

Faculty of Law
Ethical Standards Sub-Committee
ETHICAL CLEARANCE POLICY AND PROCEDURES

Constitution

1. Membership

- 1.1 The Faculty of Law Ethical Standards Sub-Committee consists of:
 - 1.1.1 Five academic members of staff, appointed by the Faculty Board.
 - 1.1.2 A chairperson elected from the sub-committee membership by a simple majority of the members of the sub-committee.
 - 1.1.3 Academic members of staff may be co-opted onto the committee by the Chairperson for purposes of reviewing a particular application but any recommendation must be approved by permanent members of the sub-committee.
- 1.2 The Faculty of Law Ethical Standards Sub-Committee for 2017 consists of:
 - 1.2.1 Ms Brahmi Padayachi
 - 1.2.2 Prof Enyinna Nwauche
 - 1.2.3 Ms Sarah Driver
 - 1.2.4 Prof Laurence Juma
 - 1.2.5 Ms Helen Kruise (Chairperson)

2. Term of office

- 2.1 Members are elected for a two-year period, with possible re-election.
- 2.2 The chairperson may not stand for more than two consecutive terms.
- 2.3 The chairperson will notify the chairperson of RUEHC-HE of any changes in membership.

3. Recommendations of the sub-committee

- 3.1 One-third of the appointed members, but at least two members will constitute a quorum.
- 3.2 The recommendations of the sub-committee will be carried by simple majority.
- 3.3 Where a sub-committee of two members cannot reach agreement as to a recommendation, the application will be considered by the full sub-committee. If a simple majority cannot be achieved, the application will be referred to RUEHC.

4. Terms of reference

The Faculty of Law recognises the importance of protecting the rights, safety and welfare of human participants and the researchers in research conducted by staff and students in the Faculty of Law.

- 4.1 The Faculty of Law Ethics Sub-Committee has been provisionally accredited by the Rhodes University Standards Committee (RUESC) as a Faculty sub-committee as at 3 March 2017.
- 4.2 The sub-committee considers recommending approval of research projects by both undergraduate and postgraduate students and staff. The sub-committee recommends that the application be approved (with or without stipulations), be disapproved, or no ethical approval is required. Where the level of risk to the participants is judged to be high (the definition of which is taken to be in accordance with the RU Ethics Handbook), the sub-committee will make a recommendation but will also require the applicant to make a separate application to RUESC.
 - 1.1 As no research projects are conducted in the Faculty involving vertebrate animals, the sub-committee considers all applications for research projects to be conducted involving human subjects and data in the private domain.
 - 1.2 Ethical clearance for research projects exclusively based on publically available data and which poses minimal risk on human subjects is *not* required. Examples of publically available data would be case law, legislation, and government policy documents).
 - 1.3 For the purposes of this policy, publically available data is defined as:
 - 1.3.1 being in the public domain, in that no special permission is required to access it; AND,
 - 1.3.2 where the data is highly aggregated so that individuals cannot be identified; or where identifiers have been removed from the data so that no individuals can be identified, *and where consent of the study subjects can be reasonably presumed* (such as data from national statistical bodies, like the Statistics South Africa Labour Force Survey, Census data etc.);
 - 1.3.3 policy and legal documents available from recognised national or international bodies;
 - 1.4 The exemption for ethical clearance does not include the following, even if it is publically available:
 - 1.4.1 data from social media platforms;
 - 1.4.2 data for which special permission or registration is required;
 - 1.4.3 personal data that can be linked to individuals;
 - 1.4.4 data where consent of the study subject is in any doubt
 - 1.4.5 where using the data may result in any damage or distress.
 - 1.5 If there is any doubt relating to the definition of publically available data, researchers are required to consult with the Departmental Ethics Committee.

- 1.6 Researchers, specifically in the areas of criminal and family law, are required to delete personal information from published judgments as directed by the law or specific court orders. The responsibility for doing so rests on the researcher and not the publishing body where the researcher sourced the judgment (for example, SAFLII, Juta Law Reports, Butterworths Law Reports etc).

2. Policy

5.1 Policy statement

The Faculty of Law recognises the importance of adhering to ethical policies and procedures, as set out in the Rhodes University Ethics Handbook. The Faculty of Law Ethics sub-committee commits itself to inform all staff and students engaged in research projects of the ethical standards imposed within the Faculty and the University.

5.2 Procedures

5.2.1 Submission of the application:

5.2.1.1 Applications for ethical approval must be emailed to the Chair of the Faculty Ethics sub-committee (and cc'ed to the Faculty Administrator) for consideration.

5.2.1.2 The Chair will forward such application within 3 working days of receipt of such application to two sub-committee members to consider the application

5.2.2 Review and recommendation:

5.2.2.1 The selected sub-committee members must consider the application and convene a meeting within 7 working days of receipt.

5.2.2.2 Each selected sub-committee member must prepare a report¹ to the committee at this meeting in which a recommendation is made regarding ethical clearance.

5.2.2.3 A sub-committee member must take minutes regarding the members present, details of the application(s) under consideration and the recommendation(s) of the sub-committee, together with any further requirements to be fulfilled by the applicant(s).

5.2.2.2 The Chair will notify the applicant of the outcome of an application as per annexure A.

¹ See Annexure B for guidelines as to the contents of the reviewer's report.

5.3 Record keeping

- 5.3.1 All applications (and supporting documents required by the RU Ethics Handbook) for ethical clearance will be given a unique number (application number in the year, followed by the year viz 01/2017) and scanned for electronic storage by the Faculty Administrator.
- 5.3.2 The Chairperson will complete and append annexure C as the front cover the application file.
- 5.3.2 Files will be kept for a minimum of 5 years after completion of research.

5.4 Reporting to RUESC

- 5.4.1 The sub-committee will submit all recommendations to RUESC in the form of a report structured as per annexure D at its next available meeting.
- 5.4.1 Where an application is deemed to be high risk, the sub-committee will consider the application and once it has recommended the application to be approved (or the situations in para 5.4.3(a)-(f) exist), the applicant must complete an application via Submittable (the online system for RUESC).
- 5.4.3 High risk applications are defined as follows:
 - a. the project involves an application for funding to an external research sponsor or to a grant administered by the University;
 - b. the sub-committee is unable to deal with the ethical issues of the application;
 - c. a conflict of interests exists between reviewers and researchers;
 - d. the Principal Investigator is unable to agree to alterations suggested;
 - e. a minority of the committee wished to register dissent;
 - f. the project involves human participants who are below 18 years of age or are members of a vulnerable group and require particular attention.

Chairperson, Faculty of Law, Ethical Standards Sub-Committee

Date



RHODES UNIVERSITY
Where leaders learn

NUMBER:
(for office use)

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ETHICS SUB-COMMITTEE CLEARANCE LETTER

Dear [student/staff name]

Ethical Clearance: Project Title

Principal Investigator: Student Name

This letter confirms that the ethical application with title: xxxxxxxx was

- recommended for approval for ethical clearance**
- not recommended for approval for ethical clearance**
- deemed to not require ethical approval**
- recommended for approval for ethical clearance of high risk research AND applicant required to submit application to RUEsc via Submittable.**

by the Rhodes University Ethical Standards sub-committee in the Rhodes University Faculty of Law.

IN THE EVENT THAT THE APPLICATION IS APPROVED FOR ETHICAL CLEARANCE:

Please ensure that the ethical standards sub-committee is notified should any substantive change(s) be made, for whatever reason, during the research process. This includes changes to the investigators. Please also ensure that a brief report is submitted to the Ethics Sub-committee on completion of the research

Note:

- This clearance is valid from the date of this letter until the time of completion of the data collections.
- The ethics sub-committee cannot grant retrospective ethics clearance.
- Progress reports should be submitted annually unless otherwise specified.

IN THE EVENT THAT THE APPLICATION WAS NOT RECOMMENDED FOR APPROVAL FOR ETHICAL CLEARANCE:

Please see the attached documentation and reviews outlining the reasons for not recommending this application for approval. Please note that you are entitled to submit a new application on the same title but it must be accompanied by a short report where you indicate how the application differs from the initial application. Please note that you are also entitled to appeal the decision of this committee by submitting an application (on Submittable) to the main Rhodes University Ethics Committee.

IN THE EVENT THAT THE APPLICATION WAS DEEMED TO NOT REQUIRE ETHICAL APPROVAL:

[No more information is required here].

IN THE EVENT THAT THE APPLICATION IS RECOMMENDED FOR APPROVAL FOR ETHICAL CLEARANCE OF HIGH RISK RESEARCH AND APPLICATION REQUIRED TO SUBMIT APPLICATION TO RUE SC VIA THE SUBMITTABLE OPERATING SYSTEM

Please submit an application to the RUE SC committee for clearance of your high risk research. Please also ensure that the ethical standards sub-committee is notified should any substantive change(s) be made, for whatever reason, during the research process. This includes changes to the investigators. Please also ensure that a brief report is submitted to the Ethics Sub-committee on completion of the research

Note:

- This clearance is not valid until RUE SC approves the application
- The Ethics Sub-committee cannot grant retrospective ethics clearance.
- Progress reports should be submitted annually unless otherwise specified.

Yours sincerely,

**Chairperson,
Rhodes University Faculty of Law Ethical Standards Sub-Committee**

<p>Faculty of Law</p> <p>Ethical Standards Sub-Committee</p> <p>REVIEWER GUIDELINES/REVIEW FORM</p>

Name of applicant(s) (PI and Co-I's):

Name of Research Project:

Name and signature of Reviewer:

Date:.....

Has the researcher dealt appropriately with the following aspects of the application?

ASPECTS OF APPLICATION	YES/NO & SHORT COMMENT IF NECESSARY
Research methodology	
Rationale for sample size	
Information to Subject:	
Risks and Benefits of Project:	
Consent of Participants:	
Privacy, Anonymity and Confidentiality of Data:	
Feedback:	
High risk aspects:	
General comments:	

The application should be:

- recommended for approval for ethical clearance
- recommended for approval with stipulations for ethical clearance
- not recommended for approval for ethical clearance
- deemed to not require ethical approval
- recommended for approval for ethical clearance of high risk research AND applicant required to submit application to RUESC via the Submittable online system.

NUMBER: (for office use)

ETHICS APPLICATION FILE COVER PAGE

1. Name(s) of all investigators

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2. Supervisor (if any)

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3. Title of the research project:

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4. Type of review (initial or resubmission)

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5. Names of reviewers:

5.1
5.2.

6. Outcome of review (attach report where necessary):

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7. Dates:

7.1	Submitted to the Law Faculty Ethics Sub-Committee:
7.2	Law Faculty Ethics Sub-Committee meeting:
7.3	Outcome of review:
7.4	Submitted to RUESC (where a report is needed):
7.5	Submitted to RUESC (where high risk research is involved):

Report submitted by the Faculty of Law for RUEESC meeting on _____				
1.				
Protocol Number				
Protocol Title				
Applicant				
Applicant ID				
Submission Date				
Submission Type	Query <input type="checkbox"/>	Primary <input type="checkbox"/>	Full <input type="checkbox"/>	
Reviewers				
Recommendation	Approve <input type="checkbox"/>	This is the majority recommendation <input type="checkbox"/>		
	Approve with stipulations <input type="checkbox"/>			
	Disapprove <input type="checkbox"/>			
	No ethics approval required <input type="checkbox"/>			
	Refer to RUEESC <input type="checkbox"/>	A minority registers dissent <input type="checkbox"/>		
Review comments				
Further particulars for reporting to NHREC				
This project involves <i>Level 2</i> Health Research	Yes <input type="checkbox"/>	No <input type="checkbox"/>		
This project is a <i>clinical trial</i>	Yes <input type="checkbox"/>	No <input type="checkbox"/>		
This project involves <i>child participants</i>	Yes <input type="checkbox"/>	No <input type="checkbox"/>		
This project requires <i>ministerial consent</i>	Yes <input type="checkbox"/>	No <input type="checkbox"/>		
This project involves <i>human blood, tissues and genetic material</i>	Yes <input type="checkbox"/>	No <input type="checkbox"/>		
If yes, this is in accordance with provisions as per Government Gazette No.35099	Yes <input type="checkbox"/>	No <input type="checkbox"/>		
This research has <i>environmental implications</i>	Yes <input type="checkbox"/>	No <input type="checkbox"/>		