

# RESPONSIBLE CONDUCT OF RESEARCH : PROCEDURE FOR INVESTIGATING CODE BREACHES

## SCOPE

This procedure applies to complaints in or in connection with research against:

- all current and former staff. This extends to adjunct staff or visitors, who are, or have, engaged in research under the auspices of, or in the name of, Monash University, including but not limited to research that is conducted in conjunction with another entity whether in the public or private sector and whether such entity be a University, research institute, a private research entity or endeavour, or otherwise; and
- all students (including past students) of the University who engage in research, but subject to the Monash University (Council) Regulations, Part 7.

For the purpose of this procedure, references to 'the University' include activity at Monash University Australia, Monash University Malaysia, Monash University Indonesia, Monash Suzhou, the Monash Suzhou Research Institute, the IITB-Monash Research Academy, and the World Mosquito Program Ltd (and its subsidiaries), unless indicated otherwise.

## PROCEDURE STATEMENT

This procedure governs the Monash University's (the University) processes for receiving, investigating and resolving potential breaches of the Australian Code for the Responsible Conduct of Research (**the Code**) and the Malaysian Code of Responsible Conduct in Research (**the Malaysian Code**). It adopts the procedural framework given in the Guide to Managing and Investigating Potential Breaches of the Code, and handles complaints in or in connection with research in a manner consistent with the principles outlined below.

This procedure should be read in conjunction with:

- a) Monash University (Council) Regulations Part 7 (5) – Student Discipline;
- b) the Enterprise Agreement or the Employment Contract for Monash University Malaysia and the relevant Standard Terms, Conditions and Benefits for Staff;
- c) The Australian Code for the Responsible Conduct of Research (2018);
- d) The Malaysian Code of Responsible Conduct in Research;
- e) ARC Research Integrity and Research Misconduct Policy; and
- f) NHMRC Policy on Misconduct related to NHMRC Funding.

In the event of any inconsistency, the provisions in paragraphs (a) and (b) above will prevail over this Procedure, but the provisions in paragraphs (c) – (f) above will not. If the alleged Research Misconduct relates to conduct by a person who is (or was at the relevant time) both a staff member and a student then the Designated Person must decide whether this Procedure or Monash University (Council) Regulations Part 7 – Student Discipline will apply, taking into account all relevant factors. In an appropriate case it may be that both apply.

### 1. PRINCIPLES

- 1.1 Ensures a prompt and appropriate response when a complaint in or in connection with research is made.
- 1.2 Ensures immediate action is taken, which may include referral to external agencies at any stage, if any of the following is discovered:
  - (i) potential corrupt conduct and/or potential criminal behaviour; or
  - (ii) immediate health hazard, including need to protect humans, animals or the environment.
- 1.3 Avoids adverse consequences for and retaliatory actions against the person making the complaint in good faith.

- 1.4 Treats all persons involved with respect, fairness and with due sensitivity.
- 1.5 Affords procedural fairness and natural justice, in that:
  - (i) the person/s accused (**Respondent**) be informed of the substance of any complaint made against them and such persons must be afforded a reasonable opportunity to put their case;
  - (ii) reasonable inquiries be made before arriving to a decision;
  - (iii) assessments/investigations and subsequent actions be proportional to the extent of the potential Code Breach;
  - (iv) assessments/investigations be conducted as promptly as possible whilst acting fairly and impartially at all times;
  - (v) decision-makers be free from bias and conflicts of interests; and
  - (vi) so far as possible, complaints be managed and investigated in confidence.

## 2. DEFINITION OF CODE BREACH

- 2.1 A breach of the Code (**Code Breach**) means (as derived from the Code) a failure to meet the principles and responsibilities of the Code, and may refer to a single breach or multiple breaches.

Examples of a Code Breach include, but are not limited to the following:

- 2.1.1 Not meeting required research standards
  - (i) Conducting research without ethics approval as required by the National Statement on Ethical Conduct in Human Research and the Australian Code for the Care and Use of Animals for Scientific Purposes
  - (ii) Failing to conduct research as approved by an appropriate ethics review body
  - (iii) Conducting research without the requisite approvals, permits or licenses
  - (iv) Misuse of research funds
  - (v) Concealment or facilitation of breaches of the Code by others
- 2.1.2 Fabrication, falsification or misrepresentation
  - (vi) Fabrication of research data or source material
  - (vii) Falsification of research data or source material
  - (viii) Misrepresentation of research data or source material
  - (ix) Falsification and/or misrepresentation to obtain funding
- 2.1.3 Plagiarism
  - (i) Plagiarism of someone else's work, including theories, concepts, research data and source material
  - (ii) Duplicate publication (also known as redundant or multiple publication, or self-plagiarism) without acknowledgment of the source
- 2.1.4 Research data management
  - (i) Failure to appropriately maintain research records
  - (ii) Inappropriate destruction of research records, research data and/or source material
  - (iii) Inappropriate access to research records, research data and/or source material
- 2.1.5 Supervision
  - (i) Failure to provide adequate guidance or mentorship for researchers or research trainees under their supervision
- 2.1.6 Authorship
  - (i) Failure to acknowledge the contributions of others fairly
  - (ii) Misleading ascription of authorship including failing to offer authorship to those who qualify or awarding authorship to those who do not meet the requirements
- 2.1.7 Conflicts of Interest
  - (i) Failure to disclose and manage conflicts of interest
- 2.1.8 Peer Review

- (i) Failure to conduct peer review responsibly
- 2.2 The seriousness of a Code Breach is measured by:
- (i) the extent of the departure from accepted practice
  - (ii) the extent to which research participants, the wider community, animals and the environment are, or may have been, affected by the breach
  - (iii) extent to which it affects the trustworthiness of research
  - (iv) the level of experience of the researcher
  - (v) whether there is a pattern of breaches by the researcher
  - (vi) whether institutional failures have contributed to the breach
  - (vii) any other mitigating or aggravating circumstances

### 3. DEFINITION OF RESEARCH MISCONDUCT

- 3.1 **Research Misconduct** (as derived from the Code) is a serious Code Breach which is also intentional or reckless or negligent.
- 3.2 Research Misconduct does not include honest differences of interpretation or judgement.
- 3.3 Unintentional errors do not usually constitute Research Misconduct unless they result from behaviour that is reckless or negligent.

### 4. RESPONSIBLE CONDUCT OF RESEARCH

- 4.1 Each person to whom this procedure applies must:
- (i) refrain from engaging in Code Breaches/Research Misconduct; and
  - (ii) only make a complaint in good faith.
- 4.2 A finding of Research Misconduct may result in disciplinary action and in the case of a current staff member; disciplinary action would normally be taken pursuant to the Enterprise Agreement.

### 5. RESPONSIBILITY TO REPORT CODE BREACHES

- 5.1 Each person to whom this procedure applies has an obligation to bring instances of suspected Code Breaches to the attention of the Designated Officer.
- 5.2 All complaints received, including allegations of Research Misconduct will be handled under this procedure as potential Code Breaches. The seriousness of a Code Breach, as determined by the Responsible Executive Officer, may trigger a finding of Research Misconduct
- 5.3 Complaints made in confidence and in good faith will not lead to disciplinary actions against the person making the complaint. Complaints that are defamatory or statements which are made maliciously or vexatiously may result in action against the person making the complaint or statements.

### 6. OPTIONS AVAILABLE PRIOR TO MAKING A COMPLAINT

- 6.1 Where a person is unsure whether a suspected incident constitutes a Code Breach, guidance should be sought from a Research Integrity Advisor.
- 6.2 The Research Integrity Advisor should explain to the person the options that are open to them, including:
- (i) not proceeding if the concern is clearly not related to a Code Breach;
  - (ii) proceeding under other institutional processes; or
  - (iii) making a complaint about a potential Code Breach to the Designated Officer.
- 6.3 A Research Integrity Advisor must not have a conflict of interest, should not be involved in investigating or assessing the merits of any complaint, should not make contact with the person who is the subject of a proposed complaint, nor be involved in any subsequent investigation other than as a witness or to provide a testimony.

### 7. REPORTING A POTENTIAL CODE BREACH

- 7.1 Every person (either within or external to the University) who has reasonable grounds to believe that a Code Breach is occurring or has occurred in the University should:

- (i) report the matter, in writing and in confidence to the Designated Officer via the following email address: [vp.research@monash.edu](mailto:vp.research@monash.edu); and
  - (ii) include all available information relevant to the complaint.
- 7.2 Complaints may be made anonymously. However, allegations made in this way can only be assessed on the information provided. In the event the anonymous complaint is progressed to assessment/investigation, the source of the complaint will not be entitled to participate in the procedure or receive any notice on progress, outcome or action taken in respect of the complaint.
- 7.3 On receipt of the complaint, the Designated Officer will determine whether the complaint relates to a potential Code Breach, and if so and subject to 7.4 below, will appoint an Assessment Officer to conduct a Preliminary Assessment.
- 7.4 If it is the determination of the Designated Officer that the complaint relates to a potential Code Breach, but would be handled more appropriately by another University process/policy, the Designated Officer may refer the complaint to the responsible person of that process/policy for handling on the condition that the outcomes be reported back to the Designated Officer in a timely manner for consideration, and action, in accordance with paragraph 8.4.

## 8. ASSESSMENT OF COMPLAINT

- 8.1 Once appointed, the Assessment Officer having regard for the timely completion of the assessment should:
- (i) take all possible steps to identify, collect, inventory and secure facts and information concerning the matter, including sequestering relevant research materials or records;
  - (ii) determine whether the matter (either the subject of the complaint or Respondent) involves external funding, and take action to protect the administration of funds that support the research that is the subject of the allegation, if deemed appropriate;
  - (iii) consider consulting in strict confidence others\* in the University;
  - (iv) consider the involvement of those in supervisory roles in the potential Code Breach;
  - (v) report any concerning behaviour or potential threats to safety to the Designated Officer pursuant to paragraph 1.2;
  - (vi) afford procedural fairness and natural justice pursuant to paragraph 1.5, subject to the Assessment Officer's discretion in paragraph 8.3 (i) and (ii); and
  - (vii) prepare a written report to the Designated Officer concerning the preliminary assessment.
- 8.2 The Assessment Officer should advise the Designated Officer in writing whether there is sufficient evidence of a potential Code Breach and any recommendations for further action.
- 8.3 In preparing the advice, the Assessment Officer may:
- (i) In writing, notify the Respondent of the complaint and invite a written response;
  - (ii) meet with the Respondent;
  - (iii) meet with the Complainant;
  - (iv) seek advice on any technical matters from an appropriate person or persons whether from within or outside the University provided that such person or persons has no perceived, potential and actual conflict of interest or bias; and
  - (v) seek legal advice.
- 8.4 Upon receipt of the written advice of the Assessment Officer, the Designated Officer may:
- (i) dismiss the complaint;
  - (ii) refer the complaint to the department or faculty level with instructions as to how it should be handled;
  - (iii) refer the complaint to other institutional processes; or
  - (iv) subject to 8.5 below, refer the complaint for investigation.
- 8.5 Subject to the Enterprise Agreement, where the University and one or more other Institutions receive a complaint in relation to the same subject matter, the University and those Institutions will confer and determine the most appropriate Institution to manage and investigate it, if required. Where it is agreed that an Institution other than the University should conduct that investigation, and provided the investigation is conducted consistently with the Code (recognising that the other Institution's employment agreements may contain specific binding obligations that deviate from the Code), then the findings and recommendations of that investigation may be adopted by the University as if they were the findings and recommendations of the University, and should be provided to the Designated Officer for consideration, and action, in accordance with paragraph 9.10 of this procedure.
- 8.6 The outcomes of the preliminary assessment and the decision of the Designated Officer pursuant to paragraph 8.4, if appropriate, must be provided promptly in writing and in confidence to:

- (i) the Respondent;
- (ii) the Complainant; and
- (iii) any relevant parties (e.g. Head of Department/Dean of the Respondent, funders, publishers).

## 9. INVESTIGATION OF COMPLAINT

### Establishment and Composition of the Panel

9.1 Where the Designated Officer determines under 8.4 that an investigation of a potential Code Breach is warranted, the Designated Officer will:

- (i) prepare a clear statement of allegations;
- (ii) develop the terms of reference for the investigation;
- (iii) nominate the investigation panel (**Panel**) and Chair when the Panel is more than one person; and
- (iv) seek legal advice on matters of process, when required.

9.2 The members of the Panel will be appointed by the Designated Officer who should also decide the appropriate number of members\*\*. No member will be chosen if there appears to be apparent conflict of interest concerning the parties involved or the allegation under investigation. All members must possess the necessary expertise to conduct the investigation and may be internal or external to University. The Designated Officer may replace any member if the Respondent can demonstrate good reasons why that person should not be a member of the Panel.

9.3 Appropriate resources will be provided to the Panel including secretariat support. The secretary will maintain the record of evidence obtained for the purposes of the investigation, keep evidence secure, and retain it for an appropriate period after the conclusion of the investigation.

### Panel Rules

9.4 The Panel should (in addition to the other requirements below, including at 9.9) make findings of fact relevant to the allegation/s and report to the Designated Officer the outcome of the investigation.

9.5 The rules to be followed by the Panel should include:

- (i) formulating and recording an investigation plan which should establish the framework of the investigation, establish its objective/s and set limits on its ambit;
- (ii) If, during the course of the investigation, the evidence discloses a new related instance of potential Code Breach that was not part of the original allegation or which suggests additional Respondents, the Panel may seek the Designated Officer's consent, and if received, expand the investigation, provided that the Complainant and Respondent/s are notified and the Respondent/s is provided with the opportunity to respond;
- (iii) where the allegation concerns the conduct of a person, the determination of whether the person did that which is alleged and whether it relates to a Code Breach;
- (iv) examining the facts and information from the preliminary assessment, and gathering, examining and securing further relevant evidence, if required;
- (v) interviewing the Respondent and the Complainant (where they wish), and any other relevant witnesses. If the Respondent chooses not to attend (or respond) the Panel process may continue. Any person attending an interview may be accompanied, but (except with the permission of the Panel) not legally represented, by one other person;
- (vi) taking such further steps as may be considered by the Panel to be appropriate for the purposes of proving or disproving any of the matters of fact raised by the allegation/s or by the person against whom such allegation/s is/are made;
- (vii) affording procedural fairness and natural justice pursuant to paragraph 1.5;
- (viii) seeking such assistance from any appropriate person as may be deemed necessary for the proper conduct of the investigation;
- (ix) making available a summary of relevant information on which the Designated Officer's decision will be based to the Respondent with the opportunity to provide comments. Where appropriate, Complainants should also receive a summary of information which concern their role or opinions in the matter. Any comments on the summary from the Respondent (and from the Complainant, if applicable) should be appended to the final report.
- (x) the making of a written report concerning the investigation, the findings of the Panel and any recommendations that the Panel may make.

9.6 For the purposes of the investigation the Panel may:



- (i) seek advice on any technical matters from an appropriate person or persons whether from within or outside the University provided that such person or persons has no perceived, potential and actual conflict of interest or bias; and
- (ii) seek legal advice.

9.7 The records created and retained pursuant to paragraph 9.5 should enable any authority with appropriate jurisdiction to be able to follow the procedures adopted by the Panel.

### **Reporting by the Panel**

9.8 The Panel will at the conclusion of its investigation provide a written report to the Designated Officer that sets out its findings of fact and its determination as to whether or not there is a Code Breach.

9.9 The report should include:

- (i) a statement of allegations;
- (ii) a description of the process adopted by the Panel in the investigation;
- (iii) a list of persons interviewed by the Panel and documents examined by it;
- (iv) the Panel's findings of fact;
- (v) a determination as to whether in the opinion of the Panel, the Code has been breached and the reasons for the determination;
- (vi) a view as to the seriousness of any Code Breach and reasons for making it;
- (vii) any comments from the Respondent and Complainant pursuant to 9.5 (ix); and
- (viii) any other matter the Panel determines to include in the report.

### **Consideration by Designated Officer**

9.10 Following consideration of the Panel's report under paragraph 9.8, the Designated Officer should provide the final report to the Responsible Executive Officer and provide recommendations on:

- (i) whether the conduct, the subject of the allegation/s is or is not a Code Breach;
- (ii) subject to 9.10(i), the extent or nature of the Code Breach, including whether the conduct constitutes Research Misconduct;
- (iii) any appropriate corrective actions;
- (iv) if referral under the Enterprise Agreement is required; and
- (v) any other matters the Designated Officer determines to include.

### **Decision by the Responsible Executive Officer**

9.11 Upon receipt of the final report and recommendations from the Designated Officer, the Responsible Executive Officer may:

- (i) determine that there has been no Code Breach and dismiss the allegation;
- (ii) determine that there has been no Code Breach and refer it to other institutional processes;
- (iii) determine that the conduct the subject of the allegation constitutes a Code Breach and take all efforts to correct the public record (if required), and take appropriate action;
- (iv) determine that the conduct the subject of the allegation constitutes Research Misconduct and take all efforts to correct the public record (if required), and:
  - a) in the case of staff to whom the Enterprise Agreement applies, refer the matter to the Director Workplace Relations for appropriate action; or
  - b) in the case of a person to whom the Scope of this procedure applies, but to whom the Enterprise Agreement does not apply or to whom Monash University (Council) Regulations Part 7 - Student Discipline does not apply (for example, an honorary adjunct appointee or a former staff member), take appropriate action, which may include referral of the matter to another institution.

9.12 A copy of the decision of the Responsible Executive Officer pursuant to paragraph 9.11, and of the findings and recommendations from the final report must be provided promptly and in confidence to:

- (i) the Respondent/s; and
- (ii) the Complainant.

9.13 Following the review period, a copy of the decision of the Responsible Executive Officer pursuant to paragraph 9.11, and a brief summary of the final report, if appropriate, must be provided promptly and in confidence to:

- (i) the Head of Department and/or the Dean of the relevant faculty of the Respondent; and
- (ii) any relevant parties, such as funding bodies, collaborating institutions or publishers.

## Review Process

9.14 Within one week of receiving a copy of the decision of the Responsible Executive Officer, and findings and recommendations of the final report, the Complainant or Respondent may have the right to request a review of the investigation to the Review Officer by way of written request seeking a review.

9.15 The request for a review must set out the reasons for the review and be lodged to the Review Officer at [vp.research@monash.edu](mailto:vp.research@monash.edu). Only requests for a review of the investigation on the following grounds will be considered:

- (i) procedural fairness; or
- (ii) there is new evidence that was not reasonably available to the Complainant or Respondent during the investigation that has the potential to affect the outcome of the investigation;

9.16 Upon receipt of the request for a review, the Review Officer will assess the final report of the Designated Officer and the written statement of review, and determine whether in the opinion of the Review Officer there are grounds for the review.

9.17 Should the Review Officer determine that a review is not warranted then the decision of the Responsible Executive Officer pursuant to 9.11 stands. The Review Officer will notify the person who lodged the review application of this decision.

9.18 Should the Review Officer determine that there are valid grounds for review then the Responsible Executive Officer should:

- (i) instruct the Panel to reconsider the findings based on the information obtained by the review request; or
- (ii) establish a new investigation by a new panel, which would be independent of the initial Panel. The new panel would follow the processes under paragraph 9.5, but there will be no right for review.

9.19 The outcome of 9.18 will be provided to the Responsible Executive Officer who should make the decision pursuant to 9.11 and notify the persons/parties pursuant to 9.12 and 9.13 of his/her decision. This decision is final and replaces any earlier decision.

9.20 A person against whom action has been taken by the Responsible Executive Officer pursuant to paragraph 9.11 of this procedure, or the Complainant, may have a right to make a request for review by the Australian Research Integrity Committee.

\* *In the case of a complaint against a staff member from Monash University Malaysia, "others" would include the Research Integrity Advisory Committee in accordance with the Malaysian Code (p39).*

\*\* *In the case of a complaint against a staff member from Monash University Malaysia, the Panel would be made up of members consistent with the Research Integrity Disciplinary Board in accordance with the Malaysian Code (p39). The timelines for investigation and notification of outcome would be consistent with the timeframes given in the Malaysian Code (p40).*

## DEFINITIONS

Assessment Officer	The Research Integrity Manager or other person appointed by the Designated Officer who conducts a preliminary assessment of a complaint.
The Code	Australian Code for the Responsible Conduct of Research (2018).
The Malaysian Code	The Malaysian Code of Responsible Conduct in Research.
Complainant:	A person who is concerned that misconduct in, or in connection with, research may have occurred and who brings the matter to the University's attention.
Controlled Entity	A company over which the University has control within the meaning of s3 of the <i>Audit Act 1994</i> (Vic).
Designated Officer	The Pro Vice-Chancellor (Research) or delegate to whom all allegations of Code Breaches should be directed, and who oversees their management and investigation where required. In the event of any conflict of interest, the Vice-Chancellor may designate an alternate office of the University to carry out the relevant roles.

Enterprise Agreement	The Monash University Enterprise Agreement (Academic and Professional Staff) 2014 or its successor, and the Employment Contract for Monash University Malaysia and the relevant Standard Terms, Conditions and Benefits for Staff.
Institution	Any Australian tertiary or research institution whose conduct of research is governed, in whole or in part, by the Australian Code for the Responsible Conduct of Research.
Panel	One or more persons appointed by the Designated Officer to conduct an investigation into a formal allegation/s of misconduct in or in connection with research.
Research Integrity Advisor	The University has a network of RIAs ( <a href="#">found here</a> ), appointed by the Pro Vice-Chancellor (Research) to provide advice to those with concerns about potential breaches of the Code.
Respondent	The person whom the complaint or allegation is against.
Responsible Executive Officer	The Deputy Vice-Chancellor or delegate who receives the report from Code Investigations and decides on the appropriate course of action/s to be taken. In the event of any conflict of interest, the Vice-Chancellor may designate an alternate office of the University to carry out the relevant roles.
Review Officer	The Vice-Chancellor or delegate to whom requests for a procedural review of an investigation of a Code Breach may be directed

## GOVERNANCE

Parent policy	<a href="#">Responsible Conduct of Research Policy</a>
Supporting schedules	Nil
Associated procedures	Nil
Related legislation	Nil
Category	Academic
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Content enquiries	<a href="mailto:vp.research@monash.edu">vp.research@monash.edu</a>