PROCEDURE FOR HANDLING ALLEGATIONS OF RESEARCH MISCONDUCT

UNSW Procedure	
Linked UNSW Policy	This procedure details actions pursuant to the UNSW Research Code of Conduct and the UNSW Code of Conduct
Responsible Officer	Senior Deputy Vice-Chancellor and Vice-President
Contact Officer	Director, Academic Integrity
Authorisation	UNSW Council, 27 April 2009 (CL09/17)
Effective Date	29 February 2016
Superseded Documents	Code of Conduct for the Responsible Practice of Research approved by Academic Board 2 March 2004 (AB04/21)
File Number	2016/05807
Associated Documents	UNSW Code of Conduct UNSW Research Code of Conduct Intellectual Property Policy Policy on Paid Outside Work by Academic Staff UNSW Delegations of Authority Conflict of Interest Policy Insider Trading Policy Procedure for Making and Handling Public Interest Disclosures Procedure for Authorship and for Resolving Disputes Between Authors Procedure for Handling Research Material and Data Procedure for Responsible Peer Review Statement of Authorship and Location of Data Form

CONTENTS

1. DEFINITIONS

1.1. Research	"original investigation undertaken to gain knowledge, understanding and insight."[1]
1.2. Research Trainee	Higher Degree Research student (PhD or Masters by Research) or early career researcher (postdoctoral research fellow or within 5 years of obtaining PhD).
1.3. Researcher	All UNSW staff, conjoint appointments, and visiting appointments undertaking research at UNSW, including staff classified as "professional and technical" and casual staff undertaking research.

[1] Australian Code for the Responsible Conduct of Research, page 1

2. PURPOSE & SCOPE

2.1. This procedure covers the principles and processes for handling any complaints or allegations of non-compliance with the ***UNSW Research Code of Conduct*** ("the Research Code").

2.2. The University of New South Wales regards non-compliance with the Research Code as unacceptable.

2.3. The University of New South Wales treats all allegations of non-compliance with the Research Code seriously, and any such allegations will be dealt with in accordance with this Procedure.

3. NON-COMPLIANCE WITH THE UNSW RESEARCH CODE OF CONDUCT

3.1. There are two types of non-compliance with the Research Code:

3.1.1. Breach of the Research Code; and

3.1.2. Research Misconduct.

3.2. Breach of the Research Code occurs where there is a specific action or omission that constitutes a breach of the Research Code, but does not fall within the definition of Research Misconduct. Repetition or continuation of breaches of the Research Code may constitute Research Misconduct.

Examples of breaches of the Research Code include (but are not limited to):

3.2.1. Misappropriation : A researcher or reviewer shall not;

a) plagiarise, which shall be understood to mean the presentation of the documented words or ideas of another as his or her own, without attribution appropriate for the medium of presentation;

b) make use of any information in breach of any duty of confidentiality associated with the review of any manuscript or grant application;

c) omit reference to the relevant published work of others for the purpose of inferring personal discovery of new information.

3.2.2. Interference: A researcher or reviewer shall not take or sequester or materially damage any research-related property of another, but are not limited to the apparatus, reagents, biological materials, writings, data, hardware, software, or any other substance or device used or produced in the conduct of research.

3.2.3. Misrepresentation: A researcher or reviewer shall not;

a) state or present a material or significant falsehood; or

b) omit a fact so that what is stated or presented as a whole states or presents a material or significant falsehood.

3.2.4. Failure to obtain, or deviating from, approved protocols accepted by a scientific discipline or from protocols for research involving humans, animals, gene technology, radiation, or Defence trade controls.

3.2.5. Other practices that seriously deviate from those commonly accepted within the research community for proposing, conducting or reporting research.

3.3. Research Misconduct occurs where:

3.3.1. there is a breach of the Research Code; and

3.3.2. the breach is intentional or deliberate, reckless, or involves gross and persistent negligence; and

3.3.3. there are serious consequences, such as false information on the public record, or adverse effects on research participants, animals or the environment.

Repeated or continuous breaches of the ***Research Code of Conduct*** may also constitute Research Misconduct.

Depending on the nature and seriousness of the breach, Research Misconduct may also constitute Serious Research Misconduct warranting termination of employment.

Examples of Research Misconduct include (but are not limited to) fabrication, falsification, plagiarism or deception in proposing, carrying out or reporting the results of research, and failure to declare or manage a serious conflict of interest. It includes avoidable failure to follow research proposals as approved by a research ethics committee, particularly where this failure may result in unreasonable risk or harm to humans, animals or the environment. It also includes the willful concealment or facilitation of research misconduct by others.

Research Misconduct does not include honest differences in judgement in the management of research, or honest errors that are minor or unintentional. However, breaches of this kind will require specific action in accordance with this Procedure.

4. ROLES AND RESPONSIBILITIES

4.1. "Advisors on Research Integrity"

4.1.1. The Senior Deputy Vice-Chancellor will appoint an Advisor on Research Integrity in each Faculty. This will normally be the Associate Dean (Research).

4.1.2. Advisors on Research Integrity will be familiar with the relevant Codes and Procedures relating to research integrity for their discipline.

4.1.3. Advisors on Research Integrity will be available to offer confidential advice to staff and students on matters related to the Research Code and this Procedure.

4.1.4.

4.2. ***"Designated Officer"***

4.2.1. The Designated Officer, is the Director, Academic Integrity, or Delegated Officer to whom all allegations of research misconduct should be directed.

4.3. "***Role of Chief Executive Officer"***

4.3.1. The role of the Chief Executive Officer has been delegated by the President & Vice-Chancellor to the Senior Deputy Vice-Chancellor.

5. PROCEDURE FOR HANDLING ALLEGATIONS OF NON-COMPLIANCE WITH THE RESEARCH CODE

5.1. An overview of the procedure for handling allegations of non-compliance with the Research Code (including breaches of the Research Code and Research Misconduct) is set out in the flow chart in **Attachment A.**

6. PRELIMINARY INVESTIGATION

6.1. When the Designated Officer receives a written allegation of a breach of the Research Code or Research Misconduct, the Designated Officer will conduct a preliminary investigation to determine whether there is a *prima facie* case.

6.1.1. In conducting a preliminary investigation, the Designated Officer may obtain confidential advice from internal and/or external independent experts in the research area concerned, request relevant evidence from both the complainant and the person/s whom the allegation has been made against. This may include experimental material, names of witnesses, IT records and other documents.

6.1.2. Failure to provide the requested information may be considered a breach of the ***UNSW Code of Conduct*** and/or misconduct or serious misconduct.

6.2. In determining whether a *prima facie* case exists, the Designated Officer will consider whether the allegations, if proven, could constitute a Breach of the Research Code or Research Misconduct.

6.3. Following a preliminary investigation, the Designated Officer may form the following view:

6.3.1. that there is no substance to the allegation; or

6.3.2. there is a *prima facie* case of Breach of the Research Code; or

6.3.3. there is a *prima facie* case of Research Misconduct.

6.4. Even if the person accused of non-compliance has resigned from the University, a preliminary investigation to establish the facts may be pursued by the Designated Officer. Distortions of the research record may need to be rectified, whether or not the person involved remains at the University.

6.5. The Designated Officer will report the outcome of the preliminary investigation to the person who made the allegation, to the person against whom the allegation was made, and to the relevant Dean or Head of School.

7. PROCEDURE WHERE THERE IS A *PRIMA FACIE* CASE OF BREACH OF THE RESEARCH CODE.

7.1. Where it has been determined by the Designated Officer that there is a *prima facie* case of a Breach of the Code, the Designated Officer may take the following action:

7.1.1. refer the matter to the relevant Dean, Advisor on Research Integrity, or Head of School for action as recommended by the Designated Officer;

7.1.2. this may include action under the disciplinary provisions of the Enterprise Agreement.

8. PROCEDURE WHERE THERE IS A *PRIMA FACIE* CASE OF RESEARCH MISCONDUCT

8.1. Where it has been determined by the Designated Officer that there is a *prima facie* case of Research Misconduct, the Designated Officer may take the following action:

8.1.1. refer the matter to the Senior Deputy Vice Chancellor, to deal with in his/her role as delegate of the Chief Executive Officer, with a recommendation for action. Where the recommendation includes a Research Misconduct Inquiry, the Designated Officer will also include a recommendation about an inquiry format which may include a mix of internal or external persons and a panel or single member.

a) The Senior Deputy Vice-Chancellor will determine how to proceed in accordance with the relevant enterprise agreement or other relevant procedures (e.g. for non-employees).

b) This may include the Senior Deputy Vice Chancellor referring the matter to a Research Misconduct Inquiry (subject to any pre-conditions under the relevant enterprise agreement being met). The flow chart in **Attachment A** sets out the process of a Research Misconduct Inquiry.

c) The Designated Officer will provide all correspondence and information collected as part of the Preliminary Investigation to the Senior Deputy Vice-Chancellor.

8.1.2. Ensure that relevant funding agencies, journals and other media through which the research in question was reported are informed of the preliminary determination of a *prima facie* case of research misconduct.

9. MAKING COMPLAINTS ABOUT NON-COMPLIANCE WITH THE RESEARCH CODE

9.1. Employees are encouraged to report non-compliance with the ***Research Code of Conduct***.

9.2. However, it is also important to recognise that an allegation(s) of non-compliance with the ***Research Code of Conduct*** can damage the reputation of the academic within their discipline, even when proved to be baseless.

9.2.1. Staff or students may sometimes wish to make an allegation of research misconduct as a result of frustration based on poor communication, misunderstanding or, at worst, harassment, rather than research misconduct.

9.2.2. Advice about whether to proceed with an allegation should initially be obtained from an Advisor on Research Integrity.

9.3. Once the decision has been made to make an allegation of Research Misconduct by a complainant against an academic or research student, the allegation must be put in writing and be addressed to the Designated Officer.

9.4. Protection of Interested Parties

9.4.1. Some allegations of non-compliance with the Research Code may fall within the scope of the University's ***Policy for making a complaint or reporting incidents of criminal, corrupt conduct or maladministration or Protected Disclosure at UNSW***. In this circumstance, the staff member may elect to make the complaint as a protected disclosure in accordance with that Policy.

9.4.2. The interests of all interested parties must be protected during these investigations by preserving confidentiality and ensuring natural justice. Such fair dealing must consider the protection of persons making allegations in good faith, and of persons accused of misconduct. "Interested parties" include:

a) a person bringing an allegation;

b) a person against whom an allegation is made;

c) staff, student and trainees working with persons making an allegation, or with persons against whom an allegation is made;

d) journals and other media reporting research subject to suspected, alleged, or found research misconduct;

e) funding bodies supporting persons or research involved; and

f) the public.

9.4.3. In conducting a preliminary investigation, the Designated Officer will not provide the name of the complainant to the person whom the allegation is made against, without the complainant's express written permission.

9.5. Frivolous, Vexatious and Bad Faith Complaints

9.5.1. Individuals are expected to make complaints in good faith. This Procedure is not to be used as a forum for revenge, retribution or mischief. If a person makes a complaint which is frivolous, vexatious or in bad faith, disciplinary action may be taken against them.

9.5.2. Examples of frivolous, vexatious and bad faith complaints include (but are not limited to):

a) fabricating a complaint to get another person into trouble;

b) making trivial or petty complaints;

c) making repeated, unsubstantiated complaints; or

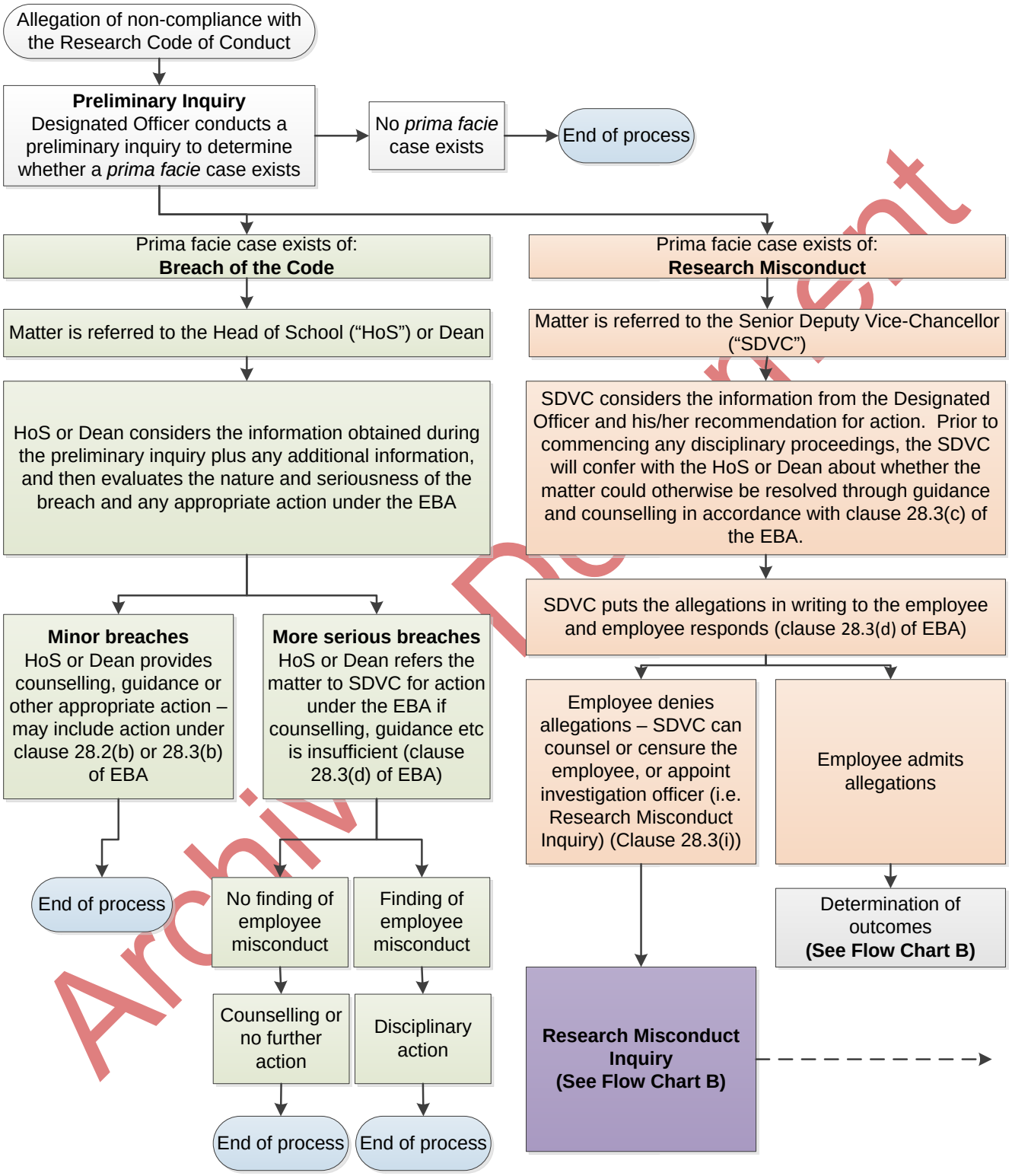
d) seeking to re-agitate issues that have already been addressed or determined.

10. REVIEW & HISTORY

10.1. Modifications

Version	Date	Approval	Sections modified	Details of amendments
1.0	27/04/2009	UNSW Council (CL09/17)	N/A	This is a new procedure
1.1	29/02/2016	Acting Head of Governance	Administrative section	Minor changes to reporting relationships.

11. ATTACHMENT A - FLOW CHART - PROCESS FOR HANDLING NON-COMPLIANCE WITH RESEARCH CODE OF CONDUCT



Flow Chart B