

# Research Misconduct Procedure

## Section 1 - Background and Purpose

(1) This Procedure outlines the process for how the University will address allegations of research misconduct as defined by the [Australian Code for the Responsible Conduct of Research \(2018\)](#), the “Code of Conduct”. The Procedure also describes the process for how an allegation will be managed by the University so that it occurs to determine facts, is conducted in a timely and fair manner and is in accordance with the Associated Documents.

(2) This Procedure covers research which can reasonably be regarded as the responsibility of La Trobe University.

(3) The University defines research misconduct in accordance with the [Code of Conduct](#), Part B as involving the following:

- a. a repeated breach of the Code of Conduct, Part A, after corrective advice has been given
- b. intentional and deliberate act of falsification, fabrication and misrepresentation in proposing or reporting research results and outcomes
- c. recklessness or gross and persistent negligence in the conduct of research
- d. deception leading to false information being put on the public record or adverse effects occurring for research participants, animals or the environment
- e. plagiarism
- f. misleading ascription of authorship including listing authors without their permission, failing to attribute authorship where rightful inclusion is warranted and attributing authorship to others who have not made a direct contribution to the research output
- g. failure to declare or manage a serious conflict of interest
- h. any misrepresentations or falsifications in order to obtain funding
- i. failure to seek research ethics or biosafety committee approval, where required
- j. avoidable failure to follow research proposals as approved by a research ethics and biosafety committees, particularly where the failure could result in risking safety to humans, animals or the environment
- k. wilful concealment of or facilitation of research misconduct by others
- l. making or contributing to misleading allegations of research misconduct which could seriously damage the reputation of another researcher or the University

(4) The Procedure acknowledges that research misconduct does not include:

- a. honest differences in observation, interpretation or analysis of research data
- b. judgement in the management of a research project
- c. honest errors that are minor or clearly unintentional

## Section 2 - Scope

(5) This Procedure applies to all staff and students conducting research at La Trobe University or whose research or publication is associated with La Trobe University.

## Section 3 - Policy Statement

(6) Refer to the [Research Integrity Policy](#).

## Section 4 - Procedure

### Part A - Application of Procedure

(7) Where an allegation relates to a student, it must be reported as follows:

- a. an allegation concerning a student in the research component of a higher degree - the matter should be referred to the Board of Graduate Research as outlined in Part 3 of the [Academic Integrity Statute](#) and the [Research Integrity - Higher Degree Student Research Misconduct Procedure](#)
- b. an allegation concerning both staff and students - the Designated Person will make a determination and referral as appropriate
- c. an allegation concerning a staff member who is also enrolled in a research component of a higher degree - the investigation will firstly consider the individual as staff if the allegation relates to work they are doing as a La Trobe employee and handle the allegation according to this Procedure. Issues impacting the candidature of the staff member will be dealt with according to the provisions in the [Research Integrity - Higher Degree Student Research Misconduct Procedure](#)

### Part B - Responsibilities of the University

(8) The University is responsible for creating and maintaining an environment where good research practice is valued and nurtured and where departures from best practice are managed appropriately.

(9) Allegations of research misconduct must be investigated whenever they are brought to the attention of the Designated Person and/or the Vice-Chancellor.

### Part C - Designated Person

(10) The Deputy Vice-Chancellor (Research and Industry Engagement) has been appointed by the Vice-Chancellor as the Designated Person to whom all allegations of research misconduct are to be addressed.

### Part D - Responsibilities of Individuals

(11) Each person to whom this Procedure applies has a responsibility to:

- a. apply high ethical and research integrity standards when conducting research
- b. bring instances of questionable research conduct to the attention of a Research Integrity Advisor, Manager Ethics and Integrity or the Designated Person, as appropriate to the circumstances
- c. cooperate with the Designated Person or a person they appoint in the review of any alleged research misconduct and the undertaking of any preliminary investigation

- d. contribute any evidence that may be relevant to an allegation of research misconduct to the Designated Person or their delegate

## **Part E - Research Integrity Advisor**

(12) A Research Integrity Advisor:

- a. A person (or persons) appointed by the Vice-Chancellor or their delegate as an independent advisor. A Research Integrity Advisor provides informal advice to a staff member or student who is unsure about a research conduct issue and may be considering whether to make an allegation
- b. explains the options open to a person considering, making or having made a formal allegation of research misconduct
- c. does not become involved in investigating or assessing the merits of any allegation of research misconduct
- d. does not advise on an issue if they have a relevant conflict of interest
- e. does not make contact with the person who is the subject of an allegation

(13) Research Integrity Advisors' contact details are listed on the La Trobe website, [Research Integrity webpage](#).

## **Part F - Considering and Making a Formal Allegation**

(14) A person who believes that an incidence of research misconduct may have occurred or is occurring is encouraged to approach a Research Integrity Advisor for assistance with considering options.

## **Part G - Protected Disclosure Act**

(15) The [Protected Disclosure Act 2012 \(Vic\)](#) is available as an alternative complaint procedure. However, the person making an allegation should be aware that not all instances of a research breach or serious research misconduct will fall within the scope of the Act. Persons who would like to make a complaint under the Act but are unsure about how to do this can contact the La Trobe University Ombudsman.

## **Part H - Options for Persons Making the Complaint**

(16) The Research Integrity Advisor should explain to the person that options available include:

- a. refer the matter directly to the supervisor of the person against whom the allegation of research misconduct is made for resolution at the departmental level;
- b. participating in mediation using an independent person organised by the Research Integrity Advisor;
- c. not proceeding with, or withdrawing an allegation of research misconduct in the light of the circumstances and advice and/or mediation; or
- d. making a formal allegation of research misconduct to the Designated Person.

## **Part I - Informal and Local Complaint Resolution Processes**

(17) If a person making an allegation elects to attempt resolution via informal methods at the local level then University procedures related to conflict resolution must be followed.

(18) Persons, including Heads of Department or School, Associate Pro Vice-Chancellors (Research), College, Pro Vice-Chancellors, Chairs of Ethics Committees and Research Integrity Advisors must inform the Designated Person on a regular basis about any allegations and their resolution at the local level.

## Part J - Fairness to Parties

(19) The person making the allegation and the person who is the subject of the allegation must be treated fairly and in accordance with the current [Collective Agreement](#).

## Part K - Contents of Formal Complaints

(20) If a person making an allegation wishes to proceed to make a formal allegation of research misconduct, the allegation must be in writing to the Designated Person. The formal allegation must:

- a. clearly identify each instance of research misconduct, 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 and the policy, procedure or practice, which is the subject of the allegation; and
- c. identify and attach (in as much detail as possible) any supporting evidence.

## Part L - Actions by Designated Person After Receipt of Formal Complaint

(21) The Designated Person has a responsibility to determine if a prima facie case of research misconduct exists and how to proceed. On receipt of a formal allegation of research misconduct or if the Designated Person is made aware of an allegation which contains the elements specified in Part K, the Designated Person will:

- a. authorise a preliminary investigation to establish whether the allegation constitutes actual research misconduct and determine, if appropriate, the seriousness of the allegation; and
- b. determine if the research implicated in the allegation is the reasonable responsibility of the University. If the Designated Person comes to the view that the allegation refers to research of another institution, the Designated Person will refer the allegation to the other institution.
- c. determine whether the allegation requires immediate suspension of any implicated or affected research project to ensure that all potential harm to humans, animals or the environment is reduced or avoided.

## Part M - Conducting a Preliminary Investigation

(22) If the Designated Person requests that a preliminary investigation be undertaken, then the following steps should be undertaken by an investigator appointed by the Designated Person:

- a. Formulating and recording framework for the investigation, clarifying its objectives and setting limits on its scope
- b. Ensuring that any requirements of relevant legislation, the Code of Conduct and the University's guidelines, policies, procedures and workplace agreements are taken into account
- c. Ensuring that the preliminary investigation is undertaken as promptly as possible, conducted in a manner that is strictly confidential and adheres to procedural fairness and impartiality at all times
- d. Identifying the specific issues of concern and determining the standard of proof to be applied in support of the allegation
- e. Taking all appropriate steps required for the purpose of proving or disproving any of the matters raised by the allegation or about the person who is the subject of an allegation of research misconduct
- f. Obtaining all relevant documents, such as files, memos, letters or emails and securing all relevant evidence
- g. If applicable, interviewing or obtaining evidence from all relevant witnesses and recording the substance of the evidence provided, including written signed statements from key witnesses

- h. Informing the subject of an allegation that a case has been made against them, identifying the substance of the allegation and if appropriate providing them with a reasonable opportunity to present their case
- i. Ensuring that if a person who is the subject of an allegation is interviewed and their response documented, that the respondent is able to be accompanied during an interview by a support person as defined in the workplace agreement
- j. Ensuring that, as required, arrangements in the local workplace are fair to all parties until an allegation is resolved
- k. Completing the preliminary investigation within 60 days
- l. After the conclusion of the preliminary investigation, retaining for an appropriate time period and keeping secure all information, evidence and other material obtained for the purpose of the investigation
- m. Seeking assistance from any appropriate person as may be deemed necessary in order to conduct the preliminary investigation
- n. Writing a report on the findings of the preliminary investigation and making any recommendations to the Designated Person, noting that the findings and relevant recommendations in any report may, if considered appropriate and only after the approval of the Designated Person, be provided to the person who is the subject of an allegation of research misconduct and to the person making the allegation
- o. Ensuring that the records created and retained would enable any person authorised to review the records to follow the procedures adopted by the investigator(s)

(23) For the purposes of the preliminary investigation the investigator(s) may also:

- a. Seek advice on any technical matters from an appropriate person either within or outside the University, provided that the person has no conflict of interest or bias
- b. Recommend that legal advice be sought, as appropriate to the allegation
- c. Recommend if any of the allegations not related to research should be referred to another department or authority

## **Part N - Authorising a Preliminary Investigation**

(24) In authorising the preliminary investigation, the Designated Person should:

- a. seek advice from one or more persons with considerable standing and significant knowledge in the relevant field of research but not directly involved in the research project of the allegation and can be seen as independent from the accused;
- b. maintain full records of all matters relating to allegations of research misconduct and have authority to secure all relevant documents and evidence so that they are available if it is decided that the allegation is to be investigated; and
- c. consider whether any additional or alternative actions should be taken, such as referring allegations not related to research misconduct to other institutional processes.

## **Part O - Allegations Made Against Honorary and Adjunct Staff**

(25) In the event that the subject of a preliminary investigation by the Designated Person is an Honorary or Adjunct staff member of the University, and the Designated Person makes a finding that the alleged conduct occurred -

- a. and such person concedes the research misconduct alleged, the Vice-Chancellor will take appropriate action which may include (but is not limited to):
  - i. counselling the person;
  - ii. advising them as to how the research misconduct must be remedied; and how they can take steps to

prevent recurrence

- b. and such person disputes the research misconduct alleged, the Vice-Chancellor shall establish a formal inquiry consistent with the principles outlined in the Code of Conduct (note that such an inquiry does not need to be convened in accordance with or comply with the obligations set out in the [Collective Agreement](#)).

(26) The finding(s) and/or recommendation(s) of the formal inquiry established by the Designated Person must be submitted to the Vice-Chancellor who shall determine the means of addressing the matter as appropriate to the circumstances.

(27) A person against whom research misconduct has been determined has 30 days to provide a request for review of the decision.

## **Part P - Allegations made Against a Person Who has Left the University**

(28) In circumstances in which the person(s) against whom allegations of research misconduct were made has left the University, a preliminary investigation to establish the facts may be pursued by the Designated Person. Any distortions of the research record may need to be corrected, irrespective of whether the person involved remains at the University.

## **Part Q - Advice of Preliminary Investigation**

(29) The Designated Person must advise the Vice-Chancellor whether a prima facie case of research misconduct exists and recommend whether to:

- a. dismiss the allegation;
- b. act on the allegation under provisions unrelated to research misconduct;
- c. instruct the academic division or research centre on how to take action on the allegation; or
- d. act on the allegation in accordance with clauses 77: Disciplinary Procedures or 79: Research Misconduct of the [Collective Agreement 2014](#).

## **Part R - Role of Designated Person After Preliminary Investigation**

(30) After providing a report and recommendations to the Vice-Chancellor, the Designated Person should not play any further role in the matter, except to be called upon to give evidence or an expert opinion.

## **Part S - Possible Decisions for the Vice-Chancellor Following Preliminary Investigation**

(31) Upon receipt of the recommendations/advice of the Designated Person, the Vice-Chancellor may:

- a. dismiss any allegation of research misconduct that has been the subject of the preliminary investigation 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; or
  - 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. deal with the allegation under sub-clauses 77.31 to 77.52 of the [Collective Agreement 2014](#) where an allegation is unrelated to research misconduct;
- d. determine that a breach of the Code of Conduct has occurred and take appropriate action such as directing the relevant Head of School to informally counsel and advise the staff member as to:
  - i. how the breach must be remedied
  - ii. what steps should be taken to prevent recurrence
- e. determine that research misconduct has occurred and if the misconduct is:
  - i. not disputed, refer the matter back to the School level with instructions as to how it should be handled under clause 77 of the [Collective Agreement 2014](#), including but not limited to supervisory action, warnings, education or appraisal procedures;
  - ii. deal with any allegation in accordance with clause 77 of the [Collective Agreement 2014](#);
- f. determine that serious research misconduct has occurred and if the misconduct is:
  - i. not disputed by the person or persons alleged to have engaged therein, take appropriate action in accordance with clause 77 of the [Collective Agreement 2014](#); or
  - ii. disputed, deal with any allegation in accordance with clause 79 of the [Collective Agreement 2014](#).
- g. determine whether any implicated or affected research project requires continued suspension or termination to ensure that any harm to humans, animals or the environment is reduced or avoided.

## **Part T - If Clause 79 of the Collective Agreement Applies**

(32) Any allegation dealt with in accordance with clause 79 of the [Collective Agreement 2014](#) will be deemed to meet the inquiry requirements of the [Code of Conduct](#).

## **Part U - Providing Advice of the Vice-Chancellor's Decision**

(33) A research misconduct enquiry should endeavour to be completed within six months from the date of a decision to hold an enquiry.

(34) Following the outcome of a research misconduct inquiry, a copy of the decision of the Vice-Chancellor must be promptly provided in confidence to the person against whom the allegations has/have been made and the person making the allegation.

(35) The Vice-Chancellor will inform all relevant parties of the research misconduct inquiry findings and the actions taken by the institution. Relevant parties may include affected staff, research collaborators including those at other institutions, all funding organisations, journal editors, and professional registration bodies. The public record, including publications, will need to be corrected if research misconduct has affected the research findings and their dissemination.

(36) The findings of an independent, external research misconduct inquiry may be made available to the public. Public statements may be made as appropriate.

(37) Appropriate actions must also be taken when the allegations of misconduct are demonstrated to be unfounded.

## **Part V - Requesting a Review of the Vice-Chancellor's Decision**

(38) A person against whom action has been taken by the Vice-Chancellor pursuant to this Procedure or the person who has made the allegation may have a right to make a request for further review by the Australian Research Integrity Committee.

## Section 5 - Definitions

(39) For the purpose of this Procedure:

- a. Australian Research Integrity Committee (ARIC): Jointly established by the National Health and Medical Research Council (NHMRC) and the Australian Research Council (ARC), the ARIC provides a review system of institutional processes which respond to allegations of research misconduct.
- b. Breach of the Code of Conduct: a less serious deviation from the Code of Conduct that is appropriately remedied within the institution, through steps such as counselling, advice, supervisory action, warnings, education and appraisal procedures.
- c. Code of Conduct: the [Australian Code for the Responsible Conduct of Research \(2018\)](#) jointly developed by the National Health and Medical Research Council (NHMRC), the Australian Research Council (ARC) and Universities Australia. Compliance with the Code of Conduct is a prerequisite for receipt of NHMRC and ARC funding.
- d. Designated Person: a staff member with appropriate experience in research and research management, generally the Deputy Vice-Chancellor (Research and Industry Engagement), appointed by the Vice-Chancellor or delegate to authorise a preliminary investigation in relation to an allegation of research misconduct. If the allegation is directed against the Deputy Vice-Chancellor (Research and Industry Engagement) a senior person is nominated by the Vice-Chancellor as Designated Person.
- e. Research Ethics Committee: Human Research Ethics Committee, Animal Ethics Committee, La Trobe Institutional Biosafety Committee (LTIBC)
- f. Research Integrity Advisor: a person (or persons) appointed by the Vice-Chancellor or delegate as an independent advisor who can advise staff, or other persons engaged in research under the auspices of the University or any Controlled Entity who is unsure about a research conduct issue and may be considering whether to make an allegation.
- g. 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 the Code and the commonly accepted standards within the academic and scientific community for proposing, conducting, reporting, publicising or publishing research.
- h. Research misconduct: intentional and deliberate, recklessness or gross and persistent negligence in research. It includes 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; failure to follow research proposals as approved by a research ethics or biosafety committee, particularly where this failure may result in unreasonable risk or harm to humans, animals or the environment. It also includes the wilful concealment or facilitation of research misconduct by others. Repeated or continuing breaches of the Code of Conduct may also constitute research misconduct. Research misconduct does not include honest differences in judgment in management of a research project and honest errors that are minor or unintentional.
- i. Serious research misconduct: Research misconduct with serious consequences, such as false information on the public record, serious adverse effects on research participants, animals or the environment or serious harm to the University.
- j. Staff member: any employee of the University



## Status and Details

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