

## Managing Breaches of the Code

### Purpose and Scope

These procedures are intended to assist staff in managing and assessing potential breaches of the [Australian Code for the Responsible Conduct of Research, 2018](#) and apply to all university researchers.

The Conducting Research with Integrity Policy and these procedures are to be read in conjunction with an individual’s employment contract or letter of appointment, and the Enterprise Agreement. The applicable terms of an individual’s employment contract or letter of appointment, and the Enterprise Agreement, will prevail over the terms of these Procedures to the extent of any inconsistency.

Instances of Research Misconduct or Breaches by a Student will be managed under the [Academic Misconduct Rules \(Students\)](#). Where the Student is also a staff member, and it is reasonably believed the matter under investigation extends to the Researcher’s involvement with the University as both a student and a member of staff, more than one investigation may be conducted, and outcomes associated with both roles may result.

The Conducting Research with Integrity Policy and these procedures apply to Adjunct, Honorary and Visiting Academic Appointments. If it is found that a Breach or Research Misconduct has occurred, the matter will be referred back to the individual’s employing institution for disciplinary action. The University may continue to take such other institutional responses as may be appropriate in the circumstances.

### Definitions

The University Glossary and the following definitions apply to this procedure:

TERM	DEFINITION
Assessment Officer	A person appointed by the Designated Officer or nominee to conduct a preliminary assessment.
Breach	A failure to meet the principles and responsibilities as set out in the Code, including: <ul style="list-style-type: none"> <li>• Failure to meet required Research standards</li> <li>• Fabrication, falsification, misrepresentation</li> <li>• Plagiarism</li> <li>• Research data mismanagement</li> <li>• Inadequate supervision of Researchers</li> <li>• Inappropriate authorship attribution</li> <li>• Conflicts of interest</li> <li>• Peer review mismanagement</li> </ul>
Code	The Australian Code for the Responsible Conduct of Research 2018.
Complainant	A person who alleges a Breach or Research Misconduct has occurred.
Designated Officer	The person holding the position of Director, Research Services (or substantially equivalent role), or a person acting in that position, or their nominee.

Research Integrity Advisor	A Person nominated by the Deputy Vice-Chancellor (Research), or their delegate, who has knowledge of the Code and University processes.
Research Misconduct	A serious Breach of the Code which is also intentional or reckless or negligent, which may amount to misconduct or serious misconduct under the Enterprise Agreement.
Respondent	The Researcher who is the subject of the relevant complaint.
Support person	A person who a Complainant elects to be present at and observe meetings involving the Complainant, or a person who a Respondent elects to be present at and observe meetings involving the Respondent. A Support Person's role is to provide emotional support and reassurance, observe the meeting, assist with clarifying the process for the relevant Complainant or Respondent, and to take notes. A Support Person may not act as an advocate on the relevant Complainant's or Respondent's behalf.

## 1. Principles

- 1.1 Consistent with the University's values of integrity, respect, rational inquiry and personal excellence, Researchers must ensure that their Research conduct and practice reflects the principles and responsibilities set out in the Code.
- 1.2 In dealing with allegations into a Breach or Research Misconduct the University will follow principles of procedural fairness.
- 1.3 The University has a culture of academic and research integrity and supports the timely disclosure and reporting of allegations of Breaches or Research Misconduct to the University's Designated Officer or through the [ECU Complaints webpage](#). The University will also take appropriate action in respect of a complainant where a complaint is deemed to be frivolous or vexatious.
- 1.4 The University and its staff will take reasonable steps to ensure that information obtained during an assessment of an allegation of a Breach or Research Misconduct will be kept confidential and accessed only by those with a legitimate need to the information. This is subject to the University's statutory, contractual, reporting, auditing and funding obligations.
- 1.5 The Deputy Vice-Chancellor (Research) may (in their absolute discretion) suspend any action or penalty imposed under this policy or its related procedures, if required by law or if the matter is being investigated by an external agency, providing reasons to an affected person where practicable.
- 1.6 If any investigation of staff uncovers activities that would be considered suspected criminal activity, or acts of fraud, corruption and misconduct as defined by the Fraud and Misconduct Prevention and Management Policy, consistent with that policy, such activities will be reported in a timely manner to the Director, Strategic and Governance Services Centre and the Director, Human Resources Service Centre.

## **2. Advice available prior to making a formal complaint**

- 2.1 A person considering making a complaint alleging a Breach or Research Misconduct may obtain advice from a Research Integrity Advisor. The role of a Research Integrity Advisor is to promote the responsible conduct of Research at the University, and to provide advice on Research integrity processes and options for reporting a Breach or Research Misconduct. Research Integrity Advisors are not responsible for assessing or investigating complaints, and will not contact potential Respondents. The list of ECU's Research Integrity Advisors can be found [here](#).

## **3. Making a complaint of Breach or Research Misconduct**

- 3.1 Complaints into alleged Breaches or Research Misconduct should be made in a timely manner, with any available evidence, and reported to the Designated Officer.
- 3.2 The Designated Officer will encourage a Complainant to provide all information relevant to the complaint in writing, and will provide a written acknowledgement of receiving the complaint.
- 3.3 The Designated Officer may initiate a preliminary assessment where a complaint is received verbally. In this circumstance, the Designated Officer will convert the complaint to a written format, and, where possible, acknowledge in writing that the complaint has been received.
- 3.4 The Designated Officer will,
- a. if the complaint does not relate to Research or to a potential Breach or Research Misconduct, refer the complaint to an appropriate staff member to be dealt with in accordance with the relevant University policy;
  - b. if the complaint contains insufficient information, or is frivolous or vexatious, dismiss the complaint; or
  - c. request the ECU Assessment Officer to conduct a preliminary assessment of the matter and may seek assistance from relevant University staff when making this decision.

## **4. Preliminary Assessment**

- 4.1 An Assessment Officer conducting a preliminary assessment must not have a Conflict of Interest with respect to the subject matter or the persons involved in the complaint.
- 4.2 The Assessment Officer will:
- a. gather and evaluate facts and information relevant to the complaint in a manner that complies with principles of procedural fairness;
  - b. notify the Respondent in writing:
    - i) that they are subject to an allegation of Breach or Research Misconduct;
    - ii) that a preliminary assessment into the allegation(s) is being conducted; and
    - iii) providing sufficient information to enable the Respondent to respond to the allegation; and
  - c. provide the Respondent with a reasonable opportunity (no less than 10 working days) to be heard at a meeting with the Assessment Officer and make written submissions in response to the allegations. The Respondent may elect to bring a Support Person to be present at any meeting convened by an Assessment Officer, however the Respondent must not be legally represented at a meeting.
- 4.5 In conducting a preliminary assessment, the Assessment Officer may:

- a. seek internal or external advice, provided that the person(s) contacted does not have a Conflict of Interest, and subject to the principles and approvals outlined below relating to record keeping and disclosures;
  - b. seek legal advice from within the University; and
  - c. with the Designated Officer's approval, include additional staff or students as Respondents to the allegation(s), if supported by the evidence (in such circumstances these individuals must be notified in writing in accordance with the principles articulated above to allow the Respondents opportunity to respond).
- 4.6 The University may continue to conduct a preliminary assessment even if a Respondent has left the University.
- 4.7 The Assessment Officer will provide the Designated Officer with a preliminary assessment report within 20 working days of receiving the Respondent's response (or such further time as may be reasonably required and approved by the Designated Officer, provided the Respondent is notified of any extension of time and the reasons for this). The report will document the grounds for the allegation of Breach or Research Misconduct, the evidence collated, and recommendations for whether further investigation is required and what further actions should be taken.
- 4.8 The Designated Officer will consider the preliminary assessment report and within 10 working days of receiving the report (or such further time as may be reasonably required, provided the Respondent is notified of this) will:
- a. refer the matter back to the Assessment Officer for further inquiry;
  - b. dismiss the allegation on reasonable grounds (including where there is insufficient information to proceed or the matter does not warrant further investigation);
  - c. if the allegation(s) amounts to a Breach, determine corrective actions to be undertaken by the Respondent and managed by either:
    - i) the Respondent's Line Manager; or
    - ii) where the relevant Line Manager has a Conflict of Interest or was connected to the relevant conduct, the School Executive Dean or Line Executive; and
  - d. if the allegation(s) amounts to Research Misconduct, refer the matter to the School Executive Dean or Line Executive, to be dealt with in accordance with the relevant applicable discipline provisions of the individual's employment contract or letter of appointment and the Enterprise Agreement. In referring the matter to the School Executive Dean or Line Executive, the Designated Officer will make written recommendations about how the matter could be investigated.
- 4.9 The Designated Officer may seek additional advice from relevant staff at the University where appropriate (subject to principles of procedural fairness) when making a decision on an allegation.
- 4.10 The Designated Officer will notify the Respondent and the Deputy Vice- Chancellor (Research), in writing, of the outcome of the preliminary assessment. Where the Designated Officer makes a determination that the allegation(s) amount to a Breach, the Designated Officer will also notify in writing the Respondent of the corrective actions to be taken, who will manage the corrective action, and any available right of review.

- 4.11 The Respondent may, within 10 working days of the Designated Officer making a decision, make a written request that the Deputy Vice-Chancellor (Research) review and remake the decision. A request for review can only be made on grounds that there has been a lack of procedural fairness, that University policies, procedures, and/or guidelines have not been followed, or the Assessment Officer's report or the Designated Officer's decision was affected by discrimination, prejudice, or bias. The grounds of review must be specified. The Deputy Vice-Chancellor (Research) will notify the Designated Officer and the Respondent of their decision in writing as soon as practicable.
- 4.12 The School Executive Dean or Line Executive is responsible for notifying the Designated Officer of the outcome of any matter referred to them as Research Misconduct, within 10 working days of the matter being finalised by the University.
- 4.13 The Deputy Vice-Chancellor (Research), in conjunction with the Designated Officer, will take steps to address any systemic issues that are identified during a complaint, preliminary assessment or subsequent investigation, upon which the University could improve.

## **5. Record keeping and disclosure**

- 5.1 All decisions made in accordance with these Procedures should be recorded in writing.
- 5.2 Staff responsible for managing or conducting preliminary assessments or other actions in accordance with these Procedures are to maintain full and adequate records in accordance with University policies, which are to be stored on a formal restricted access file. A finding of Breach, and any corrective action imposed, will be placed on the employee's personal file (where applicable).
- 5.3 All correspondence, documentation and assessments associated with allegations of Breaches and Research Misconduct are to be treated as confidential, and be accessible only by staff who have a legitimate need, subject to:
- a. the Respondent's right to procedural fairness;
  - b. the University's statutory or legal obligations;
  - c. the University's internal and external reporting and audit obligations (including to research funders and collaborators);
  - d. appropriate communications with a Complainant, as determined by the Designated Officer, having regard to any legal requirements, the Respondent's right to procedural fairness, and other obligations arising from any disciplinary proceedings; and
  - e. correction of the public record (see below).
- 5.4 The Designated Officer will be required to approve any disclosure to third parties of matters pertaining to a preliminary assessment or any decision or report made under these Procedures. This includes contact with third parties during a preliminary assessment or notifying funding bodies and collaborators where required.

## **6. Correction of the public record**

- 6.1 If an allegation is dismissed, the Designated Officer will make reasonable efforts to restore an affected party's reputation in consultation with the Respondent.
- 6.2 The Designated Officer may take action to correct the public record where an investigation into an allegation of Breach or Research Misconduct has been completed.

## **7. Managing a conflict of interest**

- 7.1 Where an Assessment Officer has, or discovers that they have, a Conflict of Interest, the Designated Officer or Deputy Vice- Chancellor (Research) may appoint a new Assessment Officer. The new Assessment Officer must conduct the preliminary assessment afresh exercising their own independent judgment, but may rely upon documentation and other evidence previously collected.
- 7.2 Where the Designated Officer, a School Executive Dean, or a Line Executive has a Conflict of Interest, or their position is vacant, the Deputy Vice-Chancellor (Research) will nominate an alternative staff member to undertake their relevant responsibilities.
- 7.3 If the Deputy Vice-Chancellor (Research) has a Conflict of Interest, the Vice-Chancellor will nominate an alternative staff member to undertake their relevant responsibilities.

## **8. Implementation**

- 8.1 These Procedures apply to any allegation received by the Designated Officer on or after the effective date shown below, irrespective of when the alleged conduct occurred.

## **9. Managing Breaches of the Code**

- 9.1 Formal complaints of a breach to the Code can be lodged through ECU's research concerns or complaints reporting process. Further information about ECU's position on managing breaches of the Code can be found here (<https://intranet.ecu.edu.au/research/for-research-staff/research-integrity/professional-conduct/managing-and-reporting-breaches-of-the-code>) or by contacting [research.integrity@ecu.edu.au](mailto:research.integrity@ecu.edu.au).

## **10. Related Documents**

Other documents which are relevant to the operation of this guideline are as follows:

- [Australian Code for the Responsible Conduct of Research 2018](#)
- [ARC Research Integrity Policy 2019](#)
- [NHMRC Research Integrity and Misconduct Policy 2019](#)
- [Academic Misconduct Rules \(Students\) \[UR002\]](#)
- [Conducting Research with Integrity Policy](#)
- [Authorship, Publication of Research, and Peer Review Guidelines](#)
- [Staff Code of Conduct \[PL159\]](#)
- [Fraud and Misconduct Prevention and Management Policy \[PL205\] and Guidelines](#)
- [Procedures relating to ECU's obligations under the Public Interest Disclosure Act \(WA\) 2003](#)
- [Edith Cowan University Enterprise Agreement 2017](#)
- [Appointment – Emeritus Professor, Honorary, Adjunct and Visiting Academic Staff Policy \[PL185\] and Guidelines](#)

### **Contact Information**

For queries relating to this document please contact: [research.integrity@ecu.edu.au](mailto:research.integrity@ecu.edu.au)