

## Monash University Procedure

<b>Procedure Title</b>	Responsible Conduct of Research - Investigating Complaints Concerning Research Misconduct Procedures
<b>Parent Policy</b>	<a href="#">Responsible Conduct of Research Policy</a>
<b>Date Effective</b>	08-February-2013
<b>Review Date</b>	08-February-2016
<b>Procedure Owner</b>	Senior Vice-Provost and Vice-Provost (Research)
<b>Category</b>	Academic Quality and Standards
<b>Version Number</b>	1.0
<b>Content Enquiries</b>	<a href="#">Research Policy</a>
<b>Scope</b>	<p>The scope of these Procedures is identical to that of the Responsible Conduct of Research Policy and applies to allegations against:</p> <ul style="list-style-type: none"> <li>a) all staff employed by the University or any Controlled Entity;</li> <li>b) all former staff of the University or any Controlled Entity, where such former staff have been engaged in activities in any way connected with conduct that is the subject of, or related to the subject of, an allegation of misconduct in or in connection with research;</li> <li>c) all persons, including adjunct staff or visitors, engaged in research under the auspices of, or in the name of, the University or any Controlled Entity including but not limited to research that is conducted in conjunction with another entity whether in the public or private sectors and whether such entity be a University, research institute, a private research entity or endeavour or otherwise;</li> <li>d) all students (including past students) of the University who engage in research but subject to the operation of the Monash University (Council) Regulations Part 7.</li> </ul>
<b>Purpose</b>	
<b>PROCEDURE STATEMENT</b>	

These Procedures must be included in all induction and training materials for new researchers and for new staff and students who are undertaking or about to undertake research.

It is a fundamental principle underpinning these Procedures that a person who is the subject of an allegation of misconduct in or in relation to research must be afforded natural justice and procedural fairness.

### Interaction with Other Provisions

These Procedures are to be read against the background of:

- a) [Monash University \(Council\) Regulations Part 7](#)
- b) the [Enterprise Agreement](#);
- c) [The Australian Code for the Responsible Conduct of Research](#);

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- d) [Other relevant University Policies](#);
- e) any Code of Conduct in force for the time being in relation to staff employed by the University or a Controlled Entity;
- f) any Code of Conduct in force for the time being in relation to students of the University.

In the event of any inconsistency, the provisions in paragraphs (a) and (b) above will prevail over this Procedure, but the provisions in paragraphs (c), (d), (e) and (f) above will not. If the alleged research misconduct relates to conduct by a person who is (or was at the relevant time) both a staff member and a student then the Designated Person must decide whether this Procedure or Monash University (Council) Regulations will apply, taking into account all relevant factors. In an appropriate case it may be that both apply.

Unsubstantiated allegations that are defamatory or statements which are made maliciously or vexatiously may result in action against the person making the allegations or statements. Further, the person the subject of the defamatory statements could commence legal action for libel.

A finding of misconduct in or in connection with research may result in disciplinary action and in the case of a current staff member; disciplinary action would normally be taken pursuant to the Enterprise Agreement.

### 1. Misconduct in or in Connection with Research

There are two categories of misconduct in or in connection with research, namely:

#### 1.1. Research Misconduct;

**Research Misconduct** means conduct in or in connection with research that is not Serious Research Misconduct but which is clearly inappropriate and involves a material breach of duty or otherwise involves a more serious breach of or deliberate deviation from the Australian Code for the Responsible Conduct of Research. It includes, but is not limited to, conduct in or in connection with research that:

- a) is unauthorised, negligent or otherwise scientifically inappropriate;
- b) deviates from standards accepted within the scientific or scholarly community for proposing, conducting, reporting, publicising or publishing scientific research;
- c) involves a failure to declare or manage a conflict of interest other than a serious conflict of interest;
- d) involves a misleading ascription of authorship in other than a significant respect including the listing of authors without their permission, attributing work to those who have not in fact materially contributed to the research or a lack of appropriate acknowledgment of work produced by a student, trainee or associate;
- e) constitutes plagiarism of minor import, which for the purposes of this procedure includes the presentation of documentation, words or ideas of another person as those of the person presenting them and doing so without attribution that is appropriate for the circumstances and medium of presentation;
- f) involves the use of information in breach of any duty of confidentiality associated with the review of any manuscript or grant application;
- g) involves omitting to obtain any requisite clearance from a relevant research ethics committee before a step in the research is undertaken;
- h) fails to follow in a technical respect research proposals as approved by a research ethics committee;
- i) involves the concealment or facilitation of research misconduct by others;
- j) otherwise constitutes a breach (other than a serious breach) of the Australian Code for the Responsible Conduct of Research.

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### 1.2. Serious Research Misconduct.

**Serious Research Misconduct** means serious conduct or misbehaviour in or in connection with research which:

- a) constitutes a serious impediment to the carrying out of an academic or professional staff member's duties; or
- b) constitutes a serious impediment to the academic or professional staff member's colleagues carrying out their duties; or
- c) is a serious dereliction of the duties required of the academic office or professional staff member's position; or
- d) involves conviction by a court of an offence which constitutes a serious impediment to the carrying out of an academic or professional staff member's duties or to the carrying out of duties by an academic or professional staff member's colleagues;
- e) in a matter involving a person holding an honorary appointment or who is a student or former student, falls within any of the examples specified in sub paragraphs (f) to (r) below.
- f) It includes, but is not limited to the following examples of conduct that fall within the above definition namely conduct that:
  - g) is not honest, is unauthorised in a material respect, is grossly and persistently negligent, reckless or is otherwise scientifically seriously inappropriate;
  - h) seriously deviates from the standards accepted within the scientific or scholarly community for proposing, conducting, reporting, publicising or publishing research;
  - i) involves fabrication, falsification or a failure to declare or manage a serious conflict of interest;
  - j) involves any misleading ascription of authorship in a significant respect including the listing of authors without their permission, attributing work to those who have not in fact materially contributed to the research or a lack of appropriate acknowledgment of work primarily produced by a student, trainee or associate;
  - k) constitutes plagiarism that is significant, which for the purposes of this procedure includes the presentation of documentation, words or ideas of another person as those of the person presenting them and doing so without attribution that is appropriate for the circumstances and medium of presentation;
  - l) constitutes a breach of copyright;
  - m) involves the use of information in serious breach of any duty of confidentiality associated with the review of any manuscript or grant application;
  - n) takes or sequesters or materially damages any research related property of another, without authorisation; for example, in relation to the apparatus, reagents, biological materials, writings, data, hardware, software or other substance or device used or produced in the conduct of research;
  - o) involves omitting to obtain any requisite clearance from a relevant research ethics committee before the research, or a significant step in the research, is undertaken;
  - a. fails to follow in a significant respect research proposals as approved by a research ethics committee;
  - p) involves stating or presenting a falsehood or omission of a fact that is significant so that what is stated or presented is false as a whole or in any material respect;
  - q) involves the deliberate or persistent concealment or facilitation of research misconduct by others;

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- r) involves conduct that otherwise amounts to Research Misconduct but which is repeated or continued;
- s) otherwise constitutes a serious breach of the Australian Code for the Responsible Conduct of Research.

Each person to whom these Procedures apply must refrain from engaging in misconduct in or in connection with research.

Each person to whom these Procedures apply has an obligation to bring instances of suspected misconduct in or in connection with research to the attention of the Vice-Provost (Research).

### Responsibility

All former and current staff employed by the University

All persons engaged in research under the auspices of the University

All past and current students of the University who engage in research

Vice-Provost (Research)

## 2. Options Available Prior to Making a Formal Allegation

- 2.1. A Complainant may approach an [Advisor in Research Integrity](#) for advice regarding their concerns that misconduct in or in connection with research may have occurred.
- 2.2. The Advisor in Research Integrity should explain to the Complainant the options that are open to them, including:
  - a) not proceeding with or withdrawing an allegation of misconduct in or in connection with research in the light of the circumstances and advice tendered;
  - b) the Complainant referring the matter directly to a person in a supervisory relationship with the person against whom the allegation of misconduct in or in connection with research is made for resolution at the local or departmental level;
  - c) making a formal allegation of misconduct in or in connection with research to the Vice-Provost (Research).
- 2.3. An Adviser in Research Integrity must not have a conflict of interest, should not be involved in investigating or assessing the merits of any allegation of misconduct in or in connection with research, should not make contact with the person who is the subject of a proposed allegation, nor be involved in any subsequent inquiry.

### Responsibility

Complainant

Advisor in Research Integrity

## 3. Proceeding with a Formal Allegation

- 3.1. If a Complainant wishes to proceed to make a formal allegation of misconduct in or in connection with research, the allegation must be in writing addressed to the Vice-Provost (Research). The document must:
  - a) clearly identify each allegation, indicating the place or places and date or dates on which the conduct in question is alleged to have occurred;
  - b) state the identity of the person alleged to have engaged in the relevant misconduct or the policy, procedure or practice, the subject of the allegation; and
  - c) identify and attach (in as much detail as possible) any supporting evidence.

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A Complainant should email the document setting out the allegations in the manner required by this paragraph to the following email address [vp.research@monash.edu](mailto:vp.research@monash.edu)

3.2.

- a) On receipt of a formal allegation of misconduct in or in connection with research, and subject to (b) below, the Vice-Provost (Research) or, at their election, another Designated Person will conduct a preliminary investigation and determine whether a prima facie case exists and report to and advise the Vice-Chancellor of the outcome of the preliminary investigation.
- b) Where the University and one or more other Institutions receive a formal allegation of misconduct in or in connection with research in relation to the same subject matter, the University and those Institutions will confer and determine the most appropriate Institution to conduct a preliminary investigation into the allegation. Where it is agreed that an Institution other than the University should conduct that investigation, and provided the investigation is conducted consistently with the *Australian Code for the Responsible Conduct of Research* (recognising that the other Institution's employment agreements may contain specific binding obligations that deviate from the Code), then the findings and recommendations of that investigation may be adopted by the University as if they were the findings and recommendations of the University, and shall be provided to the Vice-Chancellor for consideration, and action, in accordance with paragraph 3.7 of these Procedures.

3.3. The procedures to be followed by the Designated Person must include:

- a) formulating and recording an investigation plan which should establish the framework of the investigation, establish its objective/s and set limits on its ambit;
- b) that the preliminary investigation will be conducted in private;
- c) where the allegation concerns the conduct of a person, the determination of whether the person did that which is alleged and whether it involves misconduct in or in connection with research;
- d) a statement of the standard of proof to be, and in fact, applied;
- e) interviewing or otherwise obtaining evidence from all relevant witnesses and recording the substance of such evidence;
- f) obtaining relevant documents and securing all relevant evidence;
- g) taking such further steps as may be considered by the Designated Person to be appropriate for the purposes of proving or disproving any of the matters of fact raised by the allegation/s or by the person against whom such allegation/s is/are made;
- h) affording procedural fairness and natural justice. In this regard persons against whose interests a decision may be made should be informed of the substance of any allegation/s made against them and such persons must be afforded a reasonable opportunity to put their case. Procedural fairness and natural justice requires the hearing of any person against whose interests a decision may be made and the Complainant and considering any submissions they may make; making reasonable inquiries before arriving at a decision; conducting the preliminary investigation as promptly as possible and acting fairly and impartially at all times;
- i) taking steps for arrangements to be in place that will ensure as far as practicable confidentiality and procedural fairness and natural justice to any person against whom an allegation has been made and to the Complainant until the preliminary investigation by the Designated Person is complete;
- j) retaining for an appropriate period after the conclusion of the preliminary investigation and keeping secure information, evidence and other material obtained for the purposes of the investigation;

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- k) seeking such assistance from any appropriate person as may be deemed necessary for the proper conduct of the preliminary investigation; and
  - l) the making of a written report concerning the preliminary investigation, the findings of the Designated Person and any recommendations that such Designated Person may make. The findings and/or the relevant recommendations in any report of the Designated Person may, if considered appropriate, be provided to the person against whom any allegation of misconduct in or in connection with research has been made and the Complainant.
- 3.4. For the purposes of the preliminary investigation the Designated Person may:
- a) seek advice on any technical matters from an appropriate person or persons whether from within or outside the University provided that such person or persons has no conflict of interest or bias; and
  - b) seek legal advice.
- 3.5. The records created and retained pursuant to paragraph 3.3 should enable any authority with appropriate jurisdiction to be able to follow the procedures adopted by the Designated Person.
- 3.6. When the preliminary investigation has been completed the Designated Person shall advise the Vice-Chancellor whether in his/her opinion the allegation should be:
- a) dismissed;
  - b) dealt with under Clauses 53 or 54 of the Enterprise Agreement in so far as they are unrelated to misconduct in or in connection with research;
  - c) referred back to departmental level with instructions as to how it should be handled; or
  - d) investigated further through a formal inquiry (including an inquiry under clause 54 or 55 of the Enterprise Agreement) into the relevant misconduct in or in connection with research.
- 3.7. Upon receipt of the advice of the Designated Person the Vice-Chancellor may:
- a) dismiss any allegation of misconduct in or in connection with research that has been the subject of such report if he or she is of the opinion that the allegation is:
    - i. trivial;
    - ii. frivolous, vexatious or not made in good faith;
    - iii. ill founded;
    - iv. such as not to require the taking of any action adverse to the person against whom the allegation has been made.
  - b) otherwise dismiss the allegation/s and take no further action;
  - c) refer any allegation back to departmental level with instructions as to how it should be handled;
  - d) deal with the allegation under Clauses 53 or 54 of the Enterprise Agreement where any allegation is unrelated to misconduct in or in connection with research; or
  - e) determine that the misconduct in or in connection with research involves either Research Misconduct or Serious Research Misconduct and:
    - i. in the event that the Research Misconduct or Serious Research Misconduct is not disputed by the person or persons alleged to have engaged therein, take appropriate action (which may include action under clause 55 of the Enterprise Agreement in the case of academic staff or clause 54 in the case of a professional staff); or
    - ii. in the event that the Research Misconduct or Serious Research Misconduct is disputed:

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- A. in the case of academic staff, deal with any allegation in accordance with Clause 55 of the Enterprise Agreement;
  - B. in the case of professional staff, deal with any allegation in accordance with Clause 54 of the Enterprise; or
  - C. in the case of a person to whom the Scope of this Policy and Procedures applies, but to whom the Enterprise Agreement does not apply or to whom Monash University (Council) Regulations Part 7 - Research misconduct does not apply (for example, an honorary adjunct appointee or a former staff member), establish a formal inquiry under terms of reference that are, insofar as is reasonably practicable, consistent with the principles outlined in the Australian Code for the Responsible Conduct of Research.
- 3.8. The finding/s and recommendation/s (if any) of the formal inquiry referred to in paragraph 3.7 e) ii.C shall be submitted to the Vice-Chancellor who shall deal with it/them in such manner as is appropriate in the circumstances.
- 3.9. A copy of the decision of the Vice-Chancellor pursuant to paragraph 3.7, and of the findings and recommendations (if any) of the inquiry and the decision of the Vice-Chancellor pursuant to paragraph 3.8 must be provided promptly and in confidence to:
- a) the person against whom the allegation/s has/have been made;
  - b) the Complainant;.
  - c) the Head of Department and/or the Dean of the person against whom any allegation/s has/have been made.
- 3.10. A person against whom action has been taken by the Vice-Chancellor pursuant to paragraphs 3.7 or 3.8 of these Procedures, or the Complainant, may have a right to make a request for review by the Australian Research Integrity Committee.

### Responsibility

Person against whom any allegation/s has/have been made  
 Complainant  
 Designated Person  
 Vice-Provost (Research)  
 Vice Chancellor

<b>Responsibility for implementation</b>	Monash researchers Staff supervisors Students involved in research Higher degree by research supervisors Professional staff involved in the management of research Heads of academic units (including centres and institutes) Associate Deans (Research) Monash Research Office Monash Research Graduate School Senior Vice-Provost and Vice-Provost (Research) Vice-Provost (Graduate Education) Vice Chancellor
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<b>Status</b>	New
<b>Approval Body</b>	<p><b>Academic Quality and Standards policies</b></p> <p><b>Name:</b> Academic Board</p> <p><b>Meeting:</b> 1/2011</p> <p><b>Date:</b> 23-February-2011</p> <p><b>Agenda item:</b> 14.6</p>
<b>Definitions</b>	<p><b>Adviser in Research Integrity:</b> a person (or persons) appointed by the Vice-Chancellor or delegate as an independent advisor who can advise staff, persons engaged in research under the auspices, or in the name, of the University or any Controlled Entity and students of the University who engage in research about conduct in or in connection with research. An Adviser in Research Integrity should have research experience, maturity, analytical skills, empathy, knowledge of the University's policies and management structure and a familiarity with accepted practice in research.</p> <p><b>Complainant:</b> a person who is concerned that misconduct in or in connection with research may have occurred or is occurring and who makes an allegation under these Procedures.</p> <p><b>Controlled Entity:</b> a company over which the University has control within the meaning of s3 of the Audit Act 1994 (Vic) and which has adopted these Procedures.</p> <p><b>Designated Person:</b> the Vice-Provost (Research) or a staff member with appropriate experience in research or research management appointed by the Vice-Chancellor or delegate to conduct a preliminary investigation under these Procedures.</p> <p><b>Enterprise Agreement:</b> the Monash University Enterprise Agreement (Academic and Professional Staff) 2009 or its successor.</p> <p><b>Institution:</b> any Australian tertiary or research institution whose conduct of research is governed, in part, by the Australian Code for the Responsible Conduct of Research.</p> <p><b>Vice-Chancellor:</b> the Vice-Chancellor or delegate.</p>
<b>Legislation Mandating Compliance</b>	
<b>Related Policies</b>	
<b>Related Documents</b>	