



## **MANAGING ALLEGED BREACHES OF THE CODE OF CONDUCT FOR THE RESPONSIBLE PRACTICE OF RESEARCH AND ALLEGATIONS OF RESEARCH MISCONDUCT POLICY (PART B)**

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### **PREAMBLE**

The Australian Code for the Responsible Conduct of Research (2007, **the Australian Code**) was jointly developed by the National Health and Medical Research Council, the Australian Research Council and Universities Australia and replaces the Joint NHMRC/AVCC Statement and Guidelines on Research Practice (1997). The Australian Code has relevance across all research disciplines and provides a basic reference for the development of appropriate policies and procedures to uphold the standards expected of researchers. It is not exhaustive and should be read in conjunction with other laws, guidelines and codes of practice that apply to the conduct of research in Australia.

The Telethon Kids Institute gratefully acknowledges the assistance provided by the Research Services Office at the University of Western Australia in the preparation of the Institute Code and its associated documentation.

### **PURPOSE**

This policy outlines the process for managing alleged breaches of the Australian Code for the Responsible Conduct of Research (2007) (the Australian Code) and allegations of research misconduct at the Telethon Kids Institute (the Institute).

### **SCOPE**

This policy applies to:

- all staff employed by the Institute or any controlled entity, including Honorary staff;
- all former staff of the Institute or any controlled entity, where the activities undertaken during their employment with the Institute or any controlled entity is the subject of an allegation of research misconduct;
- any persons engaged in research under the auspices of, or in the name of, the Institute or any controlled entity; and
- all students of the Institute who engage in research, including past students where the activities undertaken during their candidature is the subject of an allegation of research misconduct.

If a formal allegation of a breach of the Code or research misconduct is made against an Institute employee or student who holds an Adjunct, Clinical or Honorary Appointment at a different entity, that entity shall be informed of the allegation at the time that it is lodged and may opt to conduct their own investigation.

## DEFINITIONS

General definitions can be found on the Policy Library website [here](#).

Term	Definition
The Institute	Telethon Kids Institute
Breach of the Code	An act that is in contravention of the requirements or a deviation from the principles outlined in the Code
Controlled Entity	A company over which the Institute has control within the meaning of Section 50AA of the Corporations Act (2001).
Research misconduct	<p>Can be deliberate or an inadvertent consequence of poor research practices. It does not include honest errors or difference of opinion or judgement in evaluating research methods or results. It is not required to prove that personal or professional gain has resulted from research misconduct.</p> <p>Examples of research misconduct include (but are not limited to):</p> <ul style="list-style-type: none"> <li>• Fraud, including deliberately reporting false or misleading data and misrepresentation or falsification of credentials.</li> <li>• Plagiarism, including using the intellectual property of others (ideas, data, words or processes) without providing appropriate credit.</li> <li>• Misappropriation or theft of data, physical materials or other resources.</li> <li>• Deception in proposing, carrying out, reporting or reviewing research.</li> <li>• Serious breaches of accepted ethical standards in human or animal research.</li> </ul>
A complaint or allegation	Relates to research misconduct if it involves <u>all</u> of the following: <p>(i) an alleged breach of the Code; and</p> <p>(ii) intent and deliberation, recklessness or gross and persistent negligence; and</p> <p>(iii) serious consequences, such as false information on the public record, or adverse effects on research participants, animals or the environment.</p>

External Inquiries	Include an external criminal or civil or other administrative tribunal inquiry into the same factual matters and may result in the need to suspend an inquiry, no matter what process is adopted.
Complainant	Is a the person who makes an allegation of a breach of the Code or research misconduct
Complainant Protection	Includes protection for the individual who notifies, which is available to Institute employees under the Public Interests Disclosure Act 2003 (WA) (PID)
Respondent	The person against whom the allegation of research misconduct is directed or the person whose actions are the focus of the enquiry or investigation. There can be more than one respondent in any enquiry or investigation.
Institutional Misconduct Policy	Refers to Accountable and Ethical Decision Making, Grievance and Dispute Resolution, and Code of Ethics and Code of Conduct policies.

## PRINCIPLES

### 1 Legislative Context

1.1 The Telethon Kids Institute Code of Conduct for the Responsible Practice of Research Policy conforms to the requirements of the Australian and UWA codes and is thereby synonymous with these documents. Therefore this policy will use the general term (**the Code**) to refer to all three Codes.

1.2 This policy is to be read against the background of the relevant Telethon Kids Institute policies governing employment, students and disciplinary action.

### 2 Appointment of Responsible Persons

#### 2.1 Research Integrity Advisors

- The Code mandates the appointment of Research Integrity Advisors (RIAs).
- Each RIA must be able to advise a staff member or student who is unsure about a research conduct issue and may be considering whether to make an allegation.
- RIAs must be senior Telethon Kids staff members with research experience; wisdom; analytical skills; empathy, knowledge of Institute policies and management structure, and familiarity with the accepted practices in research.
- RIAs are the first point of contact within Telethon Kids for staff and students who may have queries concerning the responsible conduct of research and the Telethon Kids policy for reporting research misconduct. They can provide strictly

confidential advice on the policies, guidelines and processes within Telethon Kids but will not be involved in the investigation of an allegation of research misconduct nor will they attempt to resolve or investigate a research dispute or make any determination of a matter brought to their attention.

- Staff and students holding appointments at other institutions may also approach that institution's RIAs for advice on matters concerning the responsible conduct of research.

## **2.2 Chief Executive Officer**

- The Australian Code describes the role of the Chief Executive Officer (CEO), or their delegated officer as the person who has overall responsibility for the process of resolving alleged breaches of the Code or research misconduct. The CEO of the Institute is the Institute Director (Executive Director).

## **2.3 Designated Person**

- The Australian Code describes the role of the designated person as one that determines whether there is a prima facie case of research misconduct.
- The designated person must be a member of the Institute Leadership Team who has experience in research and research management.
- At the Institute, the designated person is the Research Strategy Leader-Research Excellence (RSL-RE).
- The role of the designated person is to advise the CEO (or their delegated officer), whether allegations of a breach of the Code or research misconduct appear justified.

## **2.4 Delegated Officer**

- The delegated officer at the Institute is an alternative Research Strategy Leader to the RSL-RE, as appointed by the CEO, who must decide whether a research misconduct inquiry is needed.

# **3. Handling of Potential Misconduct or Questionable Research Practice**

## **3.1 Discussion with a Research Integrity Advisor**

- It is recommended that a researcher, student or other member of staff, who has concerns about potential research misconduct or other questionable research practice, first discusses these concerns with a Research Integrity Advisor (RIA).
- RIAs have a role in guiding research staff and students in relation to the proper conduct of research, in the making of an allegation of research misconduct and in the processes that must be followed if such an allegation is made formally.

- The RIA must not play any part in an investigation of the matter.

### **3.2 First Level Resolution**

- It is preferable that whenever possible, complaints and allegations of research misconduct or breaches of the Code are dealt with first, and resolved, at the People and Culture level.
- The RIA's role must not be investigative or determinative, but may include encouraging, facilitating or participating in discussions between the complainant, the People and Culture team and the RSL-RE.
- The matter can rest at the People and Culture level provided that:
  - the alleged breach does not constitute research misconduct;
  - the researchers acknowledge the breach; and
  - the appropriate steps are taken to remedy the consequences and to prevent recurrence.

### **3.3 Making an Allegation**

- A researcher, student or other member of staff, after discussion of his/her concerns with a RIA, may make a formal allegation of a breach of the Code or an allegation of research misconduct.
- Formal allegations must be made in writing to the Designated Person and must:
  - clearly identify each allegation, indicating the place(s) and date(s) on which the conduct in question is alleged to have occurred;
  - state the identity of the person alleged to have engaged in research misconduct (if known); and
  - identify and attach any supporting evidence.
- Allegations of research misconduct made by organisations or persons external to the Institute may be received in any form and must be referred to the Designated Person.

### **3.4 Proceeding with a Formal Allegation and the Preliminary Investigation**

- Upon receipt of an allegation of research misconduct, the Designated Person must conduct a preliminary investigation to determine whether a prima facie case of research misconduct exists.
- The Designated Person must at this stage declare any actual, potential or perceived conflict of interest to the Delegated Officer, and where this is considered serious, must refer the matter to a member of the Institute Leadership Team.

- Procedural fairness and natural justice are important considerations in this process.
- The person(s) against whom a formal allegation of research misconduct is made (the Respondent/s) must be informed of the substance of any allegations made against them when the investigation is commissioned and must be afforded a reasonable opportunity to put their case and provide a written statement.
- All allegations must be the subject of strict confidentiality.

#### **3.4 Investigator to Assist the Designated Person**

- The Designated Person may ask an Assistant Investigator to conduct the investigation on their behalf.
- The Assistant Investigator is authorised to secure all relevant documents and evidence so that this material may be available should it be decided that an allegation is to be further investigated.
- The Assistant Investigator must be someone internal to the Institute who has considerable research or research management experience and must be as free of conflicts of interest as is reasonable.

#### **3.5 Preliminary Assessment of an Allegation of Research Misconduct**

- The Designated Person, or the Assistant Investigator, must conduct a preliminary assessment of the allegation to determine the next appropriate action.
- Complete records of the investigation must be kept, including relevant evidence such as experimental material, IT records, other documents and names of witnesses.
- The Designated Person or Assistant Investigator may interview people with relevant information, and may collect and review documentation including records related to the conduct of the research in question.
- Other actions that might assist in reaching a decision are not excluded under this policy.
- The Designated Person must consider the allegation and evidence to determine if:
  - the substance of the allegation, if proven, would amount to research misconduct; and
  - whether a prima facie case of research misconduct exists.

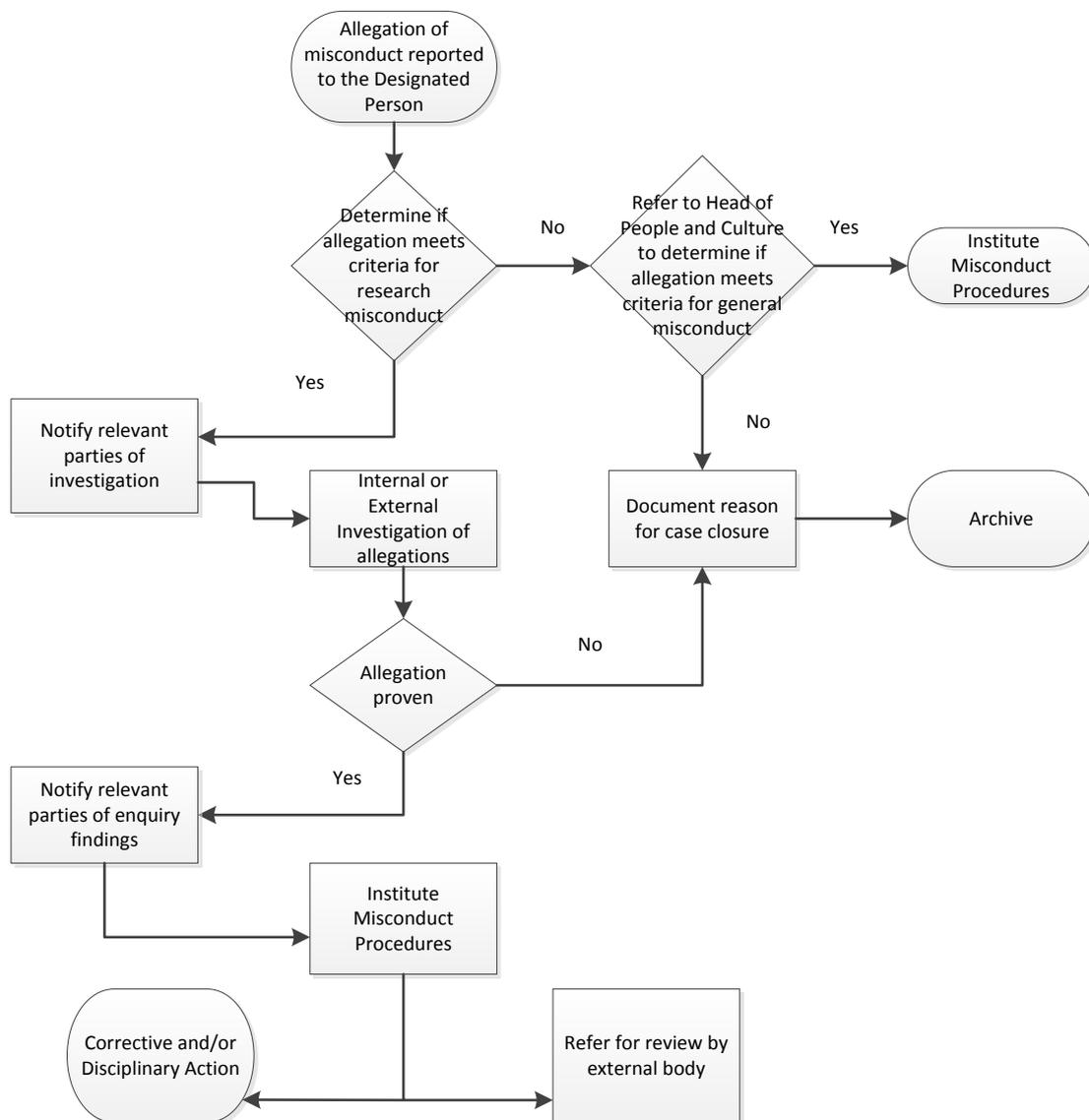
- The Designated Person must advise the Delegated Officer whether, on the basis of the investigation that has been conducted, the allegation should be dismissed or dealt with under general misconduct provisions through the relevant Institute policies.
- Other recommendations, dependent on the nature of the allegation, may also be appropriate and are not excluded under this policy.
- If the allegation is not dismissed or referred to another process, then except where precluded by law, or where the Designated Person deems it otherwise inappropriate to do so because of the circumstances of the case, the Designated Person must inform the employee or student who is the subject of the allegation of the nature of the allegation and the steps the institution will take as a result of the allegation.

### **3.6 Delegated Officer to commission Research Misconduct Inquiry**

- Upon receipt of the Designated Person's report recommending a research misconduct inquiry, the Delegated Officer may:
  - (i) dismiss the allegation;
  - or
  - (ii) commission a research misconduct inquiry.
- The Delegated Officer must confer with the Head of People and Culture on the process for handling the research misconduct inquiry formally in accordance with the relevant Institute policies. Where an external inquiry is identified this may result in the need to suspend an inquiry, no matter what process is adopted.
- At the commissioning of an investigation, the Delegated Officer must notify in writing the complainant(s), the respondent(s) and the Designated Person that a research misconduct inquiry is being conducted.
- The Designated Person must provide all evidence collected which may include a written statement from the person against whom the allegation has been made and any investigator's report to the Delegated Officer to inform the research misconduct inquiry. At this point the Designated Person must not play any further role in the inquiry process.
- The finding(s) of the research misconduct inquiry must be submitted to the Delegated Officer who, in the case of research misconduct having been found to have occurred, must make a decision about appropriate disciplinary proceedings in accordance with the relevant Institute policies.
- A copy of the decision regarding disciplinary proceedings must be provided in confidence to the complainant and respondent.

- Where the Institute is obliged to do so without breaching legal requirements, including the right of the person(s) who is the subject of the allegation to procedural fairness, the Delegated Officer must advise relevant funding agencies and other relevant parties of the allegations and the proposed nature of any disciplinary proceedings.
- A complainant(s) against whom action has been taken by the Delegated Officer has the right to refer this decision to the joint NHMRC (National Health and Medical Research Council) and ARC (Australian Research Council) established Australian Research Integrity Committee (ARIC) for review.

**Flowchart – reporting and handling of allegations of research misconduct**



## SCHEDULES

Nil

## RELATED DOCUMENTS

### *Internal Documents*

Policy on Code of Conduct for the Responsible Practice of Research

### *External Documents*

Joint NHMRC/AVCC Statement and Guidelines on Research Practice

Australian Code for the Responsible Conduct of Research

UWA Code of Conduct for the Responsible Practice of Research

## RELEVANT LEGISLATION

Public Interests Disclosure Act 2003 (WA)

Corruption and Crime Commissions Act 2003 (WA)

## FURTHER INFORMATION

Further information about this policy can be obtained by contacting the Head of People and Culture

## VERSION HISTORY

Version	Approved By	Approval Date	Review Date	Sections Modified	Owner	Implementation Officer	Author
1.0	Operations Committee	18/11/14	18/11/17	New Policy	Institute Director	Head of People and Culture	The Code working group