

POLICY

Research Misconduct

This policy is important to:

- all University staff
- all students of the University

POLICY NUMBER: POA100524001

DATE APPROVED: 21 May 2010

POLICY CATEGORY: Educational

POLICY OWNER: Deputy Vice-Chancellor (Research)

1. CONTEXT

In 2007, a joint ARC and NHMRC document was released to guide institutions and any staff or students undertaking Research. The *Australian Code for the Responsible Conduct of Research* (the Code) sets benchmarks in "describing good practice...promotes integrity for Research and explains what is expected of Researchers by the community".

The Code is split into two sections. Part A of the Code provides "Principles and Practices to Encourage Responsible Research Conduct". Essentially, Part A provides the underpinning philosophy for Research, and sets out the responsibilities for both individual Researchers and for institutions. Part B of the Code is titled "Breaches of the Code, Research Misconduct, and the Framework for Resolving Allegations."

This policy is concerned with Part B of the Code. Previously, relevant procedures were housed within instruments such as the old Victoria University of Technology Code of Conduct for Research. This policy updates those procedures.

Part A of the Code manifests in the sister policy "Code for the Responsible Conduct of Research" at Victoria University.

This policy may require amendment with the promulgation of a new workplace agreement. Any required amendments will be made when the final agreement is available.

2. DEFINITIONS

Research

Research means investigation undertaken to gain original knowledge, understanding and insight, as outlined in the *Australian Code for the Responsible Conduct of Research*. Research includes any conduct or activity associated with such an investigation. This includes all conduct and activities leading up to and in preparation for, during, or after the completion and reporting of the investigation. Any work or output of an investigation that is presented as original is also Research.

Researcher:

A person who undertakes, produces or performs Research

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Breach:

1. A staff member or student has **Breached** the *Australian Code for the Responsible Conduct of Research* ("the Code") if:
 - a) they engage in conduct that fails to comply with any part of the Code or the university policy on *Responsible Conduct of Research*, and
 - b) the conduct is not so serious as to constitute **Research Misconduct**.

Research Misconduct

1. A staff member or student engages in **Research Misconduct** if in relation to Research they intentionally, recklessly or negligently engage in any of the following conduct:
 - a) fabricate or falsify results or analysis
 - b) deceive or engage in conduct likely to deceive
 - c) fail to declare or manage a serious conflict of interest
 - d) plagiarism
 - e) fail to follow Research proposals as approved by the ethics committee where this failure is:
 - i. avoidable, and
 - ii. may result in an unreasonable risk or harm to humans, animals, biosafety or the environment
 - f) repeatedly **Breach** the Code where Breaches have been the subject of previous counselling or directions
 - g) conceal or facilitate Research Misconduct by others

For the purposes of the definition of Research Misconduct, negligence means gross or persistent negligence.

Principal Officer

A person with a University appointment at the Pro-Vice Chancellor, Deputy Vice-Chancellor or Vice-Chancellor level.

Immediate Organisational Unit Leader

"Immediate organisational unit leader" means the head of the organisational unit in which:

- in the case of a student, the unit in the faculty in which he/she is enrolled
- in the case of an academic or general staff member, the unit in which he/she is employed and to whom they are directly accountable.

Examples include heads of school, faculty deans/directors, heads of department/unit, institute directors or Research centre directors.

3. STATEMENT OF POLICY

Victoria University will adopt procedures and processes to promote best and responsible practice in Research and to manage Research activities by its staff and students. In doing this, Victoria University will ensure that its policies align with the principles and guidelines provided in the *Australian Code for the Responsible Conduct of Research*, and contain provisions and procedures to handle cases of Research Breach and Research Misconduct that align with the *Australian Code for Responsible Conduct of Research* and the principles of natural justice. Until changes have been implemented to the relevant workplace agreements, Research Misconduct which amounts to serious misconduct under those agreements must be dealt with in accordance with the workplace agreement. In these cases, the findings and outcomes of these processes will be referred to the Designated Person so that the Designated Person can determine whether any other matters concerning the conduct of research at the University need to be addressed.

4. PROCEDURES

4.1. University Appointments for the Responsible Research Conduct

The University will make a number of appointments to manage Research conduct, including:

- the appointment of a Designated Person with respect to matters relating to the Code
- the appointment of Research Integrity Officers

4.1.1 Deputy Vice-Chancellor (Research) to be Designated Person

The Deputy Vice-Chancellor (Research) will be the University's Designated Person with respect to matters relating to the Code. This designation is in accordance with Section 10 of the *Australian Code for the Responsible Conduct of Research*.

In his/her role as Designated Person, the Deputy Vice-Chancellor (Research) will ensure that relevant University policies and procedures are consistent with the Code. The Deputy Vice-Chancellor (Research) will also be responsible for leading in the development of initiatives and programs that help inculcate a Research culture consistent with the Code. As designated person, the Deputy-Vice-Chancellor (Research) will be the person to whom any concerns regarding possible cases of Research Misconduct must be directed. The Deputy Vice-Chancellor (Research) will also provide information on which University policy and procedures apply to a situation, including those relating to plagiarism, ethics and conflicts of interest.

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As the designated person, the Deputy Vice-Chancellor (Research) will oversee the development of procedures which keep Human Resources informed of matters under this policy and allow Human Resources to identify serious misconduct which must be dealt with under the provisions of the relevant workplace agreement. In addition, the Deputy Vice-Chancellor (Research) will also provide advice to the Vice-Chancellor on matters relating to the Code, including allegations received regarding Breaches or Research Misconduct as defined in section 3 above, including whether a prima facie case exists. The Deputy- Vice-Chancellor (Research) advises the Vice-Chancellor whether the allegations or concerns should be dismissed, dealt with under Misconduct provisions unrelated to Research Misconduct, referred back to the departmental level with instructions as to how they are to be handled, investigated internally or to invoke the serious Misconduct provisions in the relevant workplace agreement.

4.1.2 Research Integrity Officers

The University will appoint at least three Research Integrity Officers. To ensure diversity, Research Integrity Officers will normally be drawn from different faculties/units/departments. Appointment will be for a period up to three years.

Research Integrity Officers will provide staff with information on issues relating to the Code and Research conduct, and on matters relating to potential complaints and concerns, including on how and whether to proceed. Research Integrity Officers will also provide information on which University policy and procedures apply to a situation, including those relating to plagiarism, ethics and conflicts of interest.

Those appointed to be Research Integrity Officers should have Research experience, wisdom, analytical skills, and empathy, knowledge of the institution's policy and management structure, and familiarity with the accepted practices in Research.

All nominations for Research Integrity Officers will be submitted to the Deputy Vice-Chancellor (Research) by an Executive Dean/Director or equivalent. The Executive Dean/Director or equivalent may delegate the ability to present nominations. While nominations for Research Integrity Officers can be drawn from all areas of the University, the University Faculties will be required to present nominations; as such each Executive Dean/Director will be required to submit at least one nomination from his/her own faculty.

Appointment falls to the Deputy Vice-Chancellor (Research), who will advise the wider University community of the appointment(s). The Deputy Vice-Chancellor (Research) will also be responsible for maintaining a register of Research Integrity Officers, to be housed on appropriate University web sites.

In the event that a Research Integrity Officer resigns or has completed his/her term, then a replacement must be appointed within two months.

Staff members seeking information from Research Integrity Officers are not limited to using the Research Integrity Officers from their own faculty/unit/department but may seek advice or information from any Research Integrity Officer.

4.2. Who does this policy apply to?

This policy applies to all academic, teaching general staff and staff with honorary and adjunct appointments. The policy also applies to all students of Victoria University.

4.3. Who Can Make Complaints or Express Concerns?

Complaints or concerns regarding Breaches or Research Misconduct may be made by any person whether internal to the University or external.

4.4. Anonymous Complaints or Concerns

Usually, to ensure procedural fairness, anonymous complaints or concerns will not be considered.

4.5. Process in Dealing with Complaints or Concerns

The response and treatment of allegations and expressions of concern will depend on the nature of the complaint.

The process for dealing with complaints or concerns normally occurs in a five stage process:

1. Advice sought from Research Integrity Officers
2. Concerns to be considered and/or resolved at local (departmental/school/unit) level
3. Concerns to be considered and/or resolved by the Deputy Vice-Chancellor (Research)
4. Deputy Vice-Chancellor (Research) to appoint fact-finding group or individual
5. Referral to Vice-Chancellor (Staff only)

The order followed will normally be from stage 1 to stage 5, as above. However the order followed may be changed, it is not a requirement for all stages to take place, some stages may be by-passed and the stages followed will be case dependent.

4.5.1 Stage 1: Information from Research Integrity Officers

Any person concerned about the occurrence of Breach or Research Misconduct should normally begin by discussing the matter with a Research Integrity Officer. In such cases of potential allegations, the Research Integrity Officer should explain the options open to the person considering an allegation. These options include (and normally are delivered/presented in the order below):

1. Referring and discussing the matter directly with the person(s) against whom the allegation is being made;
2. Not proceeding or withdrawing the allegation if discussion resolves the matter;
3. Local level resolution: highlighting concerns to a person in a supervisory capacity for resolution at the local (school/unit/departmental) level; or
4. Making an allegation of Research Misconduct in writing to the Deputy Vice-Chancellor (Research).

Research Integrity Officers will be required to respond to a request as for information as quickly as possible, and will normally not take longer than one week.

The Research Integrity Officer's role does not extend to investigation or assessment of the allegation.

The Research Integrity Officer must not make contact with the person who is the subject of the allegation, and he or she must not be involved in any subsequent inquiry.

4.5.2 Stage 2: Local Level Resolution

A concerned person(s) may refer the matter to the Immediate Organisational Unit Leader. This will normally be after Stage 1 has occurred, as outlined in section 4.5.1. The Immediate Organisational Unit Leader may in confidence obtain advice as required from other University officers, including his/her supervisor, the University's Legal Services unit, officers whose task it is to manage matters around Research ethics and from senior researchers.

The Immediate Organisational Unit Leader would normally then approach the person(s) who is the subject of concern and inform the person(s) that information had been provided alerting to concerns regarding Research conduct. An attempt will be made to obtain an explanation from the Researcher(s).

The Immediate Organisational Unit Leader will then, if appropriate, attempt to resolve the matter to the satisfaction of all persons.

If the matter cannot be resolved, the person(s) who had the initial concerns may refer the matter to the Deputy Vice-Chancellor (Research) for consideration and should inform the Immediate Organisational Unit Leader of his/her intention to do so. In this case, the Immediate Organisational Unit Leader must inform his/her supervisor and the Deputy Vice-Chancellor of his/her involvement in the matter and any relevant information.

Alternatively, if deemed appropriate by the Immediate Organisational Unit Leader and usually with the endorsement of his/her supervisor, the matter may be referred to the Deputy Vice-Chancellor (Research) for consideration and analysis.

The Immediate Organisational Unit Leader must inform and provide information to his/her supervisor regarding the concerns expressed and the outcome, whether the matter was resolved at the local level or not.

In the event that, for any reason, the Immediate Organisational Unit Leader cannot perform his/her duties as outlined in this section, then the matter can be referred to his/her supervisor, who will attempt to reach a local level resolution.

The stage 2 process will be completed as quickly as possible, and will normally not take longer than 2 weeks from commencement to completion.

4.5.3 Stage 3: Referral to the Deputy Vice-Chancellor (Research)

The Deputy Vice-Chancellor (Research) will normally consider a complaint or concern after the local resolution stage has occurred, as outlined in Section 4.5.2. When present with or considering a complaint or concerns, the Deputy Vice-Chancellor (Research) will do one of the following, normally in the following order:

1. Refer the matter for local level resolution.
2. If appropriate attempt to strike a resolution between the various parties.
3. Appoint a fact-finding group or individual with appropriate Terms of Reference to explore the matter
4. In the case of a staff member, advise the Vice-Chancellor that the relevant sections of the workplace agreement should be invoked. This would normally be after a fact finding group or individual (Stage 4), as outlined in section 4.5.4, has provided such advice to the Deputy Vice-Chancellor (Research).

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5. In the case of a student, find that a plausible case of Research Misconduct or Research Breach exists, and that action should be taken under student discipline procedures (Discipline – University Regulation 2.7). The Postgraduate Research Committee will be advised of any finding against a student to be considered in accordance with the provisions in the Higher Degree by Research policy (policy no. POR100202000);

The Deputy Vice Chancellor (Research) may in confidence obtain advice as required from relevant University officers, including from the University Legal Services and the Director of Human Resources.

As the University's Designated Person and in accordance with section 4.5.1, the Deputy Vice-Chancellor (Research) will in all cases provide advice and information to the Vice-Chancellor.

The Deputy Vice-Chancellor (Research) will normally not take longer than 2 weeks to commence and complete stage 3.

4.5.4 Stage 4: Fact Finding

The Deputy Vice-Chancellor (Research) may appoint a group or an individual to explore and obtain facts on the matter at any time. This stage will normally take place after stage 3, as outlined in section 4.5.3.

The person(s) appointed will normally be drawn from within the University; however external persons can be used. The Deputy Vice-Chancellor (Research) is not precluded from taking part in the fact-finding and may be a member of the group or be the individual undertaking the exercise.

The concerned person(s) and the Researcher(s) who are the subject of concern will be given an opportunity to present submissions either orally or in writing to the fact-finding group or individual. Other persons may also be called upon to provide information.

Following these presentations and examination of the matter, the Deputy Vice-Chancellor (Research) will be presented with the facts obtained by the group or individual. The group or individual will then normally provide advice to the Deputy Vice-Chancellor (Research). This advice will normally be (but is not limited to) any of the following:

- a. That the Deputy Vice-Chancellor (Research) refer the matter for local-level resolution;
- b. That the Deputy Vice Chancellor (Research) attempt to mediate and resolve the matter to the satisfaction of all persons;
- c. That the complaint or concerns should be dismissed;
- d. In the case of a staff member, that there exists a plausible case of Breach or Research Misconduct as defined in section 3 above;
- e. In the case of a student, advise the Deputy Vice-Chancellor (Research) that a plausible case of Research Misconduct or Research Breach exists, and that action should be taken under student discipline procedures (Discipline – University Regulation 2.7). The Postgraduate Research Committee will be advised of any finding against a student to be considered in accordance with the provisions in the Higher Degree by Research policy (policy no. POR100202000);
- f. That the complaint/concern is vexatious.

In the event that it has been found that a plausible case of a Breach by a staff member exists, the Deputy Vice-Chancellor (Research) as the designated person will normally refer the matter to the Vice-Chancellor. The referral will include advice on how best to proceed, including recommendations on changes to Research procedures or processes that will rectify the Breach and may include a recommendation to offer counselling or formal disciplinary action under the relevant provisions of the workplace agreement. In such a case, it falls to the Deputy Vice-Chancellor (Research) or a nominee to monitor progress towards the adoption of the recommended changes.

In the event of a plausible case of Research Misconduct by a staff member, the Deputy Vice-Chancellor (Research) as the designated person will normally refer the matter to the Vice-Chancellor and advise that the disciplinary procedures outlined in the relevant workplace agreement should be invoked. This may include a recommendation to provide counselling under the relevant provisions of the workplace agreement.

Stage 4 will normally not take longer than 4 weeks from commencement to completion.

4.5.5 Stage 5: Referral to Vice-Chancellor (Staff Only)

Referral to the Vice-Chancellor will normally take place after Stages 1 to 4 have transpired, as outlined in sections 4.5.1, 4.5.2, 4.5.3 and 4.5.4.

In the event that the Vice-Chancellor has been advised that there is a plausible case of Research Misconduct, then:

1. Upon receipt of the complaint, the Vice-Chancellor will immediately inform the person against whom the complaint is made of the nature and basis of that complaint.
2. The Vice-Chancellor will then, at his or her discretion, obtain advice from relevant University Officers, including University Legal Services and the Director Human Resources, and may present them with the findings/information from the Deputy

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Vice-Chancellor (Research).

3. The Vice-Chancellor will then have the following options:
 - a. Where the Vice-Chancellor believes that a reasonable case of Research Misconduct exists, invoke the relevant sections of the workplace agreement. This may range from an offer of counselling to formal disciplinary action, as specified under the provisions of the workplace agreement.
 - b. Where the Vice-Chancellor believes that there is a case of a Breach, develop a set of recommendations for adoption by the Researcher(s) to remedy the situation and ensure compliance with the Code and the relevant provisions of the agreement governing conditions of staff employment. The recommendations may be to offer of counselling or formal disciplinary action under the relevant provisions of the workplace agreement.
 - c. Where the Vice-Chancellor considers that there is no reasonable basis for a case of Breach or Research Misconduct, the Vice-Chancellor may dismiss the claim.

4.6. Person no longer associated with the University

A complaint may be considered and investigated even if the Researcher ceases to be associated with the University.

4.7. Plagiarism

This policy apply to plagiarism which arises predominantly in the context of a person's Research other than Research which is part of a coursework unit which involves a structured curriculum that addresses specific content or skill development. Plagiarism arising in the context of a coursework unit must be dealt with in accordance with the *Academic Honesty and Preventing Plagiarism* policy.

4.8. Conflicts of Interest

A Conflict(s) of Interest for staff members and students is as defined in the VU Staff Code of Conduct. It arises where the personal association(s) or interest(s) of a staff member or student interferes with their conduct, duties or responsibilities. This policy will apply when a conflict is related to conduct, duties or responsibilities relating to Research.

Staff members and students must take measures to eliminate any existing or potential conflicts of interest. Where a staff member or student has failed to eliminate the Conflict of Interest, and the matter is related to Research, then this policy may be applied.

4.9. Student Complaints Policy

In most cases, student complaints relating to discrimination, harassment, and bullying by a staff member or student will be subject to the procedures in the *Student Feedback and Complaints Policy* (no. POS090203000).

However, where a student complaint of discrimination, harassment and bullying is related to Research and/or a case of Breach by a staff member of student, then this policy may be applied.

4.10. Deputy Vice-Chancellor (Research) unable to perform duties outlined in this policy

If for any reason the Deputy Vice-Chancellor (Research) cannot perform his/her duties and responsibilities as outlined in this policy, then the Vice-Chancellor will appoint a replacement. The replacement will normally be a Principal Officer and may be for any length deemed suitable by the Vice-Chancellor, but (notwithstanding the provisions in section 4.11) will not be longer than 1 year.

4.11. Deputy Vice-Chancellor (Research): Delegation of Authority and Responsibilities

The Deputy Vice-Chancellor (Research) may delegate his or her authority and responsibilities under this policy to another officer. The officer chosen will normally come from within the Deputy Vice-Chancellor Portfolio, and will normally be a Principal Officer.

In the event that the Deputy Vice-Chancellor (Research) delegates his or her authority and responsibilities, the Deputy Vice-Chancellor (Research) must inform the Vice-Chancellor and ensure that the wider University is made aware of the delegation and that the delegation is reflected in appropriate University documents and websites.

4.12. Staff who are also Research students of the University

In the event where a Researcher who is the subject of a Breach or Research Misconduct case or concern is both a staff member and a student of the University, then:

- If the alleged Breach or Misconduct took place when the Researcher was acting as a student, then the person will be subject to those provisions and processes that apply to University students.
- If the alleged Breach or Misconduct took place when the Researcher was acting as a staff member, then the person will be subject to those provisions and processes that apply to University staff.
- If it is uncertain as to whether the Researcher was acting as a student or staff member, then the Deputy Vice-Chancellor (Research) may obtain advice from the Director Human Resources (and/or any other officer of the University if deemed appropriate) as to whether the Researcher was acting as a student or staff member. The advice will normally be provided within one week.

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4.13. Written Records to be made and maintained

During each stage, it is a requirement that written records be made and maintained. During each stage, the following persons will be responsible for ensuring that written records are made and kept:

- Stage 1: Research Integrity Officer
- Stage 2: Immediate Organisational Unit Leader. In the event that the Immediate Organisational Unit Leader is unable to perform duties, then his/her immediate supervisor will be responsible
- Stage 3: Deputy Vice-Chancellor (Research)
- Stage 4: Deputy Vice –Chancellor (Research)
- Stage 5: Vice-Chancellor

5. POLICY ADVISOR

Policy Officer, Office of the Pro-Vice-Chancellor (Industry and Community)

6. RELATED POLICIES AND LEGISLATION

The policy is congruent with relevant workplace agreements. It is also congruent with:

- *Student Feedback and Complaints Policy* (no. POS090203000)
- *Staff Code of Conduct Policy*
- *Academic Honesty and Preventing Plagiarism Policy*
- *Student Charter policy*
- *Student Discipline Provisions (Regulation 2.7)*
- *Higher Degrees by Research Policy* (no. POR100202000)
- *The various workplace agreements*

POLICY HISTORY

Version approval date	Summary of changes
21 May 2010 (POA100524001)	New Policy.

Flow-chart of the process to manage the conduct of research

