Managing Allegations of Research Misconduct Procedure

Related Policy
- Responsible Conduct of Research Policy
- Ordinance 9- Student Discipline
- Control of Fraud and Corruption Policy
- University of Tasmania Staff Agreement 2013 - 2016

Responsible Officer
Deputy Vice Chancellor (Research)

Approved by
Deputy Vice Chancellor (Research)

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August, 2013

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Responsible Organisational Unit
Office of Research Services

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1 Objective

The objective of this document is to establish the procedure for managing allegations of research misconduct at the University of Tasmania.

2 Scope

All staff, students, visiting fellows and scholars, and persons holding discretionary titles of the University of Tasmania, who are involved in the conduct of research associated with the University.

These procedures also apply to any person external to the University who has a complaint or allegation about a research conduct issue involving the University of Tasmania.

3 Procedure

3.1 Concerns about Research Misconduct

Any person concerned about a research conduct issue (hereafter referred to as the ‘complainant’) should first seek advice and guidance about whether the conduct of concern is likely to constitute a breach (defined in Section 3.1.1) of the Australian Code for the Responsible Conduct of Research (the Code) and / or University research policy, or research misconduct (defined in Section 3.1.1).

Determining whether the conduct constitutes a breach or research misconduct will identify the options for taking action and for resolving the issue. Complainants may seek advice and guidance from a variety of sources, including these procedures, the Dealing with Breaches and Allegations of Research Misconduct Flowchart (Appendix A), the Code, the Research Integrity Coordinator and Research Integrity Advisors.

3.1.1 Definition of Research Misconduct

Research misconduct does not include honest differences in judgement in the management of a research project, and may not include honest errors that are minor or unintentional.

A breach is a less serious deviation from the Code and / or relevant University research policy that lacks the seriousness of consequence or wilfulness to constitute research misconduct.

Research misconduct refers to more serious or deliberate deviations which involve all of the following:

- an alleged breach of the Australian Code for the Responsible Conduct of Research (the Code)
- intent and deliberation, recklessness or gross and persistent negligence
- serious consequences, such as false information on the public record, or adverse effects on research participants, animals or the environment.

Examples of research misconduct may include, but are not limited to, the following:
• fabrication, falsification, plagiarism or deception in proposing, carrying out or reporting the results of research
• failure to declare or manage a serious conflict of interest
• conducting research without ethics approval as required by the National Statement on Ethical Conduct in Human Research and the Australian Code of Practice for the Care and Use of Animals for Scientific Purposes
• avoidable failure to follow research proposals as approved by a research ethics committee, particularly where this failure may result in unreasonable risk or harm to humans, animals or the environment
• misleading ascription of authorship
• the willful concealment or facilitation of research misconduct by others.

Repeated or continued deliberate breaches of the Code may also constitute Research Misconduct.

Depending on the nature and seriousness of the action, Research Misconduct may also constitute Serious Misconduct under the University of Tasmania Staff Agreement warranting termination of employment.

3.1.2 Research Integrity Advisors

In accordance with the Code, the University has appointed several staff members as a Research Integrity Advisers (RIA). An RIA’s role is to provide guidance to staff and students in relation to the proper conduct of research, and to provide advice to staff and students who are unsure about a research conduct issue and may be considering whether to make an allegation of research misconduct.

The complainant may consult with a Research Integrity Adviser (RIA) at any time to discuss the issue of concern. The RIA will discuss the matter, the Code and the University’s Ordinances, Rules and policies, and will explain options for taking action. These options may include:

• referring the matter directly to the person against whom the allegation is being made
• not proceeding or withdrawing the allegation if discussion resolves the concerns
• referring the allegation to a person in a supervisory capacity for resolution at the School or Institute level
• making an allegation of research misconduct in writing to the Designated Person (refer to Section 3.3 below).

The RIA will not provide advice which conflicts with the relevant provisions of the UTAS staff workplace agreements concerning misconduct.

The RIA will not be involved in any investigation or assessment in relation to the possible allegation, will not make contact with the person who is the subject of the allegation, and will not be involved in any subsequent inquiry.

If the RIA has a conflict of interest with the issue, the RIA will refer the complainant to another RIA.
3.2 Management of Breaches within the College / Faculty / Institute

Where the complainant is internal to the University and the conduct of concern is likely to constitute a breach rather than research misconduct, the complainant should, wherever possible and appropriate, report the complaint or allegation to their immediate supervisor(s) or relevant Head of School / Centre for resolution at the local level.

The supervisor(s) or Head of School / Centre will, as far as possible, manage complaints and allegations that do not constitute research misconduct, and will maintain full records of the processes used.

Where a complainant is unable to raise the complaint or allegation with their immediate supervisor(s) or relevant Head of School / Centre, or where the supervisor or relevant Head of School / Centre has a conflict of interest with the complaint or allegation, the complainant may go directly to the Pro Vice-Chancellor (College) / Dean / Director of the relevant College / Faculty / Institute.

Where the complaint or allegation cannot be handled to everyone’s satisfaction within the relevant School / Centre or College / Faculty / Institute, or where the complaint or allegation relates to research misconduct (as defined in section 3.1.1 above) the complaint or allegation should be referred to Designated Person (the Deputy Vice Chancellor – Research) as outlined in Section 3.3.

Where an external complainant wishes to report a suspected breach of the Code, the complainant should refer the matter directly to the Designated Person (research.integrity@utas.edu.au).

The Designated Person will make a determination of whether the complaint is likely to involve a breach or research misconduct. If the complaint is likely to constitute a breach, the Designated Person may refer the complaint to the relevant School / Centre or College / Faculty / Institute. If the complaint is likely to constitute research misconduct, the Designated Person will assist the complainant to proceed as outlined in Section 3.3.

3.3 Making a Formal Allegation

Where the conduct of concern is likely to constitute research misconduct, the complainant (internal or external), or the relevant Head of School / Centre or Pro Vice-Chancellor (College) / Dean / Director on the complainant’s behalf, will lodge a formal written allegation of research misconduct to the Designated Person (research.integrity@utas.edu.au). At a minimum, the allegation must:

- be in writing;
- identify the person against whom the allegation is being made;
- identify the type of misconduct or activity that is alleged to have occurred (for example, misleading ascription of authorship or fabrication of results);
- identify relevant details as accurately as possible, including the date(s) and place(s) when and where the alleged misconduct occurred; and
- provide as much supporting evidence as possible.
3.4 Receipt of Formal Allegation

Upon receipt of a formal written allegation consistent with the requirements outlined in Section 3.3, the Designated Person will forward the allegation to the Nominated Delegate within the Division of Research. The Nominated Delegate will:

- assign a number to the allegation;
- coordinate a written response to the complainant to acknowledge receipt of the allegation;
- inform the subject(s) of the allegation that a formal allegation has been received and is being considered;
- track the process and maintain full records of all matters that relate to the research misconduct allegation;
- where necessary, coordinate technical advice to help the Designated Person determine whether the allegation is reasonably the responsibility of the University, and whether it falls within the jurisdiction of these Procedures or within another mandated reporting framework. Technical advice may include, at a minimum, advice from:
  - the Executive Director of Human Resources or nominee;
  - the University Secretary or nominee;
  - the Legal Office; and
  - the Manager of the Research Integrity and Ethics Unit.
- report on the time taken to handle the complaint to determine that complaints are handled within a reasonable time; and
- provide statistical input to compliance reporting.

The Designated Person will consider the technical advice and:

- determine if the allegation is reasonably the responsibility of the University;
- determine if the allegation should be referred to an alternative institutional process; and / or
- conduct a preliminary assessment to determine if the allegation constitutes research misconduct and to establish whether a prima facie case exists.

3.5 Preliminary assessment of a formal allegation

In conducting the preliminary assessment of a formal allegation of research misconduct, the Designated Person may:

- seek advice from an independent reviewer;
- seek advice from a panel (the ‘Research Misconduct Advisory Panel’) consisting of one or more people who have significant knowledge and background relevant to the field / discipline or substantial experience in research integrity;
- interview or seek information from the person against whom the allegation has been made, consistent with the principles of procedural fairness;
- maintain full records of all matters that relate to the allegation of research misconduct;
- consider whether any action should immediately be taken, such as referral of allegations not related to research to other University disciplinary processes.
where necessary and appropriate, ensure that arrangements in the local workplace are fair to all parties until the allegation is resolved; and

Upon conclusion of the preliminary assessment, the Designated Person will advise the Vice-Chancellor whether a prima facie case exists, and how to proceed.

3.6 Principles of the preliminary assessment

The preliminary assessment will be carried out consistent with the principles of procedural fairness and guided by the following principles:

- allegations will be clearly stated in writing and will be made in good faith;
- allegations will be handled consistently in accordance with this procedure;
- confidentiality will be maintained by all parties involved in the assessment;
- the person(s) against whom the allegation is being made will be treated fairly and will have the opportunity to be heard;
- the person(s) making the allegation will be treated fairly;
- all persons involved in the assessment will be free from any conflict of interest or bias;
- the name of complainant will not be provided to the person against whom the allegation is being made, without the complainant’s express written permission;
- preliminary assessments following formal allegations of research misconduct will be concluded within a reasonable time; unless there are exceptional circumstances, a reasonable time is deemed to be 30 business days for the conduct of a preliminary assessment; and
- Frivolous, vexatious or bad faith allegations will not be tolerated; disciplinary action may be taken against complainants who make an allegation that is frivolous, vexatious or in bad faith.

3.7 Conclusion of the preliminary assessment

At the conclusion of the preliminary assessment in accordance with this procedure, the Designated Person will advise the Vice-Chancellor whether a prima facie case of research misconduct exists and will provide one of the following recommendations:

- dismiss the allegation
- instruct the School / Institute on how to deal with the allegation
- investigate the matter further through a research misconduct inquiry
- deal with the complaint under provisions unrelated to research misconduct.

After providing advice to the Vice-Chancellor, the Designated Person will not play any further role in the matter, unless called upon to give evidence or expert opinion.

After receiving the Designated Person’s advice, the Vice-Chancellor will decide whether to accept the advice and how to proceed.

Where the Vice-Chancellor determines that the allegation does not constitute research misconduct, or that a research misconduct inquiry is not required, the Vice-Chancellor will notify those making the allegation, the person who is the subject of the allegation, and the Designated Person.
Where the Vice-Chancellor determines that a research misconduct inquiry is warranted and a person who is potentially a party to the misconduct is:

- an employee of the University—the allegation will be investigated in accordance with the relevant University Enterprise Bargaining Agreement
- an adjunct, visiting or honorary appointee to the University—the allegation will be investigated in accordance with the requirements of Part B of the Code and any relevant Ordinances, Rules and Policies of the University
- a student of the University—the allegation will be investigated in accordance with the requirements of Part B of the Code and any relevant Ordinances, Rules and Policies of the University.

3.8 Control and Corruption Policy

Some allegations of non-compliance with the Research Code may fall within the scope of the University’s Control of Fraud and Corruption Policy. In this circumstance, the staff member may elect to make the complaint as a protected disclosure in accordance with that Policy.

3.9 Inconsistency with Workplace Agreements and this Procedure

In the event of any inconsistency concerning definitions and/or procedures regarding research misconduct involving UTAS staff, the workplace agreements will prevail.

4 Definitions and Acronyms

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<tr>
<th>Term</th>
<th>Definition</th>
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<tbody>
<tr>
<td>Complainant</td>
<td>A person who is concerned about a research conduct issue and is considering making a complaint or allegation under these Procedures.</td>
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<tr>
<td>Dean</td>
<td>Head of academic organisational unit at Faculty, or equivalent level. Includes Directors of Institutes and Pro Vice-Chancellors of Colleges.</td>
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<tr>
<td>Designated Person</td>
<td>A person appointed by the Vice-Chancellor to receive written allegations of research misconduct, conduct preliminary assessments, and provide advice to the Vice-Chancellor.</td>
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<tr>
<td>Head of School</td>
<td>Head of academic organisational unit at School, or equivalent level. Includes Heads of Centres and Dean, Faculty of Law.</td>
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<td>Organisational Unit</td>
<td>College, Faculty, School, Centre, University Institute, other University Entity, Division, Section or University Business Enterprise.</td>
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<td>RIA</td>
<td>A person appointed by the Deputy Vice Chancellor (Research) as a Research Integrity Adviser to provide advice to staff members and students who have concerns about a research conduct issue.</td>
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<td>The Code</td>
<td>The Australian Code for the Responsible Conduct of Research</td>
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5 Supporting Documentation

- Authorship of Research Policy
Managing Allegations of Research Misconduct Procedure

- Freedom of Inquiry and the Responsibility to Publish Policy
- Freedom of Inquiry and the Responsibility to Publish Procedures
- Responsible Conduct of Research Policy
- Research Ethics Policy
- University of Tasmania Academic Staff Agreement 2013 - 2016
- Australian Code for the Responsible Conduct of Research (National Health and Medical Research Council, Australian Research Council, Universities Australia; 2007)
- National Statement on Ethical Conduct in Human Research (National Health and Medical Research Council, Australian Research Council, Australian Vice-Chancellors’ Committee, 2007)

6 Versioning

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<tr>
<td>Current Version</td>
<td>Version 2 – Managing Allegations of Research Misconduct Procedure; amendments to clarify procedure approved by Responsible Officer; November 2014, amended in December 2016 to incorporate Colleges.</td>
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Attachment A: Internal allegations of breaches or research misconduct (flowchart)

UTAS staff / student questions research practice and:
- Consults Managing Allegations of Research Misconduct Procedure and the Australian Code for the Responsible Conduct of Research; and
- Seeks advice from a Research Integrity Advisor

If allegation is likely to involve a breach*:

If allegation is likely to involve research misconduct**:

Allegation of breach is referred to and dealt with at the local level by the Supervisor(s), Head of School / Centre, and Dean / Director (if required).

If a breach

Supervisor(s), Head of School / Centre, and Dean / Director (if required) implement steps to avoid re-occurrence of the breach and provide response to complainant.

If research misconduct

No case to answer. Complainant is advised of this outcome.

The allegation constitutes a breach and is referred to the School / Centre or Faculty / Institute

A prima facie case exists and the allegation is investigated under University’s Staff Agreement, Part B of the Code, and any relevant University Ordinances, Rules or Policies, as appropriate. (Timeframe: 60 business days)

Results of the preliminary assessment and recommendations are referred to the Vice-Chancellor who then makes one of the following determinations:

The allegation is dealt with under other institutional provisions unrelated to research misconduct.
Attachment B: External allegations of breaches or research misconduct (flowchart)

UTAS staff/student questions research practice and:
- Consults Managing Allegations of Research Misconduct Procedure and the Australian Code for the Responsible Conduct of Research; and
- Seeks advice from a Research Integrity Advisor

If allegation is likely to involve a breach*:

If a breach
- Supervisor(s), Head of School/Centre, and Dean/Director (if required) implement steps to avoid re-occurrence of the breach and provide response to complainant.

If research misconduct
- Allegation of research misconduct is referred to the Designated Person (research.integrity@utas.edu.au). DP conducts a preliminary assessment to determine in a prima facie case of research misconduct exists. (Timeframe: 30 business days)

If allegation is likely to involve research misconduct**:

No case to answer. Complainant is advised of this outcome.
- The allegation constitutes a breach and is referred to the School/Centre or Faculty/Institute

Results of the preliminary assessment and recommendations are referred to the Vice-Chancellor who then makes one of the following determinations:
- A prima facie case exists and the allegation is investigated under University's Staff Agreement, Part B of the Code, and any relevant University Ordinances, Rules or Policies, as appropriate. (Timeframe: 60 business days)
- The allegation is dealt with under other institutional provisions unrelated to research misconduct.

*Breaches: a less serious deviation from the Australian Code for the Responsible Conduct of Research (the Code), lacks the seriousness of consequence or willfulness to constitute research misconduct.

**Research misconduct: serious or deliberate deviations from the Code which involve all of the following:
- an alleged breach of the Code
- intent and deliberation, recklessness or gross and persistent negligence
- serious consequences