

# Research Misconduct Procedure

## Section 1 - Background and Purpose

(1) The purpose of this Procedure is to provide a clear outline of reporting, assessment, investigative, management and resolution requirements for complaints and allegations of breaches of research integrity.

(2) The [Australian Code for the Responsible Conduct of Research](#) (version in force as varied from time to time) (the Code) articulates the broad principles that characterise an honest, ethical and conscientious research culture. The Code sets out principles and responsibilities that both researchers and institutions are expected to follow when conducting research to ensure successful research.

(3) A failure to meet the principles and responsibilities set out in the Code is a breach of the Code. A breach of the Code occurs on a spectrum from minor breaches to those that are more serious. A serious breach of the Code that is carried out with intent or recklessness or negligence is particularly egregious and is referred to as research misconduct for the purpose of this procedure.

(4) This Procedure outlines the process for how the University will respond to complaints and allegations of breaches of the Code as outlined by the Guide to Managing and Investigating Potential Breaches of the Code version in force as varied from time to time (the [Investigation Guide](#)) which should be read in conjunction with the Code.

(5) The responsible conduct of research includes management of research data and primary materials, supervision of students and research trainees, scientific authorship and dissemination of research findings, peer review, management of conflicts of interest, management of collaborative research, adherence to ethical principles applied to human research, and minimisation of impacts on animals.

## Section 2 - Scope

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

(7) Higher Degree by Research (HDR) students are covered by the [Research - Higher Degree Student Misconduct Procedure](#).

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

(9) Professional misconduct that falls outside the description defined by the Code should be handled under institutional processes for dealing with other forms of misconduct, for example harassment or bullying.

## Section 3 - Policy Statement

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

- (11) Refer to the [Research - Higher Degree Student Misconduct Procedure](#).
- (12) Refer to the [Research Human Ethics Procedure](#).
- (13) Refer to the [Research Animal Ethics Procedure](#).
- (14) Refer to the [Biosafety and Biosecurity Policy](#) and [Research Biosafety and Biosecurity Procedure](#).
- (15) Refer to [Research Governance Policy](#).
- (16) Refer to [Research Clinical Trials Policy](#).

## Section 4 - Procedures

### Part A - Application of Procedure

(17) A breach is defined as a failure to meet the principles and responsibilities of the Code, and may refer to a single breach or multiple breaches. Examples of breaches of the Code include, but are not limited to, the following:

- a. Not meeting required research standards
  - i. Conducting research without ethics approval as required by the [National Statement on Ethical Conduct in Human Research](#) (version in force as varied from time to time), the Australian Code for the Care and Use of Animals for Scientific Purposes (version in force as varied from time to time), the Gene Technology [Act](#) and [Regulations](#), the Australian Sanctions and the relevant Biosecurity and Export Control regulations
  - ii. Failing to conduct research as approved by an appropriate ethics review body
  - iii. Conducting research without the requisite approvals, permits or licences
  - iv. Misuse of research funds
  - v. Concealment or facilitation of breaches (or potential breaches) of the Code by others such as not reporting potential breaches and/or facilitation of the above practices which breach the code.
- b. Fabrication, falsification, misrepresentation
  - i. Fabrication of research data or source material
  - ii. Falsification of research data or source material
  - iii. Misrepresentation of research data or source material
  - iv. Falsification and/or misrepresentation to obtain funding
- c. Plagiarism
  - i. Plagiarism of another's work, including theories, concepts, research data and source material
  - ii. Duplicating a publication (also known as redundant or multiple publication, or self-plagiarism) without acknowledgment of the source
- d. Research data management
  - i. Failure to appropriately maintain research records
  - ii. Inappropriate destruction of research records, research data and/or source material
  - iii. Inappropriate disclosure of, or access to, research records, research data and/or source material

- e. Supervision
  - i. Failure to provide adequate guidance or mentorship on responsible research conduct to researchers, research trainees or research students under their supervision
- f. Authorship
  - i. Failure to acknowledge the contributions of others fairly
  - ii. Misleading ascription of authorship including failing to offer authorship to those who qualify or awarding authorship to those who do not meet the requirements
- g. Conflicts of interest
  - i. Failure to disclose and manage conflicts of interest
- h. Peer review
  - i. Failure to conduct peer review responsibly.

(18) Breaches range in severity. Major breaches will require an Investigation. Minor breaches can be addressed at the Preliminary Assessment stage (as outlined in Parts K and L). The severity of a breach is determined on a case-by-case basis. Consideration of the type of behaviour may be used to infer whether the breach is intentional or reckless or negligent and represent research misconduct. Fabrication and falsification are types of breaches that are commonly recognised as being undertaken intentionally or recklessly and are examples of research misconduct. Repeated or persistent breaches, especially after repeated corrective actions from preliminary assessments or as requested by the approving Ethics Committee and/or other delegated authority will constitute a serious breach, which will trigger consideration of research misconduct.

(19) Honest differences in judgement and unintentional errors do not usually constitute research breaches of the Code unless they result from behaviour that is reckless or negligent.

(20) Allegations of a breach may overlap with allegations of fraud that relates to funding (for example, where it is alleged that falsified data was used in an NHMRC funded project).

(21) Factors that will be considered in determining whether a Breach represents a minor or major Breach include:

- a. the extent to which the principles and responsibilities outlined in the Code or relevant law, regulation, disciplinary standard, ethics, guideline, contractual agreement or policy have been Breached;
- b. the extent to which research participants, the wider community, animals and the environment are or may have been affected by the potential Breach;
- c. the extent to which the Breach affects the trustworthiness of research;
- d. whether the conduct represents a significant departure from accepted standards within the research and scholarly community for proposing, conducting or reporting research.

(22) Consideration will also be given to any mitigating or extenuating circumstances that may have contributed to the Breach, including:

- a. systematic failures, such as where the University has not provided appropriate resources or facilities to Researchers
- b. the level of experience of the Researcher
- c. whether there is a pattern of Breaches by the Researcher
- d. whether the behaviour was accidental or intentional

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

- a. If an allegation concerns a student in the research component of any higher degree, including higher degrees

by research, and higher degrees examined by a combination of coursework and research, the matter should be referred to the Board of Graduate Research as outlined in Part 3 of the [Academic Integrity Statute](#) and the [Research - Higher Degree Student Misconduct Procedure](#).

- b. if deemed appropriate, a preliminary assessment conducted under the [Research - Higher Degree Student Misconduct Procedure](#) can count as a preliminary assessment under this procedure and vice versa.
- c. an allegation concerning both staff and higher degree students – the preliminary assessment will be managed using the Research Misconduct Procedure and any misconduct by a higher degree student that is identified will be referred to the Board of Graduate Research and the [Research - Higher Degree Student Research Misconduct Procedure](#) followed.
- d. all Responsible Officers will act together in good faith to resolve the issues in a clear and transparent way when investigations are conducted under this procedure and the [Research - Higher Degree Student Misconduct Procedure](#).
- e. 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 - Higher Degree Student Research Misconduct Procedure.

## Part B - Responsibilities of the University

(24) The University has the responsibility to facilitate the prevention and detection of potential breaches of [the Code](#). The University must ensure that the process for managing and investigating concerns or complaints about potential breaches of the Code follows the principles of procedural fairness (also referred to as natural justice) and is:

- a. Proportional: Investigations and subsequent actions need to be proportional to the extent of the potential breach of the Code.
- b. Fair: The respondents and, where appropriate, complainants and others who may be adversely affected by any investigation must be treated fairly and in accordance with the current La Trobe University Collective Agreement.
- c. 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.
- d. Timely: Investigations into potential breaches should be conducted in a timely manner to avoid undue delays and to mitigate the impact on those involved.
- e. Transparent: Information about institutional processes should be readily available and/or provided to respondents, complainants, all employees and students engaged in research. Institutions need to ensure accurate records are maintained for all parts of the process, with records held centrally and in accordance with the relevant legislation.
- f. Confidential: Information will be treated as confidential and not disclosed unless required.

(25) As per the Guide to Managing and Investigating Potential Breaches of the Australian Code for the Responsible Conduct of Research, if a complainant chooses not to proceed with a complaint, the University still has an obligation to assess the nature of the complaint and determine whether to proceed to a preliminary assessment. This implies that all members of the University, including Research Integrity Advisors have a responsibility to report instances of major breaches that represents research misconduct.

(26) Allegations of research integrity breach must be investigated whenever they are brought to the attention of the Designated Officer and/or the Vice-Chancellor.

## Part C - Institutional roles

(27) The Vice-Chancellor is the Responsible Executive Officer and has the final responsibility for receiving reports of the outcomes of processes of assessment or investigation of potential or found breaches of the Code and deciding on the course of action to be taken.

(28) The Designated Officer

- a. The Deputy Vice-Chancellor (Research and Industry Engagement) has been appointed by the Vice-Chancellor as the Designated Officer to whom all allegations of major breach must be reported.
- b. The Deputy Vice-Chancellor (Research and Industry Engagement) may delegate the Designated Officer role in specific cases as appropriate to the circumstances and the seriousness of the breach of the Code.

(29) Research Ethics, Integrity and Biosafety has the responsibility for the management of research integrity. All concerns, complaints or allegations should be initially directed to the Senior Manager, Ethics Integrity and Biosafety. Any concerns, complaints or allegations related to a breach will be directed by the Senior Manager, Ethics Integrity and Biosafety to the Designated Officer.

(30) Assessment Officer

- a. The Designated Officer will assign a suitably qualified Assessment Officer.
- b. The Senior Manager, Ethics Integrity and Biosafety will assist the Designated Officer to assign Senior staff within the Ethics, Integrity and Biosafety Office to the Assessment Officer role.
- c. The Assessment Officer:
  - i. conducts a preliminary assessment overseen by the Designated Officer
  - ii. consults with the Designated Officer, others in the institution and external experts where necessary
  - iii. liaises with the respondent and other relevant parties as appropriate
  - iv. secures evidence
  - v. manages records
  - vi. provides a report to Designated Officer

(31) Research Integrity Advisor

- a. A person (or persons) appointed by the Deputy Vice-Chancellor (Research and Industry Engagement) or their delegate as an independent advisor. A Research Integrity Advisor promotes the responsible conduct of research and provides informal advice to staff and students about how to make a complaint regarding concerns about a research conduct issue.
- 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 matters where they have a potential, perceived or actual conflict of interest.
- e. Does not make contact with the person who is the subject of an allegation.
- f. Does not conduct investigation or assessment of the allegation, including contacting the person who is the subject of that complaint or being involved in any subsequent investigation other than as witness or to provide testimony.

(32) Contact details of the University's Research Integrity Advisors will be maintained on the La Trobe Research Office website.

## Part D - Responsibilities of Individuals

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

- a. apply the principles of responsible research conduct as per the Code in all aspects of their research
- b. bring instances of questionable research conduct to the attention of a Research Integrity Advisor, Senior Manager, Ethics Integrity and Biosafety or the Delegated Officer. Where a complainant chooses not to proceed with a complaint, the University still has an obligation to assess the nature of the complaint and whether to proceed to a preliminary assessment.
- c. cooperate with the Designated Officer or a person they appoint as Assessment Officer in accordance with the [Investigation Guide](#) to conduct a Preliminary Assessment of a complaint about research and in the review of any alleged research misconduct.
- d. contribute any evidence that may be relevant to an allegation of breach of the Code to the Designated Officer or delegate or a person they appoint as Assessment Officer.

## Part E - Considering and Making a Formal Allegation

(34) Prior to submitting a formal complaint or allegation, a person may elect to attempt resolution via informal methods at the local level. When doing so, they must ensure they follow all relevant University procedures.

(35) Any University Officer who becomes aware of informal or local complaints and their resolution must advise the Senior Manager, Ethics Integrity and Biosafety. The Senior Manager, Ethics Integrity and Biosafety will then report the specifics of the informal allegations to the Designated Officer.

(36) A person who has a concern or complaint about a potential research breach that may have occurred or is occurring is encouraged to approach a Research Integrity Advisor or Senior Manager, Ethics Integrity and Biosafety for assistance with considering options. If the person wishes to make an allegation, they must do so with the Senior Manager, Ethics Integrity and Biosafety who will then refer the matter to the Designated Officer.

(37) Outcomes of the discussion between the Research Integrity Advisor and the complainant may include:

- a. not proceeding if the complaint is clearly not related to a breach of the Code
- b. proceeding under other institutional processes
- c. making a complaint about a potential breach of the Code in writing to the Designated Officer

## Part F - Protected Disclosure Act

(38) The [Protected Disclosure Act](#) 2012 (Vic) is available as an alternative complaint procedure as per the [Public Interest \(Whistleblower\) Disclosure Policy](#). However, the person making an allegation should be aware that not all instances of a breach of the Code 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 University Ombudsman.

## Part G - Options for Making a Complaint

(39) Complaints can be made to the University Designated Officer or Senior Manager, Ethics Integrity and Biosafety.

(40) Once a complaint has been received, and as part of the preliminary assessment, the Research Integrity Advisors will undertake the following steps:

- a. referring the matter directly to the supervisor of the person against whom the allegation of a breach of the Code is made for resolution at the departmental level;

- b. participating in mediation using an independent person organised by the Senior Manager, Ethics Integrity and Biosafety;
- c. not proceeding with making a formal complaint or allegation of a breach of [the Code](#) in the light of the circumstances and advice and/or mediation; or
- d. making a formal complaint or allegation of a breach of the Code to the Senior Manager, Ethics Integrity and Biosafety.

(41) Prior to submitting a formal complaint or allegation, a person may elect to attempt resolution via informal methods at the local level. When doing so, they must ensure they follow all relevant University procedures.

(42) Any University officer who becomes aware of informal or local complaints and their resolution must advise the Senior Manager, Ethics Integrity and Biosafety. The Senior Manager, Ethics Integrity and Biosafety will then inform the Designated Officer on a regular basis.

## **Part H - Formal Complaints**

(43) Complainants may elect to remain anonymous and/or complaints may be lodged by third parties.

(44) The Complainant may seek the assistance of a Research Integrity Advisor to construct a complaint that is complete and as thorough as possible. It is not the sole responsibility of the Complainant to provide all the necessary material to reach a conclusion, nor to identify the parts of the Code or other relevant policy, law, regulation or guideline that may have been breached.

(45) If a person wishes to make a formal allegation of research misconduct, the allegation must be in writing to the Designated Officer. The formal allegation must:

- a. clearly identify each instance of breach of [the Code](#), 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 research integrity breach 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 to enable a Preliminary Assessment.

## **Part I - Response by Designated Officer to Formal Complaint**

(46) The Designated Officer is responsible to determine whether the complaint relates to a potential breach of the Code and, how to proceed. On receipt of a formal allegation of a research breach or if the Designated Officer is made aware of an allegation which contains the elements specified in Part H, the Designated Officer will:

- a. authorise a Preliminary Assessment to gather and evaluate facts and information, and assess whether the complaint, as evidenced, would constitute a breach of the Code
- b. determine if the research implicated in the allegation is the reasonable responsibility of the University. If the Designated Officer comes to the view that the allegation refers to research that is the responsibility of another institution, the Designated Officer 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 minimised or avoided.

## **Part J - Authorising a Preliminary Assessment**

(47) In authorising the preliminary assessment, the Designated Officer 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 be 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 K - Conducting a Preliminary Assessment

(48) If the Designated Officer requests that a Preliminary Assessment is to be undertaken, they will assign the complaint to a suitable Assessment Officer (AO).

(49) Any investigation of the role of a supervisor under the [Research - Higher Degree Student Misconduct Procedure](#) will meet the requirements of a Preliminary Assessment and the Misconduct Officer under that Procedure will take the actions assigned to the Assessment Officer in this Research Misconduct Procedure with respect to the role of the supervisor.

(50) The Assessment Officer is responsible for the conduct of the preliminary assessment, ensures timeliness and consults with the Designated Officer, as required. The Assessment Officer will ensure records of the Preliminary Assessment are prepared and retained, and that appropriate processes are followed. A Preliminary Assessment Checklist is provided as Attachment 1 of the [Investigation Guide](#).

(51) The following steps should be undertaken, and principles adhered to:

- a. Formulate and record a framework for the investigation, clarifying its objectives and setting limits on its scope;
- b. Ensure 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. Draw on expertise that may be required from other sources, such as researchers from the same or aligned disciplines, especially where the complaint relates to specific disciplinary practice (for example, authorship);
- d. During the Preliminary Assessment the Assessment Officer will identify, collect, catalogue and secure facts and information;
- e. To avoid compromising the preliminary assessment, the assessment and any information from the assessment should be kept confidential and not shared unless there are compelling circumstances or required by appropriate University Officers;
- f. Accurate gathering and securing of facts and information at the Preliminary Assessment stage is important as it can have implications for the management and resolution of the complaint, particularly if the matter progresses to an investigation;
- g. The Assessment Officer must also consider whether specific and/or independent advice about the collection and storage of material evidence, facts or information is required;
- h. Identify the specific concerns and determine the standard of proof to be applied in support of the allegation;
- i. Take all appropriate steps required for determining the validity or veracity of any of the matters raised by the allegation or about the person or persons who are the subject of an allegation of research misconduct;
- j. Obtain all relevant documents, such as files, memos, letters or emails and secure all relevant evidence;
- k. If applicable, interview or obtain evidence from all relevant witnesses and recording the substance of the evidence provided, including written signed statements from key witnesses;
- l. Ensure that if a person who is the subject of an allegation is interviewed, that person can bring a support person to the interview, as defined in the workplace agreement;
- m. Ensure that, as required, arrangements in the local workplace are fair to all parties until an allegation is



resolved;

- n. Endeavour to complete the Preliminary Assessment within 60 working days from the date of the complaint or allegation;
- o. After the conclusion of the Preliminary Assessment, securely retain all information, evidence and other material obtained for the purpose of the investigation for an appropriate time period;
- p. Seek assistance from any person as may be deemed necessary and appropriate in order to conduct the preliminary assessment;
- q. Write a report on the findings of the Preliminary Assessment and make any recommendations to the Designated Officer, noting that the findings and relevant recommendations in any report may, if considered appropriate and only after the approval of the Designated Officer, be provided to the person who is the subject of an allegation of research misconduct and to the person making the allegation;
- r. Ensure that the records created and retained would enable any person authorised to review the records to follow the procedures adopted by the investigator(s);
- s. The Assessment Officer should consider:
  - i. consultation with others in the institution
  - ii. the involvement of those in supervisory roles in the potential breach
  - iii. the need to involve other institutions in the matter

(52) For the purposes of the Preliminary Assessment the Assessment Officer(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 L - Actions following a Preliminary Assessment**

(53) On completion of the Preliminary Assessment, the Assessment Officer provides written advice to the Designated Officer. This should 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 about how the potential breach relates to the principles and responsibilities of the Code and/or institutional processes; and
- d. recommendations for further action.

(54) The Designated Officer must advise the Vice-Chancellor based on the facts and information presented, whether the matter should be:

- a. dismissed;
- b. referred to other institutional processes;
- c. resolved locally with or without corrective actions and instruct the academic division or research centre on how to act on the allegation; or
- d. refer the matter for Investigation

(55) Where a Preliminary Assessment does not support a referral for investigation, the following actions should be considered:

- 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 institutional processes and addressing any systemic issues that have been identified.

(56) An admission by the respondent of a breach of the Code should not be an end point. It may still be necessary to investigate and identify appropriate corrective actions, any other parties that may be complicit or any other necessary steps.

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

(58) The institution should provide the outcomes, if appropriate, to the respondent and complainant at the conclusion of a Preliminary Assessment in a timely manner.

## **Part M - Decisions Following Preliminary Assessment**

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

- a. dismiss any allegation of research misconduct that has been the subject of the Preliminary Assessment if they conclude 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. determine that the allegation is unrelated to research misconduct and deal with the allegation under sub-clauses 33.3 and 33.4 of the [Collective Agreement](#);
- c. determine that a less serious breach of [the Code](#) has occurred and if the breach is:
  - i. not disputed, then refer the matter back to the School level with instructions as to how it should be handled under sub-clause 33.3(a) of Collective Agreement and advise the staff member as to how the breach must be remedied and what steps should be taken to prevent recurrence;
  - ii. disputed, then deal with any allegation in accordance with sub-clause 33.3(b) of the Collective Agreement.
- d. determine that a more serious breach of the Code (research misconduct) has occurred and:
  - i. if the breach is not disputed by the person or persons alleged to have engaged therein, take appropriate action in accordance with clause 33.4(c) and 33.8(g) of the Collective Agreement. However, an admission by the Respondent should not be an endpoint. It may still be necessary to investigate and identify appropriate corrective actions or other necessary steps; or
  - ii. if the breach is disputed then 33.4(b) applies, deal with any allegation in accordance 33.8 (f) of the Collective Agreement and an investigation may be required as per 33.8(g)vi(B).
- e. determines 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 N - Preparing for the Investigation

(60) Following Preliminary Assessment, the respondent will be given reasonable opportunity to be heard and/or be given not less than ten (10) working days to make written submissions, in relation to the allegations.

(61) If the Vice-Chancellor remains unsatisfied with the recommendations of Preliminary Assessment and if an allegation of research misconduct is to be pursued, the Vice-Chancellor will authorise an investigation as per the Collective Agreement and an investigation panel will be constituted as per the requirements of the [Investigation Guide](#) in agreement with the Collective Agreement.

(62) The purpose of the investigation is to make findings of facts to allow the Vice-Chancellor to assess whether a major breach of the Code has occurred, the extent of the breach and the recommended actions. This is done by examining the facts and information from the preliminary assessment and gathering and examining further relevant evidence if required.

(63) The Designated Officer, with assistance from the Assessment Officer, will:

- a. prepare a clear statement of the Allegation;
- b. develop the terms of reference for the Investigation panel (the Panel); a sample checklist for the Panel terms of reference is at Appendix 2 of the [Investigation Guide](#);
- c. nominate the Panel and Chair;
- d. notify all those required to attend the Investigation;
- e. provide sufficient detail to the Respondent about the Allegation to enable an informed response.

(64) A range of factors should be considered when determining the size and composition of the Panel, including the potential consequences for those involved, the seniority of those involved and the need to maintain public confidence in research. These factors will affect the level of independence that is required of members from both the University, and the respondent and complainant. There will be occasions where the Vice-Chancellor may decide that some or all members of the Panel should be external to the University.

(65) Once a Panel is established, it should be provided with all relevant information and documentation.

(66) Panel members will be provided with written appointments, be required to sign a confidentiality agreement, and, in the case of external members, provided assurance and conditions of indemnity.

(67) The members of the Panel must agree to:

- a. work within the University's processes;
- b. follow the procedure established for the Panel;
- c. work within the terms of reference for the Panel;
- d. respect any undertakings of confidentiality;
- e. declare any conflict of interest;
- f. adhere to the principles of Procedural Fairness;
- g. complete the Investigation in a timely manner;
- h. provide a written report.

(68) The Senior Manager, Ethics Integrity and Biosafety will provide appropriate resources to the Panel, including secretariat support if required. The Assessment Officer will maintain the record of evidence.

## Part O - Conduct of the Investigation

(69) The conduct of the Investigation will follow the Investigation requirements outlined in the [Investigation Guide](#).

(70) As part of the investigation, the respondent should be provided with an opportunity to respond to the allegation and relevant evidence, and to provide additional evidence upon which the Panel may rely. If the respondent chooses not to respond or fails to appear before the Panel where and when requested, the investigation continues in their absence. The complainant may also be given the opportunity to see relevant evidence used in the investigation (e.g., if they are directly affected by the investigation).

(71) The Panel should be provided with all available information that will inform the investigation, which includes:

- 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. records of any communications on the matter involving the Designated Officer, the Assessment Officer, the complainant and/or the respondent.

(72) With the support of the Senior Manager, Ethics Integrity and Biosafety, the Panel will develop an investigation plan (described in Appendix 3 of the [Investigation Guide](#)).

(73) All those asked to give evidence are to be provided with relevant, and if necessary, de-identified information including:

- a. the schedule of meetings and/or hearings they are asked to attend;
- b. the relevant parts of the terms of reference for the investigation, if appropriate;
- c. advice as to how the Panel intends to conduct interviews;
- d. whether they may be accompanied by a support person;
- e. advice about whether the interviews will be recorded;
- f. whether an opportunity will be provided to comment on matters raised in the interview;
- g. disclosing interests;
- h. the confidentiality requirements;
- i. the Panel's procedures.

(74) The Panel is to determine whether, having regard to evidence and on the balance of probabilities, the respondent has breached the Code.

(75) The Panel is encouraged to come to a consensus. If there are dissenting view(s), there should be opportunity for the Panel member to provide this view for inclusion in the draft and final report. Because the dissenting view forms part of the draft report, it must be provided to the respondent and, in some circumstances the complainant, if they will be affected by the outcome.

(76) If the Panel finds during the investigation that the scope and/or the terms of reference are too limiting, it should refer the matter to the Designated Officer. The Designated Officer may decide to amend the scope of the investigation and the terms of reference. Should this occur, the respondent and relevant others are to be advised, and the respondent given the opportunity, to respond to any new material arising from the increased scope.

(77) On completion of the investigation, the Panel prepares a draft written report of the investigation. Given that the report will be relied on by the Vice-Chancellor to decide about whether a major breach of [the Code](#) has occurred, it is

essential that the report is detailed, accurate and cogent, and fully addresses the terms of reference. The Senior Manager, Ethics Integrity and Biosafety will provide secretariat support to assist in the preparation of the draft report.

(78) The draft report should contain findings of fact and any recommendations (see Appendix 4 of the [Investigation Guide](#) for a sample checklist for the report of the investigation findings).

## **Part P - Outcome of Investigation**

(79) An Investigation should seek to be completed within six months from the date of a decision to complete an investigation.

(80) Where the Vice-Chancellor accepts that a major breach of the Code has been found, the Vice-Chancellor decides the institution's response, taking into account the extent of the breach and whether other institutions should be advised.

(81) In the case of joint, adjunct, conagoth and/or honorary appointments of the respondent, La Trobe will follow established internal processes relating to these appointments and may consider seeking legal or other expert advice in relation to the management of these appointments with other institutions.

(82) Following the outcome of an Investigation, a copy of the decision of the Vice-Chancellor must be promptly provided in confidence to the person against whom the allegation has been made and to the person making the allegation.

(83) The Vice-Chancellor will inform all relevant parties of the Investigation findings and the actions taken by the University. 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.

(84) The findings of an independent, external Investigation may be made available to the public. Public statements may be made as appropriate.

(85) Appropriate actions must also be taken when the allegations of misconduct are demonstrated to be unfounded. The following will need to be considered:

- 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, including consideration of the way such communication is carried out. Support for both the respondent and complainant must be considered.

## **Part Q - Requesting a Review of the Investigation Outcome**

(86) 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.

(87) The Complainant and Respondent have 10 working days from the date on which they are informed of the outcome of an Investigation, or 10 working days from the date on which they become aware of new and relevant information, to lodge a request to reopen the Investigation or lodge an appeal in writing to the Vice-Chancellor.

(88) Appealing or reopening an Investigation may be appropriate where new and relevant information not available to the Panel comes to light, to correct errors or injustice, or where there is a perceived denial of Procedural Fairness.

However, an Investigative process will not be reopened to simply try to achieve a different outcome. For example, a conflict of interest could invalidate a process and require that it be redone without conflict. However, this would not be the case if the conflict of interest was considered, addressed and managed appropriately.

(89) In the event that the Vice-Chancellor determines that there are grounds for reopening or accepting an appeal of the outcome of an Investigation, the matter will be referred to a higher authority, such as an independent adjudicator or Panel comprised of a larger number of members or having greater experience / expertise, more rigorous processes, or greater resources.

(90) In accordance with the principles of Procedural Fairness, Respondents will be given as much warning of the decision to reopen or accept an appeal of the outcome.

(91) The Australian Research Integrity Committee (ARIC) provides a review system of institutional processes responding to Allegations of Breaches of the Code for institutions that are in receipt of funding from the NHMRC or the ARC. More information about ARIC and how to request a review from ARIC is available on the NHMRC website.

(92) Given that confirmed Breaches can lead to serious penalties, Respondents who are the subject of such findings may also have an entitlement to appeal to the courts.

## **Part R - Reporting to Relevant Institutions and Authorities**

(93) Reporting outcomes of major breach of [the Code](#) requires:

- a. Written documentation of the preliminary assessment, investigations, outcome and justification and reports on actions provided to the Senior Manager, Ethics Integrity and Biosafety, to be included in the Breach Register.
- b. The Deputy Vice-Chancellor (Research and Industry Engagement) or nominee will inform all relevant parties of the decision and outcome. Relevant parties may include but are not limited to affected staff, research collaborators including those at other institutions, all funding organisations, journal editors, ethics committees and professional registration bodies.
- c. The Senior Manager, Ethics Integrity and Biosafety will submit quarterly reports to the Research and Graduate Studies Committee on the occurrence and nature of allegations and any actions to address the underlying causes and will regularly report to the Risk and Compliance Office.

(94) Suspected breaches of the Code must be reported to the relevant institution and/or authority as per the requirement of the Code of Conduct and the relevant legislations and guidelines:

- a. Under the [Australian Privacy Act 1988](#) (Cth) the University is required to notify the Office of the Australian Information Commissioner (OAIC) when a data breach is likely to result in serious harm to individuals whose personal information is involved in the breach.
- b. The University must inform the Australian Research Council (ARC) on the outcomes of a preliminary assessment of a suspected research integrity breach related to ARC funded research as per the ARC Research Integrity Policy.
- c. Allegation or finding of a Breach of the Code should be reported to the NHMRC according to the NHMRC Research Integrity and Misconduct Policy (2019) if the University determines such disclosure is necessary to fulfil obligations under the NHMRC Funding Agreement, the Code or other funding/cooperative agreement.

## **Part S - Collaborative Research across Multiple Institutions**

(95) Consideration should be given to how potential breaches of [the Code](#) will be investigated at the outset for collaborative research projects that reach across multiple institutions and jurisdictions.

(96) The University will consider how preliminary assessments and investigations into potential breaches of the Code are to be conducted for multi-institutional collaborations on a case-by-case basis, taking into consideration issues such as the lead institution, where the complaint was lodged, where the events occurred and contractual arrangements.

(97) Institutions should cooperate if there is a potential breach of the Code to ensure that only one investigation is conducted. There should be clear communication between all parties throughout the investigation.

(98) Special consideration needs to be given to international collaborations since research practices and guidelines about the conduct of investigations differ between countries.

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

(99) If the subject of a Preliminary Assessment by the Designated Officer is an Honorary, Conagoth or Adjunct staff member of the University, and the Designated Officer 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
  - iii. how they can take steps to prevent recurrence
  - iv. informing their current employer of the outcome
- b. and such person disputes the research misconduct alleged, the Vice-Chancellor shall initiate an investigation consistent with the [Investigation Guide](#) (note that such an investigation does not need to be convened in accordance with or comply with the obligations set out in the Collective Agreement).

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

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

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

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

## **Section 5 - Definitions**

(103) For the purpose of this Procedure:

- a. Allegation: A claim or assertion arising from a Preliminary Assessment that there are reasonable grounds to believe a breach has occurred. May refer to a single allegation or multiple allegations.
- b. Anonymous complaints: Where the person making the complaint withholds their name or identity.
- c. Assessment Officer: A person or persons appointed by the University to conduct a Preliminary Assessment of a complaint about research overseen by the Designated Officer. The Assessment Officer will normally be a senior

- staff member within Ethics, Integrity and Biosafety Team.
- d. 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.
  - e. Breach: A failure to meet the principles and responsibilities of the Code or other relevant law, regulation, disciplinary standard, ethic, guideline, contractual agreement, or Institutional or external policy that applies to the conduct of research, including this Policy; may refer to a single breach or multiples breaches.
  - f. Code of Conduct: the [Australian Code for the Responsible Conduct of Research](#) version in force as varied from time to time 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.
  - g. Collective Agreement: means the version in force as varied from time to time.
  - h. Conflict of Interest: Interest, involvement or information which may influence or be perceived to influence a person's ability to make objective recommendations or decision in investigating a complaint.
  - i. Complaint: A complaint is a problem, concern or grievance about the University or the University environment.
  - j. Complainant: A person(s) who has made a complaint about the conduct of research.
  - k. Responsible Executive Officer: A senior officer in an institution who has final responsibility for receiving reports of the outcomes of processes of assessment or investigation of potential or found breaches of the Code and deciding on the course of action to be taken. The University's Responsible Executive Officer is the Vice-Chancellor.
  - l. Designated Officer: A senior professional or academic institutional officer or officers appointed to receive complaints about the conduct of research or potential Breaches and to oversee their management and investigation where required. The University's Designated Officer is the Deputy Vice-Chancellor (Research and Industry Engagement) or an appropriate delegate depending on the circumstances.
  - m. Investigation: The action of investigating an Allegation of a Breach by the Panel, following the Preliminary Assessment.
  - n. NHMRC: National Health and Medical Research Council.
  - o. Panel: The person(s) appointed by an institution to investigate a potential Breach.
  - p. Preliminary Assessment: The gathering and evaluating of evidence to establish whether a potential Breach warrants Investigation.
  - q. Procedural Fairness: That a fair and proper procedure is used when making a decision.
  - r. Researchers: All University Staff, Affiliates and Students who conduct research activities at the University.
  - s. Research Ethics Committee: Human Research Ethics Committee, Animal Ethics Committee, La Trobe Institutional Biosafety Committee or any external approval Ethics Committees.
  - t. Research Integrity Advisor: A person (or persons) appointed by the Vice-Chancellor or delegate as an independent advisor to promote the responsible conduct of research and who can advise staff, or other persons engaged in research under the auspices of the University or any Controlled Entity.
  - u. Research misconduct: A major breach of the Code of Conduct which is also intentional or reckless or negligent.
  - v. Resources: Any form of funds, facilities, services, or resources, including background IP, equipment, consumables and human resources of, or awarded or donated to, the University.
  - w. Respondent: The person(s) subject to a complaint or allegation about a potential breach.
  - x. Staff member: any employee of the University.
  - y. Student: Undergraduate and postgraduate students of a university or other academic institution including but not limited to honours, masters and PhD students who are conducting research at the University.
  - z. Support Person: A person who accompanies a party to an interview to provide personal support to a Respondent and/or Complainant.



## Section 6 - Key policies and guidelines

(104) In addition to the Code, a range of other laws, regulations, policies, guidelines and codes impose requirements or provide guidance regarding the responsible conduct of research. Key materials that should be read in conjunction with this Policy include:

- a. AIATSIS Guidelines for ethical research in Australian Indigenous studies, 2012
- b. ARC Australian Research Integrity Policy 2019
- c. NHMRC/ARC Australian Code for the Responsible Conduct of Research, 2018
- d. Australian code for the care and use of animals for scientific purposes 8th edition, 2013
- e. NHMRC Ethical conduct in research with Aboriginal and Torres Strait Islander Peoples and communities: guidelines for researchers and stakeholders, 2018
- f. Guide to managing and investigating potential breaches of the Australian Code for the Responsible Conduct of Research, 2018
- g. Keeping research on track II, 2018
- h. National statement on ethical conduct in human research, 2007 (updated 2018)
- i. NHMRC Research Integrity and Misconduct Policy (2019)
- j. Statement on Consumer and Community involvement in Health and Medical Research, 2016
- k. Guidelines to promote the wellbeing of animals used for scientific purposes: the assessment and alleviation of pain and distress in research animals, 2008

(105) Related research policies:

- a. [Research - Higher Degree Student Research Misconduct Procedure](#)
- b. [Research Governance Policy](#)
- c. [Research Authorship of Outputs policy](#)
- d. [Conflict of Interests Policy](#)
- e. [Research Data Management Policy](#)
- f. [Research Human Ethics Procedure](#)
- g. [Research Animal Ethics Procedure](#)
- h. [Research Biosafety and Biosecurity Procedure](#)
- i. [Research Clinical Trials Policy](#)

## Status and Details

<b>Status</b>	Current
<b>Effective Date</b>	16th September 2020
<b>Review Date</b>	9th September 2023
<b>Approval Authority</b>	Academic Board
<b>Approval Date</b>	9th September 2020
<b>Expiry Date</b>	Not Applicable
<b>Responsible Policy Officer</b>	Alistair Duncan Executive Director, Research Office
<b>Author</b>	Heidi Gaulke
<b>Enquiries Contact</b>	Ethics and Integrity