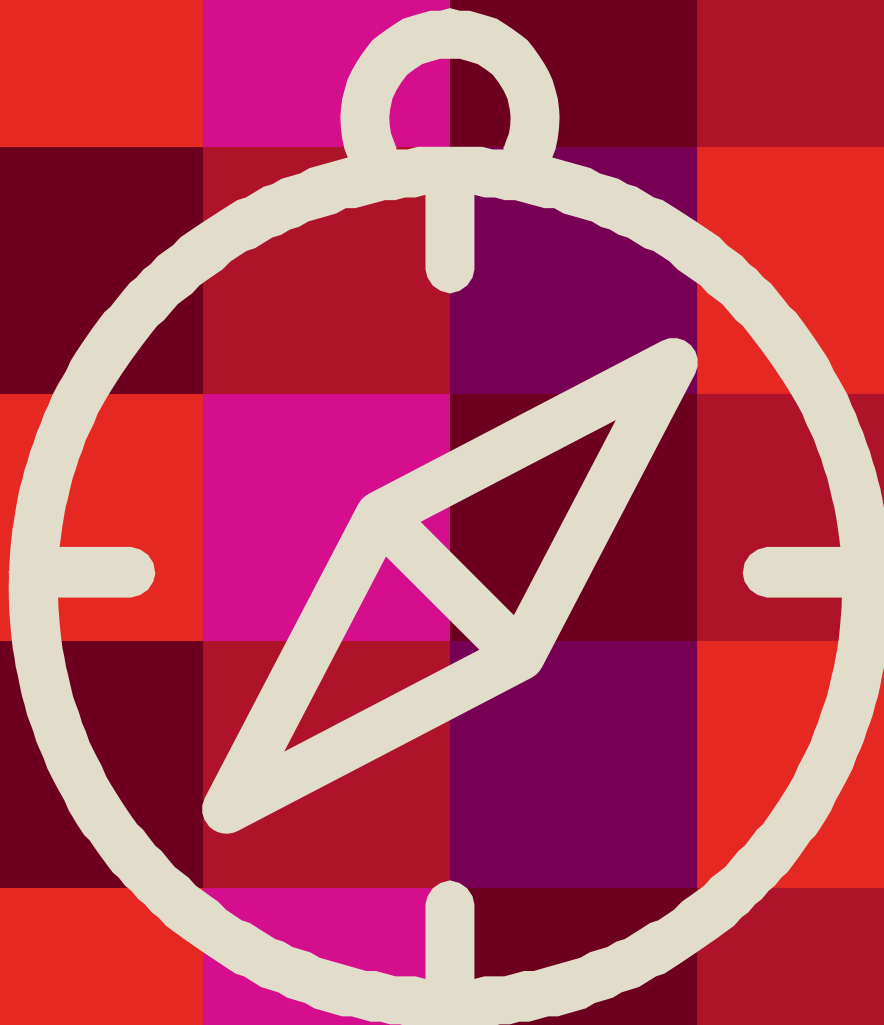


Macquarie University Research Code Complaints, Breaches & Investigation Procedure

This document was adapted from the Guide to Managing and Investigating Potential Breaches of the Australian Code for the Responsible Conduct of Research (2018), authored by the National Health and Medical Research Council (NHMRC), the Australian Research Council (ARC) and Universities Australia.

2019 – Professor Sakkie Pretorius, Deputy Vice-Chancellor (Research)



Macquarie University Research Code Complaints, Breaches and Investigation Procedure

1. General

1.1 Introduction

- a. Maintaining high research standards is the responsibility of all Macquarie University researchers. This procedure – the *Macquarie University Research Code Complaints, Breaches and Investigation Procedure* - applies to all departures from the *Macquarie University Code for the Responsible Conduct of Research* (the *Macquarie Research Code*) and relevant standards and policies by researchers. These departures are referred to as breaches and encompass both minor departures from the *Macquarie Research Code* as well as more serious departures, and research misconduct. The use of the term 'breaches' in this procedure refers to both minor breaches and research misconduct.
- b. This procedure sets out the process for managing complaints about the conduct of research, and any subsequent investigation. The principles of procedural fairness apply to managing and investigating breaches of the *Macquarie Research Code*. These principles encompass:
 - i. the hearing rule (an opportunity to be heard),
 - ii. the bias rule (the right to an unbiased decision-maker), and
 - iii. the evidence rule (decisions must be based on evidence).
- c. This procedure provides for the proportional, fair, impartial, timely, transparent and confidential management and investigation of complaints or potential breaches of the *Macquarie Research Code*.

1.2 Purpose and scope of the procedure

- a. This procedure applies to anyone who conducts research or research support under the auspices of Macquarie University, as per the *Macquarie Research Code*.
- b. This procedure sets out the general process for managing complaints regarding the conduct of research in relation to the principles and responsibilities described in the *Macquarie Research Code*.

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- c. This procedure has been adapted (and in some parts duplicated) from the *Guide to Managing and Investigating Potential Breaches of the Australian Code for the Responsible Conduct of Research* (2018) (the *Australian Guide*), authored by the National Health and Medical Research Council (NHMRC), the Australian Research Council (ARC) and Universities Australia.
- d. This procedure describes how potential or actual departures from the principles and responsibilities outlined in the *Macquarie Research Code* (a breach of the *Macquarie Research Code*, including research misconduct) should be reported, assessed, investigated and managed.
- e. In some cases, the University may deviate from the steps outlined in this procedure if it decides it is necessary to do so, but the principles of procedural fairness will be applied and the parties involved or affected will be provided adequate details of the process(es) to be followed.
- f. This procedure will be reviewed as required, for example in response to changes made to the *Australian Code*, the *Australian Guide*, or to other related policies.
- g. This version of this procedure will be applied to all complaints henceforth.

1.3 Procedure flowchart

See **appendix 9.2** for a flowchart showing the general stages involved in managing and investigating a potential breach.

1.4 Definitions

Table 1.4: Definitions

The following definitions have been adapted and modified from the *Australian Guide*.

Term	Definition
Allegation	A claim or assertion arising from a preliminary assessment that there are reasonable grounds to believe a breach of the <i>Macquarie Research Code</i> has occurred. May refer to a single allegation or multiple allegations.
Australian Guide	The <i>Guide to Managing and Investigating Potential Breaches of the Australian Code for the Responsible Conduct of Research</i> (2018), authored by the National Health and Medical Research Council (NHMRC), the Australian Research Council (ARC) and Universities Australia.
Balance of probabilities	The civil standard of proof which requires that on the weight of evidence it is more probable than not that a breach has occurred.
Breach	A failure of a researcher to meet the principles and responsibilities set out in the <i>Macquarie Research Code</i> including a failure to meet the standards accompanying the <i>Macquarie Research Code</i> . Breaches occur on a spectrum from minor to more serious breaches. A serious breach of the <i>Macquarie Research Code</i> which is also intentional or reckless or negligent constitutes research misconduct.

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Term	Definition
Complainant	A person (or persons) who has made a complaint about the conduct of research.
Conflict of interest	A conflict of interest refers to circumstances in which someone's personal interests may conflict with their professional obligations. A conflict of interest exists when a reasonable person might perceive that an individual's personal interest(s) could be favoured over their professional obligations.
Corrective actions	These include actions to correct a specific breach, improve research conduct more generally, or modification of administrative processes.
Evidence	Any document (hard copy or electronic, including e-mail, images and data), information, tangible item (for example, biological samples) or testimony offered or obtained that may be considered during the process of managing and investigating a potential breach of the <i>Macquarie Research Code</i> .
Investigation	In this procedure, the term 'investigation' is used to describe the action of investigating an allegation or allegations of a breach/es by a panel of one or more members. The purpose of the investigation is to determine whether a breach or research misconduct has occurred, and if so, the extent or seriousness of that breach, and to make recommendations about corrective actions.
Local resolution	Corrective actions may be undertaken within a Department or Faculty in response to a complaint or after a preliminary assessment where deemed appropriate.
Macquarie Research Code	<i>Macquarie University Code for the Responsible Conduct of Research</i> .
Multi-Institutional Research	Refers to research that is subject to this procedure conducted by one or more persons or employees (whether current or former employees) at Macquarie University and one or more other institutions, whether in collaboration or separately and whether over the same or different periods.
Panel	Refers to the person or persons appointed to investigate a potential breach of the <i>Macquarie Research Code</i> .
Precautionary action/s	An action initiated to mitigate risks (actual, perceived or potential) at any time during the management of a complaint, preliminary assessment or investigation of a potential breach.
Preliminary assessment	The gathering and evaluating of facts and information to establish whether a potential breach of the <i>Macquarie Research Code</i> warrants further investigation.
Procedural fairness	That a fair and proper procedure is used to investigate and manage a breach and when making a decision. The principles of procedural fairness encapsulate the hearing rule (an opportunity to be heard), the rule against bias (decision-makers are unbiased) and the evidence rule (decisions are based on evidence).
Remedial actions	Actions initiated by Macquarie University in response to a finding of a breach or research misconduct. These include corrective actions (as defined above) and/or any other actions directed by the Deputy Vice-Chancellor (Research) (DVC(R)).
Research	The concept of research is broad and includes the creation of new knowledge and/or the use of existing knowledge in a new and creative way so as to generate new concepts, methodologies, inventions and understandings. This could include synthesis and analysis of previous research to the extent that it is new and creative.
Researcher	Any person (or persons) who conducts, or assists with the conduct of research under the auspices of Macquarie University including staff members (academic and professional), visiting students, visiting fellows, volunteers, honorary and adjunct title holders, Emerita/us Professors, occupational trainees and any student in a course at the University, who conducts or assists with the conduct of research at or on behalf of the University.

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Term	Definition
Research Integrity Advisor (RIA)	A member of Macquarie University staff who has been nominated by the DVC(R) to promote the responsible conduct of research and provide advice to those with concerns or complaints about potential breaches of the <i>Macquarie Research Code</i> . Research Integrity Advisors are people with research experience, wisdom, analytical skills, empathy, knowledge of the University's policy and management structure, and familiarity with the accepted practices in research.
Research Integrity Office (RIO)	The unit within the University with responsibility for the management of this procedure, including the receipt of complaints, assessments and investigations, the maintenance of records and evidence related to a matter investigated under this procedure, and education or training on research integrity.
Research output	Any record that communicates or makes available the findings of research. A research output may be in any form (hardcopy, electronic, creative work or other) of academic or public communication of the research from any stage of the research process (eg including but not limited to: a professional blog, web-based publications, books, performances, book chapters, Higher Degree Research thesis chapters, conference papers, reports, datasets or journal articles).
Research record	Any tangible or intangible record of the research which may or may not have been disseminated. Including but not limited to data, documents, materials and information gathered or created in the course of performing research. Such information may include financial, management and administrative records such as grant applications and proposals, progress reports and communication with other parties.
Research misconduct	A breach of the <i>Macquarie Research Code</i> which is considered serious and is also intentional or reckless or negligent.
Respondent	The researcher who is the subject of a complaint or allegation.
Support person	A person who accompanies a party to an interview.

1.5 Roles and responsibilities

- a. The roles and responsibilities of those involved in implementing the procedure outlined below have been adapted from those recommended in the *Australian Guide*.
- b. All parties involved in this procedure are expected to disclose and manage conflicts of interests related to the matter, in accordance with the *Conflict of Interest Policy*. If any person involved in this procedure has a perceived, potential or actual conflict, he or she must declare the conflict at the earliest possible stage to a RI Officer, the Director Research Ethics and Integrity (DREI), PVC (RS) or DVC(R) as appropriate and the matter must be managed according to the Policy. The PVC (RS) or DVC(R) or Vice-Chancellor & President may direct that the role and responsibilities of a specified person in this procedure be assumed by another University representative if required to appropriately manage a conflict of interest.
- c. Roles and responsibilities may be delegated as appropriate.

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Table 1.5: Key responsibilities of those with roles in the management and investigation of a potential breach.

Role	Responsibilities
All staff and students	<ul style="list-style-type: none"> Report potential breaches in a timely manner Honestly and transparently provide information when requested to do so, during any stage of this procedure Ensure their research conduct reflects the principles and responsibilities outlined in the <i>Macquarie Research Code</i>
Assessment Officer (AO)	<ul style="list-style-type: none"> Appointed by the DREI (may be an RI Officer or an experienced researcher) Conduct a preliminary assessment of a complaint about research conduct Provide a full report of the preliminary assessment to the DREI
Chair or Deputy Chair Academic Senate	<ul style="list-style-type: none"> Receive and evaluate applications for procedural review of an investigation
Director Research Ethics and Integrity (DREI)	<ul style="list-style-type: none"> Receive complaints about the conduct of research Assess risk with the RIO and recommend precautionary actions as required Appoint an AO to conduct a preliminary assessment where appropriate Receive and evaluate a preliminary assessment report Issue directions to relevant parties to resolve the matter where it can be resolved locally with or without corrective actions Make a referral for an investigation to the PVC (RS) where appropriate Manage notification and reporting to the ARC and NHMRC as appropriate
Deputy Vice-Chancellor (Research) (DVC(R))	<ul style="list-style-type: none"> Receive and evaluate an investigation report Determine the University's response and actions to be taken Authorise and assign corrective actions to the Executive Dean for management Direct any other actions as appropriate
Executive Dean	<ul style="list-style-type: none"> Oversee the implementation of corrective actions arising from a preliminary assessment or investigation (or appoint a delegate to do so) Report on the implementation of corrective actions to the PVC (RS)
Panel member and chair	<ul style="list-style-type: none"> Conduct and report on an investigation into potential breaches of the <i>Macquarie Research Code</i> or research misconduct (including an account of mitigating factors, systemic issues and recommendations for corrective actions)
Pro Vice-Chancellor (Research Services) PVC (RS)	<ul style="list-style-type: none"> Receive and evaluate investigation referrals Instigate an investigation: appoint panel member/s and issue terms of reference Receive and evaluate an investigation report and refer it to the DVC(R) with further recommendations as appropriate Manage any systemic improvements deemed necessary
Research Integrity Advisor (RIA)	<ul style="list-style-type: none"> Promote and advise on the responsible conduct of research Provide advice to those with concerns or complaints about potential breaches of the <i>Macquarie Research Code</i>
Research Integrity Office (RIO) / Research Integrity Officer (RI Officer)	<ul style="list-style-type: none"> Receive complaints about the conduct of research Manage this procedure and promote research integrity at the University Liaise with the respondent and other parties Manage records of complaints and maintain the record of evidence Support and/or conduct preliminary assessments Provide secretariat support for investigations

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1.6 Confidentiality

- a. It is important that appropriate confidentiality is applied to all steps instigated under this procedure. The reasons for confidentiality include, but are not limited to the following:
 - i. to protect involved parties from possible adverse consequences while processes are undertaken;
 - ii. to protect evidence and information that may be relevant;
 - iii. because publication of unsubstantiated complaints and allegations could have significant adverse legal consequences as well as consequences for matters of reputation, employment, research, funding and the like;
 - iv. because the provision of information for the purposes of this procedure is often provided on a voluntary basis by external parties and assurances of confidentiality are necessary to ensure the continued full and frank disclosure of information; and
 - v. to support the public interest benefits of the assessment and investigation process and continuous improvement to the conduct and quality of research.
- b. For the reasons given in 1.6(a):
 - i. information relating to a matter being managed following this Procedure will only be shared on a “need to know” basis.
 - ii. experts engaged to provide advice at any stage of this process (including panel members appointed per clause 4.4) will be required to execute appropriate confidentiality agreements, which may include a requirement to maintain confidentiality of their identity and/or the advice provided.
 - iii. anyone invited to provide evidence or support in a research integrity matter will be reminded of the confidential nature of the process and asked to maintain strict confidentiality in relation to information received or shared by them.

2. Making complaints about a potential breach of the *Macquarie Research Code*

A person with information, a complaint or allegation about a potential breach of the *Macquarie Research Code* can discuss the matter with an RIA, or lodge the information with the University as follows:

2.1 Reporting information about a potential breach

- a. Any person can report information that raises a potential breach of the *Macquarie Research Code*.
- b. All Macquarie University researchers have an obligation to report information about potential breaches in a timely manner.
- c. A Macquarie University researcher considering reporting information, a complaint or allegation about a potential breach may initially discuss the matter with an RIA (refer to the current [list of RIAs](#)). In this situation, the RIA:

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- i. must explain that if they become aware of a potential breach it must be reported to the DREI and/or the RIO
- ii. may conduct the initial discussion in hypotheticals and explain to the person that it may not be possible to make a confidential complaint
- iii. may assist the person to prepare a complaint if that is considered appropriate
- iv. must declare to the DREI and/or the RIO, or if applicable to the PVC (RS), their involvement as an RIA in that matter.

2.2 Submitting a complaint

- a. Information pertaining to a potential breach can be provided to the DREI or the RIO (either in person or in writing). Information should outline whether the matter was discussed with an RIA, as well as indicating whether the individual wishes their identity to be protected. Complaints made verbally to the DREI or RIO will be confirmed with the complainant in writing.
- b. A person lodging information, a complaint or an allegation (the complainant), should provide, or be willing to make available to the DREI, all necessary background and supporting material regarding the complaint. The DREI, or their delegate, may request clarification or further information as necessary to determine whether a complaint meets the requirements of section 2.3(a) below.
- c. The complainant can seek assistance from an RIA or the RIO in determining what information should be provided.

Individuals are expected to make complaints honestly. If a person makes a complaint that is considered by the DREI to be frivolous, malicious or vexatious, the matter may be referred to Human Resources and disciplinary action may be instigated.

- d. Where a complainant wishes to remain anonymous it should be explained to the complainant that:
 - i. there may be practical limitations to this confidentiality (eg if access to their identity is gained through legal action)
 - ii. removing any identifying information might limit the effectiveness of the review of the complaint/s
 - iii. the requirement for procedural fairness may necessitate revealing the identity of the complainant to the respondent.
- e. An anonymous complaint about a potential breach will be appropriately managed and investigated according to this procedure provided adequate/sufficient information is available.

2.3 Receipt and management of complaints

- a. At this or any stage, the DREI in conjunction with the RIO may assess risk and

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recommend precautionary actions to protect humans, animals and/or the environment; Macquarie University property; funds provided by internal or external funding bodies; and/or any material that may be relevant to an investigation.

- b. Upon receipt of a complaint, the DREI may make discreet preliminary enquiries or seek confidential advice to establish whether the complaint:
- i. relates to a potential breach, and if so, will:
 - instigate a preliminary assessment of the complaint, and
 - notify relevant funding agencies as required by funding agreements and/or their policies.
 - ii. relates to the ethical conduct or biosafety of research approved by a Macquarie University Ethics Committee or a Biosafety Committee and if so, may refer the matter to the chair of the appropriate committee in writing. In these cases:
 - the appropriate committee will evaluate the matters raised in the complaint including making appropriate enquiries at the soonest practical time, and may implement appropriate actions to address the matter in accordance with the terms of reference for that committee
 - if the committee forms the opinion that a breach of the *Macquarie Research Code* may have occurred, they should refer the complaint back to the DREI and provide a written report of the committee's findings to the DREI. The DREI may then assess whether an investigation is required.
 - iii. relates to matters other than research integrity and if so, may refer the complaint to the appropriate department or office and inform the complainant about the status of the matter, for example if the complaint:
 - refers to staff harassment, bullying or discrimination concerns, it will be referred to Human Resources, matters of workplace safety referred to Health and Safety, or Higher Degree Research Candidate-related matters referred to the Graduate Research Academy.
 - is frivolous, vexatious or mischievous; in which case the complaint should be dismissed. If the DREI forms the opinion that it is appropriate, the complainant should be referred to the relevant University disciplinary process or to the police.
 - contains insufficient information, and more information is required to assess the complaint, the complainant may be asked to provide further information. If the complaint has been made anonymously, the DREI may decide not to proceed with an investigation.
- c. The DREI may consider briefing Group Marketing so that they are informed in the event of a media inquiry. Consideration may also be given to briefing Human Resources if applicable in the circumstances.

3. Preliminary assessment

3.1 Preliminary assessment of a potential breach

- a. Where a complaint relates to a potential breach, the DREI will refer it to an appropriate AO for preliminary assessment.
- b. The purpose of the preliminary assessment is to gather and evaluate facts and information, to assess whether the complaint, if proven, would constitute a breach of the *Macquarie Research Code*.

3.2 Conduct of the preliminary assessment

- a. As part of the preliminary assessment the AO will:
 - i. review the evidence available in respect of the complaint and may seek information from the complainant, and/or relevant others, including discipline specific experts
 - ii. identify, collect, secure and evaluate facts and information relevant to the allegation
 - iii. ensure that appropriate records are prepared and retained, with the support of the RIO.
- b. If the AO considers it necessary to clarify the facts and/or information with the respondent, the AO will provide sufficient detail for the respondent to understand the nature of the complaint and provide an opportunity to respond in writing.
- c. In some cases, the AO may need to meet with the respondent. In these cases:
 - i. the respondent is entitled to be accompanied to any meeting by a support person; however, there should not be legal representation - the support person only participates in the meeting at the discretion of the AO if their participation is required to ensure procedural fairness
 - ii. at the meeting, the respondent will be given an opportunity to respond to the details of the allegation, as well as an opportunity to provide a written statement.
- d. The AO is to provide a written report detailing the preliminary assessment to the DREI in a timely manner.
- e. The preliminary assessment report will be considered by the DREI who determines, on the basis of the facts, complexity and information presented, whether the matter should be:
 - i. dismissed
 - ii. resolved locally with or without corrective or remedial actions
 - iii. referred to the PVC (RS) for investigation
 - iv. referred to other institutional offices.

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3.3 Dismissing a complaint

- a. Where the DREI determines to dismiss the complaint, the parties will be notified.
- b. If the complaint has no basis in fact (for example, due to a misunderstanding or because the complaint is frivolous or vexatious), the DREI may take necessary actions to restore the reputation of any affected parties.
 - i. if a complaint is considered to have been made in bad faith or is vexatious, the DREI may take necessary action for the complainant to be referred to an appropriate university process for disciplinary action.
 - ii. if a referral of the complaint for local resolution or investigation is not warranted but systemic issues were identified during the preliminary assessment, then the DREI should refer these for appropriate remedial actions.

3.4 Local resolution with or without corrective actions following a preliminary assessment

- a. If, after considering the preliminary investigation report, the DREI considers that the matter can be resolved locally with or without corrective actions, the DREI will direct the relevant parties to resolve the matter. This might include cases where a potential breach is assessed as being related to research administration processes, or a matter involving planned authorship ascription which may be rectified at a local level.
- b. The DREI may notify the Executive Dean of the relevant Faculty about the matter and the recommended actions (corrective actions or procedural improvements).
- c. The DREI might appoint an RIA to help resolve the matter and oversee corrective actions.

3.5 Referral for investigation

- a. Where, after considering the report, the DREI forms the view that an investigation is required, the DREI will refer the complaint together with the preliminary assessment report to the PVC (RS).
- b. The PVC (RS) may consult with DREI, the Pro Vice-Chancellor (Graduate Research), Human Resources or the Office of General Counsel when considering the most appropriate response to the referral.
- c. If the PVC (RS) determines to establish an investigation into the allegation:
 - i. the parties to the allegation will be notified of this course of action
 - ii. appropriate arrangements will be made to secure all relevant documents and evidence relating to the allegation
 - iii. the PVC (RS) will consider the need to notify relevant parties of the existence of allegations, and appropriate actions be taken
 - iv. the PVC (RS) should consider the risk to the University, others associated with the research, and any reporting obligations (including to the ARC or NHMRC)

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- v. the PVC (RS) may notify and consult with the Director, Human Resources, or the Pro Vice-Chancellor (Graduate Research), of the course of action to be taken and, if appropriate, provide any necessary information to that office
- vi. the PVC (RS) or their delegate may consider briefing Group Marketing so that they are informed in the event of a media inquiry.

3.6 Referral to other institutional processes

Where the DREI considers the report of the AO and forms the view that a matter does not relate to research integrity or is better managed by another institutional process it will be referred appropriately.

3.7 General considerations

- a. If at any time during the process of a preliminary assessment, the AO forms the opinion that there is evidence of potential research misconduct, or that there is a risk of serious reputational risk to the University, the matter must be referred to the DREI as soon as practicable.
- b. Following a preliminary assessment, the DREI may determine that the Executive Dean and the Research Integrity Advisors of the relevant Faculty be provided with a summary of the matter or the preliminary assessment report. This is to allow the Executive Dean to consider additional precautionary actions where appropriate.
- c. The respondent's acceptance of responsibility for a breach, or the resignation of a respondent from the University, is not necessarily an end point. Further assessment or an investigation may still be required to fully establish the facts and to identify appropriate corrective actions, systemic issues and any other parties that may be complicit, and/or any other necessary steps.

4. The investigation

4.1 Purpose and scope of an investigation

- a. The purpose of an investigation is to make findings of fact to enable the DVC(R) to determine whether a breach of the *Macquarie Research Code* or research misconduct has occurred, the extent of the breach, and the appropriate actions.
- b. An investigation will be conducted by a Panel comprising one or more members. The Panel will examine the facts and information from the preliminary assessment and gather and evaluate further evidence where required.
- c. An investigation will be conducted ensuring procedural fairness.

4.2 Preparing for the investigation

The following steps will be taken by the PVC (RS) in conjunction with the DREI:

- a. develop the terms of reference for the investigation

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- b. determine the appropriate size and composition of the investigation Panel (Panel)
- c. nominate and appoint the Panel and Panel Chair when the Panel is more than one person
- d. seek legal or other advice on matters of process where appropriate.

4.3 Terms of reference

- a. The terms of reference for the panel will include details of the responsibilities and obligations of panel members, and the scope of the investigation.
- b. The terms of reference will sanction the Panel to investigate and report on the facts surrounding the relevant allegation and report to the PVC (RS) on the facts relating to the allegation, any mitigating circumstances, and/or systemic issues revealed during the investigation or raised by the respondent in their response
- c. The Panel is to make a finding/s of fact in relation to the allegation to determine if there has been a failure to comply with the *Macquarie Research Code* and associated standards or policies governing the conduct of research by University researchers. The panel will also be expected to report on mitigating factors and may recommend appropriate corrective actions.

4.4 Panel selection and appointment

- a. A range of factors will be considered by the PVC (RS) when determining the composition and size of the Panel including, but not limited to, the following factors:
 - i. the potential consequences for those involved
 - ii. the seniority of those involved
 - iii. the need for members to be free from conflicts of interest or bias
 - iv. appropriate level of experience, skills, knowledge or expertise in the relevant discipline(s) or research approach or in the responsible conduct of research.
- b. Potential panel members can be drawn from staff or may be external to the University. Selected members will be asked to disclose any relevant interests to the PVC (RS) before panel appointment. The respondent will be advised of the Panel's composition and then has an opportunity to raise any concerns, which will be considered by the PVC (RS) prior to formally appointing the panel members in writing.
- c. The formal appointment of the panel will be accompanied by the terms of reference. Following this, the Panel will be provided with available information to inform the investigation.

4.5 Conduct of the investigation

- a. All investigations will be proportional, fair, impartial, transparent and timely whilst maintaining appropriate confidentiality.

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- b. The Panel Chair or DREI may meet with any of the parties to the allegation to discuss the investigation process.
- c. The Panel will convene in a timely fashion to evaluate all available information and to develop an investigation plan.
- d. Secretariat support will be provided for the Panel. The secretariat will maintain the record of evidence.
- e. Where the Panel is of the view that a party may be unable to represent themselves adequately due to the complexity of the matter, the Panel may take extra steps to ensure a fair investigation. This may include allowing extra time for parties to consider matters or encouraging a greater reliance on written evidence.
- f. In general, the respondent or complainant is entitled to be accompanied by a support person to any meeting with the Panel. The role of a support person is to provide personal support, within reasonable limits, to the respondent and/or complainant. Their role is not to advocate, represent or speak on the other person's behalf. However, there may be times when a respondent and/or complainant requires a higher level of involvement from the support person and the Panel will consider this on a case-by-case basis. A support person must be independent of the investigation process and must not be a witness to the investigation. A support person should not be a respondent's line manager.
- g. All those asked to give evidence will be provided with adequate relevant, and if necessary de-identified, information to ensure that procedural fairness is maintained without compromising the integrity of the investigation.
- h. To ensure the principles of procedural fairness during their investigation the Panel will:
 - i. allow the respondent a reasonable opportunity to attend an interview/s and provide opportunity to respond to the allegation/s and relevant evidence, and to provide additional evidence
 - ii. make all reasonable efforts to interview any person, and review any evidence, as appropriate to establish the facts of the particular case
 - iii. provide the respondent and relevant parties with a reasonable opportunity to make submissions and present evidence to the inquiry
 - iv. conduct the investigation as expeditiously as possible
 - v. take into account any other material or information it believes is relevant to the case
 - vi. keep an accurate record of proceedings which may include an audio record or transcript of an interview.
- i. The Panel will gather and evaluate the evidence to determine whether 'on the balance of probabilities' the respondent has breached the *Macquarie Research Code*. To do this, the Panel:
 - i. will assess the evidence and consider if more may be required
 - ii. may request expert advice to assist the investigation

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- iii. will arrive at findings of fact about the allegation
 - iv. will consider the seriousness of any breach (see **appendix 9.1**)
 - v. will provide a report into its findings of fact consistent with its terms of reference
 - vi. will provide in its report an assessment of any mitigating circumstances
 - vii. may provide in its report an assessment of any systemic issues identified in the course of the investigation
 - viii. may make recommendations for corrective actions where appropriate.
- j. If, at any time during the course of an investigation, the Panel discovers that the potential extent of the allegations is more serious or deviates from that which was originally thought, it must provide an interim report to the PVC (RS). The PVC (RS) may amend the terms of reference for the current Panel or may choose to terminate the current investigation and establish a new panel with a different composition or size.

5. Outcomes

5.1 Outcomes from the investigation

- a. On completion of the investigation, the Panel will prepare a draft investigation report. The draft report should contain detailed and accurate findings of fact, and clearly and fully address the terms of reference, including reporting on any mitigating factors identified as contributing factors or systemic issues that were detected.
- b. If the Panel did not come to a consensus, dissenting view(s) will be detailed in the report.
- c. The respondent will be provided with a reasonable opportunity to examine and provide comments relating to the facts or evidence being presented in a preliminary investigation/draft report or summary.
- d. Following the Panel's consideration of the comments by the respondent and any further information, the Panel will finalise its report and recommendations including making any necessary amendments or corrections. The DREI will provide the final report and recommendations to the PVC (RS).
- e. The PVC (RS) will review the Panel's final report and provide it to the DVC(R) along with any further advice regarding appropriate corrective actions.
- f. The DVC(R) will review the final report and recommendations to make a determination about: whether a breach of the *Macquarie Research Code* has occurred; the seriousness of the breach and whether the breach constituted research misconduct; and the institution's response with regard to the extent of the breach and remedial actions.
- g. Complainants may be informed of the outcome of the investigation as appropriate.

5.2 Finding of “no breach”

If the DVC(R) determines that there has been no breach, the following may be considered:

- a. The mechanism for communication with, and support for, the respondent and complainant.
- b. If the allegation has no basis in fact, then efforts must be taken to restore the reputations of those alleged to have engaged in improper conduct.
- c. If an allegation is considered to have been frivolous or vexatious, action to address this with the complainant should be taken under appropriate institutional processes.

5.3 Finding of a breach or research misconduct

- a. Where the DVC(R) accepts that a breach of the *Macquarie Research Code* has been substantiated, the DVC(R) determines the institution’s response and remedial actions, considering the extent or seriousness of the breach and any contributive or mitigating circumstances.
- b. The DVC(R) will notify the respondent and the appropriate Executive Dean of the outcome of the investigation and the required remedial actions, which might include the implementation of corrective actions.
- c. The Executive Dean will consider and be responsible for overseeing any corrective actions required. A corrective action plan should detail the proposed corrective actions, the person/s responsible for each action and the nominated completion date for each action item. The Executive Dean is responsible for reporting to the PVC (RS) and the RIO about the corrective actions and their resolution at an agreed timeframe.
- d. The PVC (RS) will consider and be responsible for addressing any systemic issues that were identified, or may appoint a delegate to do so.
- e. In the case of a serious breach or research misconduct by a staff member, the DVC(R) may determine to impose other remedial actions, including, but not limited to:
 - i. notification to external institutions such as grant or funding providers, or to other host institutions if a conjoint appointee
 - ii. disciplinary actions, if in accordance with the terms of the relevant enterprise agreement.
- f. In the case of a serious breach or research misconduct by an Honorary Academic that was appointed under the *Honorary Academic Titles Policy*, the appropriate Executive Dean will determine whether or not to impose any of the following actions:
 - i. notification to relevant external institutions
 - ii. withdrawal of the Honorary title, or
 - iii. modification or termination of any associated conditions and privileges, including termination of the right to access University premises or specific resources.

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- g. In the case of a serious breach or research misconduct by a Higher Degree Research or Honours student, the DVC(R) may determine to impose other remedial actions, including, but not limited to:
 - i. notification to external institutions such as grant or funding providers, or to other host institutions if a cotutelle or joint research degree student
 - ii. referral to the Student Conduct Committee (following the *Student Conduct Procedure*)

6. Review of an investigation

6.1 Grounds for a procedural review

The respondent may request a review of an investigation on the grounds of procedural fairness.

6.2 Lodging an appeal

- a. An appeal must be made in writing to the Chair, Academic Senate and lodged within ten (10) working days of the respondent receiving notification of the decision(s) of the DVC(R).
- b. An application for appeal must:
 - i. be in writing and in the English language; and
 - ii. specify the grounds on which the appeal is sought and provide evidence in support of the appeal.

6.3 Appeal procedure

- a. The Chair, Academic Senate (or if the chair is not available in the circumstances, the Deputy Chair) may follow any procedure they consider appropriate, having regards to the requirements of procedural fairness and may inform themselves of the manner as they see fit.
- b. The decision of the Chair, Academic Senate, is final. They may:
 - i. dismiss the appeal, or
 - ii. uphold the appeal and either
 - refer the allegation back to the original Panel to be reheard, or
 - request that a new Panel to hear the allegation in accordance with this procedure.
- c. A short statement of the reasons for the decision will be notified in writing to the respondent.

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- d. Any person has right to appeal to the Australian Research Integrity Committee (ARIC) and/or the NSW Ombudsman.

7. Other considerations

7.1 Suspension of these processes

Processes instituted under this procedure may 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 a breach. After any such external inquiry is completed, and where it remains feasible to do so, the University may consider and complete their inquiry.

7.2 Multi-Institutional Research

- a. The process for preliminary assessments and investigations into potential breaches that involve Multi-Institutional Research will be considered on a case-by-case basis, taking into consideration issues such as the lead institution, where the complaint was lodged, contractual arrangements or where the events occurred. In general, the following may apply to Multi-Institutional Research:
 - i. Where the allegations appear to involve collaboration between an employee or employees of more than one institution, the PVC (RS) may agree with the other relevant institution/s that a joint assessment and/or investigation be held or agree that separate investigations be held with appropriate consultation arrangements.
 - ii. Where the allegations appear to involve research by a current or former employee or employees of Macquarie University and one or more other institutions, the PVC (RS) may agree with the other relevant institution/s that a joint assessment and/or investigation be held or agree that separate investigations be held with appropriate consultation arrangements.
 - iii. Macquarie University will, as far as possible, cooperate when investigating allegations of a breach arising from Multi-Institutional Research - sharing information and limiting duplication.
- b. The processes referred to in 7.2(a) of this procedure shall be agreed by the relevant institutions in writing and shall substitute for the processes set out in this procedure. If appropriate (such as in the case of possible disciplinary actions) the process may include references to the terms of any relevant enterprise agreement requirements. In most cases, and for the purposes of 1.2(e) of this procedure, a final draft of the process will be provided to the respondent for consultation purposes.
- c. If the alleged breach occurred when the Macquarie University researcher was a student at, or employed, by another institution, the allegations may be passed to that other institution for investigation and appropriate action.
- d. In the case of an alleged or proven serious breach or research misconduct involving a Macquarie University researcher also undertaking research at another institution, the PVC (RS) can determine whether a Macquarie University investigation is also warranted.

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- e. When investigating possible research misconduct in a cotutelle or joint degree PhD candidate research program, Macquarie University will endeavor to observe the principles of the *OECD Global Science Forum, Investigating Research Misconduct Allegation in International Collaborative Research Projects, A Practical Guide* (April 2009). However, any requirements of this procedure, which applies the *Australian Guide*, are deemed to take precedence.

7.3 Termination of employment or education prior to the completion of an inquiry or investigation

The termination, expiration or completion of the respondent's employment, candidature or period of visitation, will not affect these procedures.

7.4 Failure to co-operate

If the respondent refuses to participate in the process after leaving Macquarie University, the AO or Panel will use its best efforts to reach a conclusion concerning the allegations, noting in its report the respondent's failure to co-operate and its effect on the assessment or the panel's review of the evidence.

8. Abbreviations

Abbreviation	Definition
NHMRC	National Health and Medical Research Council
AO	Assessment Officer
ARC	Australian Research Council
<i>Australian Code</i>	Australian Code for the Responsible Conduct of Research
ARIC	Australian Research Integrity Committee
<i>Australian Guide</i>	<i>Guide to Managing and Investigating Potential Breaches of the Australian Code for the Responsible Conduct of Research</i>
DREI	Director, Research Ethics and Integrity
DVC(R)	Deputy Vice Chancellor (Research)
PVC (RS)	Pro Vice-Chancellor (Research Services)
RIA	Research Integrity Advisor

Abbreviation	Definition
RI Officer	Research Integrity Officer
RIO	Research Integrity Office
<i>Macquarie Research Code</i>	<i>Macquarie University Code for the Responsible Conduct of Research</i>
<i>Macquarie Research Code Procedure</i>	<i>Macquarie University Research Code Complaints, Breaches and Investigation Procedure</i>

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9. Appendices

9.1 Definition of a breach

- a. A breach is defined as a failure to meet the principles and responsibilities of the *Macquarie Research Code* (including failing to meet the standards accompanying the *Macquarie Research Code*).
- b. Breaches occur on a spectrum from minor to more serious breaches (**Figure 9.1**). Serious breaches which are also intentional or reckless or negligent, constitute research misconduct. The evaluation of the seriousness of a breach is informed by the preliminary assessment or after an investigation by the report and the findings of fact with consideration given to the following factors:
 - 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. the extent to which it affects the trustworthiness of research
 - iv. the level of experience of the researcher
 - v. whether there are repeated breaches by the researcher
 - vi. whether institutional failures have contributed to the breach
 - vii. any other mitigating or aggravating circumstances.

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Figure 9.1: Breaches fall on a spectrum. Responsible conduct of research is represented by the green region of the spectrum

The increasing seriousness of a breach of the *Macquarie Research Code* is indicated by the orange and red regions of the spectrum. Breaches can be minor (less serious) or major (more serious). *If a serious breach also included intentional or reckless or negligent behavior it would be considered research misconduct. Repeated or persistent breaches will likely constitute a serious breach.

- c. Major breaches would typically require investigation while some minor breaches may be addressed at the preliminary assessment stage. There are also some matters that relate to research administration that can easily be rectified at the local level and resolved prior to the need to consider a preliminary assessment. Unintentional administrative errors, clerical errors or oversights are some examples of this.
- d. Examples of breaches of the *Macquarie Research Code* include, but are not limited to, the following:
 - i. **Not meeting required research standards**
 - 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*
 - Failing to conduct research as approved by an appropriate ethics review body
 - Conducting research without the requisite approvals, permits or licences
 - Misuse of research funds
 - Concealment or facilitation of breaches (or potential breaches) of the *Macquarie Research Code* by others
 - ii. **Fabrication, falsification, misrepresentation**
 - Fabrication of research data or source material
 - Falsification of research data or source material
 - Misrepresentation of research data or source material
 - Falsification and/or misrepresentation to obtain funding

iii. Plagiarism

- Plagiarism of someone else's work, including theories, concepts, research data and source material
- Duplicate publication (also known as redundant or multiple publication, or self-plagiarism) without acknowledgment of the source

iv. Research data management

- Failure to appropriately maintain research records
- Inappropriate destruction of research records, research data and/or source material
- Inappropriate disclosure of, or access to, research records, research data and/or source material

v. Supervision

- Failure to provide adequate guidance or mentorship on responsible research conduct to researchers or research trainees under their supervision

vi. Authorship

- Failure to acknowledge the contributions of others fairly
- Misleading ascription of authorship including failing to offer authorship to those who qualify or awarding authorship to those who do not meet the requirements

vii. Conflicts of interest

- Failure to disclose and manage conflicts of interest

viii. Peer review

- Failure to conduct peer review responsibly

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9.2 Procedure flowchart

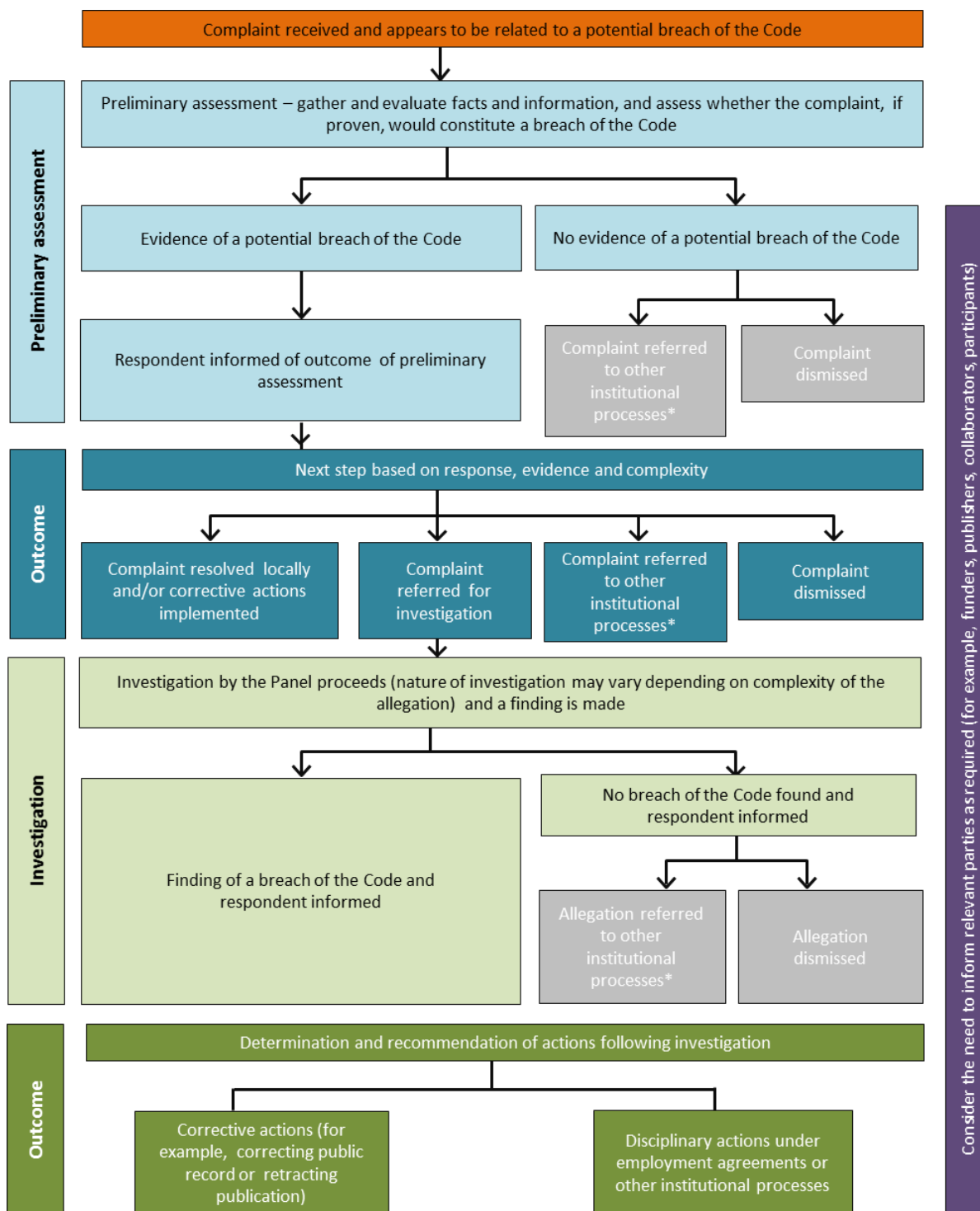


Figure 9.2: Overview of the approach for managing and investigating a potential breach of the *Macquarie Research Code*. The initial receipt of the complaint is discussed in Section 2. If it is decided that the complaint or information relates to a potential breach of the *Macquarie Research Code*, a preliminary assessment (Section 3) and investigation (Section 4) may ensue. A complaint may require immediate action, eg if there is a risk of harm to humans, animals or the environment (Section 2.3.a). The institutional roles involved in the preliminary assessment, an investigation, determination and in managing corrective actions are summarised in Section 1.4 and Table 2. Consideration of the need to inform relevant parties may be required at any stage of managing and investigating a potential breach of the *Macquarie Research Code*.

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10. Key related documents

10.1 Macquarie University policies, procedures and standards

- a. Macquarie University Code for the Responsible Conduct of Research
- b. Collaborative Research Standards
- c. Conflict of Interest Policy
- d. Higher Degree Research Supervision Policy
- e. Peer Review Standards
- f. Publication and Dissemination Standards
- g. Research Authorship Policy
- h. Research Data Management Policy
- i. Research Supervision Standards
- j. Student Conduct Procedure

10.2 External documents

- a. Australian Code for the Responsible Conduct of Research (2018)
- b. Australian Code of Practice for the Care and Use of Animals for Scientific Purposes
- c. Guide to Managing and Investigating Potential Breaches of the Australian Code for the Responsible Conduct of Research (2018)
- d. Guidelines for Ethical Research in Australian Indigenous Studies
- e. National Statement on Ethical Conduct in Human Research

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11. Commencement and amendment history

11.1	Contact Officer	Research Integrity Office	
11.2	Implementation Officer	Director, Research Ethics and Integrity	
11.3	Approval Authority / Authorities	Deputy Vice-Chancellor (Research)	
11.4	Date Approved	July 2019	
11.5	Date of Commencement	July 2019	
11.6	Documents Superseded by this document	<i>Macquarie University Code for the Responsible Conduct of Research</i> (2014) (last updated 21 June 2017)	
11.7	Amendment History		
Version	Approved by	Effective date	Sections modified
1.0	Deputy Vice-Chancellor (Research)	July 2019	This Procedure supersedes the <i>Macquarie University Code for the Responsible Conduct of Research</i> 2014 (Part B) (last updated 21 June 2017)
1.1	Deputy Vice-Chancellor (Research)	01 July 2022	All references to Pro Vice-Chancellor (Research Integrity and Development) (PVC (RI&D)) updated to Pro Vice-Chancellor (Research Services) (PVC (RS)). All references to Pro Vice-Chancellor (Higher Degree Research Training and Partnerships) updated to Pro Vice-Chancellor (Graduate Research), and reference to the Office of Higher Degree Research Training and Partnerships updated to the Graduate Research Academy.
2.0	Deputy Vice-Chancellor (Research)	05 July 2023	Minor revisions to increase clarity: section 2.2, clause 3.7b., clause 4.5.f. (regarding the role of a support person). The addition of clause 1.6 detailing arrangements for confidentiality. Amendments to Section 7.2 guiding matters involving Multi-Institutional Research (and related definition).

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