

# Responsible Research Conduct Procedures - Staff

## Section 1 - Purpose

(1) The purpose of these Procedures is to set out the process for making and responding to allegations of a breach of the [Australian Code for the Responsible Conduct of Research 2018](#) by University staff members.

(2) These Procedures should be read together with the:

- a. [Australian Code for the Responsible Conduct of Research 2018](#) (the Code);
- b. [Guide to Managing and Investigating Potential Breaches of the Australian Code for the Responsible Conduct of Research, 2018](#) (the Guide);
- c. [Australian Research Council Research Integrity Policy](#);
- d. [National Health and Medical Research Council's Ethical conduct in research with Aboriginal and Torres Strait Islanders Peoples and communities: Guidelines for researchers and stakeholders](#).
- e. [Southern Cross University Enterprise Agreement](#); and
- f. Southern Cross [University's Code of Conduct](#).

## Section 2 - Scope

(3) These Procedures apply to allegations of a breach of the Code by University Staff, who are academic or professional employees of Southern Cross University, including full time, part time, fixed term and casual and all adjunct, visiting, emeritus and conjoint appointees who are engaged in supervisory and other research roles on behalf of the University.

(4) Allegations of a breach of the Code by Higher Degree Researchers (students) should be managed under the [Responsible Research Conduct Procedures - Higher Degree Researchers](#).

(5) Where an allegation of a breach of the Code relates to a staff member who is also a Higher Degree Researcher (student), the Deputy Vice Chancellor (Research and Academic Capability) will determine which process applies with reference to the context in which the alleged breach occurred.

(6) All allegations of a breach of the Code will be handled in a confidential manner, consistent with the Code.

## Section 3 - Definitions

(7) For the purposes of this Procedure the definitions are consistent with the [Australian Code for the Responsible Conduct of Research 2018](#), (the Code) and the [Guide to Managing and Investigating Potential Breaches of the](#)

[Australian Code for the Responsible Conduct of Research 2018](#) (the Guide).

- (8) Allegation means an Allegation of a breach of the Code.
- (9) Appeal means an Appeal against the determination of the Designated Officer.
- (10) Assessment Officer (AO): A person or persons appointed by the Designated Officer to conduct a preliminary assessment of an allegation of a breach of the Code.
- (11) Balance of probabilities means the civil standard of proof, which requires that, on the weight of evidence, it is more probable than not that a breach has occurred.
- (12) Breach means a failure to meet the principles and responsibilities of the Code and may refer to a single breach or multiple breaches.
- (13) Caution means a warning about the consequences of a breach of the Code and a clear message about penalties should another breach of the Code occur.
- (14) Code means the [Australian Code for the Responsible Conduct of Research 2018](#).
- (15) Complainant means a person who has made an Allegation about the conduct of research.
- (16) Conflict of interest exists in a situation where an independent observer might reasonably conclude that the professional actions of a person are or may be unduly influenced by other interests. This refers to a financial or non-financial interest which may be perceived, potential or actual conflict of interest.
- (17) Corrective Actions include, but are not limited to, retractions or errata of publications, training, counselling and systemic improvements.
- (18) Decision Maker means the Designated Officer or Responsible Executive Officer.
- (19) Designated Officer is the senior professional or academic University officer or officers appointed by the Responsible Executive Officer to receive allegations about the conduct of research or potential breaches of the Code and to oversee their management and investigation where required.
- (20) Evidence means any document (hard copy or electronic, including email, 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.
- (21) Guide means the [Guide to Managing and Investigating Potential Breaches of the Australian Code for the Responsible Conduct of Research 2018](#).
- (22) Higher Degree Researcher means a higher degree by research student.
- (23) Investigation describes the action of investigating an allegation of a breach of the Code, following the preliminary assessment. The purpose of the investigation is to determine whether a breach of the Code has occurred, and if so, the extent of that breach, and to make recommendations about further actions.
- (24) Investigation Officer is a person appointed by the Designated Officer to investigate a potential breach of the Code.
- (25) Panel refers to the person or persons appointed by an institution to investigate a potential breach of the Code.
- (26) Preliminary assessment means the gathering and evaluating of evidence to establish whether a potential breach of the Code warrants further investigation.

- (27) Procedural Fairness means that a fair and proper procedure is used when making a decision.
- (28) Research Misconduct means a serious breach of the Code which is also intentional or reckless or negligent.
- (29) Researcher means a person who conducts, or assists with the conduct of, research.
- (30) Respondent means a person or persons subject to an Allegation about a potential breach of the Code.
- (31) Responsible Executive Officer (REO) is the senior officer of the University who has final responsibility for receiving reports of the outcomes of processes of assessment or investigation of potential or found breaches of the Code and deciding on the course of action to be taken.
- (32) Research Integrity Advisor (RIA) is a person or persons with knowledge of the Code and institutional processes nominated by the University to promote the responsible conduct of research and provide advice to those with concerns or complaints about potential breaches of the Code.
- (33) Review Officer (RO) is the senior officer with responsibility for receiving requests for a procedural review of an investigation of a breach of the Code.
- (34) Staff (for the purpose of this Policy) means all persons who are academic or professional employees of Southern Cross University, including full time, part time, fixed term and casual, and all adjunct, visiting, emeritus and conjoint appointees who are engaged in supervisory and other research roles on behalf of the University.
- (35) Support Person means a person who accompanies a party to an interview/meeting.
- (36) Third Party means a person, or persons or institutions outside of Southern Cross University and includes industry partners, volunteers, former students, media/journalists, participants in human research and members of the public.
- (37) University processes includes references to Rules, Policies, Procedures, Guidelines, and Standards, [Code of Conduct](#) and [Enterprise Agreement](#).

## Section 4 - Institutional Roles

- (38) [Schedule A](#) identifies and documents the Southern Cross University positions responsible for the key roles and responsibilities recommended for the investigation and management of potential breaches of the Code.

## Section 5 - Allegations

### **Factors to consider before making an Allegation:**

- (39) Allegations may originate from inside the University or from Third Parties.
- (40) Anyone who reasonably suspects a breach of the Code by University staff may report it to the University in accordance with these Procedures.
- (41) Before making an Allegation of a potential breach of the Code, confidential advice may be sought from Research Integrity Advisors.
- (42) Research Integrity Advisors can provide confidential advice to staff and Higher Degree Researchers unsure about a research conduct issue, and who may be considering whether to make an Allegation. Research Integrity Advisors will provide advice about appropriate institutional rules and policies and the options regarding Allegations which include:

- a. Not proceeding if the Allegation is clearly not related to a breach of the Code;
- b. Proceeding under a different University complaint process;
- c. Making an Allegation about a potential breach of the Code in writing to the Designated Officer.

(43) The Research Integrity Advisor role does not extend to investigating or assessing Allegations.

### **Allegation of a breach of the Code**

(44) If anyone believes there has been a breach of the Code, they should report the Allegation in writing to the Designated Officer using a [Code Breach Allegation form](#).

(45) On receipt of an Allegation, the Designated Officer, or nominee, must consider whether there are likely to be significant risks to human or animal safety, the environment or national security. Where a potentially significant risk has been identified immediate and appropriate protective or precautionary action must be taken.

(46) Where an Allegation is withdrawn, the Designated Officer will consider the seriousness of the Allegation and determine whether to proceed to a Preliminary Assessment.

(47) Anonymous Allegations will be considered based on the information provided.

(48) An Allegation referred from the ARC, or relating to research or work involving the ARC, must be reported to the ARC, consistent with the [ARC Research Integrity Policy](#).

### **Protection of Interested Parties**

(49) The University encourages Staff, Higher Degree Researchers, Students and Third Parties to report any potential breaches of the Code.

(50) Any allegations of reprisal or threatening behaviour toward a person who has made a complaint alleging breaches of the Code will be investigated in accordance with the relevant University Processes.

### **Procedure upon receipt of an Allegation of Research Code Breach**

(51) The Assessment Officer will receive the written Allegation from the Designated Officer and conduct a preliminary assessment.

(52) The Assessment Officer must meet the following criteria:

- a. Be independent from the Allegation;
- b. Have appropriate experience or expertise;
- c. Have no conflict of interest or bias.

### **Preliminary Assessment**

(53) In conducting the Preliminary Assessment, the Assessment Officer will:

- a. Notify the Respondent, including sufficient details about the Allegation known at that time. This notification should invite the respondent to provide a written response within a specified timeframe after the date on which the notice was sent;
- b. At all times, maintain strict confidentiality;
- c. Seek confidential advice from HR Services regarding matters of process and procedural fairness;
- d. Conduct the Preliminary Assessment in a timely manner;
- e. Seek the involvement of those in supervisory roles in the potential breach, if appropriate;

- f. Consider the need to involve other institutions/stakeholders in the matter;
- g. Assess the evidence and seek supporting documentation;
- h. Identify the nature of the misconduct;
- i. Document evidence and provide a report of the facts and findings detailing the Preliminary Assessment.

(54) The Assessment Officer may:

- i. Seek further information from the complainant;
- ii. Seek further information from the respondent;
- iii. Consult with experts, such as researchers from the same or aligned disciplines, especially where the Allegation relates to specific disciplinary practice;
- iv. Consult with an expert to provide specific or independent advice about the conduct of the assessment.

(55) The Assessment Officer may discuss the matter with the Respondent, and should provide a copy of the record of the meeting to the Respondent.

## Section 6 - Determining an Allegation

(56) Decisions are made on the balance of probabilities, consistent with the Code.

(57) The Assessment Officer must provide written advice to the Designated Officer which includes:

- a. A summary of the assessment process;
- b. Any response received from the Respondent regarding the Allegation;
- c. An inventory of the information gathered and analysed;
- d. An evaluation of facts and information;
- e. An assessment of how the alleged conduct relates to the principles and responsibilities of the Code or University processes;
- f. Recommendations for further action.

(58) The Designated Officer will determine, based on the advice of the Assessment Officer, whether the Allegation should be:

- a. Dismissed;
- b. Resolved with or without Corrective Action;
- c. Further investigated - if the preliminary assessment identifies a requirement to conduct further investigation. This must be done in accordance with the investigation procedures set out in Section 7 below.
- d. Referred to another University process, such as the relevant processes under the [Enterprise Agreement](#), or external investigation.

(59) If the matter is dismissed, the Designated Officer will consider:

- a. If the Allegation has been found to have no basis in fact, action to restore the reputation of any affected parties;
- b. If the Allegation made by a Staff member or Higher Degree Researcher or student has been found to be frivolous, vexatious or without substance, action against the Complainant under the Enterprise Agreement, the relevant employment contract, or any other appropriate University processes may be taken;
- c. Addressing any systemic issues that have been identified.

(60) The Designated Officer will notify the outcome of their assessment, as per Clause (60) to the Complainant and the Respondent, in writing, in a timely manner.

## **Section 7 - Investigation Procedures**

(61) The purpose of the investigation is to establish the facts to allow the Responsible Executive Officer to assess whether a breach of the Code has occurred, the extent of the breach and the recommended actions.

### **Preparing for the Investigation**

(62) After the Designated Officer determines an investigation is required, the following steps should be taken:

- a. Seek advice on matters of process, where appropriate, from HR Services and/or Legal Office;
- b. Prepare a clear statement of Allegations;
- c. Develop terms of reference for the investigation, informed by the Guide;
- d. Appoint an Investigation Officer or Panel to conduct the investigation. The composition of the panel and preparation will be informed by the Guide.
- e. The Designated Officer will advise the Respondent of the composition of any panel and provide the opportunity to raise any concerns.

### **Conduct of Investigation**

(63) The Investigation Officer/Panel conducting the investigation must ensure that relevant interests are disclosed and managed.

(64) Investigations will be thorough, robust and free from bias.

(65) The principles of procedural fairness should be adhered to noting these principles do not include the right to legal representation, and the Investigation Officer/Panel should consider carefully whether to permit legal or specialist representations on request on a case by case basis.

(66) The Respondent may choose to have a Support Person. The role of the support person is to provide personal support to the Respondent and not to advocate, represent or speak on the Respondent's behalf.

(67) As part of the investigation the Respondent should be provided with an opportunity to respond to the Allegation and relevant evidence, within a specified timeframe. The Respondent can provide additional evidence to the Investigation Officer/Panel.

(68) Should the Respondent choose not to respond or appear before the Investigation Officer/ Panel where requested, the investigation continues in their absence.

(69) The conduct of the Investigation Officer/Panel will be informed by the Guide, noting this will be done at the discretion of the Designated Officer as deemed appropriate.

(70) In deciding whether there has been a breach of the Code, the Investigation Officer/Panel;

- a. Assesses and has regard to the evidence and considers if additional evidence is required;
- b. May request expert advice to assist the investigation;
- c. Arrives at a finding of fact about the Allegation on the balance of probabilities;
- d. Identifies whether the principles and responsibilities of the Code have been breached;
- e. Considers the seriousness of any breach;

- f. Provides a report to the Designated Officer into its findings of fact, consistent with its terms of reference;
- g. Makes recommendations as appropriate.

(71) The investigation should be conducted and completed in a timely manner.

### **Outcome from Investigation**

(72) The Designated Officer will consider the Investigation Officer/Panel's report, the extent of the breach, appropriate corrective actions and if referral to disciplinary procedures is required.

(73) The Designated Officer will provide a final report to the Responsible Executive Officer.

(74) The final report will:

- a. Contain findings of fact, reference the evidence presented and the extent of the Breach, if any; and
- b. Recommend corrective actions and referral to disciplinary procedures, if appropriate.

### **A Finding of No Breach of the Code**

(75) If the Responsible Executive Officer finds there has been no breach of the Code, the following will be considered:

- a. If the Allegation has no basis in fact then efforts must be taken to restore the reputation of those implicated in the Allegation.
- b. If the Allegation is considered frivolous, vexatious, or without substance, action to address this with the person who made the Allegation may be taken under the Enterprise Agreement, the relevant employment contract, or any other appropriate University process.

### **A Finding of a Breach of the Code**

(76) If the Responsible Executive Officer finds there has been a breach of the Code, the REO will decide what the appropriate course of action is, taking into consideration the extent of the breach and whether other institutions/stakeholders should be advised. Any disciplinary action for a staff member will be consistent with the [Southern Cross University Enterprise Agreement](#) or relevant employment contract/arrangement.

(77) The Responsible Executive Officer's decision will be communicated to the Respondent and to the Complainant in a timely manner.

(78) The Respondent (and the Complainant, if directly affected by the outcome) will be advised of their right to request an internal review and how to lodge a request for review, including timeframes and the information required to make a request.

(79) If a Breach of the Code has affected the accuracy or trustworthiness of research findings and their dissemination all efforts should be taken to correct the public record of the research including publications.

(80) Subsequent actions may include informing relevant parties such as funding bodies, other relevant authorities or other institutions of the outcome.

(81) Decision Makers will ensure compliance with the reporting requirements set out in the [Australian Research Council Research Integrity Policy](#).

## Section 8 - Request for Review of Code Investigation

(82) Only requests for a review of the Investigation on the grounds of procedural fairness may be considered.

(83) The aim of a Review is to affirm, or not, the outcome of the Investigation.

(84) Requests for Review should be directed to the Deputy Vice Chancellor (Research and Academic Capability) within 20 days of notification of the outcome of the Investigation.

(85) The Review Officer will consider whether the request is substantive and whether the investigation was procedurally fair including whether it adequately addressed all issues, and whether all evidence was appropriately considered.

(86) The Review Officer may determine that the original Officer/Panel reconsider their findings due to the presentation of new evidence, or the need to consider the existing evidence in more detail.

(87) Individuals may also request an external review from the Australian Research Integrity Committee (ARIC), if appropriate.

## Section 9 - Responsibilities and Powers of Decision Makers

(88) A Decision Maker must, in relation to the hearing and determination of an Allegation or Review of a Determination, act as quickly as is practicable, and without undue formality as is appropriate for the circumstances of the case and in accordance with the rules of procedural fairness.

(89) A Decision Maker has those powers conferred by these Procedures. Subject to these Procedures, they may act on their own initiative or in response to an Allegation.

(90) Frivolous or vexatious Allegations, or Allegations without substance, will not proceed beyond preliminary investigation. Any person making frivolous, vexatious or without substance Allegations may be subject to further action.

(91) A Decision Maker must not delegate a function or a power conferred under these Procedures. However, a Decision Maker may seek assistance or advice for the purpose of exercising functions as such (for example, appointing an Assessment Officer to carry out an investigation and to provide a report).

(92) A Decision Maker may hear and determine one or more different Allegations at the same time.

(93) If, before a final determination is made, a fresh Allegation is made against the Respondent that arises out of or relates to the same conduct that is the subject of the previous Allegation, then the Decision Maker may hear the fresh Allegation together with the original Allegation.

(94) Subject to these Procedures and principles of procedural fairness, a Decision Maker has power to:

- a. Summon any member of Staff, including adjunct, conjoint or emeritus appointee, visiting researcher, or Student of the University to provide information or evidence (including documents) about an Allegation;
- b. To the extent permitted by law, obtain information concerning an Allegation in any way that Decision Maker sees fit;
- c. Make any procedural directions in connection with the hearing of an Allegation;



- d. Inquire into any matter in such manner as that Decision Maker thinks fit;
- e. Require evidence or argument to be presented orally or in writing, and determine on which matters that Decision Maker will hear oral evidence or argument;
- f. Extend any deadlines given to the respondent by that Decision Maker under this procedure; or
- g. Correct any obvious errors in any notice or other communication given under this procedure in the following circumstances:
  - i. where there is an obvious clerical or typographical error in the text of that notice or communication;
  - ii. where a document was omitted from a notice or other communication (for instance, a copy these Procedures) arising from an accidental oversight or omission;
  - iii. where there is an error arising from an accidental slip or omission; or
  - iv. where there is a defect of form.

## Section 10 - Procedural Fairness

(95) All Staff, including adjunct, conjoint and emeritus appointees and visiting researchers are entitled to procedural fairness in the investigation and determining of any Allegation against them.

(96) Procedural fairness includes:

- a. The Staff member being informed of the Allegation and all relevant particulars relating to the Allegation;
- b. The Staff member being given a reasonable opportunity to answer an Allegation;
- c. The Staff member having the choice to be accompanied by a Support Person but not a legal representative, at any meeting to answer any Allegation;
- d. The Staff member being given normally not less than 14 working days' notice of the hearing of any Allegation;
- e. The Staff member being given a reasonable opportunity to question witnesses present and/or evidence presented at any hearing, subject to the discretion and determination of the Chair of the Panel for the hearing;
- f. The Staff member being given access to or copies of any relevant evidence or submission given or made in relation to the Allegation, subject to the discretion and determination of the relevant Decision Maker, normally the Investigation Officer;
- g. Absence of actual or perceived bias or conflict of interest on the part of the Decision Maker;
- h. The Decision Maker acting in accordance with University policy and procedures;
- i. The Decision Maker basing their determination on the evidence before them at the time that determination is made; and
- j. The Decision Maker giving a statement of reasons for their determination.

(97) Staff are expected to conduct themselves in a proper manner at all times and not disrupt or prejudice the hearing or deciding of an Allegation or an Appeal. They are to observe the processes in place (including those about confidentiality) and to behave in a courteous and reasonable manner towards University Staff who investigate or decide those Allegations.

## Section 11 - Conflict of Interest or Bias

(98) A Decision Maker under these Procedures shall be disqualified from making a determination or exercising any other power conferred to them if there is any actual or perceived bias or conflict of interest. A conflict of interest includes but is not limited to:

- a. Any personal relationship of a social or intimate nature between:

- i. The Decision Maker or Panel member and the Respondent concerned; or
  - ii. Any other person who gives evidence in respect of the Allegation;
- b. If the Decision Maker is a person who is a witness to, or is called to give evidence in respect of, an Allegation; or
- c. Financial or non-financial interest that may be perceived, potential or actual conflict of interest.

(99) The Decision Maker must be independent from the Allegations.

(100) If a Decision Maker or panel member has a conflict of interest or there is a reasonable perception of bias, then another person must be appointed to replace the Decision Maker or member.

## **Section 12 - Guidelines**

(101) Nil.

## Status and Details

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