A10.1 Research Misconduct Procedures

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Scope

These procedures support the Research Misconduct Policy and the Research Code of Conduct (‘the Code’) and are informed by the Australian Code for the Responsible Conduct of Research (‘the ACRCR’).

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1. Considering an allegation of breach of the Code

A person who is considering reporting an allegation of breach of the Code by a student, staff member or visitor to the University is encouraged to consult with a Research Integrity Advisor before making their report.
**Research Integrity Advisor’s responsibilities**

The Research Integrity Advisor explains the options open to the person considering reporting an allegation. These options include:

- referring the matter directly to the researcher against whom the allegation is being made;
- not proceeding with or withdrawing the allegation if discussion resolves the concerns;
- reporting the allegation to the researcher’s Head of School, as a case of minor breach of the Code;
- reporting the allegation to the Academic Director, as a case of research misconduct.

The Research Integrity Advisor must not:

- investigate or assess the allegation; or
- make contact with the person who is the subject of the allegation; or
- be involved in any subsequent inquiry.

2. **Reporting an allegation of breach of the Code**

   a. A person who wishes to report an allegation of breach of the Research Code of Conduct by a student, staff member or visitor at the University must do so in writing to a Head of School or the Academic Director.

   b. The report must:

      - clearly identify each allegation, indicating the place or places and date or dates on which each breach is alleged to have occurred;
      - state the identity of the person alleged to have engaged in the breach and of the person reporting the allegation; and
      - identify and attach, in as much detail as possible, any supporting evidence.

**Head of School’s responsibilities**

**Timeline:** Within five working days of receipt of report.

   a. On receipt of an allegation, and after making appropriate enquiries, the Head of School must decide to:

      - deal with the allegation as a minor breach of the Code; or
      - refer the allegation to the Academic Director to deal with as research misconduct.

   b. If the report includes an allegation of misconduct not related to research, the Head of School must refer that allegation to other appropriate processes, in accord with University policies and procedures.

   c. Where a Head of School has a direct interest in the allegation, or where there are circumstances that would prevent the Head of School acting impartially, the Head of School must refer the matter to the Academic Director.

**Academic Director’s responsibilities**

**Timeline:** Within five working days of receipt of report.

   a. On receipt of an allegation, and after making appropriate enquiries, the Academic Director must decide to:

      - refer the allegation to the relevant Head of School, to deal with as a minor breach of the Code, or
      - proceed to deal with the allegation as one of research misconduct.

   b. If the report includes an allegation of misconduct not related to research, the Academic Director must refer that allegation to other appropriate processes, in accord with University policies and procedures.
3. Minor breaches of the Code

Minor breaches of the Code are those where the Head of School or Academic Director considers that the nature of the allegation is such that, if proven, it can be appropriately dealt with without disciplinary action against the researcher.

Such breaches are those of a kind that are:
- readily admitted and corrected; and
- which occur through inexperience, or honest error in the design or execution of the research or the interpretation of research results; and
- which have no or minor consequences outside the University, and
- which will have little impact on the standing of the research community in the eyes of the general public.

Head of School’s responsibilities and powers

Timeline: Within 10 working days of a decision by the Head of School to proceed as minor breach of the Code, or receipt of report following referral by the Academic Director.

The Head of School must:

a. Investigate the allegation. The Head of School may make such enquiries as they see fit, including discussing the report with the person making the allegation, and making inquiries with any internal or external experts.

b. Keep a record summarising the investigations made.

c. Inform the researcher orally or in writing to their University email account of the substance of the allegation and the evidence supporting it and give the researcher a reasonable opportunity to respond.

d. Once the facts have been established to the satisfaction of the Head of School, make a determination on whether a minor breach of the Code occurred.

e. Make a determination for resolution. Options for resolution include any or all of:
   - that no breach occurred;
   - that the breach amounted to a failure to take responsibility for achieving the standards aspired to in the Research Code of Conduct, and the researcher is directed i) to provide a written undertaking that they will take responsibility in accord with the Code in any future research activities; and ii) to rectify any adverse consequences of the breach;
   - that a breach occurred, and the researcher is directed i) to undergo specified counselling or advisory services to ensure no further breach occurs; and ii) to rectify any adverse consequences of the breach;
   - that the researcher is given a written warning indicating that a further breach of the Code will be regarded as research misconduct.

f. Make a written record of the outcome and provide a copy to the researcher.

At any stage a Head of School may refer an allegation to the Academic Director if they deem the complaint too serious or too complex for resolution under this process, or where there have been prior breaches of the Code.

4. Research misconduct

Breaches of the Code which, if proven, are likely to result in disciplinary action and/or the imposition of a penalty, are termed research misconduct. Disciplinary action for a breach of the Code can be expected where there is also:
- intent and deliberation, recklessness or gross and persistent negligence; and
- serious consequences, such as false information on the public record, or adverse effects on research participants, animals or the environment.
**Academic Director’s responsibilities and powers**

**Timeline:** Within 10 working days of receipt of the report of research misconduct.

The Academic Director must, either personally or through an investigating officer:

a. conduct a confidential, preliminary investigation of the allegation, making such inquiries as he or she sees fit;

b. inform the researcher in writing to their University email account of the substance of the allegation and the evidence supporting it and give the researcher a reasonable opportunity to respond and indicate whether they admit or contest the allegation. This may be delayed if, in the Academic Director’s opinion, there are reasonable grounds to fear that informing the researcher will threaten the safety of members of the University community, or the security of relevant evidence;

c. keep a record summarising the investigations made and the substance of the evidence obtained;

d. where necessary, ensure that arrangements in the local workplace are fair to all parties pending resolution of the allegations;

e. ensure that all relevant documents and evidence are secured, in case it is decided the allegations should be the subject of an inquiry;

f. advise the Vice-Chancellor and President on whether the allegation should be:
   • dismissed;
   • dealt with under misconduct provisions unrelated to research misconduct;
   • referred back to the relevant Head of School as a minor breach of the Code, with instructions on how it is to be handled;
   • investigated further through an internal or external research misconduct inquiry;

or, if the researcher admits research misconduct:
   • what process should apply for disciplinary action.

After providing advice to the Vice-Chancellor and President, the Academic Director must not play any further role in the matter, except to give evidence or expert opinion.

**Vice-Chancellor and President’s responsibilities and powers**

**Timeline:** Within 10 working days of receipt of the report from the Academic Director.

a. On receipt of advice from the Academic Director, the Vice-Chancellor and President makes a determination about the matter.

b. If the determination is that an inquiry is required, whether it is internal or external will be based on:
   • the seriousness of the potential consequences for the researcher, the person making the allegation and other parties and institutions if the allegation is proven, and
   • the need to maintain public confidence in research.

**Notification**

**Timeline:** Within 5 working days of determination by Vice-Chancellor and President

a. A determination to hold a research misconduct inquiry must be notified in writing, in confidence, to the person making the allegation, the researcher who is the subject of the allegation, the Academic Director, and any other parties as required under any agreement, such as funding bodies and collaborating institutions.

b. A determination not to proceed to a research misconduct inquiry must be notified in writing, in confidence, to the person making the allegation, the researcher who is the subject of the allegation, and the Academic Director.
5. Internal Misconduct Inquiry

5.1 Inquiry panel membership

**Responsibility: Vice-Chancellor and President**

**Timeline:** Within 10 working days of determination to proceed to an internal inquiry

a. Appoint internal misconduct inquiry panel of at least three members, including a chair; and appoint an administrative officer to the panel.

b. The panel membership must include:
   - at least one member with knowledge and experience in the relevant field of research;
   - at least one member who is familiar with the responsible conduct of research;
   - at least one member with experience on similar panels or with relevant experience or expertise.

   [One person may fulfil more than one of these criteria.]

c. Panel members may be staff of the University, or people external to the University.

5.2 Arranging the inquiry

**Responsibility: Inquiry panel administrative officer**

a. Arrange for inquiry panel to be convened as soon as practicable after panel members are appointed.

b. Notify researcher, in writing to their University email account, of date and venue of panel hearing, with a copy of the Research Misconduct Policy and Procedures.

5.3 Inquiry panel hearing

**Responsibility: Panel chair**

The hearing must comply with the following:

a. The hearing is held without undue formality; the rules of evidence and court procedures do not apply; the format for presentation of evidence and submissions is as determined by the chair.

b. The panel may inform itself of any matter relevant to the determination of the allegation by whatever means it chooses, provided the researcher has an opportunity to respond to all material taken into account in determining the outcome of the inquiry.

c. The hearing is held in closed session, except that:
   - the administrative officer may attend the hearing and take notes; and
   - the researcher may be accompanied by a support person who is not legally qualified.

d. The inquiry is completed as quickly as possible subject to the requirements of procedural fairness. The researcher and witnesses may at the chair’s discretion appear or give evidence at the hearing by the use of technology.

e. Subject to the proviso in clause b., a hearing may proceed in the absence of the researcher if the researcher does not attend after receiving notice of the hearing in accord with this process.

5.4 Inquiry panel members’ responsibilities

All inquiry panel members have the following responsibilities:

a. Not to participate in any hearing where they have a direct interest.

b. To act fairly and without bias.
c. To examine the substantial merits of the case, without regard to legal technicalities or forms.

d. To base their decision on findings of fact that are in turn based on sound reasoning and relevant evidence, applying the balance of probabilities as the standard of proof.

e. To keep confidential all information provided during the inquiry process.

5.5 Inquiry panel determination

**Responsibility: Internal Misconduct Inquiry Panel**

a. Once the facts have been established to the required standard of proof, make a report to the Vice-Chancellor and President on the findings of fact and what, if any, research misconduct has occurred.

b. If an internal misconduct inquiry panel forms the view at any time during the hearing that the potential consequences of the allegation are more serious than originally anticipated, it may recommend to the Vice-Chancellor and President that the internal inquiry be disbanded, and an external misconduct inquiry be established.

5.6 Outcome

**Responsibility: Vice-Chancellor and President**

a. In light of the findings of the inquiry panel, decide what action is to follow as a consequence.

b. If disciplinary action is decided on, apply the [Staff Misconduct Policy](#) (for staff) and the [Student Misconduct Policy](#) (for students). If the misconduct involves a visitor to the University (e.g. a title-holder or affiliate) take action in accord with the nature of the visitor’s relationship, and consider whether to notify the visitor’s employer or funding agency.

c. The Vice-Chancellor and President may seek advice from senior officers of the University on the appropriate disciplinary action.

d. If the panel’s finding is that the allegations are unfounded, assist in reinstating the good reputation of the accused researcher and their associates.

5.7 Notification

**Responsibility: Vice-Chancellor and President, with administrative officer**

**Timeline:** Within 5 working days of the Vice-Chancellor and President’s decision.

a. Notify the researcher in writing to the researcher’s University email account of the decision, the grounds on which it was made, and the researcher’s options for external review and appeal.

b. Notify other relevant parties to the allegation of the decision.

c. Notify other University officers whose responsibilities require them to know of the decision.

d. Retain all records of the hearing and related documents on a confidential University file.

6. External Misconduct Inquiry

6.1 Inquiry panel membership and support

**Responsibility: Vice-Chancellor and President**

**Timeline:** Within 20 working days of determination to proceed to an external inquiry

a. Appoint an external misconduct inquiry panel of at least three members, including a chair. The panel must include:
at least one member who is legally qualified or has extensive experience as a member of a tribunal or similar body;

- at least one member who has knowledge and research experience in a relevant, related field of research, but not directly in the research area of the allegations. [The expectation is that expert knowledge will be provided to the panel through witnesses, rather than through its membership.]

None of the members may be employed by or students of the University or have had a recent close association with the University.

b. Appoint an administrative officer to the panel.

c. Appoint a legally qualified person as Counsel Assisting, whose role is to prepare the material to be put to the panel, to question witnesses on behalf of the panel, and to provide the panel with legal advice during the hearing. Counsel Assisting is not a member of the panel.

6.2 Arranging the inquiry

**Responsibility: Inquiry panel administrative officer**

a. Arrange for inquiry panel to be convened as soon as practicable after panel members are appointed.

b. Notify researcher, in writing by registered mail, of date and venue of panel hearing, with a copy of the Research Misconduct Policy and Procedures.

6.3 Panel hearing

**Responsibility: Committee chair**

Before the hearing, the panel must determine, on the basis of public interest, whether the hearing is to be open to the public or conducted in private. In reaching a determination, the panel must hear the views of all parties to the matter. Counsel Assisting and the panel’s administrative officer may attend the hearing whether it is public or private.

The hearing must comply with the following:

a. The hearing is held without undue formality; the rules of evidence and court procedures do not apply; the format for presentation of evidence and submissions is as determined by the chair, following advice from Counsel Assisting.

b. The panel may call witnesses and inform itself of any matter relevant to the determination of the allegation by whatever means it chooses, provided the researcher has an opportunity to respond to all material taken into account in determining the outcome of the inquiry.

c. The researcher may be accompanied by a legal representative.

d. The inquiry is completed as quickly as possible subject to the requirements of procedural fairness. The researcher and witnesses may at the chair’s discretion appear or give evidence at the hearing by the use of technology.

e. Subject to the proviso in clause b., a hearing may proceed in the absence of the researcher if the researcher does not attend after receiving notice of the hearing in accord with this process.

6.4 Panel members’ responsibilities

All inquiry panel members have the following responsibilities:

a. Not to participate in any hearing where they have a direct interest.

b. To act fairly and without bias.

c. To examine the substantial merits of the case, without regard to legal technicalities or forms.
d. To base their decision on findings of fact that are in turn based on sound reasoning and relevant evidence, applying the civil standard of proof, as advised by Counsel Assisting.

e. To keep confidential all information provided during the inquiry process.

6.5 Inquiry panel determination

Responsibility: External Misconduct Inquiry Panel

Once the facts have been established to the required standard of proof, make a report to the Vice-Chancellor and President on the findings of fact and what, if any, research misconduct has occurred.

6.6 Outcome

Responsibility: Vice-Chancellor and President

a. In light of the findings of the inquiry panel, decide what action is to follow as a consequence.

b. If disciplinary action is decided on, apply the Staff Misconduct Policy (for staff) and the Student Misconduct Policy (for students). If the misconduct involves a visitor to the University (e.g. a title-holder or affiliate) take action in accord with the nature of the visitor’s relationship, and consider whether to notify the visitor’s employer or funding agency.

c. The Vice-Chancellor and President may seek advice from senior officers of the University on the appropriate disciplinary action.

d. If the panel’s finding is that the allegations are unfounded, assist in reinstating the good reputation of the accused researcher and their associates.

6.7 Notification

Responsibility: Vice-Chancellor and President, with administrative officer

Timeline: Within 5 working days of the Vice-Chancellor and President’s decision.

a. Notify the researcher in writing by registered mail of the decision, the grounds on which it was made, and the researcher’s options for external review and appeal.

b. Notify other relevant parties to the allegation of the decision, including the Governing Board of the University, affected staff, research collaborators including those at other institutions, all funding organisations, journal editors, and professional registration bodies.

c. Notify other University officers whose responsibilities require them to know of the decision.

d. Make the panel’s findings of fact available to the general public, and ensure the public record, including publications, is corrected if research misconduct has affected the research findings and their dissemination.

e. Retain all records of the hearing and related documents on a confidential University file.

7. Appeals

7.1 Minor breach of Code

Responsibility: Researcher who wishes to appeal against determination

Timeline: Within 10 working days of being notified of the determination

a. A staff member or research student may lodge an appeal with the Academic Director against a determination made by a Head of School under the minor breach of the Code process. Appeals can be made on the grounds that:
   • there was a lack of procedural fairness in the investigation;
   • the determination was manifestly unreasonable or cannot be supported by the evidence;
• there is new evidence not available to the Head of School at the time of the original investigation.

b. After investigating the appeal, the Academic Director will make a determination to uphold or dismiss the appeal.

c. If a **student** is dissatisfied with the Academic Director’s determination, he or she can lodge an appeal with the Student Grievance and Appeals Committee, in accord with the University’s [Student Grievance Management Policy](#).

d. If a **staff** member is dissatisfied with the Academic Director’s determination, he or she should follow the [Staff Grievance Procedures](#).

### 7.2 Research misconduct

a. As an allegation of research misconduct is dealt with by the Vice-Chancellor and President, following a panel of inquiry, there is no internal appeal process against the Vice-Chancellor and President’s determination.

b. Staff and students may pursue external avenues, as described in the University’s [Student Grievance Management Policy](#), or the [Staff Grievance Policy](#).