Research Breach Investigation Procedure

Section 1 - Introduction

(1) The University of Newcastle (University) is committed to responsible and ethical research practices in line with the Australian Code for the Responsible Conduct of Research (the Code) and the supporting Guides, including The Guide to Managing and Investigating Potential Breaches of the Australian Code for the Responsible Conduct of Research (2018).

(2) This procedure documents the process for reporting potential breaches of the Code at the University and how the University will manage potential breaches.

(3) This procedure should be read in conjunction with the following associated documents:

National Codes

a. Australian Code for the Responsible Conduct of Research (the Code);
b. Guide to Managing and Investigating Potential Breaches of the Australian Code for the Responsible Conduct of Research (the Guide);
c. National Statement on Ethical Conduct in Human Research;
d. Australian Code for the Care and Use of Animals for Scientific Purposes;

University policies and Enterprise Agreements

a. Responsible Conduct of Research Policy;
b. Staff Code of Conduct;
c. Academic Integrity and Ethical Academic Conduct Policy;
d. Student Code of Conduct;
e. Student Conduct Rule;
f. Honorary Academic Titles and Visiting Appointments Policy;
g. Enterprise Agreements;
h. Ethical Human Research Procedure Manual;
i. Animal Research Regulatory Manual;
j. Privacy Management Plan;
k. Records Governance Policy;
l. Intellectual Property Policy;
m. Intellectual Property Procedure;
n. Research Authorship Procedure;
o. Research Data and Primary Materials Management Procedure;
p. Publication and Dissemination of Research Policy;
q. Collaborative Research Procedure;
r. Disclosure of Interest Policy;
s. Disclosure of Interest Procedure;

t. Public Interest Disclosures Policy;
u. Data Breach Policy (Personal and Health Information); and
v. Risk Management Policy and Risk Management Framework.

Section 2 - Scope

(4) This procedure applies to all potential breaches of the Code or the Responsible Conduct of Research Policy by any person conducting research under the auspices of the University. This includes:

a. a current or former member of academic, teaching, or professional staff of the University;
b. current and former students of the University who have conducted or are conducting research in Honours, coursework, or higher degrees by research (HDR);
c. an independent contractor or consultant;
d. a person with visiting or emeritus status; or
e. those with an honorary academic title (visiting appointment or conjoint, including joint clinical) conferred by the University through the Honorary Academic Titles and Visiting Appointments Policy, regardless of the employment status of the person at the time the potential breach is reported.

Section 3 - Document Specific Definitions

(5) The following definitions are specific to this procedure:

a. “Administering institution" is the primary organisation responsible for grant management including receiving and reporting on the funding provided for the project and ensuring compliance with funding rules and regulations.
b. “Allegation” - a claim or assertion arising from a Preliminary Assessment that there are reasonable grounds to believe a breach of the Code has occurred. This may refer to a single allegation or multiple allegations.
c. “AO” – Assessment Officer - Means a person assigned by the Designated Officer (DO) with the relevant skills and knowledge to conduct the Preliminary Assessment of a Complaint about research.
d. “Balance of Probabilities” - the civil standard of proof, which requires that, on the weight of evidence, it is more probable than not that a breach has occurred.
e. “Breach” - a breach is a failure to meet the principles and responsibilities of the Responsible Conduct of Research Policy, and/or the Code, and may refer to a single breach or multiple breaches. Examples of breaches of the Code may include, but are not limited to:
    i. not meeting required research standards, including failing to obtain or abide by approved ethics protocols, and misuse of research funds;
    ii. fabrication, falsification, or misrepresentation;
    iii. plagiarism;
    iv. failure in research data management;
    v. failure to provide adequate supervision;
    vi. failure to meet authorship requirements;
    vii. failure to disclose conflicts of interest; or
    viii. failure to conduct peer review responsibly.
f. “Complaint” – a concern raised by a Complainant under this Procedure relating to a potential breach of the Code.
g. “Complainant” – a person or persons who has/have made a Complaint under this Procedure about a potential

breach of the Code.

h. “Corrective Actions”- these include:
    i. steps required to correct the research record;
    ii. temporary suspension of a research project and/or suspension of project funding;
    iii. responsible conduct of research education; and/or
    iv. counselling and guidance.

i. “DO” – Designated Officer - means the University's Designated Officer in matters relating to Research Integrity.

j. “Enterprise Agreement” refers to the University of Newcastle Professional Staff Enterprise Agreement 2023 or the University of Newcastle Academic Staff and Teachers Enterprise Agreement 2023, or any successor instruments;

k. “Evidence”- any document (hard copy or electronic, including e-mail, images and data), information, tangible item (for example, biological samples) or testimony offered or obtained that may be considered during the process of managing and investigating a potential breach of the Code.

l. “Investigation” - the action of investigating an Allegation of a breach of the Code by the Panel, following the Preliminary Assessment. The purpose of the investigation is to decide whether a breach of the Code has occurred, and if so, the extent of that breach, and to make recommendations about further actions.

m. “Participating institution” is an organisation that collaborates and supports the research through its researchers, facilities or resources.

n. “Preliminary Assessment”- the gathering and evaluating of evidence to establish whether a potential breach of the Code warrants investigation.

o. “Principles of procedural fairness” – the principles of procedural fairness (also referred to as natural justice) apply to managing and investigating potential breaches of the Code or the Responsible Conduct of Research Policy. These principles encapsulate the hearing rule (an opportunity to be heard), the rule against bias (decision-makers do not have a personal interest in the outcome) and the evidence rule (decisions are based on evidence). Actions taken under these procedures should be:
    i. Proportional – Investigations and subsequent actions need to be proportional to the extent of the potential breach of the Code;
    ii. Fair – Investigations need to afford procedural fairness to Respondents and, where appropriate, Complainants and others who may be adversely affected by any investigation;
    iii. Impartial – Investigators and decision-makers are to be impartial and declare any interests that do, may, or may be perceived to jeopardise their impartiality. These interests are to be appropriately managed;
    iv. Timely – Investigations into potential breaches should be conducted in a timely manner to avoid undue delays and to mitigate the impact on those involved;
    v. Transparent – Information about University processes should be readily available and/or provided to Respondents, Complainants, all employees and students engaged in research. Accurate records must be maintained for all parts of the process, with records held centrally in TRIM and in accordance with the relevant legislation; and
    vi. Confidential – Information will be treated as confidential and not disclosed unless required.

p. “Probity Event” - means any event or occurrence which:
    i. has a material adverse effect on the integrity, character or honesty of the Administering Institution, a Participating Institution or any person involved in a Research Activity; or
    ii. relates to the Administering Institution, a Participating Institution or Personnel involved in a Research Activity and has a material adverse effect on the public interest or public confidence in the Administering Institution, Participating Institution or Research Activity.

q. “REO” – Responsible Executive Officer – the Responsible Executive Officer is the Deputy Vice-Chancellor (Research and Innovation), or their nominee. They have the final responsibility for receiving reports of the outcome of processes of assessment or investigation of potential or found breaches of the Code and deciding

on the course of actions to be taken.

r. “Research Integrity Advisor” – designated University staff members with a knowledge of research, the Code and the Responsible Conduct of Research Policy. Research Integrity Advisors can provide advice to those with concerns or Complaints about potential research breaches.

s. “Research Ethics and Integrity Unit” – a unit located within the Office of the Pro Vice-Chancellor Research, Research and Innovation Division. The Director, Senior Manager, and Integrity Officers have responsibility for the management of research integrity at the University.

t. “Respondent” – a person or persons subject to a Complaint or allegation about a potential breach of the Code.

u. “Support person” – a person who accompanies a party to an interview or meeting for emotional support. They cannot be directly involved in the matter. A support person cannot advocate for, or speak on behalf of, the person they are supporting. A support person may be a legal practitioner, but may not attend in the role of a legal representative.

v. “Terms of Reference” – outlines the overall objectives of the assessment or Investigation and may include the scope of the evaluation, roles and responsibilities, requirements or method, and any constraints associated with the assessment or Investigation.

Section 4 - Roles and Responsibilities

(6) In accordance with Responsibility 10 of the Code, the University is responsible for providing mechanisms to receive complaints relating to potential breaches of the Code and for investigating and resolving potential breaches.

Nominated Roles

(7) All responsible persons, as detailed in the roles below, must comply with the Disclosure of Interest Policy and its associated procedure, including disclosing all conflicts of interest (actual or perceived).

(8) A nominee must:

a. be appointed by an impartial and more senior position within the University where a responsible person has a perceived or actual conflict of interest in the matter, including having previous involvement in any matter related to the Complaint; and
b. must have the required delegated authority to fulfill their responsibilities documented in this procedure.

Responsible Executive Officer

(9) The Responsible Executive Officer (REO) is the senior officer who has final responsibility for:

a. receiving outcome reports of assessment or Investigation processes of potential or found breaches of the Code; and
b. deciding on the course of actions to be taken.

(10) The REO is the Deputy Vice-Chancellor (Research and Innovation) or nominee.

(11) The REO cannot also be the DO or AO.

Designated Officer

(12) The Designated Officer (DO) is appointed to receive complaints about the conduct of research, or potential breaches of the Code, and is responsible for overseeing the management and investigation of these where required.

(13) The DO is the Pro Vice-Chancellor (Research), or a nominee appointed by the REO.

Assessment Officer

(14) The Assessment Officer (AO) is assigned by the DO, and is responsible for overseeing the conduct of the preliminary assessment, including:

a. identifying, collecting, evaluating, and securing relevant facts, information and documentation;
b. considering if there is a need to consult with the complainant and respondent to collect or clarify facts, information, or documentation, and consulting as appropriate;
c. considering the need to consult with the DO and other relevant University stakeholders, and consulting as appropriate;
d. considering the need to engage with internal or external experts, to provide specific and/or independent advice to facilitate the preliminary assessment, and consulting as appropriate;
e. evaluating how the potential breach/es relate to the principles and responsibilities of the Code, and if it may be a consequence (in full or in part) of systemic or other failures of University processes;
f. assessing the seriousness of the potential breach/es; and
g. developing recommended actions, including any corrective actions if appropriate at this point.

(15) The AO role will be undertaken by a nominee appointed by the DO. Where possible, the role of AO will be filled by an appropriately experienced research academic, preferentially selected from the Research Integrity Advisor network.

Research Ethics and Integrity Unit

(16) The Research Ethics and Integrity Unit, under the guidance of the REO, DO or AO (depending on the stage of the process), are responsible for identifying whether the complainant, respondent, or other parties require protection from potential adverse consequences and ensuring support measures are in place, where available. This includes circumstances where there is a power imbalance, for example, where the complaint is raised by a student or staff member in a junior position.

(17) The Research Ethics and Integrity Unit is responsible for providing administrative support to the REO, DO, AO and any Investigation Panel members to ensure complaints relating to research integrity are managed according to the Guide and this procedure.

Deputy Vice-Chancellor (Research and Innovation)

(18) The Deputy Vice-Chancellor (Research and Innovation) (DVCRI) has a responsibility to:

a. promote a culture that fosters responsible research practices;
b. provide effective processes to receive and respond to Complaints relating to potential breaches/research misconduct in adherence to the Code;
c. demonstrate processes that provide a fair, equitable and confidential avenue for lodging formal complaints, with the assurance that these will be handled sensitively and with care to avoid any unfavourable consequences for the complainant;
d. undertake a regular review of the effectiveness of this procedure and associated policies to ensure continued effectiveness and guarantee alignment with evolving changes in the research landscape;
e. ensure those involved in managing potential breaches of the Code are appropriately skilled, trained and resourced including institution-wide research integrity training modules and supporting the Research Integrity Advisor network; and
f. recognise systemic issues relating to research integrity and address these concerns.

Researchers

(19) Researchers have a responsibility to:

a. act in accordance with the University's Staff Code Of Conduct, the University's Responsible Conduct of Research Policy, and not undertake any form of reprisal or threatening behaviour should a potential breach of the Code relevant to their research be raised. Any such action will be dealt with as a separate action in accordance with the Student Conduct Rule for students, the Staff Code of Conduct for staff, or the relevant Enterprise Agreement;
b. comply with this procedure (including cooperating with any assessment or investigation under it),
c. promote and foster a responsible research culture at the University and within their field of research; and
d. report any concerns or potential breaches of the Code, in accordance with clause 24.

Section 5 - Complaints Management

(20) A breach is defined as a failure to meet the principles and responsibilities of research integrity, of the Code or the University's Responsible Conduct of Research Policy. It may refer to a single breach or multiple breaches.

(21) In line with the Australian Code for the Responsible Conduct of Research and the Guide to Managing and Investigating Potential Breaches of the Australian Code for the Responsible Conduct of Research, the University recognises potential breaches of research integrity occur on a spectrum, from minor or less serious to major or more serious.

(22) The principles of procedural fairness apply to all aspects of management of a potential breach of research integrity, including any assessment or investigation.

Raising a Complaint

(23) In considering whether to make a complaint and/or where it is unclear whether a potential breach of the Code or the Responsible Conduct of Research Policy has occurred, potential complainants are encouraged to seek advice from a Research Integrity Advisor (RIA).

(24) Complaints relating to breaches of the Code or the Responsible Conduct of Research Policy can be raised by:

a. submitting a request through ServiceNow “Research Integrity Concern or Complaint” portal;
b. contacting a Research Integrity Advisor (RIA); or
c. sending an email to researchintegrity@newcastle.edu.au;

(25) Complainants should provide as much detail about the complaint as they know at the time they raise the complaint and provide copies of, or access to, any evidence they hold at that time. However, this does not mean the Complainant has to carry out their own investigation before making the complaint.

(26) Subject to its legal and other obligations to notify external bodies (such as government agencies, funding bodies and other institutions involved in the research related to the Complaint), the University will treat and deal with complaints as strictly confidential. All persons involved in the management, assessment, and investigation of Complaints (including Complainants, Respondents and witnesses) must treat complaints as strictly confidential.

(27) A person may disclose matters in relation to a complaint where the disclosure is:

a. to a student advocate;
b. to a health provider;

c. to the person’s immediate family or close friend, subject to said person being provided with the University's information sheet for support persons;
d. to the person’s designated support person for the purpose of seeking psychosocial support, subject to said person being provided with the University's information sheet for support persons;
e. to an external body for the purpose of seeking a review of a decision, seeking advice, or making a complaint;
f. to obtain legal advice or representation;
g. for the purpose of law enforcement, seeking protection under the law, or required by law or any legally binding order or a court, government, semi-government authority, administrative or judicial body; or
h. required by an accrediting body or professional association.

(28) When submitting a complaint, the complainant may request anonymity; however, this may limit the University's ability to properly assess or investigate the complaint. In some instances, anonymity of the Complainant cannot be assured. This may be due to reasons such as the specific nature of the complaint, the University's legal obligations or potential involvement in criminal activities.

(29) Where a complainant chooses not to proceed with a submitted complaint, the Research Ethics and Integrity Unit will still conduct an initial review of the complaint and refer it to the DO to decide whether it should proceed to a preliminary assessment.

(30) Where a respondent ceases their employment or relationship with the University following a complaint, the University must continue with any assessment or investigation under this procedure to the extent possible. The University reserves the right to rectify or correct errors or distortions of the research record.

(31) If a complaint involves an issue other than a potential research breach, such as staff or student conduct:

a. if the complaint relates solely to an issue other than a potential research breach the complainant will be referred to the appropriate University process for management;
b. if the complaint relates to both a potential research breach and another issue, the DO will consult the relevant delegate and agree which process should manage the complaint. If during the process, it becomes apparent that the alternate process is more applicable, that process may instead be adopted and steps taken under the first process will be recognised in the second process.

Section 6 - Initial Review

(32) Complaints received by the Research Ethics and Integrity Unit, either directly via ServiceNOW or email, or via the RIA, will be assigned a case manager from the integrity team. The case manager will lodge the complaint with the DO within 5 working days.

(33) Following receipt of a complaint, the DO will:

a. acknowledge receipt of the complaint in writing to the complainant;
b. consider whether the complaint may qualify as a public interest disclosure under the Public Interest Disclosures Policy and, if so, contact the relevant Disclosure Officer;
c. determine whether the complaint relates to a potential breach of the Code or is a duplication or reagitation of a previous complaint;
d. if it relates to a potential breach of the Code, identify and undertake a risk assessment, according to the Risk Management Framework, and take appropriate action (including notification to government agencies, funding bodies and other institutions or persons who are involved in the research which is the subject of the complaint, or who may otherwise be affected by the complaint) should the potential breach identify:

i. immediate risk to humans or animals;
ii. immediate risk to the environment;
iii. immediate risk to research data or records;
iv. potential criminal or corrupt conduct;
v. potential significant reputational or other risk to the University; or
vi. potential misuse of funds; or
vii. potential violation of personal information or health information privacy.

(34) The University will notify any interested external parties (such as government agencies, funding bodies and other institutions or persons involved in the research that is the subject of the complaint) in writing if it has a legal, contractual or other obligation to do so. This includes any actual or potential probity event or, data breach, or conflict of interest that has not been disclosed or managed appropriately. Data breaches of personal information or health information will be assessed and managed according to the Data Breach Policy (Personal and Health Information) by the Vice-Chancellor's delegate.

(35) Following completion of the initial review, the DO is to make one of four decisions as outlined in Table 1 below.

(36) At all stages in considering and/or investigating complaints, where the respondent to a complaint is a University staff member, any requirements under Enterprise Agreements or equivalent employment contract must be met.

(37) At any stage in the process following the receipt of a complaint, the DVCRI may, following an assessment of the potential risks associated with the research activity and as required to manage the risk:

a. suspend approval for a research project; and
b. suspend the use of research funds.

(38) At any stage in the process following the receipt of a complaint of alleged misconduct, serious misconduct, or breach of the Code, the DVCRI may suspend:

a. a Researcher or staff member in accordance with the relevant delegations and applicable Enterprise Agreement and/or their Senior Staff Employment Agreement;or
b. student in accordance with the Student Conduct Rule and relevant delegations.

(39) If a Researcher, staff member or student is suspended, they will be notified in writing. Where necessary, the suspended person will be permitted reasonable access to the University's systems and facilities to provide a response to the allegations and to collect personal property if required.

Table 1 - Determinations and Actions Following Receipt of a Potential Breach Complaint

	Determination	Action/s
1	The complaint is not related to a breach of the Code, nor any other student or academic misconduct, is a duplication or re-agitation of a previously reviewed matter, or is without substance. The Complaint will not be referred for management under another procedure and must be dismissed.	1. DO to formally communicate the decision to the Complainant supported by a statement of reasons. 2. DO may notify the respondent, at their own discretion, depending on the complaint.

	Determination	Action/s
2	The complaint does not relate to a breach of the Code but may relate to a breach of other University policy. For example, it may relate to a minor research administration issue. The complaint must be referred to be dealt with via an alternate University process, such as, but not limited to, the University's Staff Code of Conduct, Student Code of Conduct, or Higher Degree by Research Policy.	1. DO to formally communicate the decision to the Complainant supported by a statement of reasons. 2. DO to refer the complaint to the relevant University unit or local Manager, Director, Graduate Research or Head of School for resolution. 3. Relevant University unit or local Manager, Director, Graduate Research or Head of School must report back to the DO on resolution / actions taken.
3	The complaint relates to a potential minor breach of the Code, is uncontested and can be resolved locally. The DO must determine if and what corrective actions must be implemented.	1. DO to formally communicate the decision to the Complainant supported by a statement of reasons. 2. DO to formally notify the respondent including a listing of any required corrective actions. 3. DO to refer the complaint to the appropriate local Manager, Director, Graduate Research or Head of School for resolution. The local Manager, Director, Graduate Research, or Head of School is then required to implement the corrective actions, if applicable, and report back to the DO when the corrective actions are implemented.
4	The complaint relates to a potential breach of the Code.	1. DO to formally communicate the decision to the complainant supported by a statement of reasons. 2. DO to formally communicate receipt of the complaint and decision to the respondent. This notification will include the identified principles and responsibilities of the Code in question. 3. DO to formally refer the complaint to an AO for a preliminary assessment.

(40) In addition to the actions outlined in Table 1, the Research Ethics and Integrity Unit will assist the DO to:

a. maintain a record of all decisions relating to the complaint;
b. notify the Associate Dean (Research), Head of School, relevant College Pro Vice-Chancellor, Deputy Vice-Chancellor (Research and Innovation), or Director, Graduate Research, as needed regarding the complaint, process updates, and any decisions or outcomes; and
c. define and document the scope and Terms of Reference for the preliminary assessment.

Section 7 - Preliminary Assessment

(41) The purpose of the preliminary assessment is to gather and evaluate evidence available to then establish whether a potential breach of the Code warrants investigation. It is not an investigation for the purposes of Section 8.

(42) In referring the complaint to an AO to commence a preliminary assessment, the DO will assign an AO in accordance with clause 15, and who has suitable skills and knowledge to effectively assess the case.

(43) The Research Ethics and Integrity Unit will provide guidance to the AO regarding the scope and Terms of Reference for the preliminary assessment.

(44) The AO may at any time during the preliminary assessment and in consultation with the Research Ethics and Integrity Unit, amend the scope or Terms of Reference if other complaints related to other potential breaches of the Code in this matter are received.

Conducting the Preliminary Assessment

(45) The AO will:

a. prepare and retain records and correspondence of the preliminary assessment;
b. obtain information provided by the complainant from the DO;
c. gather, log and secure facts and information;
d. engage content expert/s for specific or independent advice as required relating to the subject matter of the complaint, including external experts, in accordance with clause 47;
e. obtain facts, information and/or advice from across the University if required, including from research supervisors;
f. clarify facts and/or information with the respondent where appropriate and/or necessary;
g. if the AO determines it is necessary for the purposes of the preliminary assessment the AO may request the respondent to attend an interview and/or provide a written response to the complaint. If so, the AO will notify the respondent in writing and include:
    i. sufficient detail for the respondent to understand the nature of the complaint (but not the name(s) of the complainant(s));
    ii. a statement inviting the respondent to provide a written response to the complaint within a nominated timeframe; and/or
    iii. a statement requesting the respondent to meet with the AO, and advising them that they have the option to bring along a representative as defined under the Enterprise Agreement, or if the respondent is a student, a support person;
h. decide if and how other institutions need to be involved in the complaint in consultation with the DO;
i. maintain open consultation with the DO as required and advise the DO immediately should additional complaints or potential additional respondents be identified; and
j. take all precautions to maintain confidentiality of information regarding the potential breach, complainant and respondent. Depending on the nature of the alleged breach it may not be possible to maintain confidentiality in all instances e.g. subject to clause 92.

(46) All meetings will be digitally recorded by the case manager with the interviewee's consent, and a copy of the recording provided to the interviewee upon request. The case manager will inform the interviewee that the meeting will be digitally recorded, and a copy of the recording can be provided upon request. If consent is not provided, then the case manager will retain notes as a record of the meeting. All records of meetings may be used as evidence.

(47) The AO has the authority to obtain all information documents and other evidence necessary to undertake the Preliminary Assessment including directing University staff and students to produce or provide access to any documents or provide any information required by the AO to undertake the preliminary assessment. The Research Ethics and Integrity Unit will provide secretariat support to collect, collate and store evidence and case materials.

(48) All correspondence with impacted parties including phone calls, emails and Zoom meetings, will be recorded, with consent, and stored as part of the preliminary assessment, and may be used as evidence in any process under this Procedure if required.

(49) For potential breaches of the Code involving higher degree by research students, the Research Ethics and Integrity Unit must notify the appropriate University business unit(s) and the University's Graduation Unit to ensure the student cannot be qualified for an award while a complaint is being assessed or investigated under this procedure.

Preliminary Assessment Outcome(s)

(50) Following completion of the preliminary assessment, the AO will prepare a Preliminary Assessment Report to the DO that includes:

a. details of the complaint;
b. the scope and terms of reference of the preliminary assessment;

c. a summary of the assessment process that was undertaken;
d. an inventory of the facts and information that were gathered and assessed;
e. the analysis methods used;
f. a systematic description of the evaluation of facts, information, and findings;
g. how the potential breach/es relate to the principles and responsibilities of the Code, and if it may be a consequence (in full or in part) of systemic or other failures of institutional processes;
h. a decision of the seriousness of the potential breach/es; and
i. the recommended actions, including any corrective actions if appropriate at this point.

(51) The AO may use non-identifying descriptors (such as "Witness A") in the Preliminary Assessment Report to ensure anonymity if the DO reasonably believes that identification of the complainant or any witness (except the Respondent) in the Preliminary Report could:

a. unreasonably compromise or undermine the implementation of any recommendation in that report;
b. cause the University to breach its obligations under any law or policy regarding privacy or whistleblowing (including public interest disclosures under the Public Interest Disclosures Act); or
c. risk the health, safety, welfare of the respondent, the complainant, any witness or other person involved in the:
    i. preliminary assessment; or
    ii. research that is the subject of the Complaint.

(52) The DO will consider the Preliminary Assessment Report and recommended action/s provided by the AO and make a decision as outlined in Table 2 based on the response, evidence, and complexity of the complaint.

Table 2 – Decision and Actions Following a Preliminary Assessment

	Determination	Action/s
1	The complaint is not related to a breach of the Code and should be dismissed.	If required, the DO must ensure reasonable efforts are made to restore the reputation(s) of the respondent(s), as described in clause 54.
2	The complaint refers to potential minor breaches of the Code and can be resolved locally. The DO must determine if and what corrective actions must be implemented.	DO to refer the complaint to the appropriate local manager, Head of School or Deputy Head of School (Research Training) for resolution. That individual is then required to implement corrective actions, if applicable and report to the DO when these have been implemented.
3	The complaint relates to potential serious breach/es of the Code under the auspices of the University and must be referred for investigation by an Investigation Panel in accordance with this procedure.	DO to convene an Investigation Panel and refer the complaint for investigation, as described in clauses 61-68.
4	The complaint is not related to a breach of the Code but may be referred to other University processes (for example, the complaint is considered a breach of the University's Staff Code of Conduct, Student Code of Conduct, Higher Degree by Research Policy).	DO to refer the complaint to the appropriate University unit/s for further action, as described in clause 54.

(53) In addition to the above actions the DO will:

a. communicate the outcome to all relevant parties;
b. decide if the Preliminary Assessment Report or a summary of it is to be provided to relevant parties, in accordance with the Guide;
c. advise funding bodies when required under funding agreements, research contracts or other obligations;

d. where the DO decides to refer a matter for investigation under this procedure, advise the respondent that Investigation Panel findings will be considered under the research code breach provisions of the applicable Enterprise Agreement, the staff members terms of employment, or the Student Conduct Rule as relevant;
e. ensure that any systemic issues identified in the Preliminary Assessment Report are referred to the appropriate University unit or role for action and report back; and
f. notify the REO of any decision to refer a complaint for investigation under this procedure.

(54) Where a complaint is not referred for investigation, the DO should consider the following actions:

a. if the complaint has no basis in fact (for example, due to a misunderstanding or because the complaint is frivolous or vexatious), then reasonable efforts, if required, must be made to restore the reputation of any affected parties through notification of the outcome of the preliminary assessment;
b. if a complaint is considered to have been made in bad faith or is vexatious, efforts to address this with the Complainant should be taken under appropriate University processes (e.g. applicable Enterprise Agreement, Staff Code of Conduct, Student Code of Conduct, staff terms of employment or the Student Conduct Rule);
c. referral to the appropriate University unit or role to address any systemic issues that have been identified with a requirement for action and a report back provided.

Section 8 - Investigating a Potential Breach of the Code

(55) The purpose of an investigation is to investigate relevant facts and circumstances to decide whether a breach of the Code has occurred, the extent of that breach, whether the Respondent was wholly or partially responsible for it, any lessons learned, and any recommended corrective or other actions.

(56) An admission by the respondent of a breach of the Code or the Responsible Conduct of Research Policy should not be seen as an endpoint. An investigation may still be necessary to identify appropriate corrective actions, any other parties that may be complicit, or any other necessary actions.

(57) Once the DO refers a complaint for investigation, the complaint is considered to be an allegation and the Research Ethics and Integrity Unit will assist the DO to:

a. prepare a notice of the allegation/s to be sent to the respondent in accordance with clause 58;
b. develop the Terms of Reference for the Investigation Panel;
c. establish an Investigation Panel and Panel Chair in accordance with clauses 61-68; and
d. seek legal advice on matters of process if required.

Notification of Allegations

(58) At least 14 days before the Investigation Panel commences its investigation, the DO must send a notice to the respondent that:

a. advises that an Investigation Panel has been established in accordance with this procedure and the date on which it will commence its investigation;
b. gives sufficient particulars of the allegation to enable the respondent to provide a response;
c. includes a copy of or an electronic link to current version of this procedure;
d. includes the following statements to the respondent:
    i. you will have the opportunity to be interviewed by the Investigation Panel and to present evidence and

make submissions;

ii. you may bring along a representative as defined under the relevant Enterprise Agreement, but you are not permitted to be legally represented at any interview;

iii. if the Enterprise Agreement does not apply to you, you may bring along a support person, but you are not permitted to be legally represented at any interview.

(59) If at any time during the Investigation, the allegation or Terms of Reference change, the respondent is to be sent a fresh notice that complies with clause 58.

(60) Any evidence given to the respondent under clause 58b may be excluded or redacted if the DO reasonably considers that disclosure at that time might:

a. compromise the integrity of the investigation;
b. cause the University to be in breach of any of its obligations under any law or any policy relating to privacy and/or public interest disclosures; or
c. place the health, welfare or safety of any person (including the respondent or any witness) at risk.

Establishing the Investigation Panel

(61) In determining the composition of the Investigation Panel, the DO is to consider the potential consequences for the affected parties, the seniority of those involved, and the need to maintain public confidence in research. In some instances, some or all panel members may need to be external to the University.

(62) As per the relevant Enterprise Agreement, the University will consider nominations from the relevant union for suitably qualified and experienced staff members to be available for appointment to an Investigation Panel. If the respondent indicates they are represented by a union, the DO will consult with the Union in relation to the nomination of the Chair.

(63) In selecting members for the panel, the DO must also consider:

a. the expertise, and skills required;
b. the selection of a person appropriately qualified as Chair, in accordance with the Code and relevant Enterprise Agreement, where appropriate;
c. an appropriate level of experience and expertise in the relevant discipline(s);
d. the need for a person with prior or relevant experience in similar investigation panels;
e. knowledge and understanding of the responsible conduct of research;
f. the appropriate number of members, with a minimum of 3 required including the Chair;
g. the need for members to be free from conflicts of interest or bias;
h. gender/diversity of members, according to the Equity, Diversity and Inclusion Policy; and
i. cultural sensitivity.

(64) Once selected, the DO will notify the respondent of the proposed Investigation Panel members and provide an opportunity for the respondent to raise any objections regarding potential conflicts of interest or bias. The respondent must notify the DO of any objections within 5 working days of receiving notification of the proposed panel members from the DO.

(65) Following consideration of any objections received under clause 64 the DO will confirm the appointment of Panel members in writing to the respondent, including a copy of, or link to, this procedure.

(66) Following the establishment of the Investigation Panel, the DO must:

a. provide the Panel with all relevant information to support the Investigation, which may include:
    i. a copy of this procedure;
    ii. details of the original complaint raised;
    iii. all relevant information and evidence assembled by the AO as part of the preliminary aAssessment;
    iv. the Preliminary Assessment Report;
    v. records of the preliminary assessment including any communications regarding the Complaint involving the DO, AO, complainant and/or the respondent;
    vi. the panel Terms of Reference;
    vii. any other information the DO considers may be relevant to the investigation;
b. provide the Investigation Panel with an opportunity to provide feedback on whether the Terms of Reference are sufficient for the purposes of the investigation. The panel should seek advice from the DO if it considers that the scope and/or the Terms of Reference are too limited. The DO may amend the scope of the investigation and the Terms of Reference (please see also Clause 59);
c. ensure that the Investigation Panel has the authority to obtain access to all relevant information and documentation, including power to direct University staff and students to participate in Interviews as requested by the Investigation Panel;
d. inform the panel of the reporting requirements; and
e. ensure the Investigation Panel is provided with secretariat support from the Research Ethics and Integrity Unit.

(67) Investigation Panel members must:

a. declare all actual or potential conflicts of interest to the Chair and the DO as soon as they become aware of them;
b. work in accordance with University processes and comply with the requirements of this procedure;
c. work within the Terms of Reference for the Investigation Panel;
d. adhere to the principles of procedural fairness;
e. maintain confidentiality; and
f. contribute to the preparation of a written investigation report.

(68) Where a conflict of interest arises before or during the investigation, panel members must ensure the conflict of interest is disclosed and managed in accordance with the Disclosure of Interest Policy and Disclosure of Interest Procedure. Where a conflict of interest cannot be managed, the affected panel member/s must be recused by the Chair to avoid any actual or perceived influence on the impartiality of the Panel.

Conducting the Investigation

(69) The Investigation Panel is to investigate and decide on the balance of probabilities whether, based on available and relevant evidence, the Respondent has breached the Code.

(70) The Investigation Panel must:

a. ensure the respondent has been notified of the allegation and Terms of Reference in accordance with clause 58;
b. ask the respondent whether the respondent denies or admits any or all of the allegations;
c. give the respondent an opportunity to be interviewed by the Investigation Panel;
d. give the respondent a reasonable opportunity to respond to the allegation and to present any evidence and make any submissions;
e. consider all available evidence about the allegation and base any findings of fact on available and relevant evidence;

f. decide whether any allegations are proven on the balance of probabilities and:
    i. if any allegations are not proven, recommend that these be dismissed; or
    ii. if any allegations are proven:
        - identify which responsibilities of the respondent under the Code have been breached;
        - whether any mitigating circumstances should apply; and
        - whether any breach of the Code is considered a serious breach, and if so, why.

(71) When conducting an investigation, the Investigation Panel:

a. can decide its process for investigation, subject to the requirements of this procedure;
b. may interview any person and consider any further material as it considers relevant to the investigation;
c. may request independent expert advice to assist the panel in its Investigation, including external advice if required;
d. must prepare an Investigation Report as set out in clause 77.

(72) As per the relevant Enterprise Agreement, during the investigation process the rRespondent will be provided reasonable opportunity to:

a. respond to the allegation;
b. make submissions and present evidence; and
c. respond to any evidence.

(73) During an investigation, the respondent:

a. may bring a representative as defined in the relevant Enterprise Agreement along to an interview with the Investigation Panel;
b. if the Enterprise Agreement does not apply to the respondent, the respondent may bring a support person along to an interview with the Investigation Panel;
c. is not permitted to be legally represented at any interview;
d. may at any time before or during that investigation, admit an allegation, and if so, must be given a reasonable opportunity to make a written submission about any recommendation made in an Investigation Report in relation to that admission.

(74) An investigation must proceed to its conclusion if the respondent does not respond to the allegation or fails to attend an interview without a reasonable excuse.

(75) The Chair of the Investigation Panel has the discretion to extend a deadline for a short period of time if satisfied that this is fair and reasonable in the circumstances.

(76) The Investigation Panel may make findings either unanimously or by simple majority. Any dissenting views are to be included in the investigation report.

Decision and Investigation Report

(77) On completion of the investigation, the Investigation Panel will prepare a draft Investigation Report within the scope of the Terms of Reference that sets out:

a. the findings of the facts;
b. whether there has been any breach of the Code and, if so, whether any breach is a minor or serious breach;
c. a summary of the evidence on which those findings are based;

d. a short statement of reasons for those findings.

(78) Factors that the Investigation Panel is to consider in assessing the seriousness of a breach of the Code include:

a. the extent of the departure from accepted practice;
b. the extent to which research participants, the wider community, animals, and the environment are, or may have been, affected by the breach;
c. the extent to which it affects the trustworthiness of research;
d. the level of experience of the Researcher;
e. whether there are repeated breaches by the respondent;
f. whether institutional failures have contributed to the breach; and
g. any other mitigating or aggravating circumstances.

(79) The Investigation Panel must send the draft Investigation Report and copies of any other evidence considered by the Investigation Panel and referred to in the report to the respondent. The respondent has 15 working days from receipt of the draft Investigation Report and evidence in which to make any further submissions.

(80) Following consideration of any further submissions from the respondent, the Investigation Panel must finalise the Investigation Report and send it to the DO.

(81) Following receipt of the Investigation Report, the DO must:

a. consider the Investigation Report and its findings and any recommendations; and
b. send a copy of the Investigation Report to the REO with any further recommendations.

Investigation Outcome(s)

(82) After considering the Investigation Report and any recommendations, the REO must:

a. make one of the two determinations outlined in Table 3; and
b. decide the appropriate communication mechanisms, including if and when the Investigation Report is disclosed.

Table 3 – Decision and Actions Following Investigation of an Allegation

	Determination	Action/s
1	No breach of the Code has occurred; the allegation/s has no basis in fact.	1. If required, the REO will ensure reasonable efforts are made to restore the reputation(s) of the Respondent. 2. The REO may refer frivolous or vexatious allegations to the applicable University business unit for management under another policy or procedure.

	Determination	Action/s
2	A breach of the Code has occurred.	1. The REO will take into account the extent and seriousness of the breach/es of the Code when determining the response, which may include: a. referring the breach to the applicable University process: – for staff matters, the provisions of the relevant Enterprise Agreement may apply; – for student matters, the provisions of the Student Conduct Rule may apply; – for honorary academic title holders the provision of the Honorary Academic Titles and Visiting Appointments Policy and/or the Staff Code of Conduct may apply. b. additional responses such as determining and assigning corrective actions; 2. The REO will ensure that: a. the public record of the research (including publications) is corrected, if the breach/es have affected the accuracy of any research findings; b. any systemic issues identified are referred to the appropriate University business or role to be addressed and reported back; c. other institutions, including funding bodies and collaborating institutions, where applicable are advised of the outcome.

(83) For staff and honorary academic matters, the REO will ensure that all decisions and actions are communicated to the Respondent in writing, and that the respondent is notified of the means by which they can request a review.

(84) For student matters, communications of decisions and actions will be undertaken in accordance with the Student Conduct Rule.

(85) If appropriate, the REO may arrange for a public statement to be made by an authorised delegate.

(86) A summary of outcomes arising from action under the relevant Enterprise Agreement, Staff Code of Conduct, employment contract or Student Conduct Rule must be reported back in writing to the REO to complete the record of complaint.

Section 9 - Relaxing Provision

(87) With due consideration to the principles of procedural fairness, the Deputy Vice-Chancellor (Research and Innovation) or Vice-Chancellor, may relax any provision of this procedure to provide for exceptional circumstances arising in any matter provided that the relaxation:

a. does not compromise compliance with external obligations (including but not limited to contractual, legislative or accreditation requirements);
b. does not override a decision made under a formal delegation of authority;
c. does not replace a decision that is subject to a formal delegation of authority; and
d. gives due consideration to the principles of procedural fairness.

Section 10 - Requests for External Review

(88) The respondent may request the Australian Research Integrity Committee (ARIC) to conduct an external review of any investigative processes where they are concerned that the process did not offer procedural fairness or comply with the Code and/or relevant institutional procedures. This request must be made within 12 weeks following formal notification from an institution that it has finalised its preliminary assessment or investigation into the potential breach

of the Code. More information can be found at Australian Research Council.

Section 11 - Miscellaneous Provisions

(89) The AO, DO, Investigation Panel and others with power to carry out functions and make decisions under this procedure are required to:

a. act as quickly and with as little formality as possible, subject to the requirements of this procedure;
b. act fairly, reasonably, and without bias;
c. promptly disclose any actual or potential conflicts of interest and manage or resolve that conflict appropriately and in accordance with applicable University policies;
d. treat all matters dealt with under this Procedure as strictly confidential and not discuss them with anyone else, except on a 'strictly need to know' basis for the purpose of this procedure, including seeking legal or other professional advice; and
e. treat all proceedings as inquisitorial and not adversarial proceedings.

(90) The AO, DO and the Investigation Panel:

a. are not bound by the rules of evidence to allow flexibility to consider a wide range of information;
b. may make inquiries and obtain evidence about any matter, consistent with the rules of procedural fairness and taking into account any health and safety or other risks;
c. may exercise any function that is preliminary or ancillary to the exercise of any function of the Investigation Panel under this procedure provided it is not subject to any delegated authority.

(91) All persons involved in any part of the process under this procedure (including staff and students) must:

a. reasonably cooperate with this procedure; or
b. not do anything (including withholding or tampering with evidence) to undermine or interfere with any process conducted under this procedure.

(92) Any action taken by the University under this procedure does not preclude it from doing any of the following:

a. commencing legal action; or
b. reporting a matter to an external government or other organisation (including a professional registration body, a regulatory authority or the police) regardless of whether the University is under a legal obligation to do so.

Section 12 - Record Management

(93) All decisions and reasons for those decisions about complaints must be confidentially documented within the University's records management system. This includes, but is not limited to, whether to proceed to a preliminary assessment, whether to investigate a complaint, or whether to cease investigating a complaint.

(94) All records relating to allegations of research breaches are to be handled in accordance with the University's policies, including Privacy Management Plan and Records Governance Policy.

Status and Details

Status	Current
Effective Date	23rd June 2026
Review Date	14th April 2028
Approval Authority	Academic Senate
Approval Date	22nd June 2026
Expiry Date	Not Applicable
Responsible Executive	Rohan Walker Pro Vice-Chancellor (Research)
Enquiries Contact	Rebecca Dyson Senior Manager, Research Integrity Research Ethics and Integrity Unit

Glossary Terms and Definitions

"University" - The University of Newcastle, a body corporate established under sections 4 and 5 of the University of Newcastle Act 1989.

"Risk" - Effect of uncertainty on objectives. Note: An effect is a deviation from the expected, whether it is positive and/or negative.

"Risk assessment" - The overall process of risk identification, risk analysis, and risk evaluation.

"Working day" - Any day other than Saturday, Sunday, or a public holiday in Newcastle, on which business may be conducted.

"Academic misconduct" - Means conduct by a student that is defined as academic misconduct in the Student Conduct Rule.

"Personal information" - Has the same meaning as in the Privacy and Personal Information Protection Act 1998 (NSW).

"Student" - A person formally enrolled in a course or active in a program offered by the University or affiliated entity.

"Health information" - As defined in the Health Records and Information Privacy Act 2002, or any replacing legislation.

"Research" - As defined in the Australian Code for the Responsible Conduct of Research, or any replacing Code or document.

"Research misconduct" - A serious breach of the Australian Coe for the Responsible Conduct of Research that is intentional, reckless or negligent.

"Staff" - Means a person who was at the relevant time employed by the University and includes professional and academic staff of the University, by contract or ongoing, as well as conjoint staff but does not include visitors to the University.

"Delegate" - (noun) refers to a person occupying a position that has been granted or sub-delegated a delegation of authority, or a committee or body that has been granted or sub-delegated a delegation of authority.

"Delegated authority" - refers to the specific description of the authority that is delegated or sub-delegated to a holder.