

PROCEDURES FOR NON-COMPLIANCE

PURPOSE

In accordance with the current *Australian code for the care and use of animals for scientific purposes (the Code)*, the Australian Antarctic Program Animal Ethics Committee (AAPAEC) is required to have procedures in place to respond to non-compliance with relevant animal welfare policy/legislation, *the Code* and/or AAPAEC decisions.

These procedures provide clear guidance for the handling of non-compliance events related to the use of animals for scientific purposes within the Australian Antarctic Program.

RESPONSIBILITIES

- 1.1 The chief investigator (the primary applicant in whose name an animal ethics approval is granted) assumes principal responsibility for the conduct of the project, the supervision of all personnel associated with the project, the compliance with the requirement of *the Code* and decisions of the AAPAEC.
- 1.2 Field personnel have personal responsibility for all matters related to the welfare of the animals they use.
- 1.3 To ensure the wellbeing of animals used in their project, the chief investigator must ensure that where required the level of supervision of personnel involved in the management of animals in their project takes into account the level of competence of each field person and the responsibilities they are given.
- 1.4 Chief investigators are responsible for documenting and notifying an adverse or unexpected adverse event. An adverse event is described in *the Code* as “any event that has a negative impact on the wellbeing of an animal.” An unexpected adverse event is described in *the Code* as “an event that may have a negative impact on the wellbeing of animals and was not foreshadowed in the approved project or activity.” A report must be provided to the AAPAEC Executive Officer as soon as practical following the event, but no longer than three days after the event.
- 1.5 Chief investigators are responsible for providing any reporting requirements documented in the approval and conditions set by the AAPAEC.
- 1.6 Where a non-compliance event is reported, the AAPAEC is responsible for conducting an investigation and determining a suitable response which may include formally withdrawing the animal ethics approval for the project.
- 1.7 Where relevant, the Australian Antarctic Division (AAD) Director is responsible for responding promptly and effectively to recommendations of the AAPAEC to ensure the use of animals for scientific purposes within the Australian Antarctic Program remain in accordance with *the Code*.

NON-COMPLIANCE

Definition

2.1 Non-compliance or breaches are a contravention or violation of:

1. *the Code*;
2. relevant animal welfare act, policy or regulation;
3. the AAPAEC approval.

General

- 3.1 Reporting of a non-compliance event may be made by any individual or group.
- 3.2 All non-compliance or suspected non-compliance events must be reported in writing to the AAPAEC Chair via the AAPAEC Executive Officer at aec@aad.gov.au.
- 3.3 A chief investigator, upon realising that a non-compliance event has occurred, must immediately notify the AAPAEC Chair via the AAPAEC Executive Officer in writing at aec@aad.gov.au.
- 3.4 The AAPAEC Chair (or delegate) will in the first instance consider whether a non-compliance event has occurred.
- 3.5 The focus of AAPAEC investigations into non-compliance is to enhance animal welfare and reduce the risk of the events occurring in the future through improved processes or protocols.
- 3.6 Investigation of a non-compliance event or suspected non-compliance event will be confidentially handled with procedural fairness and the principles of natural justice.

Procedures

- 4.1 Allegations of non-compliance will undergo a preliminary assessment undertaken by the AAPAEC Chair (or delegate). If the AAPAEC Chair (or delegate) determines, *prima facie*, that a non-compliance event may have occurred, the allegation shall be investigated.
- 4.2 If the AAPAEC Chair (or delegate) determines, *prima facie*, that a non-compliance event has not occurred, AAPAEC members will be advised of the Chair's (or delegate's) decision. The complainant and/or chief investigator will be informed of the ruling and no further action will be taken.
- 4.3 If the AAPAEC Chair (or delegate) determines a non-compliance event has occurred the following procedures will be followed.

Categorisation of the event

- 5.1 The AAPAEC Chair (or delegate) in consultation with members of the AAPAEC will consider the alleged incident to determine the degree of non-compliance. A decision to assign one of the following two categories will be made.
- 5.2 *Minor non-compliance* – where the event is unlikely to impact on animal welfare.
Examples of minor non-compliance include:
 - Failure to submit annual reporting on time.
 - Failure to provide satisfactory annual reporting.
 - Failure to maintain adequate records.

5.3 *Major non-compliance* – where the event has potential for significant impact on animal welfare.

Examples of major non-compliance could include:

- Deliberate or negligent deviations from approved protocol.
- Unauthorised animal use.
- Unauthorised animal procedure.
- Unauthorised personnel performing invasive animal procedures.
- Failure to report adverse outcomes to the AAPAEC.

Handling of alleged non-compliance events

- 6.1 In all cases of alleged non-compliance, the chief investigator will be contacted by the AAPAEC Executive Officer to provide a report to the AAPAEC outlining the project and circumstances of the alleged non-compliance event. Reports must be emailed to the AAPAEC Executive Officer at aec@aad.gov.au within five business days of the request for a report.
- 6.2 Although the primary responsibility for the welfare of animals lies with the chief investigator, consideration will be given to requiring information from all personnel involved in the event.
- 6.3 All AAPAEC requests for information must be provided by the chief investigator/involved personnel in an accurate and timely manner. Prompt responses to all enquiries from the AAPAEC and requested attendance at any meetings is expected.
- 6.4 The action taken will be determined by the severity of the non-compliance. Actions may include, but are not restricted to: formally cautioning the chief investigator; suspending or withdrawing animal ethics approval for the project or field personnel; recommending disciplinary action to the relevant institution. Where non-compliance is detected after completion of the project the AAPAEC may recommend remedial action to the chief investigator to prevent reoccurrence.

Minor non-compliance

- 6.5 The AAPAEC Chair (or delegate) will report alleged non-compliance to the AAPAEC and together with AAPAEC members will review relevant information including the report provided by the chief investigator.
- 6.6 The AAPAEC will:
- consider the requirement for additional information, including records maintained, submission of previous requests for variation(s) or other documentation;
 - give consideration to the need to review other approved projects with which the chief investigator is also involved and projects with similar risks or methodologies;
 - determine any actions to be taken by the chief investigator or other personnel involved with the project to satisfy the committee that such an event will not occur in the future.
- 6.7 Occurrences of minor non-compliance will only be reported if considered necessary by the AAPAEC to the AAD Director and if the non-compliance is related to a non-AAD project, to the chief investigator's employing institution.

Major non-compliance

- 6.8 The AAPAEC Chair (or delegate) will immediately notify AAPAEC members of the alleged non-compliance and the chief investigator will be instructed that all work on the project must cease immediately pending an investigation.
- 6.9 Steps outlined at 6.5 and 6.6 for minor non-compliance process will be followed.

- 6.10 If practicable, the AAPAEC will request a meeting with the chief investigator and/or relevant personnel involved with the project to discuss the information received in relation to the alleged non-compliance.
- 6.11 The AAD Director, Territories and Environment (TE) Manager, Science Program Leader, Operations Manager (Station Leader and/or Voyage Leader) and any relevant AAD staff will be promptly notified of all alleged major non-compliance events.
- 6.12 If an authorisation or permit has been issued for the relevant project, the TE Section will conduct a preliminary assessment to ascertain whether a breach or suspected breach of authorisation and/or permit conditions has occurred. If it is established that a breach has occurred, the TE Section will lead an investigation to determine the severity of the breach and the subsequent response. Where relevant, the TE section may refer incidents to the Environment Investigations Unit of the Department of the Environment and Energy for further investigation.
- 6.13 Where an investigation by the TE Section into a breach or suspected breach of authorisation and/or permit conditions has occurred, the findings and response will be reported back to the AAPAEC.
- 6.14 On completion of the investigation, the AAPAEC Chair (or delegate) will inform the chief investigator of the outcome in writing including the AAPAEC's recommendations. In doing so the Chair (or delegate) will inform the chief investigator that they have the right to appeal.
- 6.15 The chief investigator may be required to attend a meeting with the AAPAEC to discuss the findings and any required actions.
- 6.16 On completion of the investigation, the AAD Director and other relevant AAD staff will be promptly informed in relation to the outcome.
- 6.17 If the non-compliance involves a non-AAD project, the chief investigator's employing institution will be notified including actions required by the AAPAEC and any improvements that have been made.

RECORDS

- 7.1 Records in relation to non-compliance investigations will be maintained by the AAPAEC Executive Officer with a copy stored on the relevant electronic project file.

Note: Chief investigators from institutions other than the AAD may have additional requirements or responsibilities in relation to their own institution.

AUSTRALIAN ANTARCTIC PROGRAM ANIMAL ETHICS NON-COMPLIANCE PROCEDURES

