

Procedures for Investigating Research Conduct Breaches or Related Complaints

Section 1 - Overview

(1) In conducting research, and training and employing researchers, the University of New England (UNE) has a responsibility for the prevention, detection, investigation and resolution of complaints about the conduct of that research.

(2) These Procedures are for the guidance of UNE Representatives and Students who become involved in a potential breach of the UNE [Code of Conduct for Research Rule](#) (CCR), be that as a complainant or respondent or UNE officer undertaking a role outlined in these procedures. The procedures should be read in conjunction with the [CCR](#), the relevant staff collective agreement or equivalent employment contract for staff related matters, and the UNE [HDR - Higher Degree Research Student Responsible Research Conduct Policy](#).

(3) Wherever practical, these procedures mirror those contained within the [Guide to Managing and Investigating Potential Breaches of the Australian Code for Responsible Conduct of Research](#) developed by the National Health and Medical Research Council (NHMRC), the Australian Research Council (ARC) and Universities Australia (UA). An overview of the framework for investigating research conduct breaches or related complaints described in the Procedures below, is available at [Figure 1 - Overview of Procedures for Investigating Research Conduct Breaches or Related Complaints](#).

Section 2 - Scope

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

Section 3 - Procedures

General Procedures

(5) Complaints or allegations (complaint) dealt with under these procedures relate to a potential breach of the CCR.

(6) A complaint relating to the CCR occurs when a concern is raised or identified that one or more researchers have conducted research that is not in accordance with the CCR.

(7) Persons considering making research-related complaints must initially consult with either a Research Integrity Adviser (RIA) or the Research Integrity Office (RIO) who can confidentially provide an explanation of options available and an outline of the relevant process.

(8) Where complaints are made which relate to human or animal ethics, initial contact should be made with the Chair of the Human Research Ethics Committee or Animal Ethics Committee, respectively.

(9) To assist in assessing a complaint, complainants are encouraged to provide all the information that they hold in relation to their complaint.

- (10) A complainant is not required to identify specific CCR or process clauses in their complaint.
- (11) Complaints dealt with under these procedures will be treated confidentially, with respect for the person making the complaint and the subject of the complaint.
- (12) The subject of a complaint dealt with under these procedures (the respondent) must be treated in accordance with legislative requirements, the principals of procedural fairness, natural justice, and with respect for cultural sensitivities.
- (13) Reprisal, threatening behaviour or other adverse action against any person involved in the complaint process will not be tolerated. Any such action will be dealt with as a separate action under the [Student Behavioural Misconduct Rules](#), the UNE [Code of Conduct](#), or other provisions contained in the relevant collective agreement.
- (14) At all stages in considering and/or investigating complaints, where the respondent to a complaint is a staff member, the requirements under the relevant collective agreement or equivalent employment contract must be met.
- (15) Where the respondent is a student, the requirements under the UNE [HDR - Higher Degree Research Student Responsible Research Conduct Policy](#) must be met. In addition, where the respondent 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.
- (16) Where a complainant chooses not to proceed with a complaint, the UNE Representative still has an obligation to assess the nature of the complaint and whether to proceed to a preliminary assessment.
- (17) Anonymous complaints must be considered, based on the information provided.
- (18) Where a respondent ceases their relationship with UNE following a complaint, UNE must continue with this process to the extent possible. Errors or distortions of the research record must be rectified where possible.
- (19) All decisions and reasons for those decisions about complaints must be confidentially documented within UNE's records management system (TRIM). This includes, but is not limited to, whether to proceed to a preliminary assessment, whether to investigate a complaint or whether to cease investigating a complaint. Records and documentation should be retained in accordance with UNE's [Records Management Rule](#) and [Records Management Procedures](#).

Receipt of Complaints

- (20) Complaints are lodged with a Designated Officer who has had no prior involvement in the substantive issue that is the subject of the complaint.
- (21) Where the Designated Officer has had prior involvement in the issue, or has a conflict of interest, advice on an appropriate alternative Designated Officer should be sought from the Research Integrity Office.
- (22) On receipt of the complaint, the Designated Officer will:
- acknowledge receipt of the complaint; and
 - consider whether the complaint relates to a potential breach of the Rule.
- (23) If the Designated Officer determines that the complaint does not relate to a breach of the Rule, they will:
- dismiss the complaint; or
 - refer the complaint to another University process if appropriate.

(24) If the Designated Officer determines that the complaint relates to a breach of the CCR, they will proceed to a Preliminary Assessment of the complaint.

(25) The Designated Officer will advise the complainant of their decision.

Preliminary Assessment

(26) The Designated Officer will refer the complaint to an Assessment Officer for Preliminary Assessment.

(27) The Assessment Officer is responsible for the conduct of the preliminary assessment, ensuring that appropriate processes are followed in a timely manner, and consults with the Designated Officer, as required. The Assessment Officer will also ensure records of the preliminary assessment are prepared and retained, and seek expertise from other sources either internal or external to UNE as required.

(28) The Assessment Officer will offer the respondent an opportunity to meet with them during a preliminary assessment to clarify the facts and/or information. The Assessment Officer will:

- a. notify the respondent in writing of the complaint and provide sufficient detail for the respondent to understand the nature of the complaint;
- b. notify the respondent of the time and place of the meeting, giving the respondent the option of bringing a support person; and
- c. provide the respondent with an opportunity to respond in writing within a nominated timeframe after the meeting.

(29) The Assessment Officer will prepare a record of meetings and the respondent will be provided with a copy.

Outcomes from the Preliminary Assessment

(30) On completion of the preliminary assessment, the Assessment Officer will provide a written report to the Designated Officer in a timely manner. This report will include:

- a. a summary of the process that was undertaken;
- b. an inventory of the facts and information that was gathered and analysed;
- c. an evaluation of facts and information; and
- d. an explanation of how the potential breach relates to the CCR.

(31) The Designated Officer will consider the preliminary assessment advice and determine, on the basis of the facts and information presented, whether there is merit to the complaint and, if so, whether the matter should be:

- a. dismissed;
- b. resolved locally within the terms of the relevant collective agreement or employment contract;
- c. referred to other UNE processes; or
- d. referred for investigation

(32) Where a complaint is not referred for investigation, the Designated Officer should consider the following actions:

- a. if the complaint has no basis in fact (for example, due to a misunderstanding or because the complaint is frivolous or vexatious), then efforts, if required, must be made to restore the reputation of any affected parties;
- b. if a complaint is considered to have been made in bad faith or is vexatious, efforts to address this with the complainant should be taken under appropriate University processes (eg. [Code of Conduct](#));
- c. addressing any systemic issues that have been identified.

(33) An admission by the respondent of a breach of the CCR should not be seen as an endpoint. It may still be necessary to conduct an investigation to identify appropriate corrective actions, any other parties that may be complicit, or any other necessary steps.

(34) Where a respondent leaves the University following a complaint, the institution has a continuing obligation to address the complaint.

(35) The institution should provide the outcomes, if appropriate, to the respondent and complainant at the conclusion of a preliminary assessment in a timely manner.

Reporting Obligations to Funding Agencies

(36) Subject to the requirements of relevant privacy legislation, if a determination is made to investigate a possible case of breach of the CCR, advice of this investigation must be given to any funding agency directly supporting the person involved, in accordance with the notification rules of that agency. Further advice on this can be obtained from the Research Integrity Office.

Preparing for the Investigation

(37) Where the Designated Officer determines that an investigation is required, they will:

- a. prepare a clear statement of allegations;
- b. develop the terms of reference for the investigation;
- c. nominate the members of the Investigation Panel; and
- d. seek legal advice on matters of process where appropriate.

Investigation Panel

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

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

(39) The Designated Officer will appoint one member from the Panel as Chair of the Panel.

(40) The Panel shall have gender diversity. Where this is not possible, the Designated Officer must provide a documented explanation.

(41) All members must be free from bias and conflicts of interest.

(42) Legal representation of parties is not allowed. A person appearing before the Investigation Panel may be accompanied by a support person.

(43) The RIO will provide secretariat support to the Panel.

(44) Once the Panel has been appointed, the Designated Officer will provide the respondent with:

- a. the terms of reference for the investigation;
- b. the names of members of the Investigation Panel;
- c. the name and contact details of the person providing secretariat support to the Panel.

(45) If the respondent has a concern of bias or conflict of interest about any member of the Panel, they should raise this immediately with the Designated Officer. The Designated Officer will consider the respondent's concern and take any action as they deem appropriate. The Designated Officer will advise the respondent of their actions.

(46) The Designated Officer will provide the Investigation Panel with:

- a. the initial complaint;
- b. all relevant information assembled by the Assessment Officer;
- c. records of the conduct of the preliminary assessment;
- d. the report of the preliminary assessment;
- e. a copy of the statement of allegations;
- f. records of any communications on the matter involving the Designated Officer, the Assessment Officer, the complainant, the respondent, including the respondent's response provided in (27) above; and
- g. any other relevant information.

Conduct of the Investigation

(47) The Investigation Panel will:

- a. determine its process for investigation;
- b. disclose and manage conflicts of interest;
- c. conduct the proceedings in private, unless the respondent and the Designated Officer agree otherwise;
- d. interview any other person and consider any further material as it believes appropriate;
- e. assess the evidence;
- f. determine findings of fact about the allegation;
- g. identify whether there has been a breach of the CCR, having regard to the evidence and on the balance of probabilities;
- h. consider the seriousness of any breach; and
- i. provide a report, initially in draft form, into its findings of fact consistent with its terms of reference.

Considering the Seriousness of Any Breach

(48) Once a breach has been found, the seriousness of a breach should be determined.

(49) The [Australian Code for the Responsible Conduct of Research](#) identifies that breaches of the Rule can occur on a spectrum, from minor (less serious) to major (more serious), as shown in [Figure 2 - NHMRC Breach Spectrum](#). Major breaches would typically require investigation, while some minor breaches may be addressed at the preliminary assessment stage. There are also some matters that relate to research administration that can easily be rectified at the local level and resolved prior to the need to consider a preliminary assessment. Unintentional administrative errors, clerical errors or oversights are some examples of this.

(50) Factors to consider in assessing the seriousness of any breach include:

- a. the extent of the departure from accepted practice;
- b. the extent to which research participants, the wider community, animals, and the environment are, or may have been, affected by the breach;
- c. the extent to which it affects the trustworthiness of research;
- d. the level of experience of the researcher;
- e. whether there are repeated breaches by the researcher;

- f. whether institutional failures have contributed to the breach; and
- g. any other mitigating or aggravating circumstances.

Outcomes from the Investigation

(51) The Investigation Panel's draft report should be provided to the respondent with a reasonable timeframe to comment. The timeframe given should reflect the complexity of the matter. The draft report may also need to be provided to the complainant if they will be affected by the outcome.

(52) Following consideration of any further information, the Investigation Panel's report is finalised and provided to the Designated Officer.

(53) The Designated Officer will consider the findings of fact, evidence presented and any recommendations made by the Panel. The Designated Officer will also consider the extent of the breach, the appropriate corrective actions and if referral to disciplinary procedures is required. The Designated Officer will provide the final report to the Responsible Executive Officer with recommendations.

(54) Where systemic issues are identified as a contributing factor, these need to be referred to the institution to be addressed.

(55) The Responsible Executive Officer will consider the findings of fact, evidence presented and any recommendations made. The Responsible Executive Officer will also consider the extent of the breach, the appropriate corrective actions and if referral to disciplinary procedures is required.

(56) If the Responsible Executive Officer finds that there has not been a breach of the CCR, they will also consider:

- a. if the allegation has no basis in fact, then efforts must be taken to restore the reputations of those alleged to have engaged in improper conduct;
- b. if an allegation is considered to have been frivolous or vexatious, action to address this with the complainant should be taken under appropriate institutional processes;
- c. the mechanism for communication with the complainant.

(57) If the Responsible Executive Officer finds that there has been a breach of the CCR but that the breach does not constitute research misconduct, the Responsible Executive Officer may take action under other UNE provisions or processes (eg. unsatisfactory performance) and advise the respondent accordingly.

(58) If the Responsible Executive Officer finds that there has been a breach of the CCR and the breach constitutes research misconduct, the Responsible Executive Officer will refer the matter to the appropriate officer for action under the relevant collective agreement, employment contract or student rule. The Responsible Executive Officer will also:

- a. Consider whether other institutions, including funding bodies and collaborating institutions, should be advised;
- b. Take actions to correct the public record of the research, including publications, if a breach of the Rule has affected the accuracy or trustworthiness of research findings and their dissemination.

(59) Any decisions of, or actions taken by, the Responsible Executive Officer must be communicated in writing to the respondent and, if appropriate, the complainant.

(60) A summary of outcomes arising from action under the relevant collective agreement, employment contract or student rule should be reported back in writing to the Responsible Executive Officer to complete the record of complaint and be included in the TRIM complaint record.

Mechanisms for Appeal

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

(62) The Australian Research Integrity Committee (ARIC) can provide an external review of any investigative processes into potential breaches of the Code.

Section 4 - Definitions and Interpretations Specific to this Procedure

(63) The following definitions are specific to this procedure:

- a. Assessment Officer – a person or persons appointed by UNE to conduct a preliminary assessment of a complaint about research.
- b. Breach – a breach is defined as a failure to meet standards and obligations in the CCR, and may refer to a single breach or multiple breaches. Examples of breaches of the Rule include, but are not limited to the following:
 - i. Not meeting required research standards –
 - 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](#).
 - Failing to conduct research as approved by an appropriate ethics review body.
 - Conducting research without the requisite approvals, permits or licences.
 - Misuse of research funds.
 - Concealment or facilitation of breaches (or potential breaches) of the Code by others.
 - ii. Fabrication, falsification, misrepresentation –
 - Fabrication of research data or source material.
 - Falsification of research data or source material.
 - Misrepresentation of research data or source material.
 - Falsification and/or misrepresentation to obtain funding.
 - iii. Plagiarism –
 - Plagiarism of someone else's work, including theories, concepts, research data, and source material.
 - Duplicate publication (also known as redundant or multiple publication, or self-plagiarism) without acknowledgment of the source.
 - iv. Research data management –
 - Failure to appropriately maintain research records.
 - Inappropriate destruction of research records, research data and/or source material.
 - Inappropriate disclosure of, or access to, research records, research data and/or source material.
 - v. Supervision –
 - Failure to provide adequate guidance or mentorship on responsible research conduct to researchers or research trainees under their supervision.
 - vi. Authorship –
 - Failure to acknowledge the contributions of others fairly.
 - Misleading ascription of authorship including failing to offer authorship to those who qualify or

awarding authorship to those who do not meet the requirements.

vii. Conflicts of interest –

- Failure to disclose and manage conflicts of interest.

viii. Peer review –

- Failure to conduct peer review responsibly.

- c. Complainant – A person or persons who has/have made a complaint about the conduct of research.
- d. Designated Officer – A senior professional or academic staff member or members appointed to receive complaints about the conduct of research or potential breaches of the Rule and to oversee the management and investigation where appropriate.
- e. Plagiarism – Plagiarism is presenting someone else’s work, including theories, concepts, research data, and source material, as your own. Duplicate publication (also known as redundant or multiple publications, or self-plagiarism) without acknowledgment of the source, is also plagiarism.
- f. Principles of procedural fairness – The principles of procedural fairness (also referred to as natural justice) apply to managing and investigating potential breaches of the Rule. These principles encapsulate the hearing rule (an opportunity to be heard), the rule against bias (decision-makers do not have a personal interest in the outcome) and the evidence rule (decisions are based on evidence).
- i. Actions taken under these procedures should be:
- Proportional – Investigations and subsequent actions need to be proportional to the extent of the potential breach of the Code.
 - Fair – Investigations need to afford procedural fairness to respondents and, where appropriate, complainants and others who may be adversely affected by any investigation.
 - Impartial – Investigators and decision-makers are to be impartial and declare any interests that do, may, or may be perceived to jeopardise their impartiality. These interests are to be appropriately managed.
 - Timely – Investigations into potential breaches should be conducted in a timely manner to avoid undue delays and to mitigate the impact on those involved.
 - Transparent – Information about University processes should be readily available and/or provided to respondents, complainants, all employees and students engaged in research. Accurate records must be maintained for all parts of the process, with records held centrally in TRIM and in accordance with the relevant legislation.
 - Confidential – Information will be treated as confidential and not disclosed unless required.
- g. Research Integrity Advisor – Designated UNE staff members with a knowledge of research, the UNE [Code of Conduct for Research Rule](#). Research Integrity Advisors can provide advice to those with concerns or complaints about potential breaches of the Rule.
- h. Research Integrity Office – An office located within the Research Services Directorate. The Manager/staff have responsibility for the management of research integrity at UNE.
- i. Research Misconduct – is a serious breach of the Rule which is also intentional or reckless or negligent.
- j. Respondent – a person or persons subject to a complaint or allegation about a potential breach of the Rule.
- k. Responsible Executive Officer – The Responsible Executive Officer is the Deputy Vice-Chancellor Research. They have the final responsibility for receiving reports of the outcome of processes of assessment or investigation of potential or found breaches of the Rule and deciding on the course of actions to be taken.
- l. Rule – UNE [Code of Conduct for Research Rule](#).
- m. Support person – A person who accompanies a party to an interview or meeting for emotional support. A support person cannot advocate for, or speak on behalf of, the person they are supporting. A support person is not a legal representative.

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.

"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.