may also trigger other institutional responsibilities and processes.

9 Terms used in this Guide

Term	Definition
Allegation	A claim or assertion arising from a preliminary assessment that there are reasonable grounds to believe a breach of the Code has occurred. May refer to a single allegation or multiple allegations.
Assessment Officer (AO)	A person or persons appointed by an institution to conduct a preliminary assessment of a complaint about research.
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. May refer to a single breach or multiple breaches.
Code	The *Australian Code for the Responsible Conduct of Research*.
Complainant	A person or persons who has made a complaint about the conduct of research.
Conflict of interest	A conflict of interest exists in a situation where an independent observer might reasonably conclude that the professional actions of a person are or may be unduly influenced by other interests. This refers to a financial or non-financial interest which may be a perceived, potential or actual conflict of interest.
Corrective actions	These include retractions or errata of publications, training, counselling and systemic improvements.
Designated Officer (DO)	A senior professional or academic institutional officer or officers appointed to receive complaints about the conduct of research or potential breaches of the Code and to oversee their management and investigation where required.
Evidence	Any document (hard copy or electronic, including e-mail, images and data), information, tangible item (for example, biological samples) or testimony offered or obtained that may be considered during the process of managing and investigating a potential breach of the Code.
Guide	*Guide to Managing and Investigating Potential Breaches of the Australian Code for the Responsible Conduct of Research*.
Institution	Includes universities, independent research institutes, hospitals or any other organisation that conducts research. May refer to one or multiple institutions.
Investigation	In this Guide, the term 'investigation' is used to describe the action of investigating an allegation of a breach of the Code by the Panel, following the preliminary assessment. The purpose of the investigation is to determine whether a breach of the Code has occurred, and if so, the extent of that breach, and to make recommendations about further actions.
Panel	Refers to the person or persons appointed by an institution to investigate a potential breach of the Code.
Preliminary assessment	In this Guide, the term 'preliminary assessment' is used to describe the gathering and evaluating of evidence to establish whether a potential breach of the Code warrants further investigation.
Procedural fairness	That a fair and proper procedure is used when making a decision.
Processes	This includes reference to policies, procedures, guidelines and standards.
Research	The concept of research is broad and includes the creation of new knowledge and/or the use of existing knowledge in a new and creative way so as to generate new concepts, methodologies, inventions and understandings. This could include synthesis and analysis of previous research to the extent that it is new and creative.
Research Integrity Advisor (RIA)	A person or persons with knowledge of the Code and institutional processes nominated by an institution to promote the responsible conduct of research and provide advice to those with concerns or complaints about potential breaches of the Code.
Research Integrity Office (RIO)	Staff with responsibility for management of research integrity at an institution.

Term	Definition
Research misconduct	A serious breach of the Code which is also intentional or reckless or negligent.
Researcher	Person (or persons) who conducts, or assists with the conduct of, research.
Respondent	Person or persons subject to a complaint or allegation about a potential breach of the Code.
Responsible Executive Officer (REO)	The senior officer in an institution who has final responsibility for receiving reports of the outcomes of processes of assessment or investigation of potential or found breaches of the Code and deciding on the course of actions to be taken.
Review Officer (RO)	A senior officer with responsibility for receiving request for a procedural review of an investigation of a breach of the Code.
Support person	A person who accompanies a party to an interview.

Appendix 1: Sample checklist for the preliminary assessment

DO assigns the complaint to a suitable AO

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 institutional processes
- recommendations for further action

Assess all facts and information to determine outcome, i.e., complaint is to be

- dismissed
- resolved locally
- referred for investigation
- referred to other institutional processes

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 the 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 allegations

A statement that the Panel is duly constituted in accordance with the institution's processes for investigating potential breaches of the Code

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 allegations
- to review the responses to the allegations provided by the respondent
- to review the preliminary assessment report (including any external expert advice)
- to identify and gather any other relevant evidence
- to interview the relevant parties
- to consider the evidence in the context of the principles and responsibilities of the Code
- to make findings in accordance with this Guide
- to provide a report to the DO in a timely manner

A statement about the secretariat support to be provided by the institution (for example, RIO)

An indicative timetable for the conduct of the investigation

Appendix 3: Sample checklist for the investigation procedure

Develop terms of reference and scope for the 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, Higher Degree Research or equivalent) of the investigation as required

Advise the respondent (and possibly the complainant) on the composition of the Panel and provide opportunity to raise valid concerns

Establish the Panel

Provide the Panel with an opportunity to comment on the terms of reference and scope

Provide respondent opportunity to respond to allegation and inform them about the conduct of the investigation, including the role of a support person and the circumstances under which legal representation would be allowed.

Notify those required to attend the investigation

Provide guidance on the appropriate procedures for the investigation to the Panel, such as this Guide, the Code and any relevant government or institutional processes. This may also include definitions of a breach of the Code and, if relevant, research misconduct (according to the institution's processes).

Provide the Panel with all available information that will inform the investigation, which may include:

- the initial complaint
- all relevant information assembled by the AO
- 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 AO, 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 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 the investigation

The 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 allegations 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
- The findings of fact that have been reached
- A conclusion as to whether or not a breach of the Code occurred and whether or not the respondent is responsible for the breach
- Identification of any systemic issues that were contributing factors
- A recommendation about the seriousness of any 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)

Appendix 5: Development of this Guide

This Guide has been jointly developed by the National Health and Medical Research Council, the Australian Research Council and Universities Australia as a guideline under the *National Health and Medical Research Council Act 1992*. The development of this Guide has been overseen by expert working groups and committees.

Several members provided examples of their institutional policies that assisted in the development of this Guide and the checklists in the Appendices.

Figure 2 (page 5) was based on an image provided by Dr Paul Taylor and Dr Daniel Barr.

The co-authors are also grateful for the contributions from all individuals and organisations that participated in the targeted and public consultation processes.

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