



# **Standard Operating Procedures for Health and Disability Ethics Committees**

Version 3.0

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NB: At the beginning of most sections of these SOPs, a brief explanatory note (in Times New Roman typeface) summarises the main changes to HDEC procedures that will result from the provisions of the section. These notes are intended as informal introductions and should not be cited as an authoritative part of the SOPs.

NB: Add a brief explanation for updating the SOP as per new NEAC standards.

# 1. Purpose and application

## Purpose

1. The purpose of these standard operating procedures (SOPs) is to support health and disability ethics committees (HDECs) to operate in a way that is:
  - *robust*, so that the public can be confident that health and disability research conducted in New Zealand meets or exceeds established ethical standards
  - *efficient*, so that ethical health and disability research is facilitated, and so that HDEC resources are used in a way that maximises protection for participants within the resources available
  - *transparent*, so that applicants and HDECs can engage with each other with confidence, and so that the HDEC review process can be easily understood by consumers and third parties
  - *consistent*, so that applicants can expect to be treated similarly by different HDECs and at different times.
2. These SOPs aim to achieve this purpose by clearly defining the role of HDECs and the HDEC review process, and providing rules and guidance on:
  - what HDECs do, and what they rely on others to do (section 2)
  - when health and disability research requires HDEC review (section 3)
  - the requirements that must be met in applying for HDEC review (section 4)
  - the processes that HDECs must follow in reviewing applications (sections 5 and 6)
  - the decisions that HDECs may make following review (section 7)
  - the role of HDECs in checking compensation arrangements in commercially sponsored clinical trials (section 8)
  - how HDEC decisions may be challenged, and by whom (section 9)
  - the distinct role of localities in addressing local research governance issues (section 10)
  - HDEC review of amendments to approved studies (section 11)
  - the role of HDECs in monitoring approved studies, and the process for suspending or cancelling approval (section 12)
  - HDEC review of arrangements for establishing and managing tissue banks (section 13).

## Procedural guidance, not ethical standards

3. These SOPs contain procedural guidance on the HDEC review process. They do not set out the established ethical standards that must be met or exceeded in **all** health and disability research, regardless of whether or not HDEC review is required. These ethical standards are set out in guidelines authored by the National Ethics Advisory Committee (NEAC), namely:

- - the *Ethical Standards for Health and Disability Research and Quality Improvement 2019*
4. Committees must act consistently with New Zealand law. For the avoidance of doubt, these SOPs do not in any way affect the rights of participants in health and disability research, including by way of example and without limitation rights under the:
- Protection of Personal and Property Rights Act 1988
  - New Zealand Bill of Rights Act 1990
  - Privacy Act 1993
  - Health and Disability Commissioner Act 1994
  - Accident Compensation Act 2001
  - Human Tissue Act 2008
  - Treaty of Waitangi.

#### **Application**

5. These SOPs come into force on 1 July 2012, and apply in full to all applications for HDEC review submitted on or after that date. They supersede all other process guidance for HDECs, including that contained in the *Operational Standard for Ethics Committees*.
6. Similarly, from 1 July 2012 the SOPs apply in full to all studies approved prior to 1 July 2012. They supersede all other process guidance for such studies, including that contained in the *Operational Standard for Ethics Committees* and approval letters. However, review timelines for amendments and other 'post-approval' items for studies approved prior to 1 July 2012 do not apply where these items are submitted other than through the HDECs' online application system

## 2. The role of HDECs

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### Introduction

The Government **response** to the Health Committee's **clinical trials inquiry** requires updated SOPs to reduce duplication by clarifying that HDECs' role is to check *ethical* issues, rather than scientific or governance issues. This section addresses that requirement, and clarifies who HDECs can expect to rely on to consider such issues.

Key proposed changes and clarifications include:

- affirming the central role of HDECs in checking that health and disability research meets or exceeds established ethical standards
- clarifying that HDECs check that appropriate peer review for scientific validity has been carried out, rather than doing it themselves
- clearly separating HDEC review (which is done by HDECs, and focuses on the ethics of a study as a whole) from locality review (which is done by localities, and addresses issues arising from the conduct of a study at a given locality).

Further details of the issues that HDECs can expect localities to address as part of locality review are contained in section 10 of this document.

### Key changes to this section following consultation include:

- expanding the circumstances in which HDECs may suggest or require further peer review of a study
  - clarifying that consultation with Māori should be carried out in accordance with the HRC's *Guidelines for Researchers on Health Research Involving Māori*, and that this consultation may continue to be carried out in parallel with HDEC review.
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7. This section defines the role of HDECs. In doing so, it outlines what HDECs can expect from other parties involved with health and disability research, including researchers, sponsors, localities and the Standing Committee on Therapeutic Trials (SCOTT).

### What HDECs do

8. HDECs check that proposed health and disability research meets established ethical standards that aim to protect participants. These ethical standards are set out in guidelines authored by the National Ethics Advisory Committee (NEAC), namely:
  - the *Ethical Standards for Health and Disability Research and Quality Improvement 2019*
9. However, health and disability researchers – not HDECs – are themselves responsible for *ensuring* that their research meets these standards at all times. This responsibility is consistent with the duty imposed on researchers by Right 4(2) of the **Code of Health and Disability Services Consumer' Rights 1996**.

## What HDECs do not do

*HDECs are not themselves directly responsible for assessing the scientific validity of proposed studies.*

10. In order to meet established ethical standards, health and disability research must be scientifically valid.<sup>1</sup> Researchers and sponsors must ensure that the scientific validity of proposed research has been peer-reviewed before an application is made to an HDEC. While HDECs are responsible for checking that appropriate peer review has been carried out, they do not conduct it themselves.
11. Where an HDEC considers that the peer review that has been carried out for a study may not have been sufficiently robust, or that the study may not be scientifically valid, the HDEC may suggest (or, consistent with established ethical standards, require) that additional peer review be carried out. Where an HDEC has concerns with particular aspects of the study's design, it should be specific about these.
12. Where a study involves the administration of a new medicine, HDECs can expect issues of scientific validity to have been satisfactorily addressed as part of that study's being approved by SCOTT under section 30 of the **Medicines Act 1981**. Accordingly, HDECs may not usually require that additional peer review be carried out in respect of such studies.

*HDECs do not address locality-specific governance issues.*

13. HDEC review concerns ethical issues relating to studies. Localities themselves, rather than HDECs, consider locality-specific research governance issues.
14. It is a standard condition of HDEC approval that locality authorisation, which focusses on these locality-specific research governance issues, be obtained before a study commences at that locality. Section 10 describes the locality authorisation process in more detail.

*HDECs do not provide legal advice.*

15. Researchers and sponsors are responsible for ensuring that their health and disability research is conducted lawfully. HDECs need to be satisfied that any research approved by the Committee is consistent with NZ law. An HDEC may not approve an application that is inconsistent with NZ law, even if that application is consistent with ethical guidelines.
16. The New Zealand Bill of Rights Act 1990 (NZBORA) applies to acts done by HDECs. Approval by an HDEC of research that breaches the NZBORA may result in the approval being found to be unlawful if judicially reviewed by the courts.
17. New Zealand law gives HDECs responsibility for decisions that may have legal consequences. Most obviously, the **Accident Compensation Act 2001** (the ACC Act) requires HDECs to determine whether publicly funded no-fault compensation will be available to participants injured in a clinical trial. Section 8 explains the statutory role of HDECs under the ACC Act in more detail.
18. Where an HDEC suspects that a research proposal is not lawful, it should advise the applicant of its concerns, and may suggest that they seek formal legal advice. However, HDECs are not themselves responsible for providing such legal advice.

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<sup>1</sup> *Update with new reference*

HDECs may seek independent legal advice if they are unclear as to the lawfulness of proposed research.

*HDEC review does not constitute consultation with Māori, or other population groups.*

19. Researchers are responsible for ensuring that Māori (and, where relevant, other population groups) are consulted in the development and conduct of studies that are of relevance to them. Where formal consultation with Māori is required by the *Guidelines for Researchers on Health Research Involving Māori*, HDECs should check that this consultation has been or will be carried out appropriately. However, HDEC review does not constitute or replace such consultation.
20. Localities, rather than HDECs, are responsible for checking that studies appropriately address local cultural issues (including by formal consultation with Māori, where required).



### 3. Scope of HDEC review

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#### Introduction

The Government response to the Health Committee's clinical trials inquiry requires updated SOPs for HDECs to clarify and reduce the scope of HDEC review. This section gives effect to this requirement. It replaces the definition of scope contained in:

- section 3 of the *Operational Standard for Ethics Committees*
- chapter 11 of the *Ethical Guidelines for Observational Studies*
- the *Guidelines for an Accredited Institutional Ethics Committee to refer Studies to an Accredited Health and Disability Ethics Committee*.

The definition of scope in this section will reduce the scope of HDEC review, for example by excluding studies that:

- involve participants recruited other than in their capacity as consumers of health and disability services, relatives of consumers, or volunteers in early-phase clinical trials (for instance, health professionals or members of the general public)
- involve the use of existing anonymised human tissue samples with consent
- involve low-risk (class I) medical devices
- are audits or related studies (except where HDEC review is required by law)
- are observational studies that do not involve more than minimal risk
- are to be conducted wholly or principally for the purposes of an educational qualification, in some circumstances.

Regardless of whether HDEC approval is required, researchers in such studies will still be required by the *Code of Health and Disability Services Consumers' Rights 1996* to comply with the established ethical standards that apply to them.

#### Key changes to this section following consultation include:

- more clearly basing definitions of 'intervention study' and 'observational study' on relevant NEAC guidelines
  - dividing the scope of HDEC review into 'main criteria', 'exemptions' and 'inclusions'
  - clarifying and restricting the types of observational study that may be considered to be of minimal risk, and therefore exempt from HDEC review
  - restricting the scope of the exemption from HDEC review for some student-led studies, and delaying the introduction of this exemption until 1 January 2013
  - requiring (rather than allowing) HDEC review for the establishment or maintenance of tissue banks.
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## What is health and disability research?

21. Health and disability research is research that aims to generate knowledge for the purpose of improving health and independence outcomes.
22. 'Health and disability research', for the purposes of these SOPs, does not include research that creates or uses a human gamete, human embryo or hybrid embryo. The [Human Assisted Reproductive Technology Act 2004](#) requires that such 'human reproductive research' be approved by the [Ethics Committee on Assisted Reproductive Technology](#).

## Types of health and disability research

23. There are two main types of health and disability research: intervention studies and observational studies.

### *Intervention studies*

'Intervention study' has the meaning given to it by the *Ethical Standards for Health and Disability Research and Quality Improvement 2019* namely, a study in which the investigator controls and studies the intervention(s) provided to participants for the purpose of adding to knowledge of the health effects of the intervention(s). The term 'intervention study' is often used interchangeably with the terms 'experimental study' and 'clinical trial'.

24. The ethical standards that researchers must meet or exceed in conducting intervention studies are contained in the *Ethical Standards for Health and Disability Research and Quality Improvement 2019*.

### *Observational studies*

25. 'Observational study' has the meaning given to it by the *Ethical Standards for Health and Disability Research and Quality Improvement 2019*. All health and disability research that is not an intervention study is an observational study. In an observational study, in contrast to an interventional (or experimental) study, the researcher does not influence the assignment of any variable. Instead, the researcher observes and analyses natural relationships between variables and outcomes, and records them. The ethical standards that researchers must meet or exceed in conducting observational studies are contained in the *Ethical Standards for Health and Disability Research and Quality Improvement 2019*.

## When does a study require HDEC review?

### *Main criteria*

26. Health and disability research requires HDEC review only if it involves one or more of the following:
  - 26.1. **human participants** recruited in their capacity as:
    - 26.1.1. consumers of health or disability support services, or
    - 26.1.2. relatives or caregivers of consumers of health or disability support services, or
    - 26.1.3. volunteers in clinical trials (including, for the avoidance of doubt, bioequivalence and bioavailability studies)

- 26.2. the use, collection or storage of **human tissue** (as defined by the **Human Tissue Act 2008**), unless:
  - 26.2.1. informed consent (which may include informed consent to future unspecified research) has been obtained for such use, and tissue will not be made available to researchers in a form that could reasonably be expected to identify the individual(s) concerned, or
  - 26.2.2. one or more of the statutory exceptions to the need to gain informed consent set out at section 20(f) of the **Human Tissue Act 2008** (or Right 7(10)(c) of the **Code of Health and Disability Services Consumers' Rights 1996**) applies
- 26.3. the use or disclosure of **health information** (as defined by the **Health Information Privacy Code 1994**), unless:
  - 26.3.1. this use or disclosure has been authorised by the individual(s) concerned, or
  - 26.3.2. health information will not be disclosed to researchers in a form that:
    - 26.3.3. could identify, or could reasonably be expected to identify, the individual(s) concerned, or
    - 26.3.4. would allow for the information to be matched with other data sets (for example, through the use of non-encrypted identifiers such as National Health Index numbers).

*Exemptions to main criteria*

- 27. **Studies on low-risk devices:** A study involving a medical device does not require HDEC review if the device is (or would be) classified as a low-risk (class I) medical device by Australia's Therapeutic Goods Administration (TGA).<sup>2</sup>
- 28. **Minimal-risk observational studies:** An observational study requires HDEC review only if the study involves more than minimal risk (that is, potential participants could reasonably be expected to regard the probability and magnitude of possible harms resulting from their participation in the study to be greater than those encountered in those aspects of their everyday life that relate to the study).
- 29. For the avoidance of doubt, an observational study always involves more than minimal risk if it involves one or more of the following:
  - 29.1. one or more participants who will not have given informed consent to participate, or
  - 29.2. one or more participants who are vulnerable (that is, who have restricted capability to make independent decisions about their participation in the study),<sup>3</sup> or

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<sup>2</sup> The TGA's guidance on device classification can be found from page 77 of the Therapeutic Goods Administration's 2011 *Australian regulatory guidelines for medical devices*, available from the TGA's website at <http://tga.gov.au/pdf/devices-argmd.pdf>.

<sup>3</sup> This term is defined in full in the *Ethical Standards for Health and Disability Research and Quality Improvement 2019*

- 29.3. standard treatment being withheld from one or more participants, or
  - 29.4. the storage, preservation or use of human tissue without consent, or
  - 29.5. the disclosure of health information without authorisation.
30. **Audits and related activities:** An audit or related activity requires HDEC review only if it involves the use, collection or storage of human tissue without consent, other than in accordance with a statutory exception (set out at section 20(f) of the **Human Tissue Act 2008** and Right 7(10)(c) of the **Code of Health and Disability Services Consumers' Rights 1996**).
31. **Student-led research:** From 1 January 2013, a study conducted wholly or principally for the purposes of an educational qualification requires HDEC review only if it:
- 31.1. is an intervention study, or
  - 31.2. is not conducted at or below Master's level.

*Inclusions*

32. Regardless of the exemptions to the main criteria outlined above, a study requires HDEC review if it:
- 32.1. involves the use of human tissue samples taken as part of New Zealand's Newborn Metabolic Screening Programme (known as 'Guthrie cards'), or
  - 32.2. is funded by the Health Research Council of New Zealand (HRC) and is not able to be reviewed by an institutional ethics committee approved by the HRC's Ethics Committee (HRCEC).
  - 32.3. involves the establishment or maintenance of a tissue bank (see section 13).

## 4. Applying for HDEC review

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### Introduction

The Government's response to the Health Committee's clinical trials inquiry requires that applications to HDECs be able to be made online by 1 July 2012, and that researchers be able to ask that an application be reviewed by the HDEC nearest to them (rather than being allocated for review as soon as possible by any HDEC).

This section addresses these requirements. It also contains basic administrative rules relating to:

- how to apply for HDEC review
- who may apply for HDEC review
- validation of new applications and substantial amendments by the HDEC secretariat.

### Key changes to this section following consultation include:

- requiring applicants for HDEC review to be based in New Zealand
  - aligning HDEC terminology with that used in international GCP guidelines (for example using the term 'co-ordinating investigator' instead of 'principal investigator')
  - clarifying that letters from reviewing bodies may constitute evidence of favourable peer review.
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33. Applications for HDEC review must be submitted through the HDECs' electronic submission system. Applications and associated documents submitted in hard copy will not be accepted or acknowledged without prior agreement.
34. Applications for HDEC review of new applications and substantial amendments must be submitted or authorised by the co-ordinating investigator (CI) of the study in question, who may delegate responsibility for completing the application form and uploading study documents to other members of the study team at their discretion.
35. The CI for a study must be professionally based, in whole or in part, in New Zealand. In the case of international studies, a local investigator should be nominated as the CI for the New Zealand arm of the study.
36. Only one application may be submitted in relation to a study, including, generally, those that entail separate protocols governing sub-studies in addition to the main study. Applicants who intend to conduct related studies that are substantially similar to each other (for instance, studies that involve the administration of the same intervention for different indications) should contact the HDEC secretariat prior to submission to discuss how best to proceed.
37. Where an application will be reviewed by the full review pathway, the applicant may indicate at the time of submission that they would prefer their application to be considered by the closest possible HDEC (that is, the HDEC that meets closest to the

address given by the CI in the application). Where such a preference has not been indicated, applications will be allocated for review to the next available HDEC meeting.

### **Validation of new applications**

38. HDECs must assign all new applications and substantial amendments a unique identifier (an 'HDEC reference number') upon submission. The secretariat must then validate applications before assigning them to an HDEC for review.
39. The HDEC secretariat may validate a new application only if:
  - 39.1. the application is within the scope of HDEC review, and
  - 39.2. the application is not similar enough to another application that it would be more appropriate for a single application to be made in respect of both studies, or for the application to be dealt with as a substantial amendment to an approved study, and
  - 39.3. all relevant questions in the application form have been answered in a manner that is reasonably likely to allow the HDEC to make a final decision on the application the first time it is considered, and
  - 39.4. the application is accompanied by the following mandatory documents:
    - 39.4.1. a study protocol
    - 39.4.2. a brief CV for the CI
    - 39.4.3. in the case of studies that do not involve a new medicine, evidence of favourable peer review<sup>4</sup>
    - 39.4.4. in the case of studies involving a new medicine, an investigator's brochure
    - 39.4.5. in the case of studies involving participants, a participation information sheet and consent form
    - 39.4.6. in the case of studies involving the administration of surveys or questionnaires, copies of the surveys or questionnaires
    - 39.4.7. in the case of 'commercially sponsored' studies (see section 9), evidence of the insurance held by the study sponsor and evidence of the professional indemnity held by the CI
    - 39.4.8. in the case of studies where a previous application for the same study (or a substantially similar study) has been declined by an HDEC, a copy of the letter from the HDEC declining the previous application and a covering letter from the CI explaining how the new application addresses the reasons given by the HDEC to decline.
40. Applicants may attach other documents to their application at their discretion. This should normally include other written information to be provided to participants in the study. However, it is not necessary to submit all written information to be provided to

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<sup>4</sup> For example, letter/s from the reviewing body/ies. Such evidence is not mandatory for studies involving new medicines, since HDECs can expect issues of scientific validity in such studies to be addressed by SCOTT.

participants;<sup>5</sup> applicants should use common sense in deciding whether a document is likely to be relevant to the HDEC in making its decision, and may seek advice from the HDECs in case of doubt.

41. Valid applications should be assigned for HDEC review within three calendar days of their being submitted. The CI should be informed of this and given details of:
  - 41.1. the date on which the 15- or 35-day review clock for a final decision begins
  - 41.2. the application's HDEC reference number
  - 41.3. whether the application is to be reviewed through the full or expedited review pathway
  - 41.4. the name and membership of the HDEC that will review the application.
42. If the application is to be reviewed through the full review pathway, the HDEC should also give the CI details of:
  - 42.1. the date, time and venue of the meeting at which it is to consider the application
  - 42.2. the time slot reserved for discussion of the application
  - 42.3. how to attend the meeting, in person or by teleconference.
43. If an application does not meet the criteria for validation, the secretariat should advise the applicant of this, giving reasons. The applicant may then complete and resubmit the application.
44. Once validated, the HDEC may invalidate or assign the application to another review pathway only with the prior agreement of the applicant.
45. Where an HDEC subsequently reassigns a validated application to another review pathway, the review clock for the new pathway starts from the date on which the application was submitted, not the date on which the application was reassigned.

#### **Withdrawal of applications**

46. Applicants may withdraw applications for HDEC review at any time. In this case, the secretariat should confirm withdrawal formally as soon as possible. Resubmission of an application that has been withdrawn is considered as a separate application and given a new HDEC reference number.

#### **Changes not able to be made between submission and approval**

47. Applicants may not make changes to an application between submission and approval, and may not submit amendments or other "post-approval" items during this period.

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<sup>5</sup> This aspect of these SOPs diverges from paragraph 3.1.2 of ICH GCP guideline E6(R1). However, it does not affect the ability of applicants to attach all written information to be provided to participants if they wish.

## 5. The full review pathway

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### Introduction

The Government response to the Health Committee’s clinical trials inquiry requires that updated SOPs allow HDECs to review some low-risk clinical trials through the expedited review pathway. This section addresses this requirement by defining the features that make an intervention or observational study eligible for full review. Studies that lack all of these features would be reviewed through the expedited review pathway described in section 6.

The Government response also requires that updated SOPs impose a 35-day time limit for final decisions on applications considered through the full review pathway. This section presents details on when this 35-day ‘review clock’ begins, depending on whether the applicant prefers review to occur as soon as possible or as geographically close as possible.

More generally, this section also presents rules for the conduct of HDEC meetings considering decisions through the full review pathway. Many of these rules replace similar provisions in the *Operational Standard for Ethics Committees* and individual HDECs’ terms of reference. Standardising these rules is likely to reduce duplication, and allow for HDEC meeting procedures to be modified more easily in response to future issues and pressures.

Other key changes and clarifications include:

- more specific requirements for the information to be included in meeting minutes (and agendas)
- clearer procedures for the declaration and management of conflicts of interest among members of HDECs
- a smaller quorum (of five members), consistent with a reduction in HDEC size from twelve to eight members
- ability for HDEC chairs to co-opt members of other HDECs to meet quorum
- clearer rules on the attendance of applicants and observers at HDEC meetings.

**Key changes to this section following consultation include:**

- clarifying that criteria for full review apply to both intervention and observational studies
- expanding the scope of full review to include studies involving class IIb medical devices and new surgical interventions
- clarifying that HDECs should allow at least 30 minutes for discussion of new applications
- providing for researchers to attend HDEC meetings with other parties involved in the study, such as representatives of sponsors or localities.

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### What is the full review pathway, and what should be reviewed by it?

48. The full review pathway involves an HDEC reviewing a new application, substantial amendment or other item of business at a meeting held in accordance with the provisions set out in this section.



49. The full review pathway is appropriate for any intervention or observational study that is within the scope of HDEC review and that involves one or more of the following:
  - 49.1. a new medicine (as defined by the [Medicines Act 1981](#)), or
  - 49.2. an approved medicine being used for a new indication or through a new mode of administration, or
  - 49.3. a medical device that is or would be classified as a class IIb, class III or active implantable medical device by the TGA,<sup>6</sup> or
  - 49.4. a new surgical intervention, or
  - 49.5. one or more participants who will not have given informed consent to participate, or
  - 49.6. one or more participants who are vulnerable (that is, who have restricted capability to make independent decisions about their participation in the study),<sup>7</sup> or
  - 49.7. standard treatment being withheld from one or more participants, or
  - 49.8. the storage, preservation or use of human tissue without consent.
50. Full review is also appropriate for substantial amendments to previously approved studies that were themselves reviewed by this pathway. However, the chair of an HDEC may direct that the HDEC review any such amendments through the expedited review pathway.

### **Natural justice**

51. As public administrative bodies, HDECs must act in accordance with the principles of natural justice. In particular, they must ensure that:
  - 51.1. their decision-making is impartial and transparent, following the processes defined by these SOPs, and
  - 51.2. they give applicants fair opportunity to be heard and to hear the deliberations of the HDEC.

### **Meeting dates and cut-off dates**

52. HDECs must make public the dates, times and locations of HDEC meetings sufficiently in advance to give interested members of the public a reasonable chance to organise their attendance as observers.
53. HDECs must also clearly publicise, for each meeting, the last date on which applications and substantial amendments may be received for consideration at that meeting (the 'cut-off date'). The cut-off date may not be more than 12 calendar days before the date of the meeting.

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<sup>6</sup> The TGA's guidance on device classification can be found from page 77 of the Therapeutic Goods Administration's 2011 *Australian regulatory guidelines for medical devices*, available from the TGA's website at <http://tga.gov.au/pdf/devices-argmd.pdf>.

<sup>7</sup> This term is defined more fully in the *Ethical Standards for Health and Disability Research and Quality Improvement 2019*

### **The 35-day review clock**

54. In the full review pathway, HDECs must make a final decision within 35 calendar days. They may suspend this timeframe once for up to 90 calendar days where they require additional information in order to make a final decision (see section 7).
55. Calendar days from 25 December to 15 January inclusive do not count for the purposes of the 35-day review clock.
56. The 35-day review clock begins on the cut-off date for the first meeting at which the HDEC could have reviewed the matter. This means that:
  - 56.1. for substantial amendments: the review clock starts on the cut-off date for the next meeting of the HDEC that considered the original application (or, in the case of applications approved prior to 1 July 2012, the HDEC with responsibility for on-going review)
  - 56.2. for new applications where the applicant wishes review to occur as near as possible: the review clock starts on the cut-off date for the next meeting of the nearest HDEC (or HDECs), excluding any meetings whose agendas are already full
  - 56.3. for new applications where the applicant wishes review to occur as soon as possible: the review clock starts on the cut-off date for the next HDEC meeting, regardless of whether its agenda is full.
57. This means that applicants who wish HDEC review to occur as soon as possible will not be disadvantaged when the next HDEC meeting cannot consider their application due to workload constraints. It may be necessary for one or more HDECs to hold additional meetings from time to time in order to ensure respect for the 35-day review clock. The secretariat and chairs should agree on the number and timing of such meetings, and publicise details as soon as possible.
58. A valid application or substantial amendment submitted before 12 noon on the cut-off date for an HDEC meeting will be considered to have been able to be reviewed at that meeting.
59. In the unlikely event that an HDEC is not able to respect the 35-day review clock, it must contact the applicant as soon as possible to inform them of reasons. HDECs' annual reports must list and explain all cases in which the HDEC did not respect the review clock.

### **HDEC meeting agendas**

60. The agenda for an HDEC meeting should include:
  - 60.1. the date, time and venue of the meeting
  - 60.2. the names of members of the HDEC, and whether they have tendered apologies
  - 60.3. the minutes of the previous meeting for ratification
  - 60.4. the titles and reference numbers of new applications that the HDEC will review at the meeting, and the time slots allocated to them

- 60.5. the titles and reference numbers of approved studies for which the HDEC will review a substantial amendment at the meeting, and the time slots allocated to them
- 60.6. the titles and reference numbers of approved studies for which the HDEC will reconsider approval at the meeting, and the time slots allocated to them
- 60.7. items for general business
- 60.8. a 'noting section' summarising decisions the HDEC has taken through the expedited review pathway between the cut-off dates for the previous and the current meetings. This section will include:
  - 60.8.1. final decisions made on new applications that were provisionally approved at previous meetings
  - 60.8.2. final decisions made on new applications through the expedited review pathway
  - 60.8.3. final decisions made on notifications of substantial amendment through the expedited review pathway
  - 60.8.4. annual progress reports received
  - 60.8.5. notifications of conclusion of study received
  - 60.8.6. final reports received
  - 60.8.7. approvals cancelled for failure to submit an annual progress report.
- 61. HDECs should normally allocate no less than 30 minutes of discussion for each new application, no less than 15 minutes for each substantial amendment, and no less than 20 minutes for each matter relating to the monitoring of approved studies. HDECs must clearly advise applicants of relevant time slots in advance of the meeting, to facilitate their attendance.
- 62. No more than 12 new applications should normally be accepted for review at an HDEC meeting. HDECs should not schedule meetings to last for longer than eight hours, including regular breaks for refreshments.
- 63. HDECs should distribute agendas and papers for meetings in hard copy to members (apart from those who have tendered apologies) at least seven calendar days prior to the meeting. Along with the agenda, members should receive the completed application form, together with supporting documents. Large documents such as investigators' brochures may be excluded, given that such documents will be available to members electronically in any case.

### **Role of the chair**

- 64. The chair is responsible for ensuring that:
  - 64.1. the conduct of meetings accords with these SOPs
  - 64.2. the meeting follows and respects the agenda
  - 64.3. the HDEC reaches clear decisions on all matters before it
  - 64.4. the meeting allows all members present a reasonable opportunity to participate in discussion.

65. Where the chair is unable to attend a meeting, the HDEC must elect an acting chair at the start of the meeting by majority vote of appointed members present. While it may elect any appointed member for this purpose, it should usually identify in advance the member who will be expected to act in the absence of the chair.

### **Quorum**

66. The quorum for any HDEC meeting is five members (including the chair or acting chair), of whom at least two must be lay members and at least two non-lay members. Members should make all reasonable attempts to attend meetings in person, but may if necessary attend by video conference (or, exceptionally, teleconference).
67. Where there is no quorum, an HDEC may not commence, continue or conclude a discussion on any item of business relating to any application, and may not take any decision on any matter.

### **Co-opted members**

68. Where a meeting (whether a full meeting or expedited review application meeting) would otherwise be inquorate, the chair or acting chair may co-opt up to two appointed members of other HDECs for that meeting. Co-opted members count towards quorum and may participate fully in decision-making. However, the meeting may not elect them to act as chair.
69. The minutes for any HDEC meeting at which members have been co-opted must note that they have been co-opted before the meeting declares a quorum or discusses any substantive item of business.
70. Where the chair of an HDEC believes it will be necessary to co-opt members in order to meet quorum, the HDEC secretariat is responsible for contacting members of other HDECs to arrange this. Neither HDECs nor their chairs may insist on co-opting a named member of another HDEC.

### **Potential conflicts of interest**

71. HDEC members must be mindful to avoid situations that might compromise the impartiality and integrity of the HDEC review process.
72. In particular, members should declare any potential conflict of interests they have or may reasonably be perceived to have in relation to any item of business the HDEC is considering. The chair must remind all members present at a meeting to declare potential conflicts of interest prior to discussion of each item of business.
73. Where a member declares a potential conflict of interest, the HDEC may decide, by consensus or vote, to:
- 73.1. require that the member leave the meeting room and take no part in the discussion or decision relating to that item of business, or
  - 73.2. allow the member to remain in the meeting room and take a full part in the discussion and decision relating to that item of business.
74. Where a member declares a potential conflict of interest, the HDEC must clearly record the declaration and the HDEC's decision on how to manage it in the minutes. (It is not necessary to record details of the declaration; merely that one has been made, and by whom.)

75. Members who are also investigators on studies submitted for HDEC review have a particularly strong responsibility to avoid the appearance of potential conflicts of interest. Where a member (including a co-opted member) of an HDEC is also an investigator on a study, the HDEC should usually require the member to leave the meeting room and take no part in the discussion or decision, especially when another investigator is available to attend the meeting to speak to the application.

#### **Lead reviewers**

76. An HDEC may assign a member of the HDEC other than the chair to be the lead reviewer for a new application or substantial amendment.
77. The role of the lead reviewer is to lead and facilitate discussion. This role does not require any technical expertise or experience in the subject matter of the application or amendment in question. For instance, a member who happens to be a dentist need not necessarily be the lead reviewer for an application involving research in dentistry.
78. Regardless of whether an HDEC assigns a lead reviewer for a given application or substantial amendment, the chair retains ultimate responsibility for ensuring that the HDEC's decision-making process accords with these SOPs.

#### **Attendance of CI (or other investigator)**

79. HDECs must invite the CI to attend, in person or by teleconference, all meetings at which it will consider matters relating to their study, specifying the relevant time slot.
80. Where CIs or co-investigators attend by teleconference, all HDEC members present must be able to hear and be heard by them.
81. CIs do not attend in order to make a formal presentation of the aims or design of the study. Rather, they attend in order to improve the quality of the HDEC's discussion and the speed of their decision-making, by providing further information, clarification or reassurance. Their attendance may allow for potential issues to be resolved expeditiously during meetings, rather than in correspondence after it.
82. If the CI cannot attend an HDEC meeting, another investigator on the study may attend in their place. Other parties to a study (such as representatives of localities or sponsors) may also attend meetings.
83. HDECs may not require the CI (or other investigator) and other parties to a study to leave a meeting while they are discussing or deciding on matters relating to their application, other than in accordance with paragraph 90.

#### **Attendance of observers**

84. All meetings of HDECs are open to the public. Observers may attend meetings but may not take any part in the HDEC's discussion or decisions without the permission of the chair.
85. The chair may require observers to leave a meeting while the HDEC is considering matters relating to a study only if:
- 85.1. the CI (or co-investigator) of that study specifically asks the chair verbally to do so, and

- 85.2. the CI (or co-investigator) provides reasonable assurances that there may be grounds to withhold information about their application under the Official Information Act 1982.
- 86. The chair may require observers to leave an HDEC meeting at times other than while the committee is considering matters relating to a study (for instance, during general business) at their sole discretion.
- 87. Notwithstanding the above, the chair may at their sole discretion require any person to leave an HDEC meeting at any time where they consider, on reasonable grounds, that that person's behaviour is having an unduly adverse impact on the HDEC's ability to perform its functions.

### **The decision-making process**

- 88. HDECs must reach one of the decisions listed in section 7 of these SOPs on every new application and substantial amendment they consider.
- 89. HDECs should reach decisions by consensus wherever possible. Where this is not possible, a formal vote should be taken by a counting of hands, the decision being determined by a simple majority of members present and the chair having a casting vote.
- 90. Where an HDEC decision is taken by vote, members who dissent from the decision may ask that the minutes note their dissent.

### **Minutes**

- 91. The minutes of an HDEC meeting must contain a true and accurate summary of the discussion that takes place during the meeting, and the decisions made at it.
- 92. For each application or substantial amendment reviewed at a meeting, the minutes must clearly record:
  - 92.1. which members (if any) declared a potential conflict of interest, and the decision the HDEC took to manage these declarations (it is not necessary to record details of the potential conflict of interest; only that one was made)
  - 92.2. a brief summary of the main ethical issues considered
  - 92.3. the decision (see section 7)
  - 92.4. whether the decision was reached by consensus or by vote; if by vote, the numbers for and against
  - 92.5. any formal dissent from the decision by a named member
  - 92.6. where the decision is to approve, any minor conditions applicants must meet prior to the start of the study
  - 92.7. where the decision is to decline, reasons for this
  - 92.8. where no decision is made pending receipt of further information:
    - 92.8.1. details of the further information requested, and
    - 92.8.2. the established ethical standard or standards in respect of which the HDEC requests the further information, and

92.8.3. who will have responsibility for considering this information and making a final decision.

93. The summary of ethical issues should set out the main issues considered in making the decision. It is not necessary to include requests for explanations of technical or non-ethical matters, or to record every aspect of the HDEC's discussion. The summary should include, for example, substantive ethical issues discussed and resolved with the CI at an HDEC meeting, and any oral clarifications given of information contained in the application.
94. The secretariat should prepare draft minutes and the chair (or acting chair) agree to them as soon as possible after the meeting. The chair (or acting chair) may consult with other HDEC members at their sole discretion before agreeing to minutes. However, such consultation should not prevent the HDEC sending letters communicating decisions made at the meeting to the applicant within four working days of the decision being made (see section 7)
95. Except where a named member wishes to be named as dissenting from a decision taken by vote, the HDEC must present minutes entirely as the outcome of collective discussion. It should not attribute comments and questions to named members.
96. Draft minutes should be submitted to the following meeting of the HDEC for formal confirmation as a true and accurate record. Any minor changes necessary should be noted and the minutes amended accordingly after the meeting. The chair (or acting chair) should sign the final minutes, which should then be published electronically.

## 6. The expedited review pathway

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### Introduction

The Government response to the Health Committee's clinical trials inquiry requires that updated SOPs for HDECs impose a 15-day time limit for making final decisions on applications through the expedited review pathway. This section addresses that requirement, and defines the expedited review pathway in more detail.

Key changes and clarifications include:

- clarifying the items of business for which expedited review is appropriate, which may include some applications for low-risk clinical trials
- allowing chairs to share the workload within the expedited review pathway by creating subcommittees consisting of up to three other members of the HDEC to advise them on their decisions.

### Key changes to this section following consultation include:

- clarifying that studies of class IIa medical devices may qualify for expedited review, and that final reports should also be reviewed through this pathway
- removing the ability of the chair to select the member who will act in their place for the purposes of the expedited review pathway
- increasing the maximum size of subcommittees from three to four members
- requiring that all new applications for expedited review be reviewed by a subcommittee comprising at least two members (and, where the application is for an intervention study, that at least one of these members be a non-lay member)
- reducing the power of HDEC chairs to make decisions on applications for expedited review without input from other subcommittee members, while recognising that this may be continue to be necessary in exceptional circumstances, and requiring such decisions to be brought to the attention of the full HDEC.

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### What is the expedited review pathway, and what should be reviewed by it?

97. In the expedited review pathway, a subcommittee of an HDEC reviews an application, substantial amendment or other item of business in accordance with the provisions set out in this section.
98. The expedited review pathway is appropriate for:
  - 98.1. all new applications for which full review is not required (including studies of class IIa medical devices, where none of the other features making full review appropriate are present)
  - 98.2. all substantial amendments to approved studies that were reviewed through the expedited review pathway
  - 98.3. any substantial amendments to other studies, at the discretion of the chair



- 98.4. all annual progress reports and final reports
- 98.5. all protocol deviations or violations
- 98.6. all notifications of the conclusion or early termination of a study.

#### **The 15-day review clock**

- 99. The expedited review pathway does not involve physical meetings of HDECs. For this reason, the expedited review pathway entails a shorter review clock than the full review pathway.
- 100. In the expedited review pathway, HDECs must give a final opinion within 15 calendar days. They may suspend this timeframe once in the case of provisional approval of an application or substantial amendment (see section 7).
- 101. The 15-day review clock begins on the working day following submission of the application or substantial amendment.
- 102. Calendar days from 25 December to 15 January inclusive do not count for the purposes of the 15-day review clock.

#### **Declarations of conflict of interest**

- 103. HDEC members must be mindful to avoid situations that might compromise the impartiality and integrity of the HDEC review process. This obligation is particularly strong in the context of the expedited review pathway.
- 104. An HDEC member who is assigned an item of business to review within the expedited review pathway must decline to review it if they believe they have (or might reasonably be perceived to have) a potential conflict of interest.
- 105. Where the chair believes that they personally have (or might reasonably be perceived to have) a potential conflict of interest on a new application, they may request the secretariat to assign the application to another HDEC.
- 106. The 15-day review clock for giving a final opinion does not stop when a chair or member declines to review an item of business due to a potential conflict of interest.

#### **Role of the chair**

- 107. In the expedited review pathway, the chair is responsible for:
  - 107.1. selecting the subcommittee members who will be involved in the review of items of business
  - 107.2. ensuring that final decisions are made within the 15-day timeframe.
- 108. Where the chair is unavailable, any other member of the HDEC may act in their place for the purposes of the expedited review pathway, although this role should usually be taken by the member identified by the HDEC as a whole to act in the absence of the chair at meetings. The HDEC as a whole should usually choose this member at the meeting preceding the chair's period of unavailability.

#### **Size and composition of subcommittees**

- 109. A subcommittee consists of the chair plus up to three other appointed members. The size and composition of subcommittees is at the chair's discretion, subject to the following rules.

- 109.1. A subcommittee reviewing a new application must consist of at least two members.
- 109.2. A subcommittee reviewing a new application for an intervention study must include at least one non-lay member.
- 109.3. A subcommittee composed of three or more members (including the chair) must include at least one lay member and at least one non-lay member.
110. HDECs may maintain standing subcommittees to review all or some items of business within the expedited review pathway. For instance, new expedited applications and substantial amendments might be reviewed two named members (one of whom may be the chair), and all annual progress reports, protocol deviations/violations, notifications of conclusion of study and final reports by the chair or another named member alone. Alternatively, the HDEC may create a new subcommittee for each item of business to be reviewed.
111. In exceptional circumstances, to ensure respect for the 15-day review clock it may be necessary for the chair to take a decision on an item of business themselves. This may be the case, for example, where other members become unavailable at short notice. The chair should bring decisions taken in this way to the attention of the full HDEC at its next meeting.

#### **The decision-making process**

112. The HDEC subcommittee must reach one of the decisions listed in section 7 on every new application or substantial amendment they consider.
113. Decisions should be reached by consensus wherever possible. Where this is not possible, the subcommittee may take a formal vote, the decision being determined by a simple majority of members and the chair having a casting vote.
114. There are no restrictions on the way in which subcommittees may reach decisions. The process may involve written communication, teleconferences or face-to-face meetings. The latter should only take place in exceptional circumstances, and after consultation with the secretariat.
115. Subcommittees should communicate decisions taken through the expedited review pathway to the full HDEC through meeting agendas. The full HDEC does not need to ratify these decisions.

## 7. Decisions open to HDECs

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### Introduction

This section describes the decisions open to HDECs, and sets out in more detail the timeframes within which the HDEC must make and communicate those decisions. Consistent with the established practice of other jurisdictions in which ethics committees are expected to make decisions within a given timeframe, the 35- or 15-day review clock is able to be suspended once, where an application has been provisionally approved.

Key changes and clarifications include:

- removing the ability of HDECs to ‘defer’ consideration of an application through the full review pathway until their next meeting, since retaining this ability would be inconsistent with the 35-day review clock
- allowing the 35- and 15-day review clocks to be suspended once, for up to 90 calendar days, where the HDEC gives provisional approval
- making regulatory approval, locality approval and clinical trial registration standard conditions of HDEC approval, and allowing HDECs to impose other minor conditions of approval (such as corrections to study documents)
- clarifying that researchers and sponsors, rather than HDECs, are responsible for ensuring that standard and minor conditions of HDEC approval are met before a study commences
- clarifying that HDECs must provide reasons based on established ethical standards wherever they provisionally approve or decline a new application or substantial amendment.

**Key changes to this section following consultation include:**

- clarifying that HDECs should communicate decisions within four *working* days
- consistent with changes to the definition of ‘locality’ in section 9, making locality authorisation a standard condition of all HDEC approvals, rather than just those involving intervention studies
- clarifying standard and minor conditions of approval, and specifying that changes requiring reconsideration of ethical issues should be re-checked by HDECs after provisional approval.

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### Decisions

116. Chairs are responsible for ensuring that HDECs make one of the following decisions on all new applications and substantial amendments through the full and expedited review pathways:

116.1. approve

116.2. decline

116.3. provisionally approve.

117. For the purposes of the 35- and 15-day review clocks, the date of decision is the date on which the HDEC sends the decision letter.
118. HDECs should formally communicate all decisions on new applications and substantial amendments to applicants within four working days of their being made. This four-day timeframe applies to decisions made at HDEC meetings as well as to decisions made within the expedited review pathway.
119. All decision letters should be in the name of the chair of the HDEC.
120. All decision letters must include the following information:
  - 120.1. a brief summary of the main ethical issues considered by the HDEC in making the decision
  - 120.2. the decision
  - 120.3. a list of study documents, including version numbers and dates
  - 120.4. where the decision was made through the full review pathway: a list of HDEC members, indicating their membership category, whether they were present at the meeting at which the matter was discussed and, if so, whether they declared a potential conflict of interest.
121. Decision letters should not attribute particular comments, questions or concerns to individual HDEC members. Similarly, where a decision was made through the expedited review pathway, decision letters must not reveal the names of the members of the subcommittee involved.

#### **Letters communicating a decision to approve**

122. In addition to the information specified at paragraph 123, approval letters must confirm:
  - 122.1. that the HDEC operates in accordance with these SOPs and with the principles of international good clinical practice
  - 122.2. whether participants injured as a result of treatment received in the study will be eligible for publicly funded compensation through ACC (see also section 8).

#### *Conditions of HDEC approval*

123. All HDEC approvals are subject to the following standard conditions.
  - 123.1. Applicants must obtain all necessary regulatory approvals and authorisations before the study commences in New Zealand.
  - 123.2. Applicants must obtain locality authorisation before the study commences at a given locality (see section 10).
  - 123.3. If the study is an intervention study, it must be registered in a clinical trials registry approved by the World Health Organisation before it commences in New Zealand.
124. HDECs may also impose minor conditions on approval. By way of example, such conditions might include minor corrections or changes to study documentation. However, where the changes required would necessitate further ethical consideration (for example, significant or unspecified revision of study documentation), the HDEC

should provisionally approve the study and formally review these revisions before giving final approval.

125. The approval letter must clearly state both standard and minor conditions of approval, and applicants must fully meet these in order for HDEC approval to be effective. Until the conditions are met, the study cannot commence (or cannot commence at a given locality).
126. It is the responsibility of the CI and study sponsor to ensure that applicants meet all standard and minor conditions of HDEC approval before the study commences (or commences at a given locality). Neither the HDEC nor the secretariat is required to undertake any further review to ensure that this is the case, or to confirm approval.

#### *Duration of HDEC approval*

127. HDEC approval applies for the duration of the study as specified in the original application, subject to approval being suspended or cancelled in accordance with the provisions of section 12.
128. Extension of the duration of a study beyond that specified in the original application is not in and of itself a substantial amendment to that study, except where it is related to other amendments that would be substantial (such as an increase in recruitment targets, the addition of new procedures, or an extension of follow-up activities). Consequently, applicants will usually not require an HDEC's approval to extend a study's duration (see section 11).

#### **Letters communicating a decision to decline**

129. In addition to the information specified at paragraph 1203, letters declining an application must clearly state:
  - 129.1. the ethical standard(s) that the HDEC believes the study would not meet, with reasons
  - 129.2. how the applicant may challenge the decision of the HDEC to decline (see section 9).
130. An applicant may make a second application in respect of a study that an HDEC has declined at any time. In such cases, the second application is considered to be a new application, and assigned a new reference number (in accordance with section 4).

#### **Letters communicating a decision to provisionally approve**

131. An HDEC may provisionally approve a new application or substantial amendment pending receipt of further information or satisfaction of non-minor conditions. This decision may only be made once in respect of any new application or substantial amendment.
132. In addition to the information specified at paragraph 123, provisional approval letters must clearly state:
  - 132.1. the established ethical standard(s) that the HDEC is not satisfied the study would meet on the basis of the information in the original application
  - 132.2. the further information (or non-minor conditions) that the HDEC requires (or imposes) in order to make a final decision

- 132.3. the number of days remaining on the 35- or 15-day review clock
- 132.4. the date by which the HDEC must receive a response from the applicant.

*Stopping and restarting the review clock*

- 133. The 35- or 15-day review clock stops on the date of the provisional approval letter, and restarts on the date on which the HDEC receives a complete response. If an applicant submits an incomplete response, the review clock remains suspended. Where the HDEC receives a response that is incomplete, it should inform the applicant of this as soon as possible.
- 134. A complete response must be received within 90 calendar days of the date of the provisional approval letter. The secretariat should send a reminder of this request after 60 calendar days.
- 135. Where the HDEC does not receive a complete response after 90 calendar days, the application or substantial amendment will be considered to have been withdrawn. The secretariat must confirm this.

*Authority for considering further information – full review*

- 136. In order to ensure compliance with the relevant review clock for making a final decision, an HDEC may not require that a response be considered by the full committee at a future meeting. Instead, the HDEC must clearly delegate authority for checking the response and for making a final decision to either:
  - 136.1. the chair (or acting chair) alone, or
  - 136.2. the chair (or acting chair) in consultation with one or more named members who contributed to the decision to provisionally approve the application, or
  - 136.3. the secretariat.
- 137. In delegating authority to make a final decision, the HDEC should consider the significance of the further information requested or conditions imposed. If the requirement is straightforward or administrative, the secretariat may take responsibility for it. However, the chair (and, potentially, other members) should review the response if substantive questions of ethical judgement are likely to arise.
- 138. Notwithstanding the above, the chair may make a final decision on any provisionally approved application or substantial amendment where he or she believes, on reasonable grounds, that this is necessary to ensure respect for the 35-day review clock. This might be the case, for example, if other members became unavailable at short notice.

*Authority for considering further information – expedited review*

- 139. Where the expedited review pathway results in a grant of provisional appeal, the subcommittee responsible for the original decision should usually consider any further information submitted. Where this is not possible, the chair (or acting chair) should consider the information and make a final decision.

## 8. HDECs and the Accident Compensation Act 2001

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### Introduction

This section explains the statutory role of HDECs under the Accident Compensation Act 2001 ('the ACC Act'). This Act excludes participants injured as a result of treatment received as part of some clinical trials from access to compensation through New Zealand's no-fault compensation scheme.

In this section, the role of HDECs is interpreted consistently with the Government response to the Health Committee's clinical trials inquiry. This response provided that HDECs are not responsible for considering local research governance issues (such as locality-specific insurance and indemnity arrangements).

**No major changes have been made to this section following consultation.**

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140. HDECs have two roles with regard to compensation arrangements for participants who are injured as a result of treatment given as part of an intervention study. These roles derive from the ACC Act.

#### **Determining the principal benefactor of the study**

141. First, HDECs must determine whether the intervention study is to be conducted principally for the benefit of the manufacturer or distributor of the medicine or item being trialled. Such studies are often referred to simply as commercially sponsored (or 'form B') studies, since the relevant manufacturer or distributor will normally (but not necessarily) also be the study's sponsor.
142. The provision of financial or material support alone is not determinative of whether a study is conducted principally for the benefit of a particular manufacturer or distributor. In making this determination, HDECs should ask:
- 142.1. who is initiating the study?
  - 142.2. who is designing and planning the research questions that the study will ask?
  - 142.3. will the CI or other investigators receive remuneration from the manufacturer or distributor?
  - 142.4. is the manufacturer or distributor putting any unreasonable restrictions or delays on the timely publication of the results of the study?
  - 142.5. is the manufacturer or distributor providing any funding or materials for the study?

#### **If the study is 'commercially sponsored', checking that compensation would be available to at least ACC-equivalent standard**

143. Section 32 of the ACC Act provides that participants injured as a result of treatment given as part of 'commercially sponsored' intervention studies are not eligible for publicly funded compensation through ACC.

144. Investigators and sponsors of 'commercially sponsored' intervention studies are therefore responsible for ensuring that compensation for such injuries would be available to at least ACC-equivalent standard.<sup>8</sup> HDECs are responsible for checking that such arrangements are in place.
145. In so checking, HDECs are not expected or resourced to undertake detailed expert scrutiny of insurance policies held by the sponsor or any other parties to a 'commercially sponsored' intervention study, or to examine the indemnity agreements that may exist between them and localities. HDECs can expect to rely on localities to ensure that these arrangements are robust and appropriate.
146. Given the limited information and resources available to them, and the complexity of determining entitlements under the ACC scheme, HDECs should interpret ACC-equivalence in terms of parity of entitlements available.
147. As evidence that ACC-equivalent compensation would be available, it will be sufficient for HDECs to be provided with copies of the following documents:
  - 147.1. in the case of the CI: evidence of appropriate professional indemnity, for example through membership of the Medical Protection Society
  - 147.2. in the case of the study sponsor: evidence of the insurance that will be in place for the study (for example, a certificate of insurance).
148. However, HDECs may not require documents relating to insurance or indemnity arrangements specific to localities in a 'commercially sponsored' intervention study, or specific to any individuals involved in the study other than the CI. This is because localities themselves are responsible for checking that they and relevant members of the local research team are appropriately indemnified and insured (see section 10).

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<sup>8</sup> *Ethical Standards for Health and Disability Research and Quality Improvement 2019*



## 9. Challenging HDEC decisions

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### Introduction

This section defines how applicants may challenge certain HDEC decisions. In addition to the complaint and second-opinion processes that are currently available, the option of appeal to the HRCEC has been added pursuant to ministerial decision in 2010.

### Key changes to this section following consultation include:

- clarifying that the timeframe for formal complaint and second opinion is 20 working days.
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149. An applicant may challenge an HDEC decision to:
  - 149.1. decline to approve a new application or a substantial amendment to an approved study, or
  - 149.2. suspend approval for a study, or
  - 149.3. cancel approval for a study.
150. There are three options open to applicants who wish to challenge an HDEC decision to decline, suspend or cancel approval:
  - 150.1. formal complaint about the decision-making process, or
  - 150.2. second opinion on the merits of the decision, or
  - 150.3. appeal.
151. While third parties (including members of the public) may not challenge HDEC decisions, they may submit information that they believe may give grounds for the HDEC to review approval for a study in accordance with the provisions of section 12.
152. The principles of natural justice underlie the process of challenging an HDEC decision. HDECs should advise all relevant parties of the process that it will follow, give them an opportunity to comment and respond, and keep them informed of progress. While there is no fixed timeframe within which reconsideration must occur, considerations of natural justice mean that the process should be completed as expeditiously as possible.

### Formal complaints about the decision-making process

153. Where an applicant considers that the process followed by an HDEC in making a decision to decline, suspend or cancel approval did not accord with the provisions of these SOPs, they may formally complain to the HDEC secretariat in writing. Formal complaints must cite the paragraph(s) of these SOPs that the applicant considers were not followed by the HDEC in making its decision, and provide reasons for this view.
154. When it receives a formal complaint, the secretariat must inform the chair of the relevant HDEC as soon as possible. It must then advise the chair and the applicant within 20 working days as to whether, in its view, the aspects of the decision-making

process identified by the applicant accorded with these SOPs. However, the secretariat has no power to annul or amend decisions taken by HDECs, or to require them to reconsider a decision.

155. An HDEC may reconsider a decision to decline, suspend or cancel approval where an applicant has made a formal complaint regardless of the content or timing of the secretariat's advice. The HDEC may not ask for additional information or assurances in reconsidering its original decision. The HDEC should formally advise the applicant of its intention to reconsider the decision, and invite them to attend the meeting at which this will occur.
156. Following reconsideration, the HDEC must either:
  - 156.1. reaffirm its original decision to decline, suspend or cancel approval, or
  - 156.2. where the original decision was to decline approval: approve or provisionally approve the application (where the decision is to provisionally approve, the HDEC must make a final decision as soon as possible and in any case within five working days of submission of further information), or
  - 156.3. where the original decision was to suspend approval: allow the study to continue as normal, or
  - 156.4. where the original decision was to cancel approval: either allow the study to continue as normal or suspend approval (in which case the provisions of section 12 apply).

### **Second opinion on the merits of the decision**

157. Where an applicant considers that a decision to decline, suspend or cancel approval was not one that was reasonably open to the HDEC in the circumstances, they may contact the secretariat to ask that a second opinion be obtained from another HDEC ('the second HDEC').
158. When it receives a request for a second opinion, the secretariat must:
  - 158.1. inform the chair of the relevant HDEC as soon as possible, and
  - 158.2. advise the chair and the applicant within 20 working days as to which HDEC will act as the second HDEC, and
  - 158.3. supply the second HDEC with the application or substantial amendment and all associated documentation and correspondence.
159. The second HDEC should discuss the matter at its next meeting, and provide written advice as soon as possible to the original HDEC specifying the decision that it would have taken on the application or substantial amendment. However, the second HDEC has no power to annul the original decision.
160. Following receipt of a second opinion, the original HDEC must make one of the decisions outlined above in this section, and communicate this decision to both the applicant and the second HDEC.

### **Appeal**

161. Applicants may appeal any HDEC decision to decline, suspend or cancel approval to the HRCEC. Appeal decisions of the HRCEC are final and binding on HDECs.

162. Applicants who wish to appeal HDEC decisions should contact the HRCEC for further details of the process.

## 10. Locality authorisation

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### Introduction

The Government's response to the Health Committee's clinical trials report requires updated SOPs for HDECs to clarify that localities (such as district health boards (DHBs)), rather than HDECs, are responsible for checking local governance issues that may arise from the conduct of a study at a given locality. This section addresses that requirement. It replaces the current 'locality assessment' process described at section 7 of the *Operational Standard for Ethics Committees*.

Key changes and clarifications include:

- defining 'locality' more narrowly, to include only a subset of the organisations involved in the conduct of studies
- making the DHB the natural unit for locality review within the public health system
- allowing one locality review to cover multiple sites (for example hospitals or departments) within a single locality
- clarifying and expanding the issues relevant to locality review; for example, to include issues relevant to a locality's ability to meet its potential liabilities in intervention studies for which compensation is not available under the ACC Act.

**Key changes to this section following consultation include:**

- expanding the definition of 'locality' to include organisations involved in the conduct of observational studies (while recognising that not all such studies will involve localities)
- clarifying that the study team as a whole (rather than the study sponsor) is responsible for ensuring that locality review is conducted by the appropriate individuals at a locality
- more clearly requiring that a locality's chief executive officer authorise the person completing a locality review
- requiring locality review to be conducted afresh as soon as possible, rather than immediately following a change of the lead/principal investigator at a particular locality.

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### HDEC approval and locality authorisation are separate processes

163. HDEC review is the process by which an HDEC checks that a study meets or exceeds established ethical standards. If an HDEC is satisfied that this is the case, it *approves* the study.
164. Locality review is the process by which a locality assesses its suitability for the safe and effective conduct of a study. If a locality is satisfied that this is the case, it *authorises* the study.

### **What is a locality?**

165. For the purposes of these SOPs, a locality is an organisation responsible for a hospital, health centre, surgery or other establishment or facility in New Zealand at or from which the procedures outlined in the protocol of a study are to be conducted.
166. Almost all intervention studies and many observational studies will involve at least one locality.
167. Localities for studies within the New Zealand public health system will usually be DHBs. Examples of localities outside the public health system may include:
  - 167.1. academic institutions (such as universities)
  - 167.2. private companies (such as clinical trial units)
  - 167.3. private hospitals or clinical practices
  - 167.4. other health and disability research centres.
168. The following are not localities:
  - 168.1. clinicians, clinical units or other organisations making referrals to a research team
  - 168.2. clinicians, clinical units or other organisations involved only in identifying potential participants or facilitating recruitment by the research team, and not responsible for informed consent or any other procedures set out in the study protocol
  - 168.3. research units undertaking support functions such as project management, site monitoring, data analysis or report writing.
169. Where a study will be conducted at more than one site within the same locality (for example, at multiple hospitals within the same DHB), locality review should be carried out just once to cover all sites within that locality.
170. Where a third party under contract to a locality is to undertake any procedures outlined in the protocol of a study, issues specific to the third party should be considered as part of the locality review.

### **Who should complete locality review?**

171. Locality review must be completed by either:
  - 171.1. the locality's chief executive officer, or
  - 171.2. an individual to whom the chief executive officer has delegated responsibility for conducting locality review.
172. It is not the role of the HDEC to ensure that the person who carries out locality review has been appropriately authorised to do so. This is the responsibility of the study team of the study in question.

### **Issues relevant to locality review**

173. The central issue relevant to locality review is its suitability for the safe and effective conduct of the study in question. This involves checking that:

- 173.1. the lead/principal investigator(s) at the locality is/are suitably qualified, experienced, registered and indemnified to take professional responsibility (under the direction of the CI) for the conduct of the study at the locality
- 173.2. the locality's physical facilities are adequate for the conduct of the study
- 173.3. conducting the study at the locality would have no adverse effect on the provision of publicly funded health care at that locality
- 173.4. applicants have taken reasonable steps (particularly consultation with Māori, where appropriate) to ensure that they have identified and adequately addressed local cultural issues that may arise from the study
- 173.5. appropriate arrangements are in place for notifying other relevant local health or social care staff about the study, and for making available any extra support that might be required by participants
- 173.6. appropriate arrangements are in place for providing information to potential participants in the study who may not adequately understand information in English
- 173.7. applicants have included relevant locality-specific information and contact details in the local version of the participant information sheet and consent form
- 173.8. where participants injured as a result of treatment received as part of the study will not have access to ACC (see section 8):
  - 173.8.1. members of the local research team hold appropriate professional indemnities, and
  - 173.8.2. the locality itself understands the potential liabilities that may arise for it as a result of taking part in the study (for example, through the use of formal contracts and indemnity and compensation agreements, such as those developed by the [New Zealand Association of Clinical Research](#)), and has the ability to meet these liabilities
- 173.9. where the study involves the administration of a new medicine to participants who are in residence at sites within the locality, these sites are registered with Medsafe's [Clinical Trial Site Self-Certification](#) scheme.
- 174. The checks above are not intended to be exhaustive, or to limit the ability of localities to implement more detailed research governance processes that require additional information and assurances from sponsors and CIs.

**Locality authorisation is a standard condition of HDEC approval**

- 175. Locality authorisation is a standard condition of HDEC approval for the conduct of a study at a given locality. Once applicants have obtained HDEC approval for a study, and locality authorisation for the locality in which that study is to be conducted, the study may commence immediately. There is no need for the outcome of each locality review to be notified to the HDEC, or for the HDEC to confirm its approval for each locality.
- 176. Applicants must record locality authorisations in the electronic application system for HDEC review, allowing HDECs access to this information if they require.

177. Locality review and authorisation may occur at any stage of the HDEC review process. However, it is generally desirable that it occur at the same time as or as close as possible to HDEC review.

#### **Cancellation of locality authorisation**

178. Any locality may cancel locality authorisation for any study at any time at its sole discretion. If this occurs, the study may continue at all other localities for which applicants have obtained locality authorisation.
179. Where a locality cancels authorisation for reasons that may give the HDEC grounds to reconsider the approval in place for the study as a whole (in accordance with section 12), the locality should notify the HDEC of this as soon as possible.
180. There is no requirement for applicants to notify the HDEC of the routine closure of localities (or any sites within localities) used in a study. However, they must notify the HDEC of the conclusion or early termination of the study as a whole in New Zealand, in accordance with section 12.

#### **Appointment of a new lead/principal investigator at a locality, or addition of new localities**

181. The suitability of the lead/principal investigator(s) at a locality is a matter that is relevant to locality review. Localities should therefore conduct locality review again when a new lead/principal investigator is appointed, as soon as practical in the circumstances. There will usually be no need in such cases to notify the HDEC, since the appointment of a new lead/principal investigator does not in itself constitute a substantial amendment (see section 11).
182. Similarly, the addition to a study of a locality not listed in the original application for HDEC approval does not in itself constitute a substantial amendment, except where it is related to other amendments that are substantial. However, whether or not the addition of a new locality in a study comprises a substantial amendment, applicants must obtain locality authorisation before the study commences at each locality.

## 11. Amendments to approved studies

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### Introduction

The Government response to the Health Committee's clinical trials inquiry requires updated SOPs for HDECs to clarify when amendments to approved studies themselves require HDEC review. This section addresses that requirement, while sections 5 and 6 clarify the review pathways by which different types of substantial amendment are to be reviewed.

Key changes and clarifications include:

- following European clinical trial rules in distinguishing between substantial and non-substantial amendments to approved studies, providing criteria and examples of each
- allowing non-substantial amendments to be made to any study at any time without approval from or notification to an HDEC
- allowing for HDECs to exercise discretion regarding whether amendments submitted for review meet the test of substantiality.

### Key changes to this section following consultation include:

- requiring amendments to be submitted through the HDECs' electronic submission system
  - clarifying that non-substantial amendments may continue to be submitted to HDECs for review
  - clarifying that responsibility for deciding whether an amendment is substantial rests with the study team as a whole, rather than the CI
  - confirming that details of documents submitted with amendments will continue to be noted in HDEC letters.
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183. An amendment to an approved study only requires HDEC review if it is substantial. Applicants may make non-substantial ('minor') amendments to any approved study at any time without approval from or notification to the HDEC.

184. Applicants must submit all substantial amendments through the HDEC's online submission system, accompanied by copies of relevant study documents.

### Definition of 'substantial amendment'

185. A substantial amendment is an amendment that is likely to affect to a significant degree any of the following:

185.1. the safety or physical or mental integrity of participants

185.2. the scientific value of the study

185.3. the conduct or management of the study

185.4. the quality or safety of any medicine or item used in the study.

186. The following should normally be regarded as substantial amendments:



- 186.1. significant changes to the design/methodology of the study
  - 186.2. significant changes to the type or number of procedures participants will undertake in the study
  - 186.3. changes relating to the safety of the physical or mental integrity of participants, or to the risk/benefit assessment for the study
  - 186.4. significant changes to the study's documentation (such as participant information sheets)
  - 186.5. the appointment of a new CI for the study
  - 186.6. any other significant change to the study protocol or the information provided in the application for approval.
187. In themselves, the following should usually be regarded as minor amendments:
- 187.1. minor or administrative changes to study documentation
  - 187.2. updated versions of the investigator's brochure (where the study involves a new medicine)
  - 187.3. changes to the research team other than the appointment of a new CI
  - 187.4. changes in funding arrangements, except where these may alter the ability of participants to access publicly funded compensation in the event of injury
  - 187.5. changes in arrangements for recording or analysing study data, or for storing or transporting samples
  - 187.6. extension of the study beyond the expected end date given in the application form, except where this is related to other changes that are substantial.

### **Deciding whether an amendment is substantial**

188. In the first instance, it is the responsibility of the study team to decide whether or not a given amendment to a study is substantial. In making this decision, applicants should consider whether the amendment will change the study to a 'significant degree'. Applicants should take particular account of any implications for the safety or welfare of participants, and of any information that participants might require to give informed consent to continue to participate in the amended research.
189. Where there is doubt as to whether an amendment is substantial, applicants may submit it for review. Where an amendment submitted for review is not validated as substantial, the secretariat should communicate this decision to the CI within two working days. This confirmation must contain details of all documents submitted with the amendment.

### **Review pathways for substantial amendments**

190. Substantial amendments to studies reviewed through the expedited review pathway must themselves be reviewed through this pathway. Substantial amendments to studies reviewed through the full review pathway may also be reviewed through expedited review, at the discretion of the chair.

### **Changes in CI**

191. The appointment of a new CI for a study is always a substantial amendment.

192. However, where the CI for a study is to be absent for any reason for a period of less than 90 calendar days, any other investigator on the study may act in his or her place during this period. Such interim arrangements are not substantial amendments and do not require HDEC approval. The named CI remains responsible for the conduct of the study while such interim arrangements are in place.
193. The addition of investigators (including lead/principal investigators at particular localities) is not a substantial amendment. This is because the CI himself or herself is responsible to the HDEC for the ethical conduct of the entire research team at all localities.

**Addition of new localities**

194. The addition of new localities to a study is not in itself a substantial amendment. However, the addition of new localities may be related to other amendments that are substantial, such as significant increases in recruitment targets or other significant changes to the study design. Applicants should submit such amendments to an HDEC for review in the normal way.

## 12. Post-approval processes

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### Introduction

This section sets out the limited role of HDECs in monitoring approved studies, and contains details of the reports and information that applicants need to submit to ensure HDECs can carry out that role.

Key changes and clarifications include:

- clarifying that, while HDECs must keep approvals under review, responsibility for proactively monitoring a study remains at all times with the CI and sponsor of that study
- removing the requirement for researchers to submit individual reports of serious adverse events (SAEs) to HDECs, and replacing it with a requirement that, in the case of intervention studies involving a new medicine, they submit an annual summary of safety information
- removing the need for HDEC approval to be reconfirmed following receipt of annual progress reports
- clarifying the process to be followed by HDECs in reconsidering the approval in place for a study with a view to suspending or cancelling that approval.

### Key changes to this section following consultation include:

- requiring applicants to submit annual progress reports, final reports, protocol deviations/violations and notifications of conclusion of study through HDECs' electronic submission system
- clarifying that annual progress reports must be submitted at least yearly, to allow for alignment of annual reporting cycles in international studies, and clarifying that summaries of safety information produced for international regulators may serve as annual safety reports
- more clearly defining 'protocol deviation/violation', and clarifying that the same definition of 'substantiality' as for amendments applies in deciding whether HDEC review is required in this situation
- requiring HDECs to inform CIs within 15 (rather than 20) calendar days of receipt of a document of a decision to reconsider approval for the study on the basis of that document.

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### Commencement

195. A study commences when any of the procedures set out in its protocol are initiated.
196. Studies should commence within 12 months of the date on which they receive approval from an HDEC, and must commence within 24 months of approval. Where a study has not commenced within 12 months, the CI must give reasons for this in the first annual progress report.
197. Where a study is abandoned before it commences, the CI should notify the HDEC of the conclusion of the study.

### **Annual progress reports**

198. Applicants must submit annual progress reports for all approved studies to the HDEC at least yearly, using HDECs' electronic submission system. It may be desirable in some cases to submit the first annual progress report early, in order to align with annual reporting cycles for the study in other countries.
199. The HDEC secretariat must acknowledge annual progress reports, then assign them for review through the expedited review pathway. The secretariat must formally notify the full HDEC itself of the receipt of the report through the noting section of the agenda of its next meeting (see section 4).
200. It is not necessary for an HDEC to reconfirm approval for a study following receipt and review of an annual progress report. The presumption is that approval remains valid for the duration of the study, unless the report gives grounds to reconsider approval.
201. The HDEC secretariat should send a reminder to the applicant about one month before an annual progress report is due. Where it does not receive an annual progress report by the due date, it must send a second reminder as soon as possible. Where it does not receive an annual progress report within one month of a second reminder being sent, it may cancel approval for the study. However, the secretariat should make all reasonable efforts to contact the applicant before cancelling approval for a study, and may extend the due date for an annual progress report for up to 90 calendar days from the date of the second reminder letter.
202. Where HDEC approval is cancelled for failure to submit an annual progress report, applicants must submit a new application to reactivate the study.

### *Annual safety reports*

203. An annual safety report must be attached to each annual progress report for an intervention study involving a new medicine. While there is no prescribed format for annual safety reports, they must be no longer than two pages in length, written in lay language, and include:
  - 203.1. a brief description and analysis of new and relevant findings that may have a significant impact on the safety of participants
  - 203.2. a brief analysis of the safety profile of the new medicine and its implications for participants, taking into account all safety data as well as the results of any relevant non-clinical studies
  - 203.3. an brief discussion of the implications of safety data to the risk-benefit ratio for the intervention study, and whether study documentation has been or will be updated
  - 203.4. a description of any measures taken or proposed to minimise risks. (Where such a proposed measure would be a substantial amendment, it must be submitted to the HDEC for review in the normal way.)
204. Summaries of safety information such as **Development Safety Update Reports** may serve as annual safety reports to HDECs provided that they contain the information outlined above. These summaries should usually be accompanied by comment from the CI of the study in New Zealand.

205. There is no general requirement for applicants to submit individual or expedited reports of SAEs or suspected unexpected serious adverse reactions (SUSARs) to HDECs, who do not have the expertise or resources to review them. Further, annual safety reports should not in any circumstances be accompanied by line listings of global or local SAEs or SUSARs.

### **Urgent safety measures**

206. It may sometimes be necessary for investigators to take urgent safety measures in order to protect participants in an intervention study from a significant, immediate hazard to their health or safety. If this occurs the applicant must notify the HDEC immediately and in any case within seven calendar days of taking any such measures.
207. Notifications of urgent safety measures are considered to be a type of amendment, and applicants should submit them as such to the HDEC for review.

### **Temporary halts**

208. Where a study is halted temporarily (for example for reasons of participant safety), applicants must notify the HDEC of this as soon as possible but in any case within seven calendar days.
209. Temporary halts are considered to be a type of amendment, and applicants should submit them as such to the HDEC for review. Similarly, the recommencement of a study following a temporary halt is considered to be a type of amendment. If a study that has been temporarily halted concludes or is terminated early, applicants should notify the HDEC in the normal way (see below).

### **Protocol deviations/violations**

210. A protocol *deviation* is any change, divergence or departure from the study design or procedures of a research protocol that is under the investigator's control and that has not been approved by an HDEC. A protocol *violation* is a deviation that may affect participants' rights, safety or well-being, or the completeness, accuracy and reliability of the study data. Deviations/violations may occur without the knowledge or permission of the sponsor or the CI, and may constitute fraud or misconduct.
211. Where a protocol deviation/violation meets the definition of 'substantial' set out at section 11 of these SOPs, applicants must submit it to the HDEC for review.
212. As is the case for amendments, it is in the first instance the responsibility of the study team to decide whether a protocol deviation/violation is substantial. Where there is doubt as to whether a protocol deviation/violation is substantial, the study team may submit it to an HDEC. Once validated, an HDEC must review a protocol deviation/violation through the expedited review pathway.
213. Where a protocol deviation/violation is necessary to protect participants from an immediate hazard to their health and safety, the study team should notify the HDEC as an urgent safety measure (see above).
214. Where a protocol deviation/violation is necessary due to errors, omissions or inadequacies in the protocol or other study documents, the sponsor and CI are responsible for making appropriate amendments. If the amendments are substantial,

the HDEC must review and approve them in the normal way before they are implemented.

### **Reconsideration of HDEC approval**

215. HDECs should keep all approvals for all studies under review at all times. However, other than by means of the documents applicants are required to submit under this section, HDECs are not themselves responsible for proactively monitoring approved studies. Primary responsibility for such monitoring lies at all times with the study sponsor and the CI.
216. An HDEC may reconsider the approval in place for any study at any time on the basis of information contained in:
  - 216.1. an annual progress report
  - 216.2. a notification of an urgent safety measure or temporary halt of the study
  - 216.3. a substantial protocol violation or deviation
  - 216.4. the cancelation of locality approval for a locality in the study (see section 10)
  - 216.5. any other information received by the HDEC in writing from any party which the chair considers, on reasonable grounds, may give grounds for suspending or cancelling approval.
217. An HDEC may only reconsider approval for a study through the full review pathway. Where the chair considers that one of the documents above may give grounds for suspending or cancelling approval, he or she must place the matter on the agenda of the next meeting of the HDEC (under 'review of approved studies'). The HDEC must notify the applicant of its intention to reconsider approval, and the reasons for this, and invite them to provide a written response and attend the meeting.
218. Consistent with the fact that the HDEC must review items of business mentioned in this section through the expedited review pathway, an HDEC must notify the applicant of a decision to reconsider approval for a study on the basis of information contained in a document within 15 calendar days of the document's having been submitted.

### **Suspension or cancelation of HDEC approval**

219. Following reconsideration, HDEC approval may be suspended or cancelled due to serious concerns about one or more of the following:
  - 219.1. the health and safety of participants
  - 219.2. the competence or conduct of the CI, sponsor, or other investigator
  - 219.3. the feasibility of the study
  - 219.4. suspension or cancelation of regulatory approval for the study.
220. Letters communicating an HDEC's decision to suspend or cancel approval for a study must detail:
  - 220.1. whether approval is suspended or cancelled
  - 220.2. the reasons for the suspension or cancellation

- 220.3. the date from which approval is suspended or cancelled (which will usually be the date of the letter)
  - 220.4. any action that the HDEC recommends the CI take to inform participants or arrange for their continuing treatment outside the trial protocol
  - 220.5. where approval is suspended: any conditions which must be satisfied before the HDEC will consider lifting the suspension.
221. An HDEC may only take a decision to lift suspension for a previously approved study through the full pathway.

#### **Conclusion or early termination of a study**

222. The definition of the conclusion of a study should be included in its protocol. In most cases, an intervention study will conclude on the date of the last visit of the last participant, or the completion of any follow-up monitoring and data collection specified in the protocol. Any change to this definition is a substantial amendment requiring HDEC approval.
223. Applicants must notify the HDEC (through the electronic submission system) within 90 calendar days of the conclusion of an approved study, and as soon as possible but within 15 calendar days of the early termination of an approved study.
224. All notifications of conclusion or early termination should be acknowledged and reviewed through the expedited review pathway. No further review is required, unless the reviewing members wish to discuss any matters raised by the report at a meeting of the HDEC (under 'general business').
225. There is no requirement for applicants to submit annual progress reports following the conclusion or early termination of a study.

#### **Final reports**

226. Applicants should submit a summary of the final report of a study to the HDEC within one year of its conclusion or early termination, through the HDECs' electronic submission system.
227. There is no standard format for final reports. However, they should include information on whether the study achieved its objectives, the main findings and arrangements for the publication or dissemination of results.
228. The secretariat should acknowledge final reports and the HDEC review them through the expedited review pathway. No further action is necessary, unless the chair wishes to discuss any matter arising from information contained in a final report at an HDEC meeting.
229. Where an HDEC does not receive a final report within one year of the conclusion or early termination of a study, the secretariat should send a reminder.

## 13. HDEC review of tissue banks

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### Introduction

This section provides more detail of the process by which HDECs review application involvement the establishment or maintenance of tissue banks.

### Key changes to this section following consultation include:

- *requiring* HDEC approval to establish and manage a tissue bank, rather than simply *allowing* such approval to be applied for
  - expanding the matters that applicants must address in such applications to include cultural issues.
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230. A tissue bank is a collection of human tissue samples stored for potential use in research beyond the life of a specific research project.

231. The establishment and management of a tissue bank is not research, and it is not necessarily the case that all individual research projects using banked tissue will themselves fall within the scope of HDEC review set out in these SOPs. Nevertheless, organisations responsible for the establishment and management of a research tissue bank are required to apply for HDEC approval for this.

### Review process for tissue bank application

232. The HDEC must review tissue bank applications through the full review pathway. The relevant provisions of these SOPs therefore apply in full to tissue bank applications, except as modified below.

#### *Matters relevant to HDEC review of tissue bank applications*

233. Because establishing or managing a tissue bank is not itself research, the established ethical standards for health and disability research do not apply directly to tissue bank applications. HDEC review of tissue bank applications should focus on:

233.1. how the governance arrangements for the tissue bank ensure that robust and appropriate processes are in place for all aspects of tissue storage, management and use

233.2. how consent will be sought from donors<sup>9</sup>

233.3. how tissue samples will be collected, transported and stored

233.4. how applicants will address cultural issues associated with the storage and use of tissue that may arise for Māori (and other relevant population groups)

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<sup>9</sup> In this section, ‘donor’ refers to any person who can give consent for the use of tissue for the purposes of the [Human Tissue Act 2008](#).



- 233.5. the circumstances in which tissue stored in the tissue bank may be provided to researchers, including:
- 233.5.1. the types of activity for which tissue may potentially be made available
  - 233.5.2. how the organisation will check that research projects using the tissue bank samples are scientifically valid
  - 233.5.3. any other conditions under which tissue samples will be made available
- 233.6. where relevant, details of whether and how donors and their relatives will be provided with clinically significant information obtained as a result of research on their tissue.
234. There is no standard application form for tissue bank applications. Applicants should provide information that addresses the matters listed above, in a form and of a nature that is reasonably likely to allow the HDEC that reviews the application to come to a final decision on it at first review.
235. Tissue bank applications must be submitted or authorised by a representative of the tissue bank organisation, and accompanied by copies of any participant information sheets and consent forms to be used in obtaining consent from donors.
236. Where an HDEC has declined approval of a previous application in respect of the same tissue bank, the additional validation criteria in section 4 also apply.

#### *Approval conditions*

237. HDEC approval for tissue banks is given for a period of ten years, subject to the submission of annual progress reports within the timeframes set out in section 12. Annual progress reports should contain a brief summary of the research projects for which tissue has been made available during the year.
238. Applicants may not make tissue samples available under the terms of a tissue bank approval to any research project that, in the view of the tissue bank organisation:
- 238.1. is not within the fields of research described in its application to the HDEC, or
  - 238.2. does not comply with the terms of the consent obtained from donors for the use of their tissue in research, or
  - 238.3. has not been subjected to peer review of an appropriate standard, or
  - 238.4. involves the collection of further data or tissue from donors, or any other contact with donors other than where this is necessary in order to communicate clinically significant information.
239. HDEC approval for a tissue bank does not override the need for any study using tissue from the bank that falls within the scope of HDEC review to be reviewed in accordance with these SOPs.

#### *Substantial amendments, deviations and violations*

240. Changes to any of the matters relevant to HDEC review of tissue bank proposals should normally be considered to be substantial amendments, and submitted for

review in the normal way. Applicants should also notify the HDEC of breaches of approval as protocol deviations/violations where they are substantial.

*Closure of tissue banks*

241. Applicants should notify the HDEC of any intention to close an approved tissue bank, and inform them of arrangements for the disposal of tissue samples or their transfer to another tissue bank.
242. Where tissue samples are transferred to another organisation, HDEC approval of the tissue bank is not transferable.

# Glossary and references

## Glossary

|                                 |  |
|---------------------------------|--|
| ACC                             | <a href="#">Accident Compensation Corporation</a>  |
| ACC Act                         | <a href="#">Accident Compensation Act 2001</a>   |
| Amendment                       | Any change to the terms of a study, including to the protocol or other supporting documentation, made after an HDEC has approved the study   |
| Appeal                          | A review by the HRCEC of the process and/or merits of an HDEC decision that produces a binding decision  |
| Applicant                       | The person who submits an application to an HDEC. Where the applicant is not also the CI for the study, the CI must have authorised the application  |
| Approval conditions             | Conditions to be met by an applicant prior to commencement of the study. There are three types of approval condition: <ul style="list-style-type: none"><li>— standard conditions, which apply to all HDEC approvals</li><li>— minor conditions, which HDECs may impose in giving approval to a study</li><li>— non-minor conditions, which HDECs may impose in giving provisional approval to a study</li></ul>   |
| Audit or related activity       | Has the meaning given to it by the <a href="#">Ethical Guidelines for Observational Studies</a>  |
| Calendar day                    | Any day that is not a day between 25 December and 15 January   |
| Chair                           | The member of an HDEC appointed to the chair. Where the chair is unavailable for any reason, his or her duties may be performed by any other member of the HDEC, lay or non-lay, at the discretion of the chair  |
| Clinical trial                  | An intervention study  |
| Commercially sponsored study    | A clinical trial that is conducted principally for the benefit of the manufacturer or distributor of the medicine or item being trialled. Also known as a 'form B' study   |
| Co-ordinating investigator (CI) | Formerly known as the 'principal investigator'; the chief investigator of a study in the New Zealand, or the investigator assigned responsibility for the co-ordination of investigators at different centres participating in a multi-centre study. In New Zealand, the CI has primary responsibility for the design and conduct of the study in New Zealand, including compliance with all relevant legal and ethical standards. All applications for HDEC review of a study must be submitted or authorised by the study's CI |
| Ethical standards               | Standards for the ethical conduct of health and disability research contained in the <a href="#">Ethical Guidelines for Intervention Studies</a> and the <a href="#">Ethical Guidelines for Observational Studies</a>  |

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| Ethics committee         | Health and Disability Ethics Committee (HDEC)  |
| Expedited review pathway | The HDEC decision-making process set out at section 6 of these SOPs  |
| Form A study             | A clinical trial that is not conducted principally for the benefit of the manufacturer or distributor of the medicine or item being trialled   |
| Form B study             | A clinical trial that is conducted principally for the benefit of the manufacturer or distributor of the medicine or item being trialled   |
| Full review pathway      | The HDEC decision-making process set out at section 5 of these SOPs  |
| GCP                      | Guidelines for Good Clinical Practice  |
| HDEC                     | <a href="#">Health and Disability Ethics Committee</a>   |
| HDEC review              | The process by which an HDEC checks, in accordance with these SOPs, that a new application (or substantial amendment to a previously approved application) meets or exceeds established ethical standards  |
| Health information       | Has the meaning given to it by the <a href="#">Health Information Privacy Code 1994</a>  |
| HRC                      | Health Research Council  |
| HRCEC                    | Health Research Council Ethics Committee   |
| Human tissue             | Has the meaning given to it by the <a href="#">Human Tissue Act 2008</a>   |
| ICH                      | <a href="#">International Conference on Harmonisation</a> of Technical Requirements for Registration of Pharmaceuticals for Human Use  |
| Intervention study       | Has the meaning given to it by the <a href="#">Ethical Guidelines for Intervention Studies</a> ; namely, a study in which investigators control and study the intervention(s) provided to participants   |
| Investigator             | Any investigator on a study who is not the CI. This includes investigators who are responsible for the conduct of a study at a given locality (or at a site within that locality). A study may have any number of investigators. The CI of a study may also be the lead/principal investigator at one or more localities |
| Investigator's brochure  | A document summarising the clinical and other data relating to a new medicine that are relevant to the study of the product in human participants  |
| Locality                 | An organisation responsible for a hospital, health centre, surgery or other establishment or facility in New Zealand at or from which the procedures outlined in the protocol of a study are to be conducted   |
| Locality review          | The process by which a locality assesses its suitability for the safe and effective conduct of an intervention study   |
| Medical device           | Has the meaning given to it by the <a href="#">Medicines Act 1981</a>  |
| Medicine                 | Has the meaning given to it by the <a href="#">Medicines Act 1981</a>  |
| Medsafe                  | <a href="#">New Zealand Medicines and Medical Devices Safety Authority</a>   |
| Minor amendment          | Any amendment to a previously approved study that is not a substantial amendment   |
| NEAC                     | <a href="#">National Ethics Advisory Committee</a>   |

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| New medicine                | Has the meaning given to it by the <i>Medicines Act 1981</i>  |
| Observational research      | Has the meaning given to it by the <i>Ethical Guidelines for Observational Studies</i> ; namely, an observational study that involves participants but in which investigators do not control and study the intervention(s) provided to them, if any   |
| Observational study         | Has the meaning given to it by the <i>Ethical Guidelines for Observational Studies</i> ; namely, a study in which investigators do not control and study the intervention(s) provided to participants, if any   |
| Participant                 | An individual who actively participates in a study. HDEC review of a study may be required where participants are recruited in their capacity as: <ul style="list-style-type: none"> <li>— consumers of health and disability support services, or</li> <li>— relatives or caregivers of such consumers, or</li> <li>— healthy volunteers in clinical trials</li> </ul>                     |
| Post-approval item          | An item of business (such as an amendment, annual progress report, final report, protocol deviation/violation, or notification of conclusion of study) submitted for review following HDEC approval for a study.  |
| Principal Investigator (PI) | The investigator with primary responsibility for the design and conduct of a study, including compliance with all relevant legal and ethical standards. All applications for ethics committee review of a study must be submitted by its PI.  |
| Protocol                    | A document describing the objectives, design, methodology, analysis and organisation of a study   |
| Reference number            | A unique identifier assigned to an application for HDEC review  |
| Review clock                | The timeframe within which an HDEC must give a final opinion on a new application or a substantial amendment to a previously approved application   |
| SAE                         | Serious adverse event; an untoward occurrence at any dose that: <ul style="list-style-type: none"> <li>— results in death, or</li> <li>— is life-threatening, or</li> <li>— requires inpatient hospitalisation or prolongs hospitalisation, or</li> <li>— results in a persistent or significant disability or incapacity, or</li> <li>— is a congenital anomaly or birth defect</li> </ul> |
| SCOTT                       | Standing Committee on Therapeutic Trials; a standing committee of the HRC whose function is to make recommendations to Medsafe regarding the approval of clinical trials of new medicines under section 30 of the Medicines Act 1981  |
| Sponsor                     | The person or organisation with responsibility for the initiation, management and financing arrangements of a study   |
| Study                       | An intervention study or an observational study   |
| Study start                 | Commencement of the procedures set out in the study protocol  |

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| Substantial amendment | Any amendment to a study that is likely to affect to a significant degree: <ul style="list-style-type: none"> <li>— the safety or physical integrity of participants</li> <li>— the scientific value of the study</li> <li>— the conduct or management of the study</li> <li>— the quality or safety of any medicine or device used in the study</li> </ul> |
| SUSAR                 | Suspected unexpected serious adverse reaction; an SAE that is suspected to be linked to the medical product being investigated, and the nature or severity of which is not consistent with the applicable product information (for example as provided in the investigator’s brochure)  |
| Tissue bank           | A collection of human tissue or other biological material derived from humans that is stored for potential use in research beyond the life of a specific research project   |
| Validation            | An administrative check carried out by the HDEC secretariat to verify that an application or other item of business is complete and may be assigned for review through the full or expedited review pathway   |
| Working day           | Any day that is not a Saturday or Sunday, a public holiday (excluding regional anniversary days) or a day between 25 December and 15 January inclusive in any year  |

## References

- Health Research Council of New Zealand. 2008. *Guidelines for an Accredited Institutional Ethics Committee to refer Studies to an Accredited Health and Disability Ethics Committee* (“Referral Guidelines”). Auckland: Health Research Council. Available online at <http://hrc.govt.nz/sites/default/files/Referral%20Guidelines.pdf>.
- Health Research Council of New Zealand. 2010. *Guidelines for Researchers on Health Research Involving Māori*. Auckland: Health Research Council. Available online at <http://hrc.govt.nz/ethics-and-regulatory/applying-ethical-approval/specific-considerations>.
- Ministry of Health. 2006. *Operational Standard for Ethics Committees: Updated edition*. Wellington: Ministry of Health. Available online through <http://www.ethics.health.govt.nz>, or [http://www.ethicscommittees.health.govt.nz/moh.nsf/pagescm/6777/\\$File/OperationalStandard2006.pdf](http://www.ethicscommittees.health.govt.nz/moh.nsf/pagescm/6777/$File/OperationalStandard2006.pdf).
- National Ethics Advisory Committee. 2006. *Ethical Guidelines for Observational Studies*. Wellington: National Ethics Advisory Committee. Available online at <http://www.neac.health.govt.nz/moh.nsf/indexcm/neac-resources-publications-ethicalguidelines>.
- National Ethics Advisory Committee. 2009. *Ethical Guidelines for Intervention Studies*. Wellington: National Ethics Advisory Committee. Available online at <http://www.neac.health.govt.nz/moh.nsf/indexcm/neac-resources-ethical-guidelines-for-intervention-studies>.