Ethically Defensible Plan Guideline

This document provides guidance to researchers who access biospecimen collections housed in a Biobank about how to develop an Ethically Defensible Plan (EDP).

The purpose of an EDP is to assist biospecimen researchers, Collection Custodians, and clinicians in the process of returning Incidental Findings (IF's) to research participants whose biospecimens have been stored in a Biobank. IF's are defined as research findings, whether anticipated or incidental, that are both potentially significant to health and clinically actionable.
The development of an EDP is a requirement of the National Statement on Ethical Conduct in Human Research 2007 (NS). The EDP should follow the principles of the NS and will form part of a biospecimen researcher's Human Research Ethics Committee application. In the case that an IF is discovered that is significant, clinically actionable and confirmed in the research setting, this will require actioning of the researcher's EDP.
This guideline should be considered together with the RMH Guidelines for the establishment of a Research Databank / Biobank.

In the table below, relevant NS clauses are listed followed by guidance on how to interpret the clauses in order to meet requirements. Biospecimen researchers can use the table to assist in writing their own EDP for submission to their Human Research Ethics Committee.

Researchers should refer to:

– 'National Statement on Ethical Conduct in Human Research' (National Statement) 2007 and updates

– Health Records Act (2001)

– NHMRC Biobanks Information Paper 2010

National Statement 3.2.15

Where proposed research involving the use of human biospecimens may reveal information that may be important for the health of the donor(s), their relatives or their community, whether anticipated or incidental to the scope of the research, researchers should prepare an ethically defensible plan to describe the management of any proposed disclosure or non-disclosure of that information This plan must be approved by an HREC and, in reviewing this plan, the HREC should consider:

Element	NS Clause	Guidance
Consent	*The circumstances in which the biospecimens were obtained, including the type of consent provided (specific, extended or unspecified) and the manner in which the consent was obtained.*	• Consent will be given by participants themselves or by a parent/guardian for participants under 18 years. • By consenting to biobanking, participants agree to be notified about any potential incidental findings that have health implications for them or their genetic relatives. • Participants are also informed that, even if they don't agree to be told details about a serious finding, in rare cases their doctor may contact their family members if there is a serious and imminent threat to their health. • It is anticipated that the return of incidental findings to participants will be a rare event.
Risk identification	The likelihood of the research generating information that may be important for the health of the donor(s), their relatives or their community;	• Biospecimen researchers should review relevant literature in the context of their own research project to determine the likelihood of discovering incidental findings through the course of their research.

		• Biospecimen researchers are encouraged to seek expert opinion/s on the likelihood of discovering incidental findings.
Clinical action	Whether a recognised intervention exists that can benefit or reduce the risk of harm to the donor(s), their relatives or their community from any health impact revealed by this information;	• Participants will be informed that only IF's that are significant, **clinically actionable** and checked will be considered for return. Clinically actionable means that an established therapeutic intervention or other action can be taken in response to the IF.
Resources	The resource requirements and infrastructure in place to support the return of information of the kind referred to in (b) and (c) in an ethically appropriate manner; and, Whether there is a pathway to identify and re-contact the donor(s), their relatives or their community, taking into account the relationship between the researchers and the donor(s), if any;	• Researchers who obtain an IF from the use of a third party biospecimen collection should notify the collection custodians of the IF in writing. • The Collection Custodian will be responsible for the re-identification of the participant to the research team. • The research team will be responsible for determining whether the reported IF is significant and clinically actionable. The research team may need to seek advice from clinical experts outside the research team. • The research team will communicate the details of the IF to the participant's clinical team, with assistance from the Collection Custodian. • The participant's clinical team will be responsible for further communication with the participant. • The Return of Incidental Findings Guideline further outlines the responsibilities of each stakeholder.
Participant choice	*Consider whether participants will be given a choice to receive Incidental Findings information.*	• Participants give their consent to participate in research with the understanding that they may be contacted about potential IF's • If a participant is contacted and does not wish to discuss the IF further with their clinical team, or take further testing, they do not have to.
Validity of findings	*Consider the potential for sampling or coding errors that may compromise the certainty that the biospecimens came from a particular participant, and whether the findings of specific tests being undertaken as part of the research have been produced or validated in an accredited laboratory.*	• Process to ensure that only findings that meet each of the following criteria will be returned: o Significant: The finding indicates a life threatening health condition. o Clinically actionable: There are specific established therapeutic interventions or other available actions. o Confirmed: The finding has been checked and confirmed as accurate and/or valid, as far as reasonably possible in a research context • Approaches to minimize the potential for sampling or coding errors include reviewing biospecimen/ sample handling procedures, checking for any sample misidentification and/or contamination errors, as well as instrument and test accuracy and test reproducibility within the research laboratory. • Despite the above precautions, there is a minor risk that sampling or coding errors may have occurred within the research setting. If a participant agrees to receive further information about an IF, a further biospecimen should be taken for validation of the IF within an accredited diagnostic laboratory.

Participant care	*Consider who will take responsibility for any subsequent care requirements.*	• The patient's clinical team will be responsible for managing the return of any IF's, including any additional diagnostic testing, and subsequent care. These responsibilities should be explained to research participants through the research consent process.

Additional References:

NSW Health Statewide Biobank Consent Toolkit https://biobank.health.nsw.gov.au/researchers/nsw-health-consent-toolkit/

Acknowledgements:

Adapted from Ethically Defensible Plan (EDP) Guideline for biospecimen collections housed in the NSWHSB (NSW Health Statewide Biobank)