



Animal Ethics Committee terms of reference



Acknowledgement of Country

Department of Climate Change, Energy, the Environment and Water acknowledges the Traditional Custodians of the lands where we work and live.

We pay our respects to Elders past, present and emerging.

This resource may contain images or names of deceased persons in photographs or historical content.

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Artist and designer Nikita Ridgeway from Aboriginal design agency Boss Lady Creative Designs created the People and Community symbol.

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These terms of reference set out the following in relation to the Department of Climate Change, Energy, the Environment and Water's (the **department**) Animal Ethics Committee (the **committee**):

- A. Scope of committee responsibility
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- D. Operation

Establishment

The department is an accredited research establishment under the *NSW Animal Research Act 1985* (the **Act**). Under section 13 of the Act, the department has appointed the committee to function as an accredited research establishment. 'Animal research' is defined in section 3 of the Act.

A. Scope of committee responsibility

1. Compliance obligations of the committee

- 1.1 The committee must ensure that all animal care and use for research and education within the department is conducted in compliance with the following:
 - i. the Act
 - ii. the *Australian code for the care and use of animals for scientific purposes* (the **code**), prescribed by section 4 of the Regulation
 - iii. the *Animal Research Regulation 2021* (the **Regulation**)
 - iv. *Government Information (Public Access) Act 2009*
 - v. *Privacy and Personal Information Protection Act 1998*
 - vi. *State Records Act 1998*.

2. The committee is responsible for making recommendations and overseeing animal research conducted by holders of Animal Research Authorities.

- 2.1 The Committee has the following functions:
 - i. make recommendations concerning the department's granting of Animal Research Authorities (the Act, section 14 (1)(a))
 - ii. supervise the carrying out of animal research by Animal Research Authority holders whose authorities were granted by the department (the Act, section 14(1)(b))

- iii. such other functions as may be conferred or imposed on it by the code.

3. The committee is responsible for the ethical review of animal care and use related to animal research.

3.1 The committee must:

- i. ensure, on behalf of the department, that all activities related to the care and use of animals are conducted in compliance with the code (the code, cl 2.3.1)
- ii. review applications for projects and approve only those projects that are ethically acceptable and conform to the requirements of the code (the code, cl 2.3.2(i))
- iii. ethically assess submitted applications and if appropriate, recommend that an Animal Research Authority be issued to departmental employees on behalf of the department for up to 12 months to carry out animal research, teaching or supply activities.

4. The committee is responsible for the approval and monitoring of animal care and use.

4.1 The committee must:

- i. recommend suspension or cancellation of an Animal Research Authority to the department if the committee considers that suspension or cancellation is necessary to protect animal welfare
- ii. review applications for activities associated with the care and management of animals in facilities, including procedures applicable to breeding programs integral to the maintenance of an animal line, and approve only those activities that are ethically acceptable and conform to the requirements of the code (the code, cl 2.3.2(ii))
- iii. conduct follow-up review of approved projects and activities and allow the continuation of approval for only those projects and activities that are ethically acceptable and conform to the requirements of the code (the code, cl 2.3.2(iii)).
- iv. monitor the care and use of animals, including housing conditions, practices and procedures involved in the care of animals in facilities (the code, cl 2.3.2(iv))
- v. take appropriate actions regarding unexpected adverse events (the code, cl 2.3.2(v))
- vi. take appropriate actions regarding non-compliance (the code, cl 2.3.2(vi)), including notifying the department, in accordance with the department's non-compliance procedure, if the committee has reasonable grounds to believe that a departmental employee or other person named on a departmental Animal Research Authority is in breach of the Act, Regulation or code

- vii. approve guidelines for the care and use of animals on behalf of the department (the code, cl 2.3.2(vii))
- viii. examine and comment on departmental plans, policies and procedures which may affect animals involved in departmental research, teaching and supply activities, and other plans, policies and procedures involving animals at the discretion of the department and the committee.
- ix. provide advice and recommendations to the institution regarding the care and use of animals for scientific purposes conducted by the department (the code, cl 2.3.2(viii)) and on behalf of the department, including strategies required to ensure that the requirements of the code are maintained and that matters affecting animal wellbeing are addressed (the code, cl 2.3.27). This is achieved by recommending to the department measures to ensure that the governing principles and standards of the code are maintained for all animal research, teaching and supply activities carried out by departmental employees.
- x. inspect facilities and locations under the department's animal research accreditation, where animal research, teaching or supply activities approved by the committee are conducted and associated records of those activities
- xi. authorise veterinary treatment or humane killing of any animal used in research, teaching or supply activities approved by the committee, if the committee considers such action necessary to protect animal welfare.

5. Obligations with respect to record keeping and information requests

5.1 The department must ensure that records related to the committee business are maintained, including:

- i. a register of all applications to the committee, and the outcomes of deliberations
- ii. minutes that record decisions and other aspects of the committee's operations
- iii. records of inspections conducted by the committee (the code, cl 2.2.30)
- iv. where appropriate, the institution, in consultation with the committee, is to ensure that animal carers have access to records of approved projects and activities.

5.2 The committee will not proactively release minutes. The NSW Public Sector provides secretariat support and holds the committee's documents and as such, those documents are subject to an information access application under the *Government Information (Public Access) Act* (GIPA Act).

- 5.3 If there is an information access application under the GIPA Act, the GIPA team will liaise with the Animal Ethics Committee mailbox (aec@environment.nsw.gov.au) to ensure members produce the appropriate records.
- 5.4 A person assisting with a GIPA Act application must make rigorous searches for all records relevant to the request. The search must be performed in the timeframes required by the Act and all documents within scope are assessed, with a thorough response provided.
- 6. The committee may appoint an animal care and ethics subcommittee and an executive committee.**
- 6.1 The committee can appoint subcommittees. An animal care and ethics subcommittee must include at least one member of the ethics committee that recommended its appointment.
- 6.2 The procedures to be followed by an animal care and ethics subcommittee are the same as the procedures to be followed by the committee.

B. Institutional accountability

1. Terms of reference review and approval

- 1.1 These terms of reference have been approved by the Deputy Secretary of the Biodiversity, Conservation and Science division (or other authorised person on behalf of the department).
- 2.1 These terms of reference must be reviewed by the department every 3 years or sooner as necessary to ensure it remains consistent with the Act, the Regulation, the code and the department's policies.

2. Annual review of performance

- 2.1 The committee must report on its operations to the department, through the Animal Research Ethics team, by submitting an annual report on the business of the committee to the Deputy Secretary of the department (the code, cl 2.2.37; 2.3.28; 2.3.2(9); 2.1.9(ii); 2.2.1(v)).
- 2.2 The annual report must include an evaluation of its performance and self-evaluate its level of effectiveness. The evaluation framework will be prepared by the secretariat and endorsed by the members. The report is to include:
- i. number and types of projects and activities assessed, and approved or rejected
 - ii. the physical facilities for the care and use of animals by the department

- iii. actions that have supported the educational and training needs of committee members and people involved in the care and use of animals
 - iv. any administrative difficulties experienced
 - v. any matters that may affect the institution's ability to maintain compliance with its obligations and, if appropriate, suitable recommendations (see the code, cl 2.3.29).
- 2.3 The department will conduct an annual review of the operation of the committee to ensure that it is effective and consistent with the code and institutional policies. This must include an assessment of the Animal Ethics Committee's annual report and a meeting with the Animal Ethics Committee chairperson (the code, cl 2.2.37).
- 2.4 The report and reviewed terms of reference is to be submitted to the Deputy Secretary of the department for approval.

3 Accountabilities

- 3.1 All advice from the committee is to come from the Chair and will be in writing.
- 3.2 Committee advice to the department will be via a briefing note.
- 3.3 All advice provided by the committee must remain confidential.
- 3.4 The department may issue an Animal Research Authority only on the recommendation of the committee (the Act, section 25).

4 Roles and responsibilities

- 4.1 Secretary of the department and the department:
 - i. The department as an accredited research establishment has responsibility with respect to the committee and must ensure and support the effective operation of the committee in accordance with clause 2.1.6 of the code (note: the department must not carry out animal research in contravention of the code (section 22(1)(b)(iii), the Act)).
 - ii. The Secretary of the department, as head of the department, has authorised persons in the department to carry out institutional functions under the code, to:
 - a. promptly and effectively respond to recommendations from the committee to ensure that the care and use of animals for scientific purposes within the department complies with the code (the code, cl 2.1.6(iii); 2.2.19)
 - b. ensure that the committee has the appropriate resources to enable it to undertake its functions (the code, cl 2.1.5(ii); 2.2.1(iii); 2.2.19).
 - c. approve these terms of reference and their publication, approve procedures for the appointment, re-appointment and retirement

- of Animal Ethics Committee members (the code, cl 2.1.6(ii); 2.2.1(ii); 2.2.9; 2.2.18)
 - d. develop policies for maintaining confidentiality regarding the content of applications and the deliberations of the committee, including how members may seek advice without breaching confidentiality (the code, cl 2.2.24)
 - e. have procedures for dealing with complaints and non-compliance with the code, complaints related to the committee process, and irreconcilable differences between the Animal Ethics Committee and an investigator (the code, cl 2.2.29).
 - iii. Department functions carried out by officers authorised by the Secretary also include:
 - a. appointing the members of the committee, including the Chair (the code, cl 2.2.2; the Regulation, Sch 2, cl 1; the Act, section 13)
 - b. determining the Chair's term of office
 - c. providing secretariat functions for the committee
 - d. managing disputes and grievances according to relevant grievance procedure
 - e. approving and managing conflict of interests or duties and gift, benefits and hospitality declarations in relation to the Chair.
- 4.2 Secretariat
- i. Secretariat functions provided by the department for the committee include:
 - a. managing meeting administration (agenda preparation, distribution of meeting papers, minute taking, recording and follow-up on actions)
 - b. managing meeting arrangements (venue, catering, travel, accommodation, and processing of claims or payments)
 - c. coordinating and facilitating communication between members.

C. Membership

1. Membership selection criteria

- 1.1 The minimum requirements for membership require the committee to be comprised of at least 4 members, including at least one person appointed to each of the categories A, B, C and D. If a committee has more than 4 members, categories C and D together must represent at least one-third of the committee membership (the Regulation, section 21(1) and (2) and the code, cl 2.2.4).

- 1.2 At least one committee member must be a person who is not involved in the conduct of animal research or the supply of animals for use in connection with animal research and is not associated with any accredited research establishment otherwise than in the person's capacity as a member of such a committee (the Act, section 13(5)).

Table A – Membership categories

Category Description

A	A person with qualifications in veterinary science that are recognised for registration as a veterinary surgeon in Australia and with experience relevant to the department's activities (wildlife research) or the ability to acquire relevant knowledge.
B	A suitably qualified person with substantial and recent experience (within the last 5 years) in the use of animals for scientific purposes relevant to the department and the business of the Animal Ethics Committee (that is, wildlife research). This must include possession of a higher degree in research or relevant experience.
C	A person with demonstrable commitment to, and established experience in, furthering the welfare of animals, who is not employed by or otherwise associated with the department, and who is not currently involved in the care and use of animals for scientific purposes. Veterinarians with specific animal welfare interest and experience may meet the requirements of this category. While not representing an animal welfare organisation, the person should, where possible, be selected on the basis of active membership of, and endorsement by, such an organisation.
D	A person who is not employed or otherwise associated with the department and who has never been involved in the use of animals in scientific or teaching activities, either in their employment or beyond their undergraduate education. Category D members should be viewed by the wider community as bringing a completely independent view to the Animal Ethics Committee and must not fit the requirements of any other category,

2. Requirements for member appointments

- 2.1 The Deputy Secretary must apply the membership selection criteria when appointing a member to the committee.
- 2.2 The Deputy Secretary of the department (or other by delegation) must appoint the Chair and members to the committee ensuring that:
- i. the appointment process is transparent, impartial, and appropriate to each category of membership
 - ii. qualifications of members are suitable for their categories of membership
 - iii. the committee has the expertise and diversity to enable it to properly assess research or teaching proposals and to make informed decisions

- iv. animal welfare and community perspectives are adequately represented
 - v. there is at least one member from each of the categories A to D and that members are not appointed to more than one category
 - vi. categories C and D must together represent at least one-third of the committee's membership (the Regulation, section 21(2)(b)).
- 2.3 A Chair must be appointed by the Deputy Secretary (or other by delegation). The Chair may be appointed to the committee in addition to members appointed from the 4 categories outlined above (the code, cl 2.2.2). The Chair should hold a senior position in the department who is independent of the care and use of animals for scientific purposes. If the Chair is an external appointee, the department will ensure the Chair has the necessary support and authority to carry out the role effectively (the code, cl 2.2.2).
- 2.4 The Deputy Secretary (or other by delegation) may appoint additional members with skills and background of value to assist the effective functioning of the committee (the code, cl 2.2.2). These members are appointed to category 'other'.
- 3. Duration of appointment**
- 3.1 Members hold office for a term not exceeding 3 years.
- 3.2 Members cannot hold office for more than 2 consecutive terms.
- 3.3 Reappointment of former members is only allowed after an absence of at least 3 years from the committee.
- 3.4 The Chair's term of office is determined by the Secretary (or other by delegation).
- 4. Terms of appointment**
- 4.1 Code of conduct
- i. All members, including the Chair, must abide by the department's *Code of ethics and conduct* (also see *Animal Ethics Committee members standard operating procedures*) and the 'Conduct of members' as outlined in section 7 of the *NSW Government board and committee guidelines*.
 - ii. All members, including the Chair, who are public servants, remain subject to their employer's code of conduct while being a member of the committee.
- 4.2 Conflict of interest and duty.
- i. All members, including the Chair, must report any conflicts of interest.
- 4.3 Member obligations
- i. Members must:
 - a. prior to commencing their term of appointment, acknowledge in writing their acceptance of the committee's terms of reference and standard operating procedures, and any confidentiality or other requirements of the department

- b. at the earliest opportunity, declare to the Chair or executive officer any real or perceived financial, professional or personal interest in any matter under consideration by the committee
- c. notify the committee's Chair or executive officer in writing as soon as possible of any changes to their circumstances which may reasonably conflict with the appointment criteria specified for their membership category
- d. adhere to the department's *Code of ethics and conduct* and the department's *Board and committee code of conduct* (which will be provided to each member by the department)
- e. conduct themselves ethically and with due diligence, maintaining confidentiality of all departmental and committee business including application content, deliberations and decisions, meeting proceedings and any other matters that arise during the committee's work
- f. support the committee to perform its functions
- g. act in the interest of the committee as a whole
- h. actively participate in the work of the committee and be familiar with the code, NSW animal research and welfare legislation, relevant guidelines and any other resources that reasonably inform their decision-making. The department's Animal Research Ethics team will provide (relevant links and documents to each member on their appointment, and will notify them of any changes they become aware of)
- i. decide whether, in their own judgement, an application or other matter under consideration by the Animal Ethics Committee is ethically acceptable and meets the requirements of the code. To fulfil this, members are to:
 - be familiar with the code and other policies and guidelines relevant to the business of the Animal Ethics Committee
 - provide opinions on the ethical acceptability of applications and other matters under consideration by the Animal Ethics Committee.
- j. ensure they have access to the technology required to view electronic meeting papers, respond promptly on out-of-session business and participate fully in committee meetings held by telephone, video or web conferencing
- k. inform the secretariat as soon as possible if they are unable to attend a meeting

- l. if the Chair is absent for a meeting, attending members may elect another member to be acting Chair for that meeting only (the Regulation, Sch 2(2)(7)(2)).

4.4 Chair obligations

- i. The Chair must:
 - a. preside at meetings of the committee and facilitate open discussion on the agenda items in a timely manner
 - b. provide leadership to the committee and impartially guide its operation, resolving conflicts of interest related to its business, and representing the committee in any negotiations with the department (the code, cl 2.2.13)
 - c. set the agenda in conjunction with the secretariat
 - d. recommend to the Deputy Secretary (or other by delegation) the appointment or termination of committee members
 - e. ensure the committee operates in accordance with the principles and requirements of relevant legislation, the code, relevant policies of the department and committee procedures.
 - f. conduct meetings according to standard meeting procedure (*Animal Ethics Committee Members standard operating procedures*) and these terms of reference
 - g. meet at least annually with the Deputy Secretary (or other by delegation) to review the operation of the committee and consider the annual report of the committee
 - h. facilitate participation of all members in the meeting so all members can make effective contributions
 - i. facilitate the flow of information to members and stakeholders
 - j. act as spokesperson for the committee.

4.5 Communication with third parties

- i. All correspondence, submissions, and enquiries must be provided to the secretariat for them to action appropriately.
- ii. Confidentiality of committee business must be maintained in any communication with third parties.

4.6 Removal from a position.

- i. The Chair may recommend to the Deputy Secretary (or other by delegation) the termination of committee members.
- ii. The Deputy Secretary may revoke the membership of any member including the Chair.
- iii. A member may be removed prior to the expiry of their term if:
 - a. the member cannot commit adequate time to their role

- b. there has been a disagreement with other members that cannot be resolved
 - c. there is a conflict of interest that cannot be mitigated
 - d. the member no longer meets the membership criteria
 - e. the member has breached the committee's code of conduct
 - f. the committee is abolished.
- iv. The office of a member will become vacant if any of the following circumstances arise (the Regulation, Sch 2(1)(4)):
- a. the member dies
 - b. the member resigns in writing to the committee
 - c. the member is absent from 4 consecutive meetings of the committee, except if the member was granted leave by the committee or, within 4 weeks after the last meeting from which the member is absent, the member is excused by the committee for being absent from meetings
 - d. the member becomes a mentally incapacitated person
 - e. the member is convicted in New South Wales of an offence punishable by imprisonment for 12 months or more or is convicted of an offence outside New South Wales that, if committed inside the state, would be an offence punishable by imprisonment for 12 months or more
 - f. the member completes a term of office and is not reappointed.

D. Operation

The Animal Ethics Committee method of operation and member code of conduct are outlined in the *Animal Ethics Committee member standard operating procedures*.

Document history

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General revision to existing document	Policy Division Office of Environment and Heritage (OEH)	August 2012
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