



Procedure: Research misconduct and serious research misconduct

Purpose

To inform staff of the procedures related to managing allegations of research misconduct and serious research misconduct at ANU, in accordance with the [ANU Enterprise Agreement](#).

Definitions

Research misconduct means significant behaviour that improperly appropriates the intellectual property or contributions of others, that intentionally impedes the progress of research, or that risks corrupting the research record or compromising the integrity of research practices, including such behaviours that are unethical and unacceptable in proposing, conducting or reporting research, or in reviewing the proposals or research reports of others.

Serious research misconduct means the recurrence or continuation of conduct, which has previously been found to be research misconduct on the part of the staff member; a failure to follow research protocols approved by research ethics committees or statutory licence conditions, where that failure has resulted in an unreasonable risk or actual harm to humans, animals or the environment or the University; deliberately publishing false research results that become part of the public record; conduct that is alleged to be research misconduct but where the consequences of the alleged breach result in serious harm to the University, or other staff, students or visitors, and the conduct is characterised by a reckless and wilful disregard for the consequences of the alleged conduct.

Disciplinary action for misconduct; serious research misconduct; and serious misconduct means formal counselling for a staff member; giving a staff member a written warning (including, where appropriate, a final warning); withholding an increment; demotion from an increment point within a grade; demotion of a staff member; other action as recommended by a review committee; or termination of a staff member's employment (in the case of unremediated underperformance, serious research misconduct or serious misconduct).

Research Misconduct Assessor means a senior researcher appointed by the University to assess whether allegations may be research misconduct.

Designated person means a Pro Vice-Chancellor appointed by the Vice Chancellor to receive complaints and allegations of research misconduct and carry out other duties as specified by clause 76 of the ANU Enterprise Agreement and this procedure.

Research Investigation Committee (Committee) means the group formed to investigate charges of serious research misconduct where sufficient evidence exists to substantiate allegations of serious research misconduct, and/or where a staff member disputes charges of serious research misconduct.

Procedure

Guiding Principles

1. A staff member may seek assistance from a union or staff representative and may seek procedural advice from Human Resources staff at any time during the processes set out below.
2. All decisions to discipline or terminate the employment of a staff member must be in accordance with the relevant provisions of the Enterprise Agreement and before any decision is made to discipline a staff member for misconduct, serious research misconduct or serious misconduct the University must ensure that the steps in clauses below have been complied with.
3. Procedural fairness and natural justice will apply. Those involved in any disciplinary action or grievance process have a duty that any decision not be affected by favouritism, bias or conflict of interest and they must act fairly and impartially.
4. In the event of any direct inconsistency between the provisions of this procedure and the ANU Enterprise Agreement, the Enterprise Agreement will apply.

Suspension

5. The University may, at any time while the process for managing misconduct is in progress, suspend a staff member with pay, or without pay. Suspension of a staff member without pay may occur where the alleged misconduct is of a nature that causes imminent and/or serious risk to the health or safety of a person; and/or the staff member's continued presence on campus otherwise presents a serious risk to the University, its staff, students and/or visitors. Where this occurs, the staff member may draw on accrued annual leave or long service leave entitlements. Any lost salary and other entitlements will be reimbursed if it is ultimately determined that the allegation is dismissed.
6. A staff member who has been suspended must not attend the grounds of the University without prior approval from the Director - Human Resources. Provided that the Director - Human Resources is satisfied that the behaviour of the staff

member is not likely to be Serious Research Misconduct, Director - Human Resources will, on application by the staff member, give permission for a staff member to attend a specific part of the University for approved purposes.

Procedure for allegations of research misconduct and/or serious research misconduct

7. In relation to allegations of research misconduct or serious research misconduct, before action is taken under the Enterprise Agreement or this procedure, any allegation will be referred to the Designated Person.
8. The Designated Person may make enquiries, secure the relevant evidence including experimental material, IT records, other documents or names of witnesses, as necessary.
9. The Designated Person will consider the circumstances of staff in the relevant workplace where a complaint of research misconduct has been made including: any action that may need to be taken under the [Public Interest Disclosure policy](#); arrangements to defuse workplace tensions; protection of non-involved researchers; steps to ensure that the confidentiality of the allegations is maintained whilst the processes of this procedure are in train; and generally ensure that people are treated fairly.
10. The Designated Person will refer the allegation to one of the Research Misconduct Assessors to determine:
 - a. whether the conduct that is central to the substance of the allegations, if proven, would amount to research misconduct; and
 - b. whether a prima facie case of research misconduct exists.

If both (a) and (b) above are not satisfied the allegations are either dismissed or referred to another relevant process (for example - as misconduct or serious misconduct), and the staff member who is the subject of the allegations will be informed accordingly.

If (a) and (b) are satisfied the Research Misconduct Assessor refers the allegations back to the Designated Person who will decide whether the allegations will be pursued according to the provisions of the Enterprise Agreement and this procedure as allegations of research misconduct or serious research misconduct.

Research Misconduct

11. Where an allegation of research misconduct is made, the Designated Person will report the allegations to the Director – Human Resources at the time that the allegation is considered by the Research Misconduct Assessor.

12. If the Research Misconduct Assessor determines that a prima facie case of research misconduct is established, the Designated Person will refer the allegations to the staff member's supervisor to be dealt with according to the procedures for handling allegations of Misconduct in the Enterprise Agreement.
13. If the Research Misconduct Assessor determines that the allegations are not properly characterised as research misconduct, the Designated Person will refer the allegations back to the staff member's supervisor for consideration as to whether the allegation could be misconduct, serious misconduct or underperformance.

Serious Research Misconduct

14. Where an allegation of serious research misconduct is made or where it becomes apparent during the initial investigation of research misconduct that an allegation may be serious research misconduct, the Designated Person will report the allegations to the Vice Chancellor (or delegate) at the time the allegation is considered by the Research Misconduct Assessor.
15. Following the report of the Research Misconduct Assessor, if there is sufficient information provided to substantiate the allegations without further investigation, charges of serious research misconduct will be formulated by the Designated Person and those charges will be referred to a Research Investigation Committee.
16. If the Designated Person determines that further investigation is warranted the office holder will conduct enquiries (either personally or through an investigating officer) to gather relevant material. Once the Designated Person determines that sufficient investigations have been completed, or determines that reasonable efforts to gather information have been exhausted, the Designated Person either:
 - a. Dismisses the allegations;
 - b. Formulates charges of the alleged serious research misconduct; or
 - c. Where the conduct is considered more properly as potentially misconduct, research misconduct or serious misconduct, refers the allegations and any material that has been gathered to the relevant officer for management under the relevant provisions of the Enterprise Agreement.
17. Subject to securing relevant evidence, or where the safety of members of the University may be compromised, the staff member(s) who is the subject of the allegations will be informed that allegations have been made.
18. Once the Designated Person determines that the allegations will be the subject of serious research misconduct charges, the staff member will be given an opportunity to respond. If the staff member admits the charges the matter will be referred to the Director – Human Resources for appropriate disciplinary action in accordance with

the Enterprise Agreement and this procedure. If the staff member disputes the charges, a Research Investigation Committee will be formed.

Research Investigation Committee (RIC)

19. The Vice Chancellor (or delegate) shall appoint the Chair of the RIC having conferred with the ANU Branch President of the NTEU and agreed on an acceptable chair. Normally the Chair of the Committee will not be an ANU staff member and will be experienced in conducting a research investigation, or in the conduct of tribunals of fact, and/or be a subject expert in relation to the matter under investigation. In the event that agreement on a Chair cannot be reached the matter may be referred to Fair Work Australia for resolution under the Dispute Avoidance and Settlement provisions of the current ANU Enterprise Agreement.

20. The Committee shall include a suitably qualified nominee of the NTEU ANU Branch President and a suitably qualified nominee of the Vice Chancellor (or delegate). Prior to determining the specific composition of the Committee, the Vice Chancellor (or delegate) shall confer with the ANU Branch President of the NTEU to ensure that the Committee includes:

- a. at least one member with sufficient expertise and standing in a discipline relevant to the allegation of serious research misconduct (or in a cognate discipline) such that that member will be capable of understanding and assisting the other members of the Committee to understand any technical, research or scientific questions which may be in dispute; but who will be seen as clearly independent of any of the participants; and
- b. at least one member with expertise in investigating research conduct issues, either through their academic study or through the administration of research.
- c. no member who holds current employment or visitor appointments with the ANU; and
- d. no members who have any conflict of interest.

21. In order to achieve the requirements of clauses 20(a) and (b) the Vice-Chancellor and the NTEU Branch President may agree that two (2) additional members be added to the membership of the Committee (so there may be five members).

22. The Committee will ensure that the rules of procedural fairness are followed, but otherwise will determine what additional procedures to follow in its inquiry and shall at all-times act in conformity with the procedures defined within the Review of Decision provisions in the ANU Enterprise Agreement. The Committee shall:

- a. allow union representation; and/or
- b. permit the staff member facing misconduct charges to seek legal advice, however the staff member may not be represented by a legal practitioner ;

- c. have power to gather evidence and have access, where required for the purposes of its inquiries to all areas of the University, including to staff and students,
- d. be provided with proper facilities and services; and
- e. have power to determine the allegations and decide if serious research misconduct has occurred.

23. All processes and findings of a Committee are private unless:

- a. The ANU Enterprise Agreement or another law permits them to be public; or
- b. all persons involved in the inquiry have expressly or impliedly waived their right to privacy; and
- c. suitable legal protections (for example, against defamation proceedings) for persons involved in the Committee processes are obtained.

24. The Committee may be assisted by one or more University officer (legally trained or otherwise) with the gathering of evidence, questioning of witnesses, obtaining of expert opinions and advice on procedural questions.

25. Where a Committee has been established and is investigating charges of serious research misconduct, but determines that the conduct revealed by its investigations is more properly characterised as research misconduct, the Chair of the Committee will inform the Vice-Chancellor (or delegate) and cease further operations. The Vice Chancellor will refer the matter to the staff member's supervisor to take action in accordance with the Managing Unsatisfactory Performance and/or the Managing Misconduct or Serious Misconduct provisions of the ANU Enterprise Agreement.

26. Notwithstanding these procedures, where the Vice-Chancellor and the President of the NTEU Branch agree that the allegations of research misconduct appear to involve action in concert between employees of more than one employer, the relevant CEOs of the employers and the NTEU may agree that a joint investigation and inquiry be held. The procedures for such a joint investigation and inquiry shall be agreed in writing, and where this occurs, those agreed procedures shall apply in substitution for the procedures otherwise set out in this procedure.

27. Should the Committee establish a finding that serious research misconduct has occurred, appropriate disciplinary action will be taken in accordance with clauses 28-31.

Disciplinary Action: Serious research misconduct

28. Upon finding of serious research misconduct by the Research Investigation Committee, the Director Human Resources or the Vice Chancellor's nominee will then decide to:

- a. take no further action;

b. take proportionate disciplinary action, in which case the Director Human Resources or the Vice Chancellor's nominee shall set out the findings of the Research Investigation Committee in writing and/or provide to the staff member a statement as to what material has been considered; what acts or omissions or failings on the part of the staff member constitute serious research misconduct and any relevant conclusions upon which the findings are based.

29. If a decision is made to terminate the staff member's employment the staff member will be suspended without pay for five (5) working days in which time the staff member may make an application to have this decision reviewed in accordance with Review of Decision provisions of the ANU Enterprise Agreement.

30. If the staff member fails to make an application for a review of this decision the employment will cease at close of business on the fifth day.

31. If the staff member lodges an application to review this decision, the review process will proceed and the staff member shall remain suspended without pay until the review process is finalised.

Notification of allegations and findings

32. Where the University is obliged to do so without breaching legal requirements, including the rights of the subject of the misconduct allegations to privacy and procedural fairness, the Vice-Chancellor (or delegate) will provide advice of the allegations and the outcome of any disciplinary proceedings to relevant funding agencies, journals, collaborating institutions, researchers, professional registration bodies, the general public and other parties, as relevant.

33. Where findings made by the Committee exonerate a staff member facing serious research misconduct charges, those findings will be communicated to the same bodies that were notified (if any) in accordance with clause 32.

34. All record keeping relative to the handling of research misconduct allegations will be in accordance with the University's [Records and Archives Management policy](#).

External inquiries

35. Processes instituted as a result of this procedure may need to be suspended on procedural fairness grounds, or other grounds, should there be an external criminal, civil or other administrative tribunal inquiry into the same factual matters as those alleged to constitute misconduct. After any such external inquiry is completed, and where it remains feasible to do so, ANU may then consider and complete the serious research misconduct inquiry.

Document information

Title	Research misconduct and serious research misconduct
Document Type	Procedure
Document Number	ANUP_000655
Version	13
Purpose	To inform staff of the procedures related to managing allegations of research misconduct and serious research misconduct at ANU, in accordance with the ANU Enterprise Agreement.
Audience	Staff-Academic-Research, Students-Graduate-Research
Category	Administrative
Topic	Staff
Subtopic	Performance Expectations
Effective Date	15 Sep 2015
Review Date	31 Dec 2022
Responsible Officer	Director, Human Resources (director.hr@anu.edu.au)
Approved By	Chief Operating Officer (COO@anu.edu.au)
Contact Area	Human Resources Division (director.hr@anu.edu.au)
Authority	Australian National University Act 1991 Public Governance, Performance and Accountability Act 2013 Public Governance, Performance and Accountability Rule 2014 ANU Enterprise Agreement 2017 – 2021
Printed On	13 Apr 2021

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