Research Misconduct Procedure

Version	Approved by	Approval date	Effective date	Next full review
2.0	Deputy Vice-Chancellor Research	11 July 2019	11 July 2019	July 2022

Procedure Statement

Purpose	The purpose of this UNSW *Research Misconduct Procedure* (Misconduct Procedure) is to set out the process for handling complaints and alleged breaches of the UNSW *Research Code of Conduct* (Research Code). It is based on the *Guide to Managing and Investigating Potential Breaches of the Australian Code for the Responsible Conduct of Research 2018*[1] (Guide). Parts of this Misconduct Procedure are taken directly from this Guide. These are not specifically referenced throughout this Misconduct Procedure.[2]	
Scope	This *Research Misconduct Procedure* applies to Research undertaken by UNSW Researchers.	
Are Local Documents on this subject permitted?	☐ Yes, however Local Documents must be consistent with this University-wide Document	☒ No

Procedure Processes and Actions

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1. Breach of the Research Code and Research Misconduct

1.1 UNSW regards any conduct in Breach of the *Research Code* as unacceptable and will manage concerns and complaints related to, or findings of, Breach of the *Research Code* (including Research Misconduct), in accordance with this Misconduct Procedure.

1.2 A Breach of the *Research Code* means a failure by a Researcher to:

a) meet one or more of the principles or responsibilities in the *Research Code*; or

b) adhere to UNSW policies and procedures related to responsible Research.

A Breach of the *Research Code* may involve a single breach or multiple breaches.

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[1] *Guide to Managing and Investigating Potential Breaches of the Australian Code for the Responsible Conduct of Research* 2018. National Health and Medical Research Council, Australian Research Council and Universities Australia. Commonwealth of Australia, Canberra.
[2] Under Creative Commons Attribution 4.0 Australian licence.

1.3 Examples of a Breach of the *Research Code* include:

Not meeting required Research standards

a) conducting Research without ethics approval as required by the *National Statement on Ethical Conduct in Human Research* and the *Australian Code for the Care and Use of Animals for Scientific Purposes*

b) failing to conduct Research as approved by an ethics review body

c) conducting research without the requisite approvals, permits or licences required by laws, regulations, disciplinary standards and UNSW policies related to the responsible and/or safe conduct of research

d) failing to conduct research in conformity with the issued approvals, permits or licences in accordance with required laws, regulations, disciplinary standards and UNSW policies relating to the responsible and/or safe conduct of research

e) misusing research funds, such as, failing to expend grant funds in accordance with the funded proposal and/or funding agreement

f) failing to conduct research related to Aboriginal and Torres Strait Islander peoples in a respectful manner and in conformity with the *Ethical conduct in research with Aboriginal and Torres Strait Islander Peoples and communities: Guidelines for researchers and stakeholders*

g) concealing or facilitating breaches (or potential breaches) of the *Research Code* by others

Fabricating, falsifying and misrepresenting research

h) fabricating, falsifying or misrepresenting research data or source material

i) falsifying and/or misrepresenting any matter in the course of seeking or obtaining funding, or reporting to funding bodies

Failing to adhere to the *UNSW Plagiarism Policy*

j) plagiarising someone else's work, including theories, concepts, research data and source material

k) duplicating publication (also known as redundant or multiple publication, or self-plagiarism), without proper acknowledgment of the source or sources

l) contract cheating (making use of ghost writing)

Failing to adhere to the *UNSW Handling Research Material & Data Procedure*

m) failing to appropriately maintain and retain research records, data and/or source material

n) losing or inappropriately destroying research records, research data and/or source material contrary to UNSW policies

o) inappropriately disclosing, or accessing, research records, research data, and/or source material

Poor supervision

p) failing to provide adequate guidance or mentorship to a Researcher on responsible research conduct

Failing to adhere to the UNSW *Authorship and Resolving Disputes Between Authors Procedure*

q) failing to fairly acknowledge the contribution of others involved in the Research who do not meet the minimum criteria for authorship, such as laboratory assistants, supervisors or the funding body

r) misleading ascription of authorship, including failing to offer authorship to those whose contribution warrants inclusion or awarding authorship to those who do not meet the minimum criteria

s) intentionally excluding a Researcher who has contributed to the acquisition of funding, or the collection of research data from its analysis or interpretation of research data

Failing to disclose and/or manage conflicts of interest

t) failing to disclose or manage conflicts of interest in accordance with the UNSW *Conflict of Interest Policy*

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u) failing to manage or disclose conflicts of interest to relevant parties, including supervisors, ethics committees, publishers or funding agencies in accordance with their respective requirements

Failing to responsibly conduct peer reviews

v) failing to conduct peer reviews responsibly and in accordance with the UNSW *Responsible Peer Review Procedure*.

1.4 As illustrated in Figure 1 below, a Breach of the *Research Code* occurs on a spectrum, from minor (less serious) to major (more serious).

Figure 1: Spectrum of breaches of the Research Code [3]

Clause 1.5 sets out the process for determining the seriousness of the breach.

1.5 The following factors may be considered (without excluding others), when determining whether a Breach of the *Research Code* constitutes a serious breach:

a) the extent of the departure from accepted practice

b) the extent to which research participants, the wider community, animals or the environment, are, or may have been, affected by the breach

c) the extent to which there is, or may have been, incorrect information on the public record, or the potential to have incorrect information on the public record

d) the extent to which the breach affects the soundness or reliability of the research

e) the level of experience of the researcher

f) whether there has been a prior Breach of the *Research Code* by the researcher

g) whether any institutional failures have contributed to the breach

h) any other mitigating or aggravating circumstances.

1.6 Research Misconduct is a serious Breach of the *Research Code* , which is also intentional, reckless or negligent. However, it is important to note that:

a) Research Misconduct does not include honest differences in judgement or unintentional errors (unless they result from behaviour that is reckless or negligent)

b) repeated or persistent breaches will likely constitute a serious breach, which may amount to Research Misconduct.

1.7 A finding of a Breach or serious Breach of the *Research Code* (including Research Misconduct) may also constitute:

a) misconduct or serious misconduct in employment warranting disciplinary action up to and including termination of employment (in accordance with the provisions of the applicable Enterprise Agreement and/or employment contract)

b) a breach of the conditions upon which an academic title is conferred or the terms upon which a visiting appointment is approved (which may lead to the academic title or visiting appointment being withdrawn)

c) misconduct or serious student misconduct warranting disciplinary action up to and including permanent exclusion from UNSW in accordance with the UNSW *Student Code of Conduct* and the UNSW *Student Misconduct Procedure*.

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[3] Adopted from the *Guide to Managing and Investigating Potential Breaches of the Australian Code for the Responsible Conduct of Research 2018*

2. Roles and responsibilities

2.1 The Responsible Executive Officer (REO) is the Deputy Vice-Chancellor Research and is responsible for:

a) determining whether to commence an Investigation

b) issuing urgent or interim measures, where it is considered necessary

For example, where an activity may pose an immediate risk of harm to humans, animals or the environment, etc

c) Preparing the terms of reference for the Investigation Panel

d) nominating the members of the Investigation Panel

e) receiving the Investigation Panel Report and deciding whether a Breach of the *Research Code* or Research Misconduct has occurred and if so, what action is to be taken.

2.2 The Designated Officer (DO) is the Director, UNSW Conduct and Integrity, or their delegated officer, and is responsible for:

a) determining whether the matter is an unintentional administrative, clerical or oversight error relating to research administration that may be better rectified at a local level without the need to proceed to a Preliminary Assessment

b) assigning a suitably qualified Assessment Officer (AO) to undertake the Preliminary Assessment (see clause 2.4 below)

c) receiving the Preliminary Assessment Report from the AO

d) determining whether a breach has occurred, and if so, whether the breach should be locally resolved or requires a referral, including to the REO to consider convening an Investigation Panel to examine it as potential Research Misconduct

e) providing information to funding and other agencies in accordance with contractual obligations or other research related rules or guidelines

f) providing information to regulatory (or similar) bodies where the University considers such disclosure is necessary considering the potential serious consequences for the health of individuals, the welfare of animals, the public or the environment

g) providing information to publishers and other outlets where the University considers such disclosure is necessary to correct the public record.

2.3 The Research Integrity Unit (RIU) is responsible for:

a) receiving concerns and complaints on behalf of the DO about a potential Breach of the *Research Code*

b) providing administrative support to the Preliminary Assessment and the Investigation Panel

c) developing and managing processes related to the responsible conduct of research, including providing education and advice to all Researchers and supporting the UNSW network of Research Integrity Advisers (RIA) (see clause 2.7)

d) providing administrative support to the REO and/or DO in the performance of their functions under this Misconduct Procedure.

2.4 The Assessment Officer (AO):

a) is assigned by the DO on a case by case basis and may be a suitably qualified RIU staff member, senior staff member, senior researcher or nominated equivalent

b) conducts the Preliminary Assessment and prepares a Preliminary Assessment Report which is provided to the DO.

2.5 The Investigation Panel is nominated by the REO on a case by case basis and is responsible for conducting an investigation of the allegations and producing a Panel Report detailing findings of fact and any recommendations for the REO.

The Investigation Panel will have regard to the:

a) provisions of the *Guide to Managing and Investigating Potential Breaches of the Australian Code for the Responsible Conduct of Research* 2018

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b) evidence and on the balance of probabilities:

i. adduce and assess the evidence from the Respondent and Complainant, witnesses or any other relevant party, and consider if further evidence is required, and/or expert advice needed, including legal advice

ii. identify whether the principles and responsibilities of the *Research Code* have been breached

iii. consider the seriousness of any breach

iv. prepare the Panel Report consistent with its terms of reference (which may be amended upon request to the REO); and

v. make recommendations as appropriate.

2.6 The Review Officer (RO) is a Deputy Vice Chancellor (not already fulfilling the role of REO for the matter), or their nominee, and is responsible for receiving requests for a review and for conducting an internal review of the relevant institutional processes.

A valid review request may only be lodged on the grounds of Procedural Fairness.

2.7 The Research Integrity Adviser (RIA) will:

a) be appointed by the REO

b) usually be the Senior Vice Dean, Deputy Dean or Associate Dean (Research) in each Faculty

The REO may appoint more than one RIA in a Faculty.

c) be familiar with, and be available to offer advice to Researchers on, all relevant UNSW codes, guidelines and procedures pertaining to the responsible conduct of research, including how to make a complaint under this Misconduct Procedure (set out in Section 3)

d) provide further training or guidance with respect to the responsible conduct of research to Researchers.

3. Making a complaint about a potential Breach of the Research Code (including Research Misconduct)

3.1. A valid complaint is raised when one or more Researchers are alleged to have conducted Research that is not in accordance with the principles and/or responsibilities of the *Research Code* .

3.2. The complaint does not need to identify the sections of the *Research Code* or processes that may have been breached. The University may assist Complainants to document and lodge a complaint.

3.3. Researchers are encouraged to seek advice from a RIA before lodging a complaint.

3.4. Complaints must be submitted to the DO at research.integrity@unsw.edu.au with all necessary background and supporting material.

3.5. Verbal complaints made to the DO will be confirmed with the Complainant in writing

3.6. Complaints may be lodged anonymously or by a third party, however doing so may limit the University's understanding of the complaint and adversely impact upon any Preliminary Assessment or Investigation which may follow.

3.7. The DO may, at their discretion, dismiss a complaint at any stage, except where it is under investigation by an Investigation Panel. The basis for the decision to dismiss a complaint includes those set out in Section 7 of this Misconduct Procedure.

3.8. A complaint may be referred to an alternate University process at any time, for example, where the complaint relates to an activity which may pose an immediate risk of harm to humans, animals or the environment.

3.9. Where a Complainant elects not to proceed with a complaint or seeks to withdraw a complaint, the University retains an obligation to assess the nature of the complaint to determine whether to proceed to a Preliminary Assessment.

3.10. Further Information on lodging a complaint about a potential Breach of the *Research Code* (including Research Misconduct) is available from a RIA or the RIU at research.integrity@unsw.edu.au

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4. Handling complaints about a potential Breach of the Research Code (including Research Misconduct)

Initial assessment

4.1. On receiving the complaint, the DO, or their delegate, must be satisfied that the complaint is about a potential or alleged Breach of the *Research Code* or Research Misconduct and involves:

a) the conduct of research

b) a UNSW researcher/s; and

c) a potential Breach of the *Research Code*

4.2. If the complaint does not meet the requirements of clause 4.1 above, it will be referred to other UNSW processes, dismissed or referred to another institution or organisation.

4.3. If the complaint meets the requirements of clause 4.1 above, the DO, or their delegate, may determine that the matter may be addressed at a local level without the need to proceed to a Preliminary Assessment. For example, where the matter is an unintentional administrative error, clerical error or oversight and relates to research administration.

4.4. If the complaint meets the requirements of clause 4.1 and it is not addressed at the local level under clause 4.3, a Preliminary Assessment will proceed.

Preliminary assessment

4.5. The purpose of the Preliminary Assessment is to gather and evaluate facts and information and to assess whether the complaint, if substantiated, would constitute a Breach of the *Research Code* and if the breach could constitute a serious breach that requires referral to the REO to consider as a case of potential Research Misconduct.

4.6. The DO will assign the complaint to an AO to conduct a Preliminary Assessment.

4.7. In conducting the Preliminary Assessment, the AO:

a) may contact relevant parties to gather relevant facts

b) will provide the Respondent with enough detail to understand the nature of the complaint and an opportunity to respond in writing within a stipulated timeframe.

Failure to provide the AO with any requested information without reasonable grounds may be considered a breach of the applicable code of conduct, misconduct or serious misconduct in employment (or a breach of the conditions of conferral of an academic title or approval of visitor status)

c) may consider whether expert advice is required from other sources, such as other researchers from the same or aligned disciplines

d) may consider if additional allegations or concerns should be raised with the Respondent

e) will consider notifying other parties or institutions of the complaint or the commencement of the Preliminary Assessment, in accordance with relevant legislative provisions, agreements and misconduct policies and/or rules

4.8. Upon completion of the Preliminary Assessment, the AO will provide the DO with a Preliminary Assessment Report which includes:

a) a summary of the complaint and the process that was undertaken in accordance with this Misconduct Procedure

b) an evaluation of the facts, documents and information gathered, including the response, if any, received from the Respondent

c) a description of how the alleged Breach of the *Research Code* relates to the principles and responsibilities outlined within the *Research Code* and/or UNSW processes

d) recommendations for further action, if appropriate.

4.9. Upon review of the Preliminary Assessment Report, the DO will determine, on the balance of probabilities, whether there has been any Breach of the *Research Code* and the level of seriousness of any breach. The DO may determine that:

a) there is no Breach of the *Research Code* and that the matter should be dismissed (refer to clause 4.10)

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b) the breach is minor and should be resolved locally, with or without corrective actions (refer to clause 4.11)

c) the breach is major and serious but may be resolved locally, with or without corrective actions

d) the breach is major and serious and should be referred to the REO for appropriate disciplinary processes, but does not require an Investigation Panel

e) the breach is major and serious and may constitute Research Misconduct warranting referral to an Investigation Panel for investigation

f) the complaint should be referred by the REO to another authority, institutional or external process.

4.10. If upon review of the Preliminary Assessment Report, the DO determines, on the balance of probabilities, that there is no Breach of the *Research Code*, the complaint should be dismissed, and reasonable efforts should be made to restore the reputation of any affected parties. Additionally, where required, the DO may address any systemic issues that have been identified during the Preliminary Assessment.

4.11. Where the DO has determined that a minor Breach of the *Research Code* has occurred, the DO may refer the matter to:

a) the relevant Dean, Research Integrity Advisor or Head of School for action as recommended by the DO

b) a REO to consider the application of any disciplinary provisions of the Enterprise Agreement.

4.12. Where the Respondent admits to a Breach of the *Research Code* the DO may determine that it is still necessary to refer the matter to an Investigation Panel to consider appropriate corrective actions; whether any other parties may have been complicit in the conduct; and any other necessary action.

4.13. Where the Respondent denies or refutes the allegations, the DO will consider the response and make a determination according to clause 4.9.

4.14. Where a Respondent is no longer enrolled or employed by UNSW, the University has a continuing obligation to address the complaint in an appropriate manner. Similarly, a Preliminary Assessment or investigation may still be required in this circumstance to correct the public record.

4.15. The DO will notify the following parties of the outcome of the Preliminary Assessment

a) the Respondent

b) the Complainant

c) the relevant Dean and/or Head of School and the RIA for the relevant Faculty

d) the journal, the publisher and listed co-authors, where the complaint relates to a published research output and the University reasonably considers it necessary to do so

e) any other entity in accordance with obligations in funding agreements or other research related agreements, regulatory (or similar) bodies and/or publishers, where the University reasonably considers such disclosure is necessary, due to the potential serious consequences to the health of individuals, to the welfare of animals, to the public, the environment, or for the correction of the public record.

4.16. Consideration should be given to the extent to which a Complainant may be affected by the outcome of the complaint, including whether they have a direct interest at stake. This will assist the University to ascertain the appropriate level of involvement and communication with the Complainant throughout the process

4.17. An overview of the Preliminary Assessment process is set out in APPENDIX A.

The Investigation

4.18. The purpose of the investigation is to make findings of fact to enable the REO to assess if a Breach of the *Research Code* has occurred, the extent of the breach and the next course of action.

4.19. Where the REO determines that an investigation is required, the REO will provide the Respondent with a statement of allegations and seek a written response admitting to or denying the allegations, in whole or in part.

4.20. Upon receipt of any submission from the Respondent, the REO will determine how to proceed in accordance with the relevant Enterprise Agreement or other applicable procedures (e.g. for non-employees/students).

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4.21. If the Respondent admits to the allegations in full, the REO will make a finding of Research Misconduct and refer the matter to the Deputy Vice-Chancellor for disciplinary action under the applicable Enterprise Agreement or Student Misconduct Procedure. The REO must also consider if any corrective actions are required.

The Investigation Panel

4.22. If the Respondent denies the allegations in whole or part, the REO may convene an Investigation Panel (subject to any pre-conditions under the applicable Enterprise Agreement being met) to undertake the investigation.

4.23. The Investigation Panel will examine the facts and information in accordance with its terms of reference developed by the REO.

Composition of the Investigation Panel

4.24. Membership of the Investigation Panel is determined by a range of factors, including the potential consequences for those involved, the seniority of those involved and the need to maintain public confidence in Research (see also factors listed in Section 7.3 of the *Guide to Managing and Investigating Potential Breaches of the Australian Code for the Responsible Conduct of Research* 2018). The REO may determine that some or all of the Investigation Panel members should be external to the University. The RIU may assist the REO in establishing the Investigation Panel. Once potential members of the Investigation Panel have been identified, the REO will advise the Respondent and the relevant union of the Investigation Panel's proposed composition and provide the Respondent with an opportunity to raise any specific concerns or objections.

4.25. Investigation Panel members will be appointed in writing and external members will be appropriately indemnified. The Investigation Panel will be provided with terms of reference for the Investigation and all relevant information and documentation, including that which was collected or received during the Preliminary Assessment, including the Preliminary Assessment Report.

Investigation Panel process

4.26. Any party who requests or is required to attend the Investigation Panel will be given reasonable notice. They may bring a Support Person. A Support Person is not an advocate and does not represent or speak on behalf of any party. If the Respondent or Complainant requires a higher level of support, they should seek the Investigation Panel's approval.

4.27. Investigation Panel members must ensure that relevant interests are disclosed to the REO and managed. Where a perceived or actual conflict of interest cannot be managed the affected panel member must be recused.

4.28. The principles of procedural fairness do not include the right to legal representation for any party. The Investigation Panel will decide at its discretion, and on a case by case basis, if legal or specialist representation will be permitted. The Investigation Panel may also seek specialist legal support or advice.

4.29. The Respondent will be provided an opportunity to respond to the allegations (and to the evidence) in writing or in person and to provide additional relevant evidence to the Investigation Panel. Where the Respondent elects not to respond or attend the Investigation Panel, the Investigation Panel will continue its deliberations.

4.30. In some circumstances the Complainant may be given the opportunity to review and respond to relevant evidence, for example if their interests may be directly or adversely affected by the investigation.

4.31. During the Investigation, the Investigation Panel may seek from the REO an amendment to the terms of reference of the Investigation. The Respondent and other relevant parties will be afforded the opportunity to address any new material or allegations arising from the amended scope.

Outcome of the Investigation

4.32. Upon completion of the Investigation, the Investigation Panel will prepare a draft Panel Report which includes findings of fact consistent with their terms of reference and any recommendations. The RIU may assist in the preparation of the Panel Report under the supervision of the Investigation Panel. The draft Panel Report will be provided to the Respondent for comment and may also be provided to the Complainant if their interests may be directly affected by the outcome.

If the University proposes to provide the draft Panel Report to the Complainant, it will take reasonable steps to notify the Respondent. Submissions will be considered by the Investigation Panel before the Panel Report is finalised and issued to the REO.

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4.33. Upon receipt of the Panel Report, the REO will determine whether any Breach of the *Research Code* or Research Misconduct has occurred and the appropriate institutional University response, if any. Such response may include disciplinary action. The REO will communicate their determination to the Respondent, the Complainant and where required, other relevant parties including parties specified under any applicable legislative provisions, agreements and misconduct policies and/or rules. In cases where the Respondent resigns or is not currently enrolled in the University (in the case of Students), the University retains an obligation to address where necessary the findings of the Investigation. Disciplinary action in relation to:

a) staff will be in accordance with the Enterprise Agreement

b) Coursework Students and Research Degree Candidates will be in accordance with the UNSW *Student Misconduct Procedure*.

4.34. The REO should consider whether a public statement is appropriate to communicate the outcome of an Investigation. In doing so the REO will have regards to the Enterprise Agreement, if applicable.

4.35. When communicating the outcome of the Panel investigation, the REO will inform the Respondent, and possibly the Complainant if the Complainant is directly affected by the outcome, of their right to request a review of the investigation.

4.36. An overview of the investigation process is set out in APPENDIX B for Research staff and APPENDIX C FOR Research Degree Candidates.

5. Review of an investigation

5.1. The purpose of a review is to affirm, or otherwise, the determination made by the REO.

5.2. Requests for a review of an investigation will only be accepted by the RO on procedural fairness grounds and must be received by the RO within 14 days of receipt of the REO determination (except where a different timeframe is stipulated by the provisions of any other Agreement, institutional disciplinary procedure or where relevant, the legislative framework governing the code of practice for providers of education and training to overseas students)

5.3. The request should clearly outline the procedural fairness grounds relied upon, including any supporting material or documentation.

5.4. Requests will be assessed by the RO and will be accepted if:

a) received within the timeframe stated in the determination; and

b) based on procedural fairness grounds.

5.5. If the request is accepted, the RO will notify the requestor of their decision, along with details of the review process, including the scope of the RO role.

5.6. Upon completion of the review, the RO will communicate the outcome to the requestor, the REO and any other relevant party, in accordance with the Enterprise Agreement confidentiality provisions, if applicable.

5.7. Respondents and Complainants may lodge a request for an external review of any UNSW investigative processes into potential breaches of the *Research Code* with the Australian Research Integrity Committee (ARIC) or the National Health and Medical Research Council or the Australian Research Council, as appropriate.

5.8. Despite clauses 5.1 to 5.4 above, where the requestor is an University employee and the REO has made a decision pursuant to sub-clauses 28.4(f)(iii) or 28.4(f)(iv) of the Enterprise Agreement (Academic Staff) with respect to termination of employment or where the REO has taken another type of disciplinary action that would result in a reduction in the Respondent's salary (including allowances), the Respondent may seek a review under section 28.5 of the Enterprise Agreement.

6. Protection of interested parties

6.1. In this section, a reference to 'interested parties' includes:

a) a person making a complaint or an Allegation

b) a person against whom a complaint or an Allegation is made

c) staff, students and trainees working with persons making the complaint or an Allegation, or with persons against whom the complaint or Allegation is made

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d) journals and other media reporting Research, subject to suspected, alleged or substantiated Research Misconduct

e) funding bodies supporting persons or research involved

f) the public.

6.2. The University will make all reasonable efforts to protect the Complainant and any interested parties from adverse consequences following the lodgement of a complaint. Such measures may include concealing the identity of the Complainant or any other interested party who provide information during the complaint handling process, Preliminary Assessment or Investigation stage.

6.3. In conducting a Preliminary Assessment, the DO and the assigned AO will at all times maintain confidentiality (and will require all parties to observe confidentiality). In circumstances where it is considered that procedural fairness requires the disclosure of the Complainant's identity the Complainant will be notified.

6.4. Where the Complainant's identity is known or may be inadvertently or otherwise revealed, the Respondent and other relevant parties will be directed by the University not to contact the Complainant or take any actual or threatened reprisal action, nor discuss or reveal the Complainant's identity to any other person.

6.5. The University will not tolerate actual or threatened reprisal action against any participant in this Misconduct Procedure. Any such conduct could lead to disciplinary action in accordance with the relevant University policy and procedures

6.6. Some complaints that are related to a possible Breach of the *Research Code* may also fall within the scope of the UNSW *Fraud and Corruption Prevention Policy*. These complaints may be handled under the UNSW *Public Interest Disclosures Procedure*. In these circumstances, interested parties will be protected during these investigations. Such fair dealing must consider the protection of persons making allegations in good faith and of persons accused of misconduct or serious misconduct.

7. Complaint of staff and student misconduct

Where a circumstance giving rise to an allegation of Research Misconduct also gives rise to an allegation of staff or student misconduct, including but not limited to bullying or harassment, they will be handled concurrently and consistent with the terms of the applicable UNSW Code of Conduct, policy, procedure or Enterprise Agreement.

8. Frivolous, vexatious or bad faith complaints

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

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

a) fabricating a complaint

b) making trivial or petty complaints

c) making repeated, unsubstantiated complaints

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

9. Unreasonable complainant behaviour

Where a Complainant's conduct is determined by the University to exceed what most people would consider reasonable in the circumstances, the UNSW *Unreasonable Complainant Conduct Procedure* may apply.

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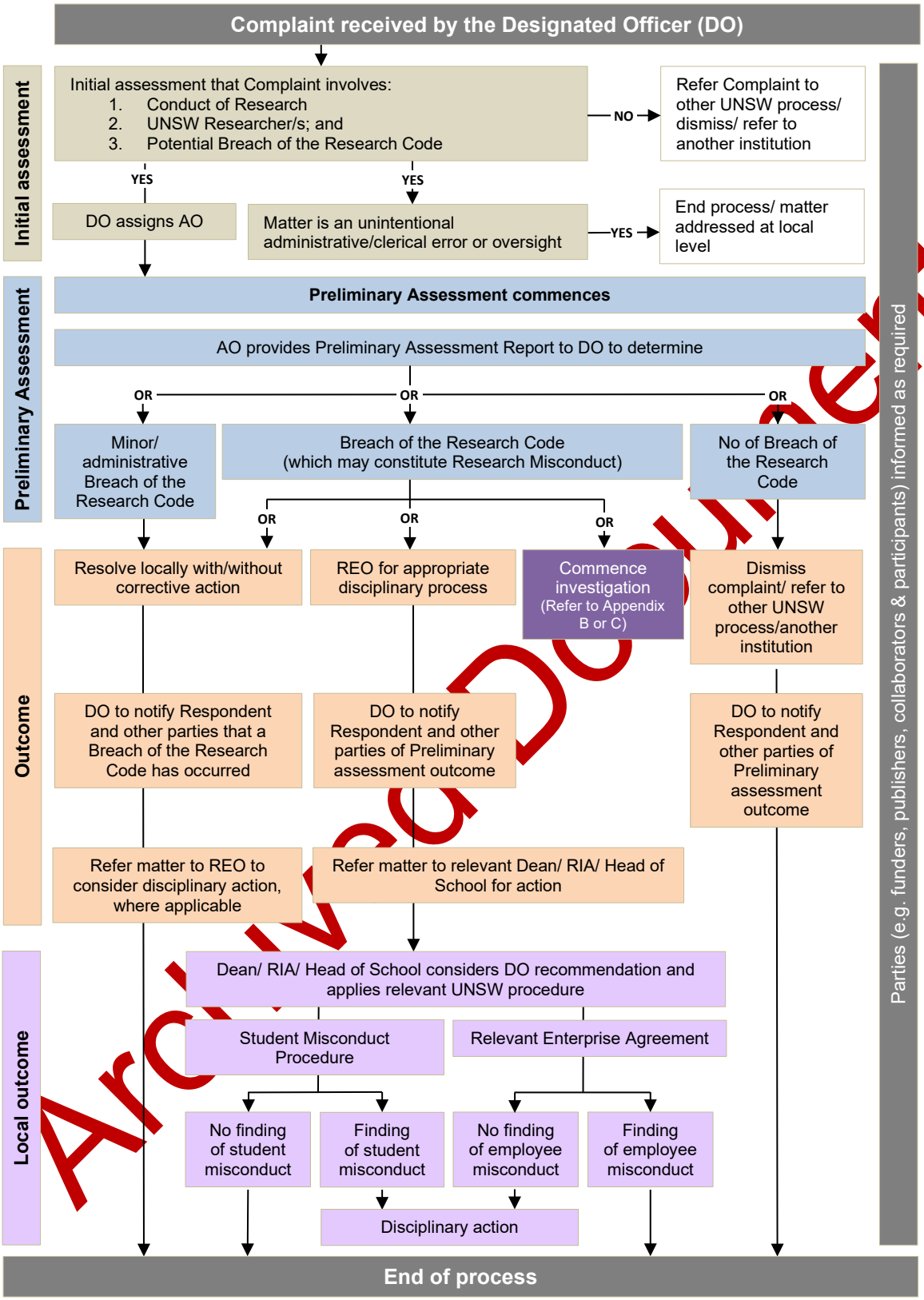
10. Appendix A: Preliminary assessment process



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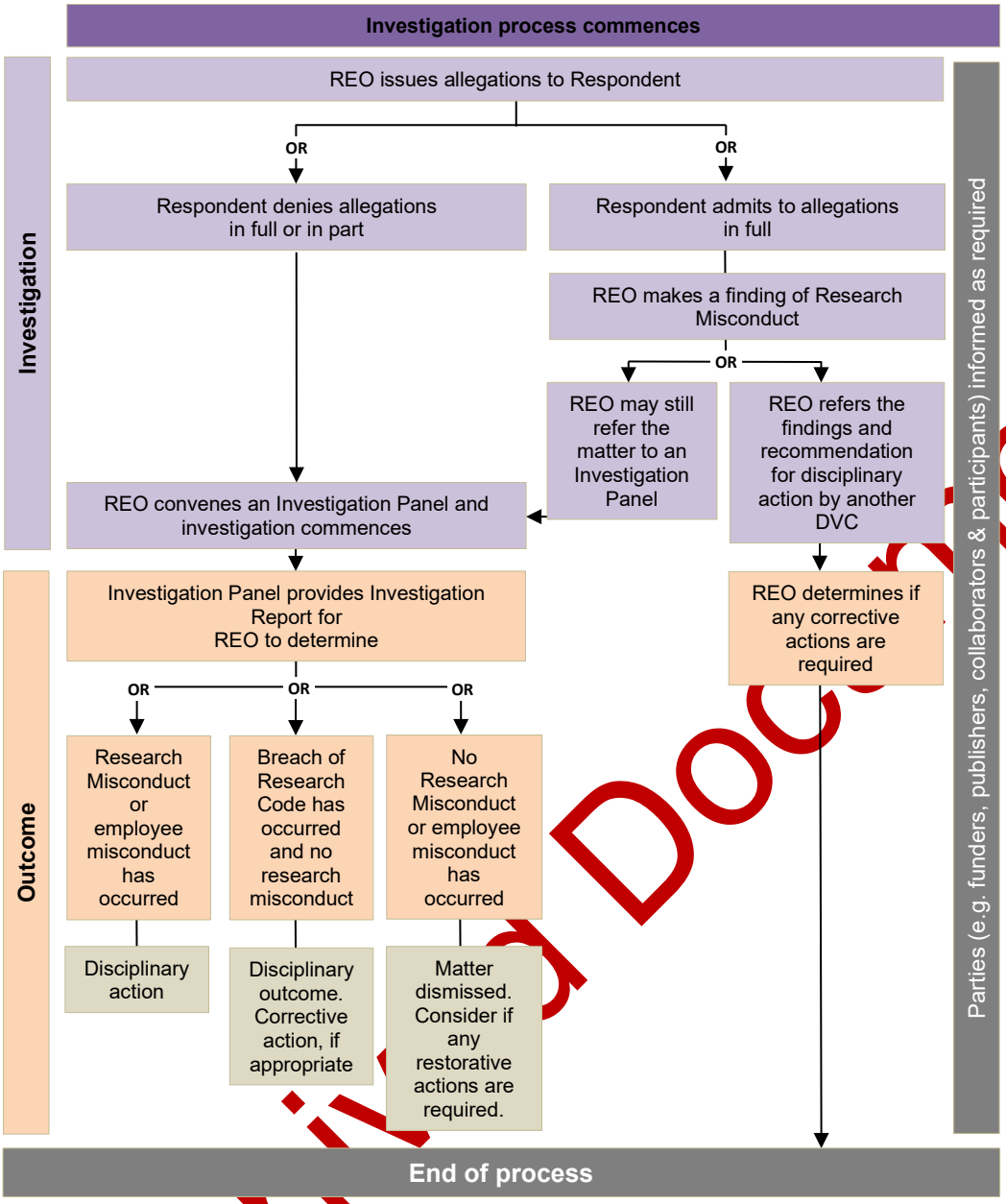
11. Appendix B: Investigation process (Research staff)



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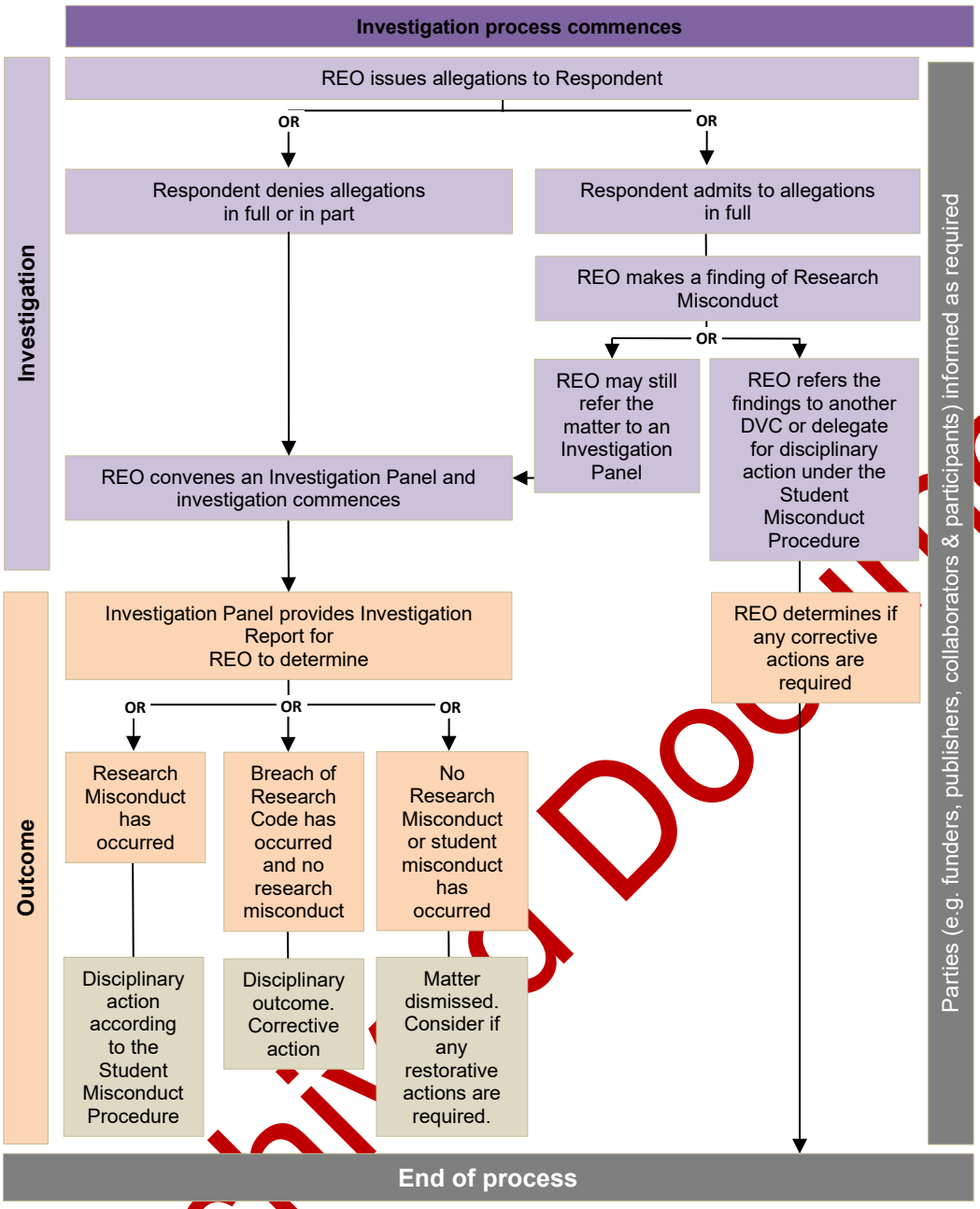
12. Appendix C: Investigation process (Research Degree Candidates)



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Accountabilities	
Responsible Officer	Deputy Vice-Chancellor Research
Contact Officer	Director, UNSW Conduct and Integrity
Supporting Information	
Legislative Compliance	This Misconduct Procedure supports the University's compliance with the following legislation: *Animal Research Act 1985* (NSW) *Gene technology Act 2000* (Cth) *Privacy Act 1988* (Cth) *State Records Act 1998* (NSW) *University of New South Wales Act 1989* (NSW)
Parent Document (Policy)	UNSW Research Code of Conduct UNSW Code of Conduct
Supporting Documents	Guide to Managing and Investigating Potential Breaches of the Australian Code for the Responsible Conduct of Research 2018
Related Documents	Australian Code for the Responsible Conduct of Research 2018 Australian Code for the Care and Use of Animals for Scientific Purposes 2013 Authorship and for Resolving Disputes Between Authors Procedure Ethical conduct in research with Aboriginal and Torres Strait Islander Peoples and communities: Guidelines for researchers and stakeholders 2018 National Statement on Ethical Conduct in Human Research 2018 Authorship and Resolving Disputes between Authors - Procedure Complaint Management Policy Conflict of Interest Policy UNSW (Academic Staff) Enterprise Agreement 2018 UNSW (Professional Staff) Enterprise Agreement 2018 Fraud and Corruption Prevention Policy Healthy and Safety Policy Health and Safety Procedures Handling Research Material & Data Procedure Higher Degree Research Supervision Policy Higher Degree Research Supervision Procedure Intellectual Property Policy Plagiarism Policy Paid Outside Work by Academic Staff Policy Public Interest Disclosures Procedure Responsible Peer Review Procedure UNSW Statement of Authorship and Location of Data Form Student Code of Conduct Unreasonable Complainant Conduct Procedure UNSW Register of Delegations
Superseded Documents	UNSW Handling Allegations of Research Misconduct Procedure, version 1.2

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File Number	2010/02701
Definitions and Acronyms	
Allegation	A claim or assertion arising from a Preliminary Assessment that there are reasonable grounds to believe a Breach of the *Research Code* (including Research Misconduct) has occurred. May refer to singular or plural.
Authorship	At UNSW this is the practice of the inclusion of researchers who have made a significant intellectual or scholarly contribution to the research and its output. At UNSW the authorship criteria are defined by the UNSW *Authorship and Resolving Disputes between Authors - Procedure*
Assessment Officer (AO)	A person or persons assigned by the DO to conduct the Preliminary Assessment and prepares the Preliminary Assessment Report
Balance of probabilities	The civil standard of proof, which requires that, on the weight of evidence, it is more probable than not that the allegation is substantiated.
Breach of the Research Code	A failure by a UNSW Researcher to meet any of the principles or responsibilities listed within the *Research Code* and may refer to a single breach or multiple breaches.
Complainant	A person or persons who has made a complaint about the conduct of Research at UNSW.
Contract cheating	A serious form of academic dishonesty which is classified as collusion. It consists of what are known as outsourcing behaviours which include when a researcher: • compensates a third party to produce any research output and does not give any or proper acknowledgment; • uses an unauthorised editing service in the conduct of research or a research output As with other forms of plagiarism, there are serious consequences for researchers who engage in contract cheating. In addition to infringing university policies, the conduct could constitute fraud in some circumstances.
Conflict of interest	A conflict of interest within the context of research means that: 1. a person's interests or responsibilities have the potential to influence the carrying out of their institutional role or professional obligations in research; or 2. an institution's interests or responsibilities have the potential to influence the conduct of its research obligations. A conflict may relate to financial interests or other private, professional or institutional benefits or advantages that depend significantly on the research outcomes. A conflict of interest may compromise or have the potential to compromise the research process itself and/or the institutional processes governing research and may influence decisions A perception that a conflict of interest exists can be as serious as an actual conflict, raising concerns about an individual's integrity or an institution's management practices See further the UNSW *Conflict of Interest Policy.*
Corrective action	Including but not limited to, retractions or errata of publications, training, counselling and system improvements.
Coursework Student	Undergraduate students undertaking research, research subjects or a research assessment fulfilling their course requirements. The *Research Code* only applies to those aspects where research is/has been conducted. Postgraduate coursework students (i.e. Honours, Masters by Coursework). undertaking research, research subjects or a research assessment in fulfillment of their course requirements. The *Research Code* only applies to those aspects where research is/has been conducted.
Deputy Vice-Chancellor Academic	The Deputy Vice-Chancellor with primary responsibility for academic staffing matters unless the Vice-Chancellor specifically nominates another Deputy Vice-Chancellor.

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Designated Officer (DO)	A senior professional or academic officer or officers appointed to receive complaints about the conduct of research or potential breaches of the *Research Code* and to oversee their management and investigation where required. The DO is the Director, UNSW Conduct and Integrity
Enterprise Agreement	For Academic staff it is the UNSW (Academic Staff) Enterprise Agreement 2018 For Professional staff it is the UNSW (Professional Staff) Enterprise Agreement 2018
Fabricate or fabrication	Creating or reporting data or results without conducting research or the reported research and reporting the data as gathered through accepted research practices.
Falsify or falsification	Manipulating research materials, equipment, processes, or changing or omitting data or results such that the research is not accurately represented. Falsification also includes the selective omission/deletion/suppression of conflicting data without scientific or statistical justification.
Investigation Panel	The person or persons appointed by the Responsible Executive Officer (REO) to conduct the investigation.
Misrepresent or misrepresentation	Under reporting procedures, obscuring analytical or interpretive techniques, eliminating problematic cases from the data without disclosing. Misrepresentation also includes overstating the significance of marginal findings or failing to report null, inconsistent or inconvenient findings.
Peer review	The 'impartial and independent assessment of the scholarly work, research or ideas of others who have knowledge and/or expertise in the same or related field[4]. Peer review includes, but is not limited to, group meetings and assessment of theses, grant applications, conference abstracts, and research works submitted for publication or display including books and creative works. UNSW researchers in receipt of public funding have a responsibility to participate in the peer review process. See the UNSW *Responsible Peer Review Procedure*
Plagiarism	Plagiarism at UNSW means using the words or ideas of others and passing them off as your own, including copying, inappropriate paraphrasing, collusion, inappropriate citation and self-plagiarism as defined in the UNSW *Plagiarism Policy*
Panel Report	The report prepared by the Investigation Panel
Preliminary Assessment	The gathering and evaluation of information/evidence and assessment
Preliminary Assessment Report	The report prepared by the AO. A report on the outcomes of the processes of assessment taken or investigation of potential or found breaches of the *Research Code* including recommendations on the course of action to be taken.
Procedural fairness	The guiding principles for ensuring a fair and just process. Respondents are provided with an opportunity to respond and be heard; decision makers are free from bias and decisions are based upon relevant and probative evidence.
Research	The creation of new knowledge and/or the use of existing knowledge in a new and creative way to generate new concepts, methodologies, inventions and understandings. This could include: • Synthesis and analysis of previous research to the extent that it is new and creative • The conception, design, conduct and reporting of research, including all associated research activities, methods, procedures and research outputs Any related activities in support/maintenance of a researcher's functions at UNSW, including undertaking responsible conduct of research training, research supervision, participating in peer review or other activities as required.
Research Degree Candidate	A person enrolled in a Higher Degree Research program i.e. Masters by Research, MPhil, Prof Doc or PhD.

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[4] Australian Code for the Responsible Conduct of Research, Chapter 6

Research Integrity Advisor (RIA)	A person or persons nominated by the University to promote the responsible conduct of research and to provide advice to Researchers accordingly.
Research Integrity Unit (RIU)	Staff with responsibility for the management of research integrity at the University.
Research Misconduct	A serious Breach of the *Research Code* which is also intentional or reckless or negligent.
Research Trainee/s	Coursework Students, Research Degree Candidates or any Researcher who is within 5 years of obtaining their postgraduate qualification (i.e. Honours, Masters, MPhil or PhD), and are being supervised by another researcher. This also include visiting students who are enrolled at an external University but undertaking research or a research program at UNSW.
Researcher	Person or persons who conducts research. At UNSW this includes UNSW academic staff, UNSW professional staff, non-academics/professionals undertaking research, conjoint appointments (those who have been conferred an academic title by UNSW in accordance with the UNSW *Conferring Academic Titles Procedure*), and visiting appointments undertaking research at UNSW, whether on a full-time or part-time, or fixed term, continuing or casual basis. Researchers also includes Research Trainees, Research Degree Candidates and Coursework Students.
Respondent	Person or persons subject to a complaint or Allegation about the conduct of research or a potential Breach of the *Research Code*
Responsible conduct of research	The hallmarks of responsible conduct of research are based on honesty, rigour, transparency, fairness, respect, recognition, accountability and the promotion of responsible conduct of research.
Responsible Executive Officer (REO)	A senior officer in the University who has the responsibility for receiving Panel reports and deciding on the course of actions to be taken. At UNSW this is the Deputy Vice-Chancellor Research.
Review Officer (RO)	A Deputy Vice Chancellor or their nominee (not already fulfilling the role of REO for the matter) who is responsible for receiving requests for a procedural review of an Investigation outcome.
Self-plagiarism	Where an author re-publishes their own previously published work and presents it as new findings, without referencing the earlier work, either in its entirety or partially. Self-plagiarism is also referred to as 'recycling', 'duplication', or 'multiple submissions of research findings' without disclosure. In the student context, self-plagiarism includes re-using parts of, or all of a body of work that has already been submitted for assessment without proper citation.
Support Person	A person who accompanies a party to an interview or meeting, including an employee representative in accordance with the Enterprise Agreement.
Research Code	The UNSW *Research Code of Conduct*.
University	The University of New South Wales.

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Revision History				
Version	**Approved by**	**Approval date**	**Effective date**	**Sections modified**
1.0	UNSW Council (CL09/17)	27 April 2009	27 April 2009	This is a new procedure.
1.1	Acting Head of Governance	18 February 2016	29 February 2016	Minor changes to reporting relationships.
1.2	Deputy Vice-Chancellor Research	31 July 2017	15 August 2017	Administrative update to senior positions.
2.0	Deputy Vice-Chancellor Research	11 July 2019	11 July 2019	Full review and title change from *Handling Allegations of Research Misconduct Procedure.*

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