

Managing and Investigating Potential Breaches of the JCUS Code for the Responsible Conduct of Research Procedure

Intent

Institutions that conduct research, train and employ researchers have primary responsibility for the prevention, detection, investigation and resolution of complaints about the conduct of that research. This Procedure forms a critical framework to underpin, enact and respond to breaches of the principles of the James Cook University Research Code of Responsible Conduct of Research (Research Code) and in compliance with the NHMRC [*Guide to Managing and Investigating Potential Breaches of the Australian Research Code for the Responsible Conduct of Research*](#) (Guide). It provides a framework for managing, investigating allegations and resolving breaches under the Research Code. Some definitions and other text in this Procedure are reproduced from the NHMRC Guide.

Scope

This Procedure applies to all persons engaged in research under the auspices of the University.

This Procedure outlines the steps that must be followed when an allegation of research misconduct is made.

In the event that a staff member is found to have engaged in research misconduct under this Procedure and the Research Code, the matter will be referred to processes outlined in the JCUS Code of Conduct.

In the event that a student is found to have engaged in research misconduct under this Procedure and the Research Code, the matter will be referred to the JCUS Student Code of Conduct and the relevant procedure.

Definitions

Allegation	A claim or assertion arising from a preliminary assessment that there are reasonable grounds to believe a breach of the Research Code has occurred. May refer to a single allegation or multiple allegations.
ARC	Australian Research Council
Research Code	The James Cook University Singapore Code for the Responsible Conduct of Research.
Complainant	A person or persons who has made a complaint about the conduct of research.
Conflict of interest	<p>A conflict of interest exists in a situation where an independent observer might reasonably conclude that the professional actions of a person are or may be unduly influenced by other interests.</p> <p>This refers to a financial or non-financial interest which may be a perceived, potential or actual conflict of interest.</p>
Corrective actions	These include retractions or errata of publications, training, counselling and systemic improvements.

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 Research Code.
Guide	Guide to Managing and Investigating Potential Breaches of the Australian Research Code for the Responsible Conduct of Research.
Head of Work Unit	Means the manager of a Division College, Institute, Center, Directorate or any successor structure. A Head or Work Unit would be a staff member in one of the following roles: Dean, Director, DVC, Provost or Vice Chancellor.
Institution	James Cook University Singapore
Investigation	The term 'investigation' is used to describe the action of investigating an allegation of a breach of the Research Code by an Investigation Panel, following the preliminary assessment. The purpose of the investigation is to determine whether a breach of the Research Code has occurred, and if so, the extent of that breach, and to make recommendations about further actions.
JCU	James Cook University Singapore
NHMRC	National Health and Medical Research Council
Preliminary assessment	The term 'preliminary assessment' is used to describe the gathering and evaluating of evidence to establish whether a potential breach of the Research Code warrants further investigation.
Processes	This includes reference to policies, procedures, guidelines and standards.
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	Person (or persons) who conducts, or assists with, the conduct of research.
Respondent	Person or persons who are the subject to a complaint or allegation about a potential breach of the Research Code.
Supervisor	In relation to JCU Staff, a Supervisor is the line manager of JCU staff member. In relation to JCU students, the Supervisor may be an academic or is the person otherwise supervising the JCU student.
Support person	A person who accompanies a party to an interview and may be a staff member or; a delegate and not a practicing solicitor or barrister.
University	James Cook University Singapore
Work Unit	A work unit of James Cook University, for example, Division, College or Directorate

Procedure

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1. Breaches of the Research Code

A breach of the Research Code is the failure by a researcher to meet the principles and responsibilities of the Research Code. Breaches may range on a spectrum from minor to major. Minor breaches may

be addressed at the preliminary assessment stage. There are also some minor breaches that may relate to research administration that can easily be rectified at the Work Unit level and resolved prior to a preliminary assessment. Unintentional administrative errors, clerical errors or oversights are some examples of minor breaches.

Major breaches would typically require a preliminary assessment and/or investigation.

Factors that must be considered when determining the seriousness of a breach include:

- the extent of the departure from approved or accepted practice;
- the extent to which research participants, the wider community, animals and the environment are, or may have been, affected by the breach;
- the extent to which it affects the reputation of research;
- the level of experience of the researcher;
- whether there are repeated breaches by the researcher;
- whether institutional failures have contributed to the breach; and
- any other mitigating or aggravating circumstances.

Examples of breaches of the Code by a researcher include, but are not limited to, the following:

Not meeting required research standards

- Conducting research without ethics approval, as required by the *National Statement on Ethical Conduct in Human Research*, the *Australian Research Code for the Care and Use of Animals for Scientific Purposes*, *Human Biomedical Research Act 2015 (Singapore)* or the *National Advisory Committee for Laboratory Animal Research (NACLAR) (Singapore)*;
- 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 Research Code by others.

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.

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.

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.

Supervision

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

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.

Conflicts of interest

- Failure to disclose and manage conflicts of interest in accordance with University process.

Peer review

- Failure to conduct peer review responsibly.

2. Definition of Research Misconduct

Research misconduct is a serious breach of the Research Code when it is also:

- a. intentional or
- b. reckless or
- c. negligent.

Research misconduct does not include honest differences in judgement. Unintentional errors do not constitute research misconduct unless they result from behaviour that is reckless or negligent. Repeated or persistent breaches will likely constitute a serious breach, which may be regarded as Research Misconduct.

3. University Roles and Responsibilities

Research Integrity Advisors (RIA) are persons appointed by the University to promote the responsible conduct of research and provide advice to those with concerns about potential breaches of the Research Code, the relevant institutional policy and processes and available options, including how to make a complaint. An RIA must have research experience, analytical skills, empathy, good communication skills, knowledge of the University processes and the Research Code, and a familiarity with accepted practices in research. The RIA's role does not extend to investigation or assessment of a complaint, including contacting the person who is the subject of the complaint or being involved in any subsequent investigation other than as a witness or to provide testimony. An RIA must not advise on matters where they have a potential, perceived or actual conflict of interest.

Assessment Officer (AO) is a person (or persons) appointed by the Designated Officer to conduct a preliminary assessment of a complaint about potential breach of the Research Code.

Designated Officer (DO) is the Dean of Research of the University and is the person delegated by the University to receive complaints about potential breaches of the Research Code and will manage the investigation of these matters, including oversight of the Preliminary Assessment of a complaint and the making of recommendations in compliance with this Procedure.

Responsible Executive Officer (REO) is the Deputy Vice-Chancellor, Vice-Chancellor or President of the University and has final responsibility for receiving reports on the outcomes of processes of assessment, or outcomes of an investigation of potential or found breaches of the Research Code. The REO must decide on the course of action to be taken regarding these findings and informs the relevant parties involved in the matter.

Review Officer (RO) is a senior officer of the University who is instructed to conduct a review of an Investigation. The Review Officer will be appointed by the Designated Officer and must not have been involved in the original investigation of the breach in question.

Research Integrity Office (RIO) is situated in JCU Connect and has the responsibility for management of research integrity.

Investigation Panel/s conduct investigations of alleged breaches of the Research Code. The Panel must consist of a Chair and at least two other persons. The DO will select the panel members based on the nature of the alleged breach, conflict of interest and consideration of whether external panel members are required. Diversity of members is a necessary consideration in the appointment of a Panel.

4. Procedural Fairness

The principles of procedural fairness (also referred to as natural justice) apply to managing and investigating potential breaches of the Research Code. These principles contain the hearing rule (an opportunity to be heard), the rule against bias (decisionmakers do not have a personal interest in the outcome) and the evidence rule (decision are based on evidence). The University must provide details of the allegation of potential breaches of the Research Code in writing to the person facing the allegation. The person must be treated fairly and given the right to be heard through the opportunity to respond to any allegation in writing.

5. Confidentiality

To avoid compromising the outcome of any matter under assessment or investigation information should remain confidential and not be shared unless required, for example in compliance with funding agreement and policy requirements for bodies such as Australian Research Council and National Health & Medical Research Council.

6. Managing concerns, compliants and allegations

Concerns, complaints or allegations may be made by funding bodies, members of the public and individuals external or internal to the University.

6.1 Making a complaint or raising a concern about a potential breach of the Research Code

- A complaint will be considered if it concerns the allegation that a researcher or researchers have conducted research that does not comply with the principles and or responsibilities of the Research Code. A complainant is encouraged to seek advice from a Research Integrity Advisor (RIA) before lodging a complaint.
- Complaints may be lodged anonymously or by a third party, but this may limit JCU's ability to assess the complaint or confirm the details with the complainant. It may also impose limitations on the Preliminary Assessment or any Investigation that may follow from the complaint.
- Verbal complaints may be made but the complaint will be confirmed with the complainant in writing by the Research Integrity Office (RIO).

- If a complainant does not wish to proceed with a complaint or withdraws the complaint, JCU's obligation is to proceed to assess the complaint and determine whether a Preliminary Assessment is necessary.

6.2 Receipt of a concern, complaint or allegation

Initial Assessment

Minor or less serious breaches of the Research Code, for example, relating to research administration, unintentional administrative errors, clerical errors or oversights may be easily rectified at the Work Unit.

Complainants may seek advice from a RIA to discuss the circumstances of the complaint and their options in accordance with this Procedure and the Research Code. Options include:

- not proceeding if the complaint or concern is not related to a breach of the Research Code;
- proceeding under other University processes;
- making a formal complaint about a potential breach of the Research Code.

If the complaint relates to an activity that poses an immediate risk of harm to humans, or animals or the environment, it will be referred to the relevant ethics committee or other appropriate University processes for action.

If the complaint proceeds to a formal allegation this must be made to the RIO and the notification of the complaint will be referred to the DO.

Assessment Designated Officer

- The DO will assess the complaint and will determine if it is an alleged breach of the Research Code.
- If the complaint does not concern a potential breach of the Research Code, the DO can dismiss the complaint or refer it to other University processes as appropriate. If the complaint is considered frivolous or vexatious, the DO may refer the matter to other University processes to address the conduct of the complainant.
- If the complaint does concern a potential breach of the Research Code, the DO may determine that the matter can be managed at the Work Unit without the need for a Preliminary Assessment.
- The DO may take interim action to mitigate risk such as risk of harm to humans, or animals or the environment, and security of material relevant to any subsequent Preliminary Assessment or suspend activities whilst the matter is assessed.
- The DO may also instruct the relevant Work Unit delegates to assess any interim action to be taken in relation to research involving staff and students.
- *If the complaint does concern a potential breach of the Research Code, and cannot be managed at the Work Unit, the DO will proceed with a Preliminary Assessment.*

6.3 Preliminary Assessment

The purpose of the preliminary assessment is to gather and evaluate facts and information and assess whether the complaint, if proven, would constitute a breach of the Research Code.

Conduct of the Preliminary Assessment

- The DO will assign the complaint to an AO to conduct a Preliminary Assessment with administrative assistance from the RIO.
- The AO may seek further information from the complainant, and information from other people, which may include internal or external experts. The consultation of other parties both internal and external will depend upon the nature of the allegation. The AO can seek advice from the RIO regarding any necessary consultation. However, to avoid compromising the preliminary assessment, information should not be shared unless required.
- The respondent must be given details of the allegation and a defined timeframe to respond in writing to the allegation.

- The respondent must be given the opportunity to meet with the AO to discuss the matter, with the option to bring a support person to this meeting. (The support person cannot be a legal representative.)
- The AO must assess the matter and determine a time-frame for the preliminary assessment. That is, the preliminary assessment should be conducted within a defined time-frame notified to the respondent. If it becomes apparent that the Preliminary Assessment will require more time, an amended time-frame will be negotiated with the DO and the respondent notified.
- The AO must ensure that all documentation of the preliminary assessment are retained, including record and minutes of meetings.

Preliminary Assessment Report

Upon completion of the preliminary assessment, written advice must be prepared for the DO, which includes:

- A summary of the process undertaken;
- An inventory of the information that was gathered, including the written response received from the respondent;
- An assessment of the facts and information;
- A description of how the potential breach relates to the principles and responsibilities of the Research Code and/or other University processes; and
- Recommendation for further action.

Actions

Upon review of the Preliminary Assessment Report, the DO will determine on the basis of information gathered by the preliminary assessment whether a breach of the Research Code exists and if so, the seriousness of the breach.

The DO may determine that:

- There is no breach of the Research Code and the matter be dismissed.
- The breach is minor or less serious and should be referred to the relevant Head of Work Unit to be resolved with or without corrective actions.
- The breach is major and serious but may be resolved by Head of Work Unit, with or without corrective actions.
- The breach is major or serious and should be referred to the REO for appropriate action, but does not require an Investigation Panel.
- The breach may constitute Research Misconduct and must be referred to an Investigation Panel for investigation.
- Although the respondent admits to the breach of the Research Code, the DO may determine that it is still necessary to refer the matter to an Investigation
- Panel to consider appropriate corrective actions, or whether any other parties may have been complicit in the breach or whether any other action needs to be taken.
- If the complaint should be referred by the REO to another external authority, institution or other external process.
- Referred to other University processes.

The DO must advise the respondent, the complainant and other relevant parties as appropriate of the outcome of the preliminary assessment. This may include advice to funding bodies including, as required by, the NHMRC Research Integrity and Misconduct Policy and ARC Research Integrity Policy (within 2 weeks) and other organisations in accordance with obligations of funding agreements, other research agreement or requirements of regulatory bodies.

Remedial Actions

- If the DO determines that there is no breach of the Research Code then reasonable efforts must be made to restore the reputation of any affected parties.

- If the DO considers the complaint to have been made in bad faith or is vexatious, efforts must be made to address that with the complainant through the appropriate University processes.
- If required, the DO may address any systemic issues that have been identified during the Preliminary Assessment.
- If the respondent is no longer employed by JCU, the University has a continuing obligation to address the complaint.

6.4 Investigation

The purpose of the investigation is to make findings of fact to assess the extent of the breach and whether it constitutes research misconduct and the recommended actions. If the DO determines that an allegation of breach of the Research Code must be investigated, the DO must:

- Prepare a statement of allegations;
- Develop the terms of reference for the investigation;
- Nominate the Investigation Panel and Chair noting that the Panel must consist of a Chair and at least two persons and whether members are internal or external independent appointees; and
- Seek legal advice on matters of process where appropriate.

Investigation Panel

Composition

- Panel members must be appropriately qualified members with the expertise, skills and relevant experience of research conduct or investigations and the Research Code.
- Panel members must be free from bias and conflicts of interest.
- The Panel should consist of a balance of gender and diversity in its membership and have the appropriate number of members to ensure a fair outcome.
- The Panel can include members external to the University.
- Once the Panel is selected, the respondent must be advised of the Panel's composition and be provided with the opportunity to raise any concerns.

Process

- The principles of procedural fairness must be applied when undertaking an investigation but does not include the right to legal representation for any party.
- During the investigation, Panel members must ensure that relevant interests are disclosed and managed. If an interest cannot be managed, e.g., a perceived or actual conflict of interest might be viewed as influencing the impartiality of the Panel, then relevant Panel members must recuse themselves from the Panel.
- All those required to attend the Panel should be given adequate notification.
- The respondent will be provided with the opportunity to respond to the allegations in writing and/or in person and to provide additional relevant evidence to the Panel. The respondent may choose to be accompanied by a support person, but this person cannot be a legal representative.
- If the respondent chooses not to respond or appear before the Panel, the investigation will continue in their absence.
- If the Panel finds during the investigation that the scope and/or the terms of reference are limiting, it will refer the matter to the DO. The DO may decide to amend the scope of the investigation and the terms of reference. Should this occur, the respondent and relevant others are to be advised, and the respondent given the opportunity to respond to any new material arising from the increased scope.

6.5 Outcome of the Investigation

Report

- Upon the completion of the Investigation, the Investigation Panel will prepare a draft investigation report for the DO, which includes findings of fact consistent with the terms of reference of the Investigation and any recommendations.
- The draft investigation report must be provided to the respondent for comment within 20 business days of the DO's receipt of the report. The respondent has 15 business days to respond from receipt of the draft investigation report.
- Following the consideration of the respondent's comments, the investigation report will be finalised and the respondent will be provided with a copy.

Recommendations

- The DO will consider the final report of the Investigation Panel and consider the findings of fact, evidence presented and the Panel recommendations.
- The DO will consider the extent of the breach, the appropriate corrective actions and if referral to disciplinary procedures is required and will provide the final report to the REO with recommendations for action.
- Where systemic issues are identified as a contributing factor, these need to be referred to the University to be addressed.

6.6 Actions on Completion of the Investigation

Upon receipt of the Investigation Panel Report and the DO recommendations, the REO will determine, whether:

- it constitutes research misconduct and the appropriate University response; or
- no research misconduct has occurred and the allegation is dismissed.

Actions

The REO must communicate the determination and actions taken by the University, including but not limited to:

- Formal written advice to the Respondent;
- Formal written advice to the Complainant;
- If required, advice to the relevant parties, which may *include* affected staff, research collaborators including those at other institutions, funding organisations, journal editors, and professional registration bodies;
- If relevant, formal written advice (within 2 weeks) to NHMRC and/or ARC in compliance with NHMRC Research Integrity and Misconduct Policy and the ARC Research Integrity Policy;
- Action to be taken to amend the public record including correcting publications if the major or serious breach or research misconduct has affected the research findings and their dissemination;
- Action to be taken where the respondent is no longer a University employee. JCU is still obliged to address the findings and may seek legal advice regarding disclosure to other institutions.

Remedial Actions

- If allegations are shown to be unfounded, the University will make every effort to reinstate the good reputation of the respondent/s.
- Persons making frivolous or vexatious complaints in regard to research conduct may be dealt with under a disciplinary process.

Further Actions – refer to Section 6.8.

6.7 Review of the Investigation

The respondent or complainant may request a review of an Investigation:

- A request for review of an Investigation will only be considered on the grounds of procedural fairness.
- The request must be made in writing to the Research Integrity Office within 10 business days of receipt of notification of the outcome of the Investigation.
- The request must clearly outline the procedural fairness grounds relied upon, including any supporting material and documentation.
- The Review Officer will assess if the request is based on grounds of procedural fairness.
- The RO will notify the applicant of the decision.
- Respondents and complainants may lodge a request for an external review of an investigation with the Australian Research Integrity Committee (ARIC) or the National Health & Medical Council or Australian Research Council if appropriate.

6.8 Further Action

Further action may be taken as outlined below:

- In the case of a staff member: if a determination is made by the REO that a disciplinary process should be considered, the University must act in accordance with the Enterprise Agreement;
- In the case of a student: if a determination is made by the REO that a disciplinary process should be considered, the matter will be dealt with under the Student Code of Conduct and the relevant procedures;
- If the case of any other party undertaking research under the auspices of James Cook University: if a determination is made by the REO that disciplinary process is required the matter will be dealt with under applicable University policy and procedure.

Related policy instruments

[JCUS Code for the Responsible Conduct of Research](#)

[JCUS Code of Conduct](#)

[JCUS Student Code of Conduct](#)

[NHMRC Guide to Managing and Investigating Potential Breaches of the Australian Research Code for the Responsible Conduct of Research](#)

[NHMRC Australian Code for the Responsible Conduct of Research](#)

[NHMRC Research Integrity and Misconduct Policy](#)

[ARC Research Integrity Policy](#)

Schedules/Appendices

[Appendix 1: Checklist Preliminary Assessment](#)

[Appendix 2: Checklist Terms of Reference Investigation Panel](#)

[Appendix 3: Checklist Investigation Procedure](#)

[Appendix 4: Checklist Reporting the Findings of an Investigation](#)

Administration

NOTE: Printed copies of this policy are uncontrolled, and currency can only be assured at the time of printing.

Approval Details

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Revision History

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20-1	25/03/2020	26/03/2020	Procedure established to align with JCU Code for Responsible Conduct of Research	Manager, Research Grants, Ethics and Integrity – JCU Connect

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