Nursing and Midwifery Research Fellowship Legal Requirements

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1. **Purpose of document**

This document provides important information about Queensland Health (the Department) Nursing and Midwifery Research Fellowships. This document should be read in conjunction with the relevant Nursing and Midwifery Research Fellowship Funding Rules.

The Fellowships are administered by the Department, as represented by the Health and Medical Research Unit (HMRU).

2. **Definition of terms**

*Activity* or *Activities* means any task, activity, services, work or other purpose to which the Fellowship relates.

*Applicant* means the individual or group who have submitted an Application for a Fellowship.

*Application* means a completed and submitted Fellowship application form that appears at Schedule 2 to the Fellowship Agreement.

*Confidential Information* means any information which by its nature is confidential, the Receiving Party knows or ought to know is confidential, or is designated as being confidential. Confidential Information includes:

- a. information about clinical processes, policies and procedures, commercial operations, financial arrangements or affairs of the Department;
- b. information comprising in or relating to any Intellectual Property Rights;
- c. information concerning the internal management and structure, personnel, processes and policies, commercial operations, financial arrangements or affairs of the Disclosing Party;
- d. the terms of this Fellowship Agreement;
- e. information which identifies or relates to patients and staff; and
- f. Records, but does not include information that:
  - g. was already in the possession of the Receiving Party;
  - h. is public knowledge, obtained other than as a result of a breach of this Fellowship Agreement; or
  - i. is lawfully received by the Fellow through a third party or independently developed; and
  - j. which is not subject to an obligation of confidence.

*Chief Investigator* or *CI* means the person who takes the lead role in conducting the Activities, and is the investigator who takes responsibility for completion and lodgement of the Application and for ensuring that the Funds are used in accordance with the provisions of the Funding Agreement.

*Fellowship* means the funding awarded under the Nursing and Midwifery Research Fellowship program that is administered by the Department under which the Funds are made available in accordance with the Funding Rules, the Legal Requirements, the Fellowship Agreement and the Funding Agreement.

*Fellowship Agreement* means the agreement between the Chief Investigator, the Department and the Funding Recipient.
Funding Agreement means the agreement between the Department and the Funding Recipient.

Funding Rules means the rules specified by the Department for the Fellowship round for which this Fellowship has been awarded, a copy of which is included at Schedule 3 of the Funding Agreement.

Funds means the amount of the funds set out Schedule 1 Item 7 of the Fellowship Agreement.

Health and Medical Research Unit (or HMRU) means the Health and Medical Research Unit, being a unit of the Department.

Hospital and Health Service (or HHS) has the meaning given to it in the Hospital and Health Boards Act 2011 (Qld).

Intellectual Property Rights means all registered and unregistered rights in Australia and throughout the world for:

k. copyright;
l. trade or service marks;
m. designs;
n. patents;
o. semiconductors or circuit layouts;
p. source codes and object codes;
q. trade, business or company names;
r. indications of source or appellations of origin;
s. trade secrets;
t. know-how and confidential information;
u. the rights to registration of any of the above; and
v. the right to bring an action for infringement of any of the above, but excludes Moral Rights.

Legal Requirements means this document and all schedules and attachments to it, and any documents incorporated by reference into this document.

Review Panel: means the selection panel appointed by the Department for review of Applications and recommendation for the offer of Fellowships to Applicants.

Selection Criteria means the selection criteria outlined in Section 7 of the Funding Rules.

3. Applicants are to inform themselves

Prior to submission of an Application, it is the Applicant’s responsibility to:

- read and be familiar with these Legal Requirements and all other documents referred to in this document;
- inform themselves about the nature of the research which is to be the subject of the proposed Fellowship; and
- seek professional advice as is appropriate for an arrangement of this type.
4. **Privacy and conduct**

Chief Investigators (CI) are required to comply with:

- all relevant Department, Hospital and Health Services and Queensland Government guidelines and policies;
- all relevant clearances and approvals that have been obtained and that will continue for the life of the Fellowship;
- all laws, statutory requirements, government codes, policies or guidelines; Australian or international standards; and relevant professional codes of practice that apply to the research and the Fellowship in any way; and
- all applicable confidentiality requirements, including those set out in the:
  - Hospital and Health Boards Act 2011 (Qld)
  - any agreement in relation to the Fellowship, including the Fellowship Agreement.

5. **Application process**

The Department may in its absolute discretion:

- cancel or vary the process set out in the Funding Rules including any timeframes and Assessment and Selection Criteria;
- cancel, supplement, modify or replace the Funding Rules;
- extend the time for submission of Applications; or
- decide not to proceed with any of the submitted Applications.
5.1 Confidentiality

The Department will treat all information received from an Applicant in relation to the Fellowship in confidence, subject to any applicable exception at law.

It is the responsibility of the Department, the Review Panel, assessors, referees and other persons involved in the selection process not to disclose any Confidential Information to which they become privy as a result of exercising their responsibilities to the Department.

Information including the names of successful Fellows, their administering health facility or research institute, the title and summary of the research project and the Fellowship amount may be made available publicly and for regular reporting and evaluation purposes.

Details of unsuccessful Applicants will remain confidential.


5.2 Commissions and incentives

An Applicant must not give, or offer to give, the Department or the Review Panel or any officer or employee of the Department or the Review Panel, or to a parent, spouse, child or associate of an officer or employee of the Department or Review Panel members, any inducement, gift or reward, which could in any way influence the Department or the Review Panel’s actions in relation to an Application.

If the Department discovers at any time that an Applicant has not complied with this section, the Application may not be considered.

5.3 Incomplete, false or misleading Applications

All details in the Application must be current, complete and accurate at the time of submission. Once submitted, the Application will be considered final and no changes will be permitted.

Examples of false or misleading information in an Application include, but are not restricted to:

- providing false records; or
- falsifying claims in publication records (such as describing a paper as accepted for publication when it has only been submitted).

If the Department believes that omissions or inclusion of misleading information are intentional, it may take such action as it deems appropriate (which may include exclusion of the Application or termination of the fellowship) and may also refer the matter for appropriate action where appropriate.

If an Applicant is short-listed for an interview, the acceptance of any additional information (i.e. information about successful funding or grants) is at the discretion of the Review Panel.
5.4 **Contact with the Review Panel members or assessors**

Applicants, or persons acting on their behalf, may not contact the Review Panel members in relation to their Application. If they do so, the Application may be deemed ineligible and therefore excluded from further consideration at the Department’s discretion.

5.5 **Outcome of Application**

HMRU will advise Applicants of the outcome of the Application as early as possible. The Department may publish the following information on its website for all successful grants:

- Applicant name;
- proposed facility for research and clinical duties;
- project title;
- broad research area; and
- total Fellowship funding awarded and duration.

The Department may publish this information in a manner that allows it to be searched and viewed in a variety of ways, including by Applicant name, facility or broad research area. The media summary may also be published.

6. **Intellectual property**

The ownership, use and commercialisation of Intellectual Property Rights (IP) created during the term of a Fellowship will be determined by contractual arrangements between the Department, the Funding Recipient and the Fellow.

Contractual arrangements will be determined with the relevant parties subsequent to the awarding of the Fellowship.

Refer to the following website for information regarding IP:


7. **Compliance with laws**

All research undertaken by the Applicant, unless otherwise agreed with the Department, must comply with all applicable laws, statutory requirements, government codes, policies or guidelines and any current Australian Standard, and where an Australian Standard does not exist, the research must comply with the relevant and current International Standard will apply.

Research conducted as part of the Fellowship must be consistent with:

- the *National Statement on Ethical Conduct in Human Research (2007) Updated 2015*
8. Registration of Clinical Trials

All clinical trials must be registered in the Australian New Zealand Clinical Trials Registry (ANZCTR), or other Primary Registry in the World Health Organization (WHO) Registry Network, prior to commencement of the clinical phase.

Information pertaining to the ANZCTR or equivalent, and how to register can be found at: [http://www.anzctr.org.au](http://www.anzctr.org.au).

9. Approvals and clearances

The Funds cannot be provided unless the Applicant submits documentation that demonstrates that relevant approvals and clearances have been obtained.

Clearances, including any renewals where required, must cover the life of the Fellowship.

The Fellow will advise the Department, within six months of a fellowship offer being made, whether or not relevant Human Research Ethics Committee (HREC) or other ethics approvals have been obtained including the HREC number, a copy of the approval letter and a copy of the relevant research governance authorisation.

Non-compliance with the above requirements within six (6) months of the offer of the Fellowship may render the grant null and void.

Relevant approvals may include:

- research involving humans.
9.1 Research involving humans

The Department requires assurance that research involving humans has been reviewed and is approved by the relevant HREC as complying with the National Statement, the Code and any other law, regulations or guidelines relevant to HREC’s prescribed by the principles of Good Clinical Practice applicable in Australia and, if applicable, the Therapeutic Goods Administration (TGA).

Human research in this context includes research involving any human data or tissue, regardless of its source, and also includes research that involves any intervention (including physical or psychological) in human lives. Projects supported by the Department must conform to the general principles outlined in the National Statement.

9.2 Human embryo research

Relevant legislation includes Research Involving Human Embryos Act 2002 (Cth), Prohibition of Human Cloning for Reproduction Act 2002 (Cth) and Research Involving Human Embryos and Prohibition of Human Cloning for Reproduction Act 2003 (Qld). These acts establish a strong regulatory framework to prohibit certain unacceptable practices including human cloning for reproduction, and also regulate activities that involve the use of certain human embryos created by assisted reproductive technology or by other means.

Applications which involve the following may require a licence under the Research Involving Human Embryos Act 2002 (Cth):

- the use of excess assisted reproductive technology embryos;
- the use of human eggs; or
- the creation of embryos other than by fertilisation of a human egg with a human sperm or use of those embryos.

Further information regarding research using human embryos can be found from the following website http://www.nhmrc.gov.au/health-ethics/human-embryos-and-cloning.

10. Contractual relationship with the Department

These Legal Requirements and the Funding Rules are not intended to give rise to any contractual relationship upon the submission of an Application.

The Applicant and the Department do not enter into a binding legal relationship unless and until a subsequent agreement is executed between the Department, the Applicant and the Funding Recipient. No Applicant will be entitled to claim compensation or loss (whether direct or indirect) from the Department for any matter arising out of the Application or the Application process, including but not limited to any failure by the Department to comply with these Legal Requirements or the Funding Rules.
10.1 Change of circumstances

If an Applicant’s circumstances change after submission of an Application for a Fellowship or during the course of a Fellowship, the Fellow will notify the Department immediately.

Such notification must detail the change in circumstance, including changes to financial and administrative functions of the Fellow and how those changes effect the Fellow’s ability to undertake the Fellowship.

Failure of a Fellow to advise the Department within three (3) months of a change of circumstances may result in the Fellowship being terminated.

10.2 Termination of Contract

The Department may withhold payments or terminate the Fellowship if there is:

- failure to comply with visa or registration requirements;
- failure to participate in program review activities and submission of prescribed financial and progress reports;
- failure to advise of change of circumstances relating to the Fellow or the Fellowship;
- failure to adhere to terms of the Fellowship Agreement;
- failure to adhere to terms of the Funding Agreement; or
- professional or research misconduct.

10.3 Payments

All Fellowship payments are to be allocated in accordance with the Fellowship Agreement, Funding Agreement, Funding Rule and these Legal Requirements. Payments will be made from the Department as outlined in the Funding Agreement.

11. Assessment and Feedback

The field of Applicants is expected to be extremely competitive and, therefore, successful Applicants must be able to demonstrate a track record or evidence of the ability and potential to conduct research.

As part of the peer review process, the Department reserves the right to take into consideration the advice of external assessors who are experts in their field. External assessors may be independently chosen by the Review Panel, but shall not be nominated by Applicants. External assessors agree to assist the Department on the basis of confidentiality, and as such, their identity will not be disclosed.

Fellowship Applications are considered against the Selection Criteria by the Review Panel that recommends and endorses the successful Applicants.

All feedback requests must be made via email to HMR@health.qld.gov.au within two (2) weeks of receiving notification of Application outcomes.
Applicants should be aware that due to Review Panel commitments, the Department will not be able to provide detailed individual feedback. Accordingly, the outcome notification is not an opportunity to detail the evaluation of Applications or the relative merits of any other Applications submitted.

The decision of the selection panel will be final. The Department will not enter into any oral or written correspondence about its selection decisions.

12. Dissemination

To maximise the benefits from research, findings should be disseminated as broadly as possible to allow access by other researchers and the wider community.

The Department encourages Fellows to consider the benefits of publishing data from the research project in an appropriate medium of their institution or externally provided that the Fellow does not disclose any research findings that may prejudice the protection of any Intellectual Property Rights.

Publications of any description that are related to the Fellowship should be identified in the annual and final reports.

The Department should also be notified in a timely manner when work is accepted for publication in peer reviewed or other journals or presented at conferences to enable media releases and announcements to be made in an appropriate manner.

It is expected that successfully appointed Fellows will make time available during their Fellowships to publicly present their research findings or other outputs to audiences including the Department, the Queensland public health system and external researchers.

Further information can be found in the Australian Code for the Responsible Conduct of Research 2007, available at:


13. Advertisement

Successful Applicants, their Hospital and Health Service, departments or institutes must not make any public announcement or advertisement in any medium in relation to the Application process without the prior written approval from the Department.

14. Further Information

Further information regarding the Fellowships may be obtained from:

Health and Medical Research Unit
Healthcare Innovation and Research Branch
T: +61 (0) 7 3328 9833
E: hmr@health.qld.gov.au