Managing Research Misconduct Procedure

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1. APPLICATION

1.1 The *Australian Code for the Responsible Conduct of Research* guides and influences the way research is conducted and managed. The Code describes the principles and practices for the responsible conduct of research and this procedure provides a framework for resolving complaints or allegations of non compliance with the Code.

1.2 This procedure applies to:

   a) All staff employed by the University;

   b) All former staff of the University, where such former staff have engaged in activities connected with conduct that is the subject of, or related to the subject of, non compliance with the Code in relation to research conducted whilst employed by the University; and

   c) Adjuncts or visitors engaged in research conducted in the name of the University, or with the approval or support of the University.

1.3 This procedure does not apply to students undertaking research as part of their studies. Student research misconduct is dealt with under the following:

   a) Undergraduate and postgraduate – the *Assessment Policies and Procedures Manual*; and

   b) Higher degree by research – *Academic Regulations for Higher Degrees by Research*.

1.4 Where a student is covered by this procedure by virtue of section 1.2 above, this procedure only applies to research undertaken as part of their employment, adjunct or visitor status. Where this is not clear or the student processes outlined in section 1.3 above do not cover the matter, the DVC: R&I will decide whether the matter is to be dealt under this procedure or how the matter should otherwise be dealt with.

1.5 The *University of South Australia Enterprise Agreement 2014* provides for disciplinary procedures to deal with matters of general misconduct and research misconduct for staff. The disciplinary procedures in the Enterprise Agreement apply by force of law and must be followed where formal allegations of misconduct/serious misconduct or research misconduct are made against staff.
1.6 This procedure is designed to assist with implementation of Part B of the Code and to comply with the requirements in the Enterprise Agreement.

2. DEFINITIONS

2.1 **Breach of the Code** means there is a less serious deviation of the Code that is appropriately remedied within the University generally through counseling and advice.

2.2 **Code** means the *Australian Code for the Responsible Conduct of Research*.

2.3 **DVC: R&I** means the Deputy Vice Chancellor: Research and Innovation.

2.4 **Failure to implement the Code** means failure to take responsibility for achieving the standards aspired to in Part A of the Code.

2.5 **Non compliance with the Code** means:

   a) Failure to implement the Code; and/or
   b) Breach of the Code; and/or
   c) Research misconduct.

2.6 **Research misconduct** means there is a serious or deliberate deviation from the Code if it involves all of the following:

   a) A breach of the Code;
   b) Intent and deliberation, recklessness or gross and persistent negligence; and
   c) Serious consequences, such as false information on the public record, or adverse effects on research participants, animals or the environment.

Research misconduct includes 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. Research misconduct also includes repeated or continuing breaches of the Code where such breaches have been the subject of previous counseling and advice.

Research misconduct does not include honest differences in judgment in management of the research project, and may not include honest errors that are minor or unintentional.

Examples of research misconduct include but are not limited to:

- Fabrication of results;
- Falsification or misrepresentation of results;
- Plagiarism;
- Misleading ascription of authorship;
- Failure to declare and manage serious conflicts of interest;
- Falsification or misrepresentation to obtain funding;
- Conducting research without ethics approval as required by the National Statement on Ethical Conduct in Research Involving Humans and the Australian Code of Practice for the Care and Use of Animals for Scientific Purposes;
- Risking the safety of human participants, or the wellbeing of animals or the environment;
- Repeated or continuing breaches of the Code where these have been the subject of previous counseling or specific direction;
- Deviations from the Code that occur through gross or persistent negligence;
- Wilful concealment or facilitation of research misconduct by others.

2.7 **Supervisor** means the supervisor of a person engaged as a staff member, adjunct or visitor. To ensure clarity this excludes a supervisor of a Higher Degree Research student.

2.8 **University** means the University of South Australia.

3. **ROLES AND RESPONSIBILITIES**

3.1 **Research Integrity Adviser** is a person appointed in this capacity who has research experience, wisdom, analytical skills, empathy, knowledge of University policies and familiarity with accepted practices in research. The role of the Adviser under these procedures is to offer confidential advice to staff and students on matters related to the Code and options to deal with concerns in relation to research conduct issues. This role does not extend to investigation or assessment of a formal complaint or allegations of non compliance with the Code made in accordance with disciplinary procedures under the relevant enterprise agreement. The Adviser must not make contact with the person who is subject to a formal complaint or allegations and must not be involved in any subsequent inquiry. The Adviser should not be involved in a case where he or she has a relevant conflict of interest.

3.2 **Deputy Vice Chancellor: Research and Innovation (DVC: R&I)** is designated by the Vice Chancellor to conduct a preliminary investigation of a formal complaint and make recommendations to the Vice Chancellor in accordance with this procedure. After completing the preliminary investigation and outcomes under Step 3, the DVC: R&I should not play any further role in the matter, except where the DVC: R&I may be called to give evidence or expert opinion.

3.3 **Vice Chancellor** is the Chief Executive Officer, appointed by the University Council, and is responsible for the overall management and administration of the University. The Vice Chancellor decides the outcome of the preliminary investigation and subsequent processes and outcomes, including disciplinary action, if appropriate.

4. **PROTECTION FROM LIABILITY**

The University will indemnify all staff and students against liabilities incurred by them, in accordance with terms and conditions contained in relevant policies, while acting for and on behalf of the University. It will stand behind its staff and students and meet the costs of actions that might be taken against them personally as though the action had been taken against the University, provided that the staff member or student concerned was acting in good faith and in accordance with University policies and procedures. This indemnity does not extend to cover misconduct.

5. **CONFIDENTIALITY**

Individuals must protect the confidentiality of information acquired in the course of their work and should not use or disclose any confidential information to a colleague, client of the University or any party without specific authority. Primary materials and confidential research data must only be used in ways agreed with those who provided the information and particular care must be exercised when confidential data is made available for discussion.
6. FRAMEWORK TO ADDRESS CONCERNS, FORMAL COMPLAINTS AND ALLEGATIONS

6.1 Step 1 – Initial Discussions

a) As a general principle, and wherever it is possible to do so, a person who is concerned that another person has not acted responsibly in accordance with the Code should first discuss the issue with their supervisor.

b) A supervisor may attempt to resolve the issue/s without the matter proceeding further. If the matter warrants and with consent of the person who has raised the concern, the supervisor may refer the matter to the relevant Head of School/ Director/Research Institute Director.

c) If a conflict of interest may exist for a supervisor or the relevant Head of School/ Director/Research Institute Director, the person should first discuss the matter with a Research Integrity Adviser assigned to the relevant School, Division or Portfolio.

d) A person may discuss a matter with a Research Integrity Adviser in confidence without proceeding through a), b) and c) above.

e) Where a matter is referred to a Research Integrity Adviser, the role of the Adviser is to explain options open to the person which include:

i) Referring the matter directly to the person against whom the concern has been raised;

ii) Not proceeding with the matter if discussion resolves the concern;

iii) Referring the concern to a person in a supervisory capacity for resolution at the School or Division/Portfolio level;

iv) Making a formal complaint of non compliance with the Code in writing to DVC: R&I.

6.2 Step 2 – Making a Formal Complaint

a) A person may make a formal complaint of non compliance with the Code where:

i) Initial discussions under Step 1 fail to resolve matter and the person wishes to continue to pursue the matter; or

ii) The person does not wish to discuss or disclose a matter under Step 1 due to confidentiality reasons, but wishes to continue to pursue the matter.

b) A formal complaint of non compliance with the Code must be made in writing to the DVC: R&I.

c) Through the relevant member of the University’s Senior Management Group, a Head of School/ Director/Research Institute Director may also refer matters of non compliance with the Code to the DVC: R&I for preliminary investigation, independent of whether a person has raised concerns under this procedure or not.

6.3 Step 3 – Preliminary Investigation

a) The role of the DVC: R&I is to determine whether there is a prima facie case of non compliance of the Code and make recommendations to the Vice Chancellor to address the formal complaint. The DVC: R&I may appoint a person to conduct a preliminary investigation in accordance with 6.3 c) and d) and provide a report to the DVC: R&I to consider under 6.3 e), f) and g). A person appointed to conduct a preliminary
investigation should be a senior person in the University’s management structure who is experienced in research and research management.

b) Where the DVC: R&I has a conflict of interest in relation to the matter to be investigated, the DVC: R&I must advise the Vice Chancellor of the conflict and shall have no further involvement in the matter. In such case the Vice Chancellor is to appoint another designated person to conduct the preliminary investigation and carry out the role of the DVC: R&I where referred to under these procedures. The designated person should be a senior person in the University’s management structure who is experienced in research and research management.

c) The DVC: R&I will advise the person who is subject to the formal complaint in writing that a preliminary investigation is to be conducted.

d) To help inform the investigation, the DVC: R&I may interview or seek:

i)  Further information from the person making the formal complaint;

ii) A written response from the person subject to the formal complaint; and

iii) Information from other people including internal and/or external experts.

e) In determining a prima facie case of non compliance with the Code, the DVC: R&I will consider whether the formal complaint, if proven, could constitute:

i)  A failure to implement the Code; and/or

ii) A breach of the Code; and/or

iii) Research misconduct.

f) On completion of the preliminary investigation the DVC: R&I will provide a written report to the Vice Chancellor on whether a case of non compliance exists and make recommendations to address the formal complaint.

g) Recommendations to address the formal complaint may include:

i)  Dismissing the formal complaint;

ii) In the case of failure to implement the Code or breach of the Code:

   ▪  Refer the matter to the relevant Head of School and/or Divisional Pro Vice Chancellor for action (e.g. guidance) where the person is a staff member, as recommended by the DVC: R&I; or

   ▪  Making allegations of misconduct/serious misconduct under the disciplinary procedures in the Enterprise Agreement where the person is a staff member; or

   ▪  How the matter should otherwise be dealt with where the person is not a staff member.

iii) In the case of research misconduct:

   ▪  Making allegations of research misconduct under the disciplinary procedures in the Enterprise Agreement where the person is a staff member; or

   ▪  How the matter should otherwise be dealt with where the person is not a staff member.

iv) Where the conduct is not related to research and the person is a staff member, referring the matter to the Executive Director: People, Talent and Culture to
consider whether the conduct may constitute general misconduct/serious misconduct;

v) How the matter should otherwise be dealt with.

h) In relation to employment processes including disciplinary procedures under the Enterprise Agreement, the DVC: R&I will refer matters to the Executive Director: People, Talent and Culture for advice prior to making or as part of recommendations to the Vice Chancellor.

i) The University will endeavour to continue investigations of formal complaints of non compliance with the Code where the person subject to the formal complaint is no longer at the University. Distortions of the research record must be rectified, whether or not the person involved remains at the University.

j) In the case of a formal complaint involving a current or former staff member, adjunct or visitor undertaking research that occurred prior to their engagement at the University, the DVC: R&I may determine to investigate the matter to satisfy the University that there has not been a case of non compliance with the Code by them whilst at the University.

k) At the preliminary investigation stage the DVC: R&I will consider whether a formal complaint is required to be notified to relevant funding bodies (including the ARC and NHMRC) in accordance with funding agreements and/or policies of those funding bodies and instigate processes to notify them if and as required.

6.4 Step 4 – Preliminary Investigation Outcome & Subsequent Actions

a) The Vice Chancellor will consider the recommendations of the DVC: R&I and determine appropriate action to be taken. Where a decision is taken to make allegations of misconduct/serious misconduct or research misconduct in relation to a staff member, the matter will be referred to the Executive Director: People, Talent and Culture to commence a process under the disciplinary procedures in the Enterprise Agreement.

b) At the conclusion of a matter, if research misconduct is shown to be unfounded, the Vice Chancellor will consider and determine appropriate action to be taken. This may include the University making every reasonable effort to reinstate the reputation of the person subject to the allegations.

c) At the conclusion of a matter, the Vice Chancellor (or delegated officer) will consider those to be advised of the outcome including the person subject to the formal complaint or allegations, those making the formal complaint and any other relevant parties, including affected staff, funding bodies, research collaborators, collaborating institutions, journal editors and professional registration bodies.

FURTHER ASSISTANCE

Further advice may be sought from:

- Supervisor
- Head of School/ Director/Research Institute Director
- Research Integrity Advisers
- People, Talent and Culture

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