

Research Related Complaints and Allegations Procedures

Section 1 - Overview

(1) These Procedures are for the guidance of the staff of the University of New England in the implementation of the UNE [Code of Conduct for Research Rule](#). They should be read in conjunction with that Rule, the relevant staff enterprise agreement or equivalent contract for staff-related matters, the [Higher Degree Research Student Responsible Research Conduct Rule](#), and the [Australian Code for the Responsible Conduct of Research 2007](#) (ACRCR).

Section 2 - Scope

(2) These Procedures apply to all UNE Representatives and Students.

Section 3 - Procedures

General Procedures

(3) Persons considering making research-related complaints or allegations of a breach of the UNE [Code of Conduct for Research Rule](#) or of research misconduct must initially consult the Research Integrity Advisor in Research Services, who may be approached in confidence for advice, an explanation of options and an outline of process.

(4) Where complaints or allegations are made which relate to human or animal ethics, those matters must be referred in the first instance to the Chair of the Human Research Ethics Committee or Animal Ethics Committee, respectively. Where the Chair has made the decision, the matter will be referred to the Office of the Deputy Vice-Chancellor (Research).

(5) All other complaints and allegations are initially to be dealt with at the School level. However, if circumstances make this inappropriate the Research Integrity Advisor will suggest alternative approaches.

(6) At all stages in considering and/or investigating complaints or allegations, where the subject of the complaint or allegation is a staff member, the requirements under the relevant enterprise agreement or equivalent contract must be met.

(7) Complaints and allegations made under these procedures should be treated confidentially, with respect for the person(s) making the complaint or allegation and the subject(s) of the complaint or allegation.

(8) The University officer responsible for the investigation of research misconduct shall consider whether action is required to protect the interests of concerned parties external to the University, such as journals and other media reporting research, research funding bodies and the public.

(9) The subjects of complaints relating to breaches of the UNE [Code of Conduct for Research Rule](#), related policies or procedures, whether staff or student must be treated in accordance with legislative requirements, the principals of procedural fairness, natural justice, and with respect for cultural sensitivities.

(10) Where the subject of the complaint or allegation is an international HDR student, UNE International must be notified, and advice sought regarding the requirements of the [National Code of Practice for Providers of Education and Training to Overseas Students 2018](#), or their student visa.

(11) Wherever possible, any investigation into research misconduct committed whilst the subject was associated with the University shall continue even if the person accused of such misconduct no longer has an association with the University. Distortions of the research record must be rectified where possible.

Complaints or Allegations Made to Head of School

(12) A person wishing to make a research-related complaint or allegation to the relevant Head of School must submit the complaint or allegation In Writing. Request for alternative format complaints will be considered where special circumstances exist and shall be assessed on a case by case basis.

(13) If the Head of School considers that he/she may have a conflict of interest with respect to the complainant or the subject of the complaint or allegation, the matter should be referred to the Office of the Deputy Vice-Chancellor (Research), and a suitable alternative Head of a cognate School will be appointed to consider the matter. The Head of School may appoint a suitably qualified University Officer to establish the facts of the allegation.

(14) The relevant Head of School will assess the complaint or allegation and determine appropriate actions including whether the case has merit, should be discreetly investigated, subject to a formal inquiry, requires action to remedy the situation, referral to the Office of the Deputy Vice-Chancellor (Research) with a recommendation that an Internal Institutional Research Misconduct Inquiry or Independent External Research Conduct Inquiry be established, or be dealt with under misconduct provisions unrelated to research misconduct.

(15) If the Head of School determines that there are insufficient grounds for investigation of the complaint or allegation, he/she will advise the complainant In Writing of that decision and the reasons for making it, providing the complainant with an opportunity to respond to the determination.

(16) If the Head of School determines that there are sufficient grounds to investigate the complaint or allegation, he/she will do so in compliance with confidentiality and procedural fairness requirements. The respondent to the complaint or allegation will be provided with a copy of these procedures, the UNE [Code of Conduct for Research Rule](#), and any other relevant rules, procedures and/or guidelines, and will be advised In Writing of the following:

- a. The nature of the complaint or allegation including a description of the misconduct or breach and the circumstances in which the alleged misconduct or allegation occurred, be provided with a copy of all documentation and statements relevant to and relied upon in the complaint or allegation, or advised that the documentation will be provided within a reasonable time before any interview;
- b. The name of the investigating officer authorised to conduct the investigation;
- c. The time, date and place for the interview;
- d. The right to be accompanied by a support person, that person will not have speaking rights in the interview; and
- e. The right to choose not to attend the interview at the indicated time. The respondent can seek to have the interview rescheduled, to participate in a telephone/video conference, or provide a written submission. The respondent will be granted ten Working Days from the date of the notification to prepare for the interview or to provide a response In Writing to the complaint or allegation, including any evidence in defence of the complaint.

(17) If the Head of School determines that there has been a breach of the UNE [Code of Conduct for Research Rule](#) or an associated rule, policy or procedures, he/she will take further action, consistent with the potential seriousness of that breach's consequences and the requirements of the relevant staff enterprise agreement or equivalent

employment contract.

(18) Within ten Working Days from the date of interview or submission of written response, the Head of School will advise the respondent In Writing of: the details and reasons for the decision, advice on what further action may be taken (if any), the right of and method of appeal and that the University will maintain their association while the appeal process is ongoing (if relevant).

Complaints or Allegations to the Pro Vice-Chancellor Research

(19) Where the relevant Head of School has formally determined that research misconduct has occurred this finding may be appealed, In Writing, to the Office of the Deputy Vice-Chancellor (Research).

(20) If the relevant Head of School determines that there may have been research misconduct, but he/she is unable to determine the matter, he/she will refer the matter to the Office of the Deputy Vice-Chancellor (Research).

(21) On receipt of a written appeal, complaint or allegation, or a referral from a Head of School, the Office of the Deputy Vice-Chancellor (Research) will designate an investigating officer to conduct a preliminary investigation to assess the allegations and provide advice to the Office of the Deputy Vice-Chancellor (Research) on a further course of action. The complainant and the respondent will be notified of this action, including the anticipated timeframes for the investigation, the time and date of any interview, conference or written response requiring the participation of the complainant or the respondent, the name of the investigating officer authorised to conduct the investigation, the right to be accompanied by a support person to any interview, meeting or conference, and the right to request rescheduling of any interview, meeting or conference. The respondent and the complainant will be provided with ten Working Days notice of any interview, meeting or conference requiring their participation.

(22) The investigating officer will advise the Office of the Deputy Vice-Chancellor (Research) whether, in their opinion, a prima facie case exists, and how to proceed. Options include:

- a. dismissing the complaint or allegations;
- b. instructing the School on how to deal with the complaint or allegations;
- c. dealing with the complaint or allegations under provisions unrelated to research misconduct;
- d. investigating the matter further internally through an internal institutional research misconduct inquiry;
- e. investigating the matter further externally if the allegation is perceived to be particularly serious; or
- f. referring the matter to the police.

(23) The Office of the Deputy Vice-Chancellor (Research) will advise the subject of the complaint or allegation and the complainant of their decision In Writing, and advise of any further action under the terms of these procedures and the UNE [Code of Conduct for Research Rule](#), related policies and procedures, or staff enterprise agreement or other employment contract.

(24) Subject to the requirements of privacy legislation, if a case for consideration of research misconduct is found to exist, advice of this must be given to any funding agency directly supporting the person involved, in accordance with the notification rules of the agency.

Internal Institutional Research Misconduct Inquiry

(25) Where the Office of the Deputy Vice-Chancellor (Research) determines that an internal institutional research misconduct inquiry is warranted, he/she will appoint an Internal Institutional Research Misconduct Inquiry Panel, consistent with requirements under Part B of the [Australian Code for the Responsible Conduct of Research](#).

(26) Membership of the panel may be drawn from University staff or from appropriately qualified external people, and will include:

- a. at least one member with knowledge and experience in the relevant field of research;
- b. at least one member who is familiar with the responsible conduct of research; and
- c. at least one member with experience on similar panels or with other relevant experience or expertise.

(27) All members must be free from real and/or perceived bias and conflicts of interest.

(28) Legal representation of parties is not allowed, but a person appearing before the research misconduct inquiry may be accompanied by a support person.

(29) The panel will report findings of fact to the Office of the Deputy Vice-Chancellor (Research), stating whether it considers that research misconduct has occurred and, if so, identifying the type of research misconduct.

(30) The Office of the Deputy Vice-Chancellor (Research) will take actions consistent with the Further Appeal Section of these procedures.

Independent External Research Misconduct Inquiry

(31) Where the Office of the Deputy Vice-Chancellor (Research) determines that an independent external research misconduct inquiry is warranted, he/she will appoint an Independent External Research Misconduct Inquiry Panel, consistent with requirements under Part B of the [Australian Code for the Responsible Conduct of Research](#).

(32) Membership of the panel must not include University employees or people who have any current or recent dealing with the University, or who otherwise are subject to a reasonable perception of bias.

(33) The panel will consist of a minimum of three people, of whom:

- a. at least one member should be legally qualified or have extensive experience as a member of a tribunal or similar body;
- b. at least one member should have knowledge and research experience in a relevant, related field of research, but not directly in the research area of the allegation.

(34) The panel may seek advice from persons with expert knowledge in the area of research under scrutiny.

(35) Procedural fairness demands that the person subject to the inquiry be able to:

- a. hear and respond to any and all material to be used by the panel in its decision-making process;
- b. obtain legal counsel and have the right to support from the legal counsel during the process.

(36) Expert witnesses providing advice to the panel may be questioned by both the members of the panel and the subject of the complaint or allegation(s).

(37) An Independent External Research Misconduct Inquiry Panel should normally be supported by a legally qualified person, whose role is consistent with that described in Part B of the [Australian Code for the Responsible Conduct of Research](#).

(38) The panel will determine, on the basis of public interest, whether the inquiry will be conducted in private or open to the public.

(39) The panel will report findings of fact to the Office of the Deputy Vice-Chancellor (Research) stating whether it considers that research misconduct has occurred and if so, identifying the type of research misconduct.

(40) The Office of the Deputy Vice-Chancellor (Research) will advise the Vice-Chancellor and Chief Executive Officer of the outcome of the inquiry and the Vice-Chancellor and Chief Executive Officer will convey the findings to the

University Council.

(41) The Office of the Deputy Vice-Chancellor (Research) will take actions consistent with the Complaints or Allegations Made to Head of School Section of these procedures.

Subsequent Actions

(42) The Office of the Deputy Vice-Chancellor (Research) will notify the subject of the complaint or allegation of the determination arising from investigations including:

- a. a statement of findings providing the reasons behind the decision made;
- b. advice on what further action may be taken by the University; and
- c. advice on the appeal process.

(43) The Office of the Deputy Vice-Chancellor (Research) will consider the research misconduct inquiry findings and will take appropriate actions in accordance with the relevant enterprise agreement or equivalent contract.

(44) The Office of the Deputy Vice-Chancellor (Research) will inform all relevant parties, which may include affected staff, research collaborators at the University and elsewhere, and all affected funding organisations, journal editors, and professional registration bodies, of the research misconduct inquiry findings and the actions taken by the University.

(45) Appropriate actions must also be taken, in line with the UNE [Code of Conduct for Research Rule](#), when the allegations of misconduct are shown to be unfounded, and if there has been public awareness of allegations and the investigation of research misconduct, the Office of the Deputy Vice-Chancellor (Research) must take action to correct the public record, including publications.

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

(47) The University will treat a person who makes a research-related complaint or allegation fairly and respectfully, maintaining confidentiality where possible, consistent with the [Privacy and Personal Information Act 1998 \(NSW\)](#). However, persons making vexatious complaints may face disciplinary action.

Further Appeal

(48) Appeals of the decision of the Office of the Deputy Vice-Chancellor (Research) in ratifying a determination of research misconduct by a Head of School or an Independent Internal Research Inquiry, or in relation to penalties imposed as a result of these determinations, may be lodged with the Office of the Vice-Chancellor and Chief Executive Officer.

(49) Appeals based on procedural grounds only may be lodged with the [NSW Ombudsman](#) Office for administrative review.

(50) Following an independent external research misconduct inquiry, the person subject to the inquiry may have an entitlement to appeal to a higher authority, most usually the courts.

(51) Appeals that are based strictly on process may be lodged externally with the Australian Research Integrity Committee for review.

(52) Grounds for review by the Australian Research Integrity Committee will include that the University's process allegedly:

- a. involved a breach of natural justice, or
- b. was carried out in an untimely manner that compromised procedural fairness, or
- c. was affected by fraud, or
- d. deviated from the process defined in Part B of the [Australian Code for Responsible Conduct of Research](#) and/or UNE's documented processes.

Authority and compliance

(53) The Procedure Administrator, the Deputy Vice-Chancellor Research, pursuant to the University's [Code of Conduct for Research Rule](#), makes these procedures.

(54) UNE Representatives and Students must observe these Procedures in relation to University matters.

(55) These Procedures operate as and from the Effective Date.

(56) Previous Procedures relating to Research Related Complaints and Allegations are replaced and have no further operation from the Effective Date of this new Procedure.

Section 4 - Definitions

For the purposes of this Procedure the following definitions apply:

(57) Allegation is defined as a claim or assertion that someone has done something illegal or wrong, typically one made without proof.

(58) Breaches of the Code are actions or omissions that are a violation of the Code, but are lacking intent, deliberation, recklessness or negligence, and serious consequences associated with research misconduct.

(59) Complaint is defined as a statement that something is unsatisfactory or unacceptable.

(60) Complainant means someone who makes a complaint or allegation.

(61) Research is defined as the creation of new knowledge and/or the use of existing knowledge in a new and creative way such as to develop new concepts, methodologies and understandings, and could include synthesis and analysis of previous research to the extent that it is new and creative.

(62) Research Misconduct is different from a simple breach of the Code as it involves "all three of the following:

- a. breach of the Code;
- b. intent and deliberation, recklessness or gross and persistent negligence;
- c. serious consequences, such as false information on the public record, or adverse effects on research participants, animals or the environment ."

(63) Research Misconduct may include, but is not limited to:

- a. an undeclared conflict of interest;
- b. fabrication or falsification of data;
- c. plagiarism;
- d. breach of confidentiality;
- e. failure to observe human or animal ethics;
- f. intentionally omitting reference to the relevant published work of others for the purpose of implying personal

discovery of new information;

- g. deliberately misleading ascription or attribution of authorship;
- h. lack of appropriate acknowledgment in contribution to work;
- i. misrepresentation through statement or omission resulting in the presentation of a material or significant falsehood;
- j. interference with any research related property or data of another person;
- k. deliberate inclusion of inaccurate or misleading information, or the failure to provide relevant information, relating to research activity in curriculum vitae, grant applications, job applications or public statement.

Research Misconduct does not include honest errors or honest differences in interpretation or judgements of data.

(64) Research Trainee means any higher degree research (HDR) Student (whose degree is comprised of two-thirds research).

Status and Details

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Glossary Terms and Definitions

"UNE Representative" - Means a University employee (casual, fixed term and permanent), contractor, agent, appointee, UNE Council member, adjunct, visiting academic and any other person engaged by the University to undertake some activity for or on behalf of the University. It includes corporations and other bodies falling into one or more of these categories.

"In Writing" - Means by letter, email or fax.

"Student" - Is an admitted student or an enrolled student, at the relevant time: 1. an admitted student is a student who has been admitted to a UNE course of study and who is entitled to enrol in a unit of study or who has completed all of the units in the UNE course of study; 2. an enrolled student is a student who is enrolled in a unit of study at UNE.

"Working Day" - Means Monday to Friday, excluding Public Holidays and the University Christmas break.

"School" - Is an organisational unit comprising academic staff in related fields of study who are responsible for teaching and research in those academic fields together with support staff. Each School also has lead management for the design and delivery of the courses within its responsibility.

"Effective Date" - means the Rule/Policy takes effect on the day on which it is published, or such later day as may be specified in the policy document.