

# Research Misconduct Investigation Guidelines

## Section 1 - Context

(1) These Guidelines provide a framework for responding to suspected breaches of the [Australian Code for the Responsible Conduct of Research](#) (“the Code”) and to allegations of research misconduct.

(2) The Guidelines are based on the Code, and the University's [Responsible Conduct of Research Policy](#), [Honorary Appointments Policy](#) and Workplace Agreements and should be read in conjunction with those documents.

## Section 2 - Scope

(3) These Guidelines apply to the research practices (excluding those relating to their higher degree by research candidature) of:

- a. academic, teaching and professional staff: and
- b. those with an honorary academic title conferred by the University through the [Honorary Appointments Policy](#).

(4) In these Guidelines, a researcher is anyone subject to a University of Newcastle Workplace Agreement or the [Honorary Appointments Policy](#) undertaking, piloting or supporting research in association or affiliation with the University of Newcastle.

(5) Matters relating to the research higher degree candidature of University staff or holders of an honorary academic title, fall outside this policy and should be resolved through the provisions of the [Student Academic Integrity Policy](#).

(6) Misconduct which is unrelated to research activities is not research misconduct and therefore falls outside the scope of these Guidelines.

## Section 3 - Intent

(7) These Guidelines provide mechanisms for identifying and responding to suspected breaches of the Code and to perceptions of research misconduct. They provide:

- a. a single point of entry for formal allegations;
- b. mechanisms for assessing and investigating allegations; and
- c. an approved pathway for managing and resolving allegations.

(8) These Guidelines seek to ensure that where research misconduct is identified it is addressed promptly and effectively; that the affected parties are treated fairly, and that steps are taken to maintain public confidence in the University's research endeavours.

## Section 4 - Deviations from the Provisions of the Code.

(9) These include but are not limited to:

- a. fabrication of results
- b. falsification or misrepresentation of results
- c. plagiarism
- d. misleading ascription of authorship
- e. failure to declare and manage serious conflicts of interest
- f. falsification or misrepresentation to obtain funding
- g. conducting research without ethics approval as required by the [National Statement on Ethical Conduct in Human Research](#) and the [Australian Code for the Care and Use of Animals for Scientific Purposes 8th edition \(2013\)](#)
- h. failure to declare or adequately manage risk to the safety of human participants, or the wellbeing of animals or the environment.
- i. deviations from the Code that occur through gross or persistent negligence
- j. wilful concealment or facilitation of research misconduct/serious misconduct by others.

## Section 5 - Identifying Deviations from the Code

(10) When an individual has concerns about possible deviations from the Code, the supervisor or head of a research area should be the first point of contact.

(11) In cases where the concern relates to the ethical conduct of research, individuals should refer their concerns to the chair of the Human Research Ethics Committee or the Animal Care and Ethics Committee.

(12) Where an individual feels unable to raise the matter at the local level – for example when the issue concerns their supervisor or the head of the research area – they should seek the advice of an advisor in research integrity or a senior officer of the University.

(13) An advisor in research integrity is an Assistant Dean (Research), who is deputed to provide advice on research integrity to staff, and can provide advice to a staff member who is unsure about a research conduct issue and may be considering whether to make an allegation. Note the advisor's role does not extend to assessment or investigation of the allegation. Moreover, the advisor must not make contact with a person who is the subject of a formal allegation, and must not be involved in any subsequent inquiry.

(14) The advisor in research integrity will explain the options open to a person considering making an allegation. These options include:

- a. referring the matter directly to the person of concern;
- b. not proceeding with a formal allegation if discussion resolves the concerns;
- c. referring the concerns to a person in a supervisory capacity for resolution at a local level; or
- d. making a formal allegation in writing to the Pro Vice-Chancellor Research and Innovation.

(15) In determining or taking action, the following principles must be considered:

- a. Breaches of the Code may occur through inexperience, honest error in the design or execution of research, or

the interpretation of research results. Provided:

- i. the alleged breaches do not constitute research misconduct/serious misconduct;
  - ii. the researcher acknowledges the breach;
  - iii. the consequences of the breach are remedied; and
  - iv. steps are taken to prevent recurrence, the matter should rest at a local level.
- b. All alleged breaches, even those which are technical or minor, should be handled fairly and in a manner that provides the maximum opportunity for improvement. Full records of the process must be kept and the supervisor and head of a research area must comply with University policy. Allegations of a minor nature that are contested can become major issues if they are not handled effectively, and failure by a supervisor or head of a research area to address issues properly may in itself represent research misconduct/serious misconduct.
- c. The Code requires institutions to establish an independent external inquiry to evaluate allegations of research misconduct/serious misconduct that are contested. Anyone forming a suspicion that research misconduct/serious misconduct has occurred is therefore required to inform the Pro Vice-Chancellor Research and Innovation in writing.

## **Section 6 - Framework for the Resolution of Formal Allegations**

### **Preliminary Assessment**

(16) An individual reporting a breach of the Code or research misconduct/serious misconduct should forward a written allegation to the Pro Vice-Chancellor Research and Innovation. The Pro Vice-Chancellor Research and Innovation will conduct a preliminary assessment and will advise the Senior Deputy Vice-Chancellor (Research and Innovation) of the outcome of the preliminary assessment.

(17) The Pro Vice-Chancellor Research and Innovation must maintain full records of all matters that relate to allegations of research misconduct/serious misconduct.

(18) When undertaking a preliminary assessment of an allegation, the Pro Vice-Chancellor Research and Innovation should take the following steps:

- a. Identify the issues of concern. These may be contained in the allegation or may come to their attention during the course of the assessment. The person making the allegation will usually be interviewed at this stage, however the person who is the subject of the allegation is not necessarily informed of the content of the allegation at this stage as not all of the issues may have been identified.
- b. Determine if allegations not related to research should be referred for resolution through alternative mechanisms outside the scope of these Guidelines.
- c. Attempt to ensure that arrangements in the local workplace are fair to all parties until an allegation is resolved.
- d. Take into account legislative requirements, the requirements of the Code and the University's guidelines, policies, procedures and workplace agreements.
- e. Collect, record and store documentary evidence such as files, computer files, memos, letters, e-mails, photography etc.

Note: The Pro Vice-Chancellor Research and Innovation has the authority to secure all documents and evidence necessary to undertake the preliminary assessment of an allegation.

- f. Obtain witness' versions of events and seek written signed statements from key witnesses. Advice on the format and content of a formal witness statement is provided in the University of Newcastle Guide to Conducting Investigations.

- g. A person who is the subject of an allegation may be interviewed and their response documented or a statement obtained from them. The respondent may be accompanied during an interview by a support person as defined by the applicable workplace agreement, however the support person must not disrupt the interview.

(19) All allegations must be addressed in accordance with these Guidelines and a person who is the subject of an allegation must be treated fairly and provided with an opportunity to respond to an allegation in writing.

(20) A person who makes an allegation must also be treated fairly in accordance with the Ethical and Accountable Conduct – [Public Interest Disclosures Policy](#) during and subsequent to a preliminary assessment or investigation.

(21) On completion of the preliminary assessment the Pro Vice-Chancellor Research and Innovation will advise the Senior Deputy Vice-Chancellor (Research and Innovation) and make recommendations on whether the allegations should be:

- a. dismissed;
- b. dealt with under alternative provisions unrelated to research;
- c. referred back to the local level with instructions as to how they are to be handled (e.g. guidance, counselling, staff development or work allocation); or
- d. investigated by referral to an internal or external inquiry.

(22) If the advice is to investigate the matter, the Pro Vice-Chancellor Research and Innovation should also advise how the inquiry should be constituted.

(23) After providing advice to the Senior Deputy Vice-Chancellor (Research and Innovation) the Pro Vice-Chancellor Research and Innovation should play no further role in the matter other than being called to give evidence or expert opinion where necessary.

## **Investigation**

(24) If, on considering advice from the Pro Vice-Chancellor Research and Innovation, the Senior Deputy Vice-Chancellor (Research and Innovation) believes an allegation warrants investigation, the Senior Deputy Vice-Chancellor (Research and Innovation) will institute action in accordance with the applicable workplace agreement.

(25) At this stage, in the event of an admission of research misconduct/serious misconduct, an issue may be resolved through the provisions of the applicable workplace agreement or the [Honorary Appointments Policy](#).

(26) Should the Senior Deputy Vice-Chancellor (Research and Innovation) initiate an investigation a decision will be made regarding the use of an internal Committee of Inquiry or an independent external inquiry. The Pro Vice-Chancellor Research and Innovation, those making an allegation, the person who is the subject of an allegation and any other parties as required under any agreement, such as funding bodies and collaborating institutions will be advised in writing by the Senior Deputy Vice-Chancellor (Research and Innovation) regarding the preferred course of action.

(27) In determining the preferred course of action the Senior Deputy Vice-Chancellor (Research and Innovation) will take into account the potential consequences for the accused, the accuser, other parties and institutions in the event that an allegation is upheld, and the need to maintain public confidence in research.

## **Procedural Fairness**

(28) When an inquiry is established to investigate matters that may lead to disciplinary action, the person who is the subject of the inquiry must be granted a fair hearing under the legal principle of procedural fairness, also known as 'natural justice'.

(29) To ensure procedural fairness, the following must apply:

- a. the allegations must be stated clearly in writing;
- b. the person facing the allegations must be given the opportunity to be heard and to be accompanied by a support person during any interview;
- c. the members of the committee must be free from bias or preconception and must conduct themselves in a manner demonstrating this; and
- d. the principles of confidentiality must be maintained.

(30) The committee must provide its findings, and the reasons for those findings, in writing in accordance with the applicable workplace agreement.

### **Internal Committee of Inquiry**

(31) An internal Committee of Inquiry would normally be established to investigate allegations relating to a breach of the Code defined as misconduct in the applicable workplace agreement.

(32) An internal Committee of Inquiry will be established by appointing suitable members, including at least one member with knowledge and experience in an associated field of research and at least one member who is familiar with the responsible conduct of research. At least one member should have experience on similar panels or have related experience or expertise and all members must be free from bias and conflict of interest.

(33) The respondent to an allegation may be accompanied during any interview by a support person as defined by the applicable workplace agreement, however the support person must not obstruct the business of the inquiry or disrupt an interview (Legal representation of parties should not be permitted).

(34) The Committee of Inquiry must abide by confidentiality requirements and must impress upon all witnesses their obligation to keep details of the investigation confidential.

(35) The Committee of Inquiry will report its findings to the Senior Deputy Vice-Chancellor (Research and Innovation) and what, if any, breach of the Code or research misconduct/serious misconduct has occurred.

(36) Where adverse findings have been made, the Senior Deputy Vice-Chancellor (Research and Innovation) will decide what disciplinary action, if any, should be taken in accordance with the provisions of the applicable workplace agreement. In the case of an honorary appointment, the Senior Deputy Vice-Chancellor (Research and Innovation) will decide what course of action will be taken.

(37) The consideration of a matter by an internal Committee of Inquiry does not preclude a matter being subsequently referred to an independent external inquiry.

(38) Having considered the Committee of Inquiry report any determination by the Senior Deputy Vice-Chancellor (Research and Innovation) will be final in accordance with the applicable workplace agreement.

### **Independent External Inquiry**

(39) Allegations relating to research misconduct/serious misconduct will normally be referred to an independent external inquiry consistent with the provisions of the applicable workplace agreement.

(40) Members appointed to an independent external inquiry must not:

- a. be employees of the University;
- b. have current or recent dealings with the University; or
- c. otherwise be subject to a reasonable perception of bias.

(41) The panel should normally consist of at least three members.

(42) At least one member should be legally qualified or have extensive experience as a member of a tribunal or similar body. At least one member should have knowledge and research experience in a related field of research, but not directly in the research area of the allegations.

(43) Procedural fairness demands that the person subject to the inquiry be able to hear and respond to any and all material to be used by the panel in its decision-making process.

(44) It is preferable that any expert knowledge that may be required is provided to the inquiry by witnesses rather than members of the panel. This allows witnesses to be questioned by both the panel and the person subject to the inquiry. In the event that a panel member has expert knowledge the person subject to the enquiry should be advised accordingly.

(45) To be consistent with the general practice of tribunals, the following standard practices should be implemented:

- a. The panel should normally be assisted by a legally qualified person acting as 'counsel assisting', whose role it is to prepare the material to be put to the tribunal and to examine (question) witnesses on behalf of the panel. This person is not a member of the inquiry panel but may provide the panel with legal advice during the hearing.
- b. The person facing the allegations should be entitled to legal representation.
- c. The inquiry is not bound by the rules of evidence but its procedures must be consistent with the principles of natural justice and due process.

(46) In making findings, the inquiry should apply the civil standard of proof, although the standard of proof in serious cases will be higher than the mere balance of probabilities.

(47) Whether an independent external inquiry is open to the public or conducted in private should be determined by the panel itself on the basis of public interest. The panel has the responsibility to hear the views of all parties on a matter before such a decision is made. However the findings of an independent external inquiry should be made available to the public following consultation with the Senior Deputy Vice-Chancellor (Research and Innovation).

(48) The inquiry panel must abide by confidentiality requirements and must impress upon all witnesses their obligation to keep details of the investigation confidential. This may require some parts of an inquiry that is open to the public to be conducted in private.

(49) Upon completion of its tasks, the independent external inquiry must advise the Senior Deputy Vice-Chancellor (Research and Innovation) of its findings, and what, if any, research misconduct/serious misconduct has occurred.

(50) The Senior Deputy Vice-Chancellor (Research and Innovation) must, in due course, inform the Vice-Chancellor and Council of the outcome of the inquiry. As proven research misconduct/serious misconduct may warrant disciplinary action the Senior Deputy Vice-Chancellor (Research and Innovation) will decide what disciplinary actions should be taken in accordance with the provisions of the applicable workplace agreement. In the case of an honorary appointment, the Senior Deputy Vice-Chancellor (Research and Innovation) will decide what course of action will be taken.

(51) Having considered the independent external inquiry report any determination by the Senior Deputy Vice-Chancellor (Research and Innovation) will be final in accordance with the applicable workplace agreement.

(52) The Senior Deputy Vice-Chancellor (Research and Innovation) will inform all relevant parties of the inquiry's findings and the actions taken by the University. Relevant parties may include affected staff, research collaborators including those at other institutions, funding organisations, journal editors, and professional registration bodies. The

public record, including publications, may need to be corrected if research misconduct/serious misconduct has affected the research findings and their dissemination.

(53) If the allegations are shown to be unfounded, the institution will make every effort to reinstate the good reputation of the accused researcher and their associates.

(54) Persons making complaints found to be vexatious and without substance may be subject to the disciplinary provisions of the applicable workplace agreement.

## **Timeframes**

(55) An investigation will require a combination of thoroughness and immediacy.

(56) While investigation timeframes should not be strict, it is important to keep time frames within reasonable expectations.

(57) A Committee of Inquiry will report to the Senior Deputy Vice-Chancellor (Research and Innovation) and the staff member who is the focus of the inquiry within 10 working days of the conclusion of proceedings in accordance with the applicable workplace agreement.

## Status and Details

<b>Status</b>	Historic
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<b>Responsible Executive</b>	Juanita Todd Deputy Vice-Chancellor (Research and Innovation)
<b>Enquiries Contact</b>	

## Glossary Terms and Definitions

**"Council"** - The governing authority of the University established under section 8A of the University of Newcastle Act 1989.

**"University"** - The University of Newcastle, a body corporate established under sections 4 and 5 of the University of Newcastle Act 1989.

**"Risk"** - Effect of uncertainty on objectives. Note: An effect is a deviation from the expected, whether it is positive and/or negative.

**"Working day"** - Any day other than Saturday, Sunday, or a public holiday in Newcastle, on which business may be conducted.

**"Complaint"** - As defined in Australian/New Zealand Standard - Guidelines for complaint management in organisations.

**"Course"** - When referring to a course offered by the University, a course is a set of learning activities or learning opportunities with defined, assessed and recorded learning outcomes. A course will be identified by an alphanumeric course code and course title. Course types include core courses, compulsory courses, directed courses, capstone courses and electives. For all other uses of this term, the generic definition applies.

**"Disciplinary action"** - When used in relation to staff of the University, this is as defined in the applicable and current Enterprise Bargaining Agreement, or the staff member's employment contract. When used in relation to students of the University, this refers to the range of penalties that may be applied under the Student Conduct Rule.

**"Officer"** - Has the meaning given in the Corporations Act 2001 (Cth), or any replacing legislation.

**"Plagiarism"** - is the presentation of the thoughts or works of another as one's own. Without limiting the generality of this definition, it may include:

- i. copying or paraphrasing material from any source without due acknowledgment
- ii. using another person's ideas without due acknowledgment
- iii. collusion or working with others without permission, and presenting the resulting work as though it was completed independently.

**"Research"** - As defined in the Australian Code for the Responsible Conduct of Research, or any replacing Code or document.

**"Research misconduct"** - A serious breach of the Australian Code for the Responsible Conduct of Research that is intentional, reckless or negligent.

**"Staff"** - Means a person who was at the relevant time employed by the University and includes professional and academic staff of the University, by contract or ongoing, as well as conjoint staff but does not include visitors to the University.