



Responsible Unit: Research and Innovation Division (RAID)

Research Misconduct Policy

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Responsible Faculty/
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Supporting documents,
procedures & forms of
this policy

References &
Legislation

- Code of Practice - Research
- Code of Practice – Supervision
- Academic Grievance Policy (Higher Degree Research Students)
- Student Conduct Rules
- NSW Protected Disclosures Act 1994
- NHMRC Australian Code of Practice for the Care and Use of Animals for Scientific Purposes (7th Edition 2004)
- NHMRC National Statement on Ethical Conduct in Research Involving Humans 1999
- Gene Technology Act (2000) and the Gene Technology Regulations 2001
- Australian Code for Responsible Conduct of Research – December 2007
- Values and Ethics: Guidelines for Ethical Conduct in Aboriginal and Torres Strait Islander Health Research (NHMRC 2003)
- Guidelines for Ethical Research in Indigenous Studies (Australian Institute of Aboriginal and Torres Strait Islander Studies 2002)
- Statement on Consumer and Community Participation in Health and Medical Research (NHMRC and Consumers' Health Forum of Australian inc., 2002)

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1. Purpose of Policy

- 1.1 This Policy provides a clear and transparent process for dealing with alleged research misconduct and establishing inquiries to determine whether research misconduct has occurred.
- 1.2 This Policy adheres to the guidelines provided by the Australian Vice Chancellors' Committee (AVCC) and the National Health and Medical Research Council (NHMRC).

2. Definitions

- 2.1 Key terms used in this Policy are defined as follows:

Word/Term	Definition
breach	Research misconduct by a researcher with no previous record of research misconduct that does not involve potentially serious consequences, such as false information on the public record, or adverse effects on research participants, animals or the environment.
exclusion	A penalty whereby a student's enrolment is terminated for a defined period. The student must apply directly to UOW for re-admission at the conclusion of the period of exclusion should re-admission be sought.
expulsion	A penalty whereby a student's enrolment is terminated permanently. An expelled student shall not be re-admitted except by permission of the University Council of UOW.
HDR student	A student registered in a Higher Degree Research (HDR) program of study, namely a Masters-by-Research degree or a Doctoral degree.
natural justice	Principles that ensure that decision-making is fair and reasonable. These involve decision-makers informing people of the case against them or their interests, giving them a right to be heard, not having a personal interest in the outcome, and acting only on the basis of logically probative evidence.
officer	A person appointed to a particular position of responsibility or authority.
reprimand	A formal, written rebuke by an officer.
researchers	staff members, students, visiting fellows, visiting students and volunteers who undertake research.
Research Student Centre	The UOW administrative division responsible for policy, governance and the management of HDR student functions.
rescission	The act of invalidating the conferral of a degree, performed by the University Council.

Word/Term	Definition
research misconduct	<p>Conduct by a researcher, staff member, visitor or HDR student that is in breach of the Rules, Codes, Policies and Procedures of UOW or the Australian Code for Responsible Conduct of Research where such a breach relates to the five fundamental values of academic integrity, namely honesty, trust, responsibility, respect and fairness.</p> <p>Research misconduct by a HDR student can be categorised as a Breach or Serious Research Misconduct.</p>
serious research misconduct	<p>Research misconduct by a researcher that involves intent and deliberation, recklessness or gross and persistent negligence with potentially serious consequences, such as false information on the public record, or adverse effects on research participants, animals or the environment; or</p> <p>repeated and continuing Breaches where these have been recorded on the Central Register.</p>
staff member	Means all persons appointed to the academic or general staff of UOW, whether they hold full-time, part-time, casual or conjoint appointments.
student	<p>A person:</p> <p>(i) who has been accepted for admission to or enrolled in any course or program offered at, or in conjunction with, UOW or the Wollongong University College; or</p> <p>(ii) whose body of work, completed while so enrolled (e.g. a research thesis), is still under examination.</p>
suspension	A penalty whereby a student is prevented from enrolling for a defined period. The student may be re-admitted automatically at the conclusion of the period of suspension, should re-admission be sought.
University Council	The governing authority of UOW, acting for and on behalf of UOW and controlling and managing UOW's affairs.
UOW	The University of Wollongong.
visiting fellow	Honorary and visiting fellows appointed by UOW to non-salaried, full-time or fractional positions titled "Associate Fellow", "Fellow", "Senior Fellow", "Principal Fellow", "Professorial Fellow", "Visiting Fellow", or "Research Fellow" who are not visiting students or volunteers.
visiting student	A student who undertakes part of their research or training at UOW but who is not registered at UOW.
volunteer	A person who is not a fellow, visiting student, staff member or student of UOW but is working on a UOW project in a voluntary capacity. An example of a volunteer is someone who is undertaking unpaid work experience at UOW or is doing an internship at UOW. For the avoidance of doubt, a collaborating colleague from another University or research institution is not a Volunteer.

3. Application and Scope

- 3.1 This Policy applies to all staff members and students. It also applies to researchers performing research on UOW premises or under the auspices of UOW. This Policy should be read in conjunction with other related policies.

Misconduct unrelated to the research process, for example harassment, bullying, financial misconduct etc, fall outside the scope of this policy.

4. Roles and Responsibilities

- 4.1 UOW has a responsibility to:

- a. ensure that this Policy is accessible and communicated to all staff members and students;
- b. ensure that this Policy are implemented and applied consistently across all UOW faculties, units and campuses;
- c. promote best practice in managing research misconduct; and
- d. ensure that the process for managing research misconduct allows for:
 - (i) timeliness of response;
 - (ii) fairness of consideration;
 - (iii) respect for privacy; and
 - (iv) keeping all parties informed of their rights and responsibilities in relation to alleged research misconduct.

- 4.2 Researchers have a responsibility to:

- a. conduct themselves in accordance with this Policy and the Code of Practice – Research, and all other UOW rules, codes, policies, and procedures; and
- b. identify and report suspected research misconduct
- c. be aware of ‘whistleblower’ legislation (as applicable) in situations where the person bringing the allegation is alleging research misconduct via the media or another authority outside UOW (e.g. NSW Protected Disclosures Act 1994).

- 4.3 All persons involved in investigations of alleged research misconduct have a responsibility to conduct themselves in accordance with this Policy.

5. Research Misconduct

- 5.1 Research misconduct includes:

- a. The fabrication of data: claiming results where none have been obtained;
- b. The falsification of data including changing records;
- c. Plagiarism, including the direct copying of textual material, the use of other people's data and/or ideas without acknowledgment;
- d. Misleading ascription of authorship including the listing of authors without their permission, attributing work to anyone who has not contributed to the research, and the lack of appropriate acknowledgment of work produced by others;
- e. Falsely claiming inventorship;

- f. Other Research activities that are not compliant with the Code of Practice – Research;
 - g. Other practices that seriously deviate from those commonly accepted within the research community for proposing, conducting or reporting research. For example, failure to comply with legal requirements or official University processes (e.g. ethics compliance (refer to the Code of Practice - Research)).
- 5.2 Research misconduct does not include genuine errors or differences in interpretation or judgments of data.

6. Examples of Research Misconduct

- 6.1 Examples of research misconduct include but are not limited to the following:
- a. Misappropriation: A researcher or reviewer shall not:
 - (i) plagiarise, which shall be understood to mean the presentation of the documented words or ideas of another as his or her own, without attribution appropriate for the medium of presentation;
 - (ii) make use of any information in breach of any duty of confidentiality associated with the review of any manuscript or grant application; and
 - (iii) omit reference to the relevant published work of others for the purpose of inferring personal discovery of new information.
 - b. Interference: A researcher or reviewer shall not without authorisation take or sequester or materially damage any research-related property of another, including without limitation the apparatus, reagents, biological materials, writings, data, hardware, software, or any other substance or device used or produced in the conduct of research.
 - c. Misrepresentation: A researcher or reviewer shall not:
 - (i) state or present a material or significant falsehood; or
 - (ii) omit a fact so that what is stated or presented as a whole states or presents a material or falsehood.
 - d. Intentional and deliberate, reckless or gross and persistent negligence in any aspect of research

Categories of Research Misconduct

Table 1

Examples of Research Misconduct	Category of Research Misconduct
<p>Collusion</p> <p><i>Presenting research in any form as independent work when it has been produced in part or in whole in collusion with other people.</i></p>	<p>Breach or Serious Research Misconduct</p>

Examples of Research Misconduct	Category of Research Misconduct
<p>Ethics Misconduct</p> <p><i>Conducting research without adhering to ethical requirements, for example:</i></p> <ul style="list-style-type: none"> • failing to obtain ethics clearance from the appropriate ethics committee; or • failing to conduct research in accordance with the activities approved by the appropriate ethics committee. 	<p>Serious Research Misconduct</p>
<p>Fabrication</p> <p><i>Intentional and unauthorised falsification or invention of any information or citation in a research exercise, for example”</i></p> <ul style="list-style-type: none"> ▪ fabricating sources; ▪ fabricating research results; or ▪ changing research results. 	<p>Serious Research Misconduct</p>
<p>Facilitating research dishonesty</p> <p><i>Assisting or attempting to assist another person to engage in research dishonesty.</i></p>	<p>Breach or Serious Research Misconduct</p>
<p>Fraud</p> <p><i>Deceitful behaviour by which it is sought to gain an unfair or dishonest advantage, for example submitting falsified documentation or results.</i></p>	<p>Serious Research Misconduct</p>
<p>Misleading attribution of authorship</p> <p>For example:</p> <ul style="list-style-type: none"> • including or removing authors without their permission; • attributing work to someone who has not contributed to the research; or • not giving appropriate acknowledgement of work produced by another person. 	<p>Breach or Serious Research Misconduct</p>
<p>Misrepresentation</p> <p><i>Representing data or information incorrectly, improperly, or falsely, for example:</i></p> <ul style="list-style-type: none"> • omitting information so as to mislead; or • misrepresentation to obtain funding. 	<p>Serious Research Misconduct</p>
<p>Obstruction/Interference</p> <p><i>Behaving in any way that impedes the research activities of others, for example taking or damaging any research-related property of someone else.</i></p>	<p>Serious Misconduct</p>

Examples of Research Misconduct	Category of Research Misconduct
<p>Plagiarism</p> <p><i>Using another person's ideas, designs, words or works without appropriate acknowledgement.</i></p> <p>Examples:</p> <ul style="list-style-type: none"> ▪ Failure to acknowledge sources of quotations, ideas or data (including when paraphrasing) ▪ Copying another person's work (with or without consent) 	Breach or Serious Research Misconduct
<p>Re-publishing one's own work as original research</p>	Breach or Serious Research Misconduct
<p>Conflicts of Interest</p> <p>Failure to declare, avoid or manage serious Conflicts of Interest.</p>	Serious Research Misconduct

7. Framework for Resolving Allegations of Research Misconduct

Advisors in Research Integrity (ARI)

- 7.1 UOW has appointed Heads of Units and Directors of Research Strengths as Advisers in Research Integrity (ARIs) Other people or positions may also be appointed as Advisors in Research Integrity by the Deputy Vice-Chancellor (Research) (DVC(R)) from time to time. They are required to be familiar with this document, and with issues surrounding research misconduct, including procedural fairness.
- 7.2 The ARI role does not extend to investigation or assessment of the allegation. The ARI must not make contact with the person who is the subject of the allegation, and he/she must not be involved in any subsequent inquiry. An ARI should not be involved in a case if he or she has a relevant conflict of interest.

Initial Assessment

- 7.3 A Researcher wishing to allege research misconduct should in the first instance contact an ARI and seek confidential advice about what might constitute research misconduct, the rights and responsibilities of a potential complainant, and the procedures for dealing with allegations of research misconduct within UOW.
- 7.4 The role of the ARI is limited to providing confidential advice regarding research misconduct and identifying the options available to the person considering or making an allegation. These options include:
- a) Discussing? the matter directly with the person against whom the allegation is being made;
 - b) not proceeding or withdrawing the allegation if discussion resolves concern;
 - c) referring the allegation to a person in a supervisory capacity for resolution at Unit or Faculty level;
 - d) Making an (formal?) allegation of research misconduct in writing to the PVC(R).

The ARI's role does not extend to investigation or assessment of the allegation. The ARI must not make contact with the person who is the subject of the allegation, and must not be involved in any subsequent inquiry.

- 7.5 It should be recognised that researchers may sometimes make inappropriate? allegations of research misconduct as a result of frustration based on poor communication, misunderstanding or, at worst, harassment, rather than actual research misconduct.
- 7.6 Where it is determined that there is no substance to the allegation/ suspicion, no further action will be taken. In this case a file note will be retained by the ARI and the complainant will be notified of the decision.

8. Establishment of a Case to Answer

- 8.1 If, after discussions with ARI, a person believes a case of research misconduct may exist, they must in the first instance refer the allegation of research misconduct, as defined in this policy, to the PVC(R).
- 8.2 The PVC(R) will investigate the matter and if he/she believes there is an legitimate case of the alleged research misconduct, the PVC(R) will determine the seriousness of the research misconduct as follows:
- (i) If the PVC(R) concludes that the matter is a Breach (as defined below), he/she will refer the matter to the Dean as per section 9.3 below.
 - (ii) if the PVC(R) concludes that Serious Research Misconduct has occurred, he/she will refer the matter to the DVC(R) as per section 9..4 below.
- .8.3 The PVC(R) may, at anytime, seek further advice from the DVC(R) if necessary to make a determination.

9. Responding to Allegations of Research Misconduct

- 9.1 In addressing the process for responding to allegations, it is useful to distinguish between minor issues (hereafter referred to as a Breach) that can be resolved within the Faculty and more serious matters (referred to as Serious Research Misconduct) that require external and independent involvement, and which may be expected to lead to disciplinary action in accordance with employment conditions.
- 9.2 Ignorance, poor judgement or inexperience may lead some researchers to breach inadvertently the provisions of this Policy. The matter can be dealt with at Faculty level provided the alleged breach does not constitute Serious Research Misconduct, the researcher acknowledges the Breach, the consequences of the Breach are remedied and appropriate steps are taken to prevent recurrence. Their repetition or continuation may, however, lead to more serious consequences and may constitute Serious Research Misconduct.
- 9.3 The boundary between a Breach and Serious Research Misconduct is not instantly recognisable and those determining a case should consider the following:
- a. The penalties that might apply if an allegation is true;
 - b. The steps needed to ensure procedural fairness to all concerned;
 - c. The extent to which there are consequences outside UOW; and
 - d. The effect on the standing of UOW and its research in the eyes of the public.
- 9.4 Allegations of Serious Research Misconduct must be referred to the DVC(R).

9.5 Breaches

If it is determined that the research misconduct constitutes a Breach, the matter should be handled by the Dean. Written records must be retained and all parties, including the complainant, will be notified of the final outcome. If the matter cannot be handled to the satisfaction of all parties at the Faculty level, a formal complaint or allegation must be made in writing to the PVC(R) who will investigate the matter.

9.6 Serious Research Misconduct

If it is determined that Serious Research Misconduct has occurred, the matter must be referred in writing to the DVC(R). The DVC(R) will investigate the matter and advise the Vice-Chancellor (VC), or their delegated officer, whether a *prima facie* case exists, and how to proceed. Options include:

- a. Dismissing the allegations;
- b. Instructing the Faculty on how to deal with the allegations;
- c. Dealing with the complainant under provisions unrelated to research misconduct;
- d. Investigating the matter further through inquiry.

9.7 Upon receiving this advice, the VC, or their delegated officer, must decide whether to accept the advice and how to proceed.

9.8 If the VC, or their delegated officer, does not proceed to further inquiry he/she must notify in writing those making the allegation, the person who is the subject of the allegation and the DVC(R).

9.9 If the VC, or their delegated officer, does proceed to further inquiry he/she must notify in writing those making the allegation, the person who is the subject of the allegation and the VC and any other parties required under any agreement such as funding bodies and collaborating institutions.

9.10 To ensure procedural fairness, the allegation of research misconduct must be stated clearly in writing, the person facing the allegations has a right to be heard, they should be able to hear and respond to any and all material to be used by any inquiry committee or tribunal in its decision-making process. The members of the inquiry committee (or tribunal) must be free from bias or preconception and must conduct themselves in a manner that demonstrates this.

10. Inquiries and Tribunals

10.1 If the VC, or their delegated officer, decides that further inquiry is needed, he or she must decide whether to use internal or external members. If the potential consequences are likely to be serious, could undermine public confidence in research and/or the penalty for a proven allegation includes termination of employment, an inquiry with external members must be used. An internal institutional inquiry will normally be used in all other circumstances.

Internal Institutional Inquiry

10.2 The VC, or their delegated officer, will set up an Inquiry Committee that will normally consist of a minimum of three (3) members who are academic staff members (level D or above), and may include one senior academic who is external to UOW. Where possible, the Committee shall have representation of both genders. At least one member must have knowledge and experience in the relevant field of research and one member must be familiar with the responsible conduct of research. All members must be free from bias or conflicts of interest. The Chair will be from a Faculty other than that of the Faculty where the matter has arisen. The Committee will keep all matters confidential. All records of meetings of the Committee will be

kept confidential within the Research and Innovation Division. The Committee may seek any documentary evidence or expertise it considers may assist the investigation.

- 10.3 The rights of all stakeholders must be protected during the investigation by maintaining confidentiality and ensuring procedural fairness.
- 10.4 The inquiry will report to the VC, or their delegated officer, in writing its findings in fact and what, if any, research misconduct has occurred. Where adverse findings have been made, the VC will decide what disciplinary actions are required within the University's agreed disciplinary processes (see Section 11 below).

Independent Inquiry by External People

- 10.5 The VC, or their delegated officer, will set up a tribunal which will normally be constituted with a minimum membership of three (3) members external to UOW. At least one member should be legally qualified or have extensive experience as a member of a tribunal or similar body. At least one member should have knowledge and research experience in a relevant, related field of research, but not directly with the research area of the allegations. No member may be employed by UOW, or have current or recent dealings with UOW, or otherwise be subject to a reasonable perception of bias. Where possible the Committee shall have representation of both genders.
- 10.6 The person subject to the inquiry has a right to be able to hear and respond to any and all materials to be used by the panel in its decision making process. Procedures must be consistent with the principles of natural justice and due process.
- 10.7 All parties have the right to be assisted by legal counsel.
- 10.8 The tribunal will determine if the inquiry is to be a public or private hearing, based on the public interest. The tribunal has the responsibility of hearing the views of all parties before this decision is made.
- 10.9 The inquiry will report back to the VC, or their delegated officer, who must inform the University Council and the Chancellor of the outcome. The findings of the tribunal must be considered by the VC and appropriate actions must be taken, including when the allegations are shown to be unfounded. The findings of an independent inquiry shall be made available to the public.

11. Disciplinary Processes

- 11.1 Where adverse findings have been made, the VC, or their delegated officer, will decide what disciplinary actions are required within UOW's agreed disciplinary processes as follows:
 - a. A case against a staff member will be referred to the Director, Personnel Services Division for action under the misconduct provisions of the University of Wollongong Academic Enterprise Agreement.
 - b. A case against a former staff member, former student, a visiting student, volunteer or fellow will be referred to the University's Legal Counsel for consideration of legal ramifications and to implement procedures.
 - c. A case against a HDR student will be referred to the DVC(R) for action. Possible outcomes may be:
 - (i) Rectification of Breach and resubmission of research work
 - (ii) Reprimand by the Vice-Chancellor
 - (iii) Probation
 - (iv) Suspension or termination of research scholarship
 - (v) Suspension/Exclusion from UOW for a set period
 - (vi) Permanent expulsion from UOW
 - (vii) Rescission of degree by the University Council

- 11.2 The VC, or their delegated officer, must inform all relevant parties of the findings of the tribunal and the actions taken by UOW. The VC will also be responsible for correcting any public record of the research.
- 11.3 The person subject to the independent inquiry has the right to appeal to a higher authority, most usually the courts.
- 11.4 Persons who made the allegations must be treated fairly.

12. Unfounded Allegations

- 12.1 If the allegations are shown to be unfounded, UOW will make every effort to reinstate the good reputation of the accused researcher and their associates. Persons making mischievous complaints may face disciplinary action.

Review and Change History

Version Control	Date the Review occurred	Date Effective	Approved By	Change Details
1.0	August 2007	Immediately	University Council	New policy introduced in response to changes to the guidelines provided by the Australian Vice Chancellors' Committee (AVCC) and the National Health and Medical Research Council (NHMRC).
2.0	September 2007	12 October 2007	University Council	Updates to reflect 2007 Australian Code for the Responsible Conduct of Research
3.0	February 2008	Immediately	DVCR	Minor amendments to amend inconsistencies - no change to policy intent or procedures