



Professor Barbara Messerle
Provost and Deputy Vice-Chancellor

08 May 2020

Mr Rory Robertson

By email: strathburnstation@gmail.com

PRIVATE & CONFIDENTIAL

Dear Mr Robertson

Outcome of Application for Review of Initial Inquiry outcome in relation to concerns regarding the 2014 Cell Metabolism paper

I am writing to you in relation to the Application for Review submitted by you on 31 December 2019 regarding the decision of Professor Duncan Ivison (Deputy Vice-Chancellor (Research) of the University of Sydney (the **University**)) to accept the findings and recommendations of an initial inquiry into concerns raised by you regarding a paper titled *'The ratio of macronutrients, not caloric intake, dictates cardiometabolic health, aging, and longevity in ad libitum fed mice'*, Cell Metabolism 2014, 19(3), 418-430 (the **2014 Cell Metabolism paper**).

I was appointed under section 30 of the University's Research Code of Conduct 2019 (**2019 Research Code**) to conduct the review. The scope of the review is to assess whether you, as the applicant, was afforded procedural fairness.

The purpose of this letter is to advise the outcome of your application and provide further information regarding the review process. The summary of the application outcome is outlined below.

Summary of application outcome

1. In summary, I have determined that the decision of Professor Ivison should be upheld.
2. In particular, in respect of the identified grounds of review in your Application, I found as follows:

Possible procedural fairness ground	Assessment
Assertion that evidence was not secured	You have not established that any process or procedural fairness issue arose in relation to how evidence and information was secured.
Assertion that authorship issue was not addressed	I consider that: <ol style="list-style-type: none"> (a) No process or procedural fairness issue arises in connection with the Outcome Report not addressing your concerns regarding authorship as referenced in your July 2019 Submissions; and (b) Even taking into account your subsequent submissions in this regard, they do not constitute an allegation necessitating further review or consideration.

Possible procedural fairness ground	Assessment
Assertion that you were not treated fairly	I do not consider that there is a sufficient basis to conclude that you were treated unfairly as part of the Initial Inquiry process.
Assertion that decision makers were biased	I do not consider that there is a sufficient basis to conclude that the University decision makers were biased or lacked impartiality.
Assertion that findings were not reasonably open to the decision maker	I do not consider that there is a sufficient basis to conclude that the findings of the University decision makers were not reasonably open to them.

Further information regarding this outcome and the review process is set out below.

Background

3. An initial inquiry was conducted in respect of concerns raised by you regarding the 2014 Cell Metabolism paper in accordance with the University's *Research Code of Conduct 2013* (the **2013 Research Code**). The initial inquiry was conducted by Professor Stephen Garton, Senior Deputy Vice-Chancellor (then Provost and Deputy Vice-Chancellor), as the designated person under the University's process for managing allegations of breaches of the 2013 Research Code. Professor Garton also sought specialist advice from an academic expert, Professor Peter Koopman (University of Queensland senior academic, Fellow of the Australian Academy of Science, former Australian Research Council (ARC) Federation Fellow and NHMRC Senior Principal Research Fellow).
4. In particular, the initial inquiry considered your concerns that:
 - (a) certain groups of mice were excluded from the experiment and their exclusion was not adequately communicated. Specifically, you stated that *"the authors have skillfully (sic) misrepresented their 30-diet longevity results including by obscuring 100+ dead mice on five low-protein diets"* (**Exclusion Argument**);
 - (b) a simpler analysis of median lifespan should have been used and this would have changed the outcome (i.e. the alternative analysis/modelling proposed by you would have indicated that longevity is greatest for mice fed a high-protein, low-carbohydrate diet) (**Analysis Argument**);
 - (c) the C57BL/6 mouse is not an appropriate animal model for investigating obesity, type 2 diabetes, cardiovascular disease and longevity in humans, and that humans, and that humans and C57BL/6 mice have different metabolic responses to low carbohydrate diets;
 - (d) the findings of the 2014 Cell Metabolism paper have not been communicated responsibly to the general public;
 - (e) Professor Simpson was highly motivated to find that a low-protein, high carbohydrate diet results in the longest lifespan. You stated that "[Professor] Simpson's preferred finding for the 30-diet experiment was published in his 2012 book, and before that, in a 2009 paper"; and
 - (f) mice fed certain low-protein, high-carbohydrate diets required euthanasia in the 2014 Cell Metabolism study while mice fed the same diets actually lived longest according to a 2018 mouse-dementia paper by the University of Sydney researchers (**Lifespan Argument**).



5. On 17 December 2019, the University released a public statement regarding the outcome of the initial inquiry into concerns raised by you (the **Outcome Report**).

Review approach

Applicable policies, codes and guidelines

6. In accordance with my instructions, I have conducted this review in accordance with the 2019 Research Code.
7. Section 30 of the 2019 Research Code relevantly provides that:
 - (1) *An individual who is directly affected by a decision made by a designated officer or the responsible executive officer may seek a review of the decision.*
 - (2) *Applications for review may be made only on grounds that the applicant was not afforded procedural fairness. (emphasis added)*
 - (3) *Applications must be made in writing to the Research Integrity Office within 14 days of being notified of the decision to which the application relates.*
 - (4) *The Research Integrity Office will forward each application for review to the review officer together with a copy of the report and any other relevant documentation within seven days of receipt.*
 - (5) *The individual requesting a review will be informed in writing of the outcome of the review.*
8. Section 31 of the 2019 Research Code relevantly provides that:
 - 31 *Transitional provisions*
 - (1) *All allegations received before the date of commencement of this policy will be dealt with under the provisions of the prior policy.*
 - (2) *In relation to any allegation received after the date of commencement of this policy but which relates to conduct occurring before that date:*
 - (a) *the prior policy will apply; but*
 - (b) *the allegation will be dealt with in accordance with the process and outcomes provided in this policy.*
9. The allegations raised by you were made prior to the introduction of the 2019 Research Code. As such, your complaint was dealt with under the provisions of the 'prior policy', namely the 2013 Research Code and the underlying *Australian Code for the Responsible Conduct of Research 2007 (2007 Code)*.
10. Any statements or requirements taken from the 2019 Research Code, the *Australian Code for the Responsible Conduct of Research 2018 (2018 Code)* or the *Guide to Managing and Investigating Potential Breaches of the Australian Code for the Responsible Conduct of Research (2018 Guide)* are not strictly applicable to the conduct of the Initial Inquiry.
11. However, I have taken principles in these documents into account to the extent that they reflect general principles of procedural fairness.

Review steps

12. In mid- January 2020, I was appointed as the Review Officer under section 30 of the 2019 Research Code.
13. In the period from January 2020 to March 2020, I:
 - (a) attended a meeting with Research Integrity for the purpose of receiving background information regarding the review process;
 - (b) received relevant documents from Research Integrity;
 - (c) caused a review to be conducted of the relevant documents and other relevant publicly available information;
 - (d) requested additional information from Research Integrity;
 - (e) conducted an interview with Professor Garton to obtain additional information regarding the Inquiry process; and
 - (f) reviewed the additional submission published by you on 9 March 2020.

Analysis of your application for review

14. An analysis was conducted of your application to identify any areas that could potentially be considered to raise procedural fairness issues.
15. Following this review, I determined that your application raised the following possible procedural fairness issues:
 - (a) whether relevant evidence was secured;
 - (b) whether your assertions regarding raising an authorship issue were properly addressed;
 - (c) whether the decision makers were subject to bias; and
 - (d) whether the findings that were made were not reasonably open to the decision maker.

Whether relevant evidence was secured

16. Your application for review did not provide specific details of how you formed the view that your evidence was not secured. However, when your submissions are reviewed as a whole, it appears that you have formed this view because of your position that:
 - (a) submissions made by you were not passed onto relevant individuals; and
 - (b) evidence regarding the Lifespan Argument was 'dishonestly hidden'.
17. I also considered whether the physical and electronic storage of material was secured in accordance with the relevant Codes.
18. In this regard, I found that:
 - (a) Your submissions were passed on to those involved in the Initial Inquiry. In particular, the Koopman Report and the Outcome Report listed that the submissions made by you had been reviewed and considered;
 - (b) Your submissions and other material were secured in accordance with appropriate physical and electronic storage methods. I further note that the material submitted by you was also made publicly available by you on your website; and
 - (c) To the extent the submission regarding the failure to secure evidence relates to an argument that evidence regarding the Lifespan Argument was not

'secured' or passed onto those involved in the Initial Inquiry, this is also not supported by the available evidence, as set out in detail below.

19. As such, I consider that you have not established that any process or procedural fairness issue arose in relation to how evidence and information was secured.

Assertion that authorship allegation was ignored or not addressed

20. A review of your submissions confirms that, of the over 200 pages of submissions published by you in 2018/2019, only one paragraph in the July 2019 Submission referred to this issue.
21. When the way you raised the issue is examined further, I consider that:
- (a) You did not clearly state that this was an allegation that you wished to have investigated. Rather at most you suggested that 'investigators' should ask Professor Sinclair why his name was on the paper.
 - (b) You did not expressly allege that Professor Sinclair had been 'gifted' authorship inappropriately, but instead posed a series of questions regarding the extent of Professor Sinclair's involvement which at most inferred possible impropriety.
 - (c) You did not provide sufficient evidence during the Initial Inquiry process to support any view that authorship was awarded inappropriately.
22. Given this, I do not consider that there is a sufficient basis to conclude that you raised an 'allegation' regarding this issue that was improperly ignored as part of the Initial Inquiry process.
23. I also consider that the subsequent submissions from you on this topic do not rise to the level of establishing a prima facie case for further consideration of this issue. In particular:
- (a) Simply because two people appear on stage together without mentioning a joint publication does not equate to prima facie evidence that Professor Sinclair was unaware of his authorship of the 2014 Cell Metabolism paper; and
 - (b) Similarly, the fact that Professor Sinclair's name may appear once, or may have adopted a different approach to representing results in another paper, does not suggest that he did not make an appropriate level of contribution to the work.
24. I further note that despite Professor Sinclair receiving multiple communications from you regarding the 2014 Cell Metabolism paper, it does not appear that Professor Sinclair has ever disclaimed his involvement in the work or expressed surprise by his inclusion on the author list.
25. To the extent that you may have intended to refer to the alleged failure to consider your assertions regarding the Lifespan Argument, this is addressed further below.

Assertion that you were not treated fairly

26. I do not consider that you have established that the approach adopted by the University was unfair to you given that:
- (a) the University's response was dictated by relevant policies and codes;
 - (b) you were treated in a manner consistent with these policies and codes; and
 - (c) while you suggest in some of your submissions that your material may not have been passed on to the relevant officers, as discussed above, this is not factually correct.



Assertion that decision makers were biased

27. I accept from the documentary and other evidence that the key conclusions of the Initial Inquiry were based on the Koopman Report. Professor Garton accepted such findings and recommendations in his role as designated officer and Professor Ivison in turn accepted Professor Garton's findings and recommendations.
28. I do not consider that you have provided a sufficient basis to conclude that Professor Koopman was improperly influenced by Professor Garton or by his commercial arrangement with the University. Rather, the report suggests that Professor Koopman adopted a thorough and unbiased review of the relevant material.
29. I also do not consider that you have provided a sufficient basis to conclude that either Professor Ivison or Professor Garton were biased. While both are long standing and senior members of the University, and may have an interest in maintaining its good standing, the evidence suggests that they largely followed the assessment of Professor Koopman and did not otherwise act unfairly.
30. As such, I do not consider that there is a sufficient basis to conclude that the University decision makers were biased or lacked impartiality.
31. To the extent that you base this view on your submissions regarding the Lifespan Argument, this is addressed further below.

Assertion that findings were not reasonably open to the decision maker

Understanding of assertion

32. You have submitted material in support of your view that the position in the Outcome Report regarding the Lifespan Argument was not reasonably available to the decision maker.
33. In particular, I understand that you take issue with the paragraph in the Outcome Report that stated that:

Lifespan data for these mice were not included in the analysis, and on this point Professor Koopman observed that using age at euthanasia as a proxy for lifespan may not be scientifically valid, as it is not known whether mice would have died, or whether they may they may have lived long and healthy lives, had they not been euthanased.

... Professor Garton noted that as euthanasia of the mice in the 2014 study was mandated by the responsible ethics committee, it could not be known whether mice fed these diets would have died, or whether they would have lived long and healthy lives had they not been euthanased

Consideration

34. In summary, I understand that you rely on written responses from the authors provided to you that relevantly stated that:

As we pointed out at the time of publication in an online response to Mr Robertson, these diets were discontinued within the first 10-23 weeks of the study because the young mice assigned to them from weaning were not growing, and according to the independent veterinary office overseeing the study, would soon have died from malnutrition. Under the terms of the ethics protocol this mandated their immediate removal from the experiment.

...To have attained sufficient nutrient intakes for growth would have required the mice on these low-energy, low-protein diets consuming more food than they were able to achieve. In short, these diets were not viable for a young, growing mouse.

35. You characterise these statements as 'definitive evidence' and suggest that Professor Koopman's conclusion that the lifespan of the mice could not be known is contrary to this evidence.
36. On his part, Professor Garton said that:
- (a) He recalls that there was a long debate regarding this issue during the Initial Inquiry process and that Professor Koopman was very interested in this issue;
 - (b) The question related to whether the mice were euthanised because of serious health issues or because of a failure to thrive;
 - (c) There was a formal ethics requirement that required the mice to be euthanised if they didn't reach a certain weight by a certain time, but the authors explained that malnutrition is not the same as failure to thrive;
 - (d) He recalls that Professor Koopman pressed the authors regarding this issue and asked a lot of questions, both in writing and in the meeting held with the authors. There was considerable 'back and forth' regarding this issue;
 - (e) His conclusion was based on that of Professor Koopman.
37. The University Research Integrity Office also confirmed that the information set out in paragraph 34 above was provided to both Professors Garton and Koopman.
38. The documentary evidence also shows that:
- (a) In the 2014 Cell Metabolism paper the authors referred to 'weight loss (\geq 20%), rectal prolapse or failure to thrive' as reasons why the mice were euthanised;
 - (b) The authors provided additional submissions to Professor Koopman regarding this issue to the effect that the mice on discontinued diets were not sick when culled, and those that were not losing weight may well have lived long and healthy lives, albeit as smaller mice;
 - (c) Professor Koopman referred to the inconsistencies in the way the authors addressed this issue in his report;
 - (d) Professor Koopman did not merely accept the submissions of the authors but conducted a detailed analysis on this point. He also submitted repeated questions to them for response and pressed them to explain any discrepancies. Following this process, Professor Koopman formed the view that how long these mice would have lived is a matter of conjecture, and so using age at euthanasia as a proxy for lifespan of these mice may not be justified scientifically;
 - (e) Professor Garton's report largely relied on that of Professor Koopman. In turn, Professor Ivison's decision largely relied on Professor Garton's report. As such, it can be said that the substantive assessment was made by Professor Koopman.

Assessment

39. It is understandable that you have queried how Professors Koopman, Garton and Ivison have made or supported the conclusion that the lifespan of the relevant mice was unknown. This issue arises in part because, while in the Cell Metabolism paper itself the authors mentioned multiple reasons for the exclusion of the mice, in their initial written response they only referred to malnutrition and also stated that the mice would soon have died. As discussed above, it appears that this was a cursory response that did not address the full reasons for the exclusion.



40. However, when the material is reviewed in totality it is my view that it was reasonably open to Professor Koopman to form the view that the lifespan of the relevant mice was a matter of conjecture and for Professors Garton and Ivison to agree with this view. It is also very clear that the 'evidence' regarding this issue was not hidden but rather fully considered by Professor Koopman.
41. I also consider that the other findings made by Professor Garton were reasonably based on the Koopman report and open on the available evidence. While it is clear that you do not agree with these findings, this does not itself give rise to a suggestion that the Inquiry was marred by procedural unfairness. Rather, your submissions were considered but not accepted after an appropriate review.
42. As such, I do not consider that there is a sufficient basis to conclude that the findings of the University decision makers were not reasonably open to them.

Determination

43. Given the above, I have determined that the decision of Professor Ivison should be upheld.

Given the above, the University now considers the matter to be closed. Should you have any questions about the review outcome or any new matters, please contact the University's Research Integrity Office at research.integrity@sydney.edu.au or +61 2 8627 0200.

Otherwise, you are also free to contact the NHMRC Australian Research Integrity Committee, with contact details as follows:

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National Health and Medical Research Council
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Yours Sincerely,

Professor Barbara Messerle

Provost and Deputy Vice-Chancellor, Office of the Provost and Deputy Vice-Chancellor