




DOCUMENT TYPE	D	
ACADEMIC	1	
RESEARCH AND RESEARCH TRAINING	3	
RESEARCH CONDUCT	3	
NUMBER	006	
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## RESEARCH MISCONDUCT PROCEDURE


<b>Parent Policy Title</b>	Research Integrity Policy																		
<b>Associated Documents</b>	<a href="#">La Trobe University Collective Agreement 2009</a> <a href="#">Australian Code for the Responsible Conduct of Research (the Code)</a> <a href="#">Research Integrity Policy</a> Code of Conduct for staff of the University.																		
<b>Preamble</b>	<p>The <a href="#">Australian Code for the Responsible Conduct of Research</a> (2007) requires the University to have a policy and procedure for responding to and dealing with allegations of Research Misconduct.</p> <p>The Code requires that an institution's policies and procedures must be consistent with the Code, but additionally recognises that an institution must also comply with its industrial instruments (for example, the Collective Agreement) where there is overlap. This Procedure sets out processes for handling any complaints or allegations of non-compliance with the Code, or the Research Integrity Policy or other allegations of Research Misconduct.</p>																		
<b>General</b>	<p>This Procedure covers research which can reasonably be regarded as the responsibility of La Trobe University.</p> <p>Importantly, the University is committed to prevent the occurrence of deviations from the Code through the promotion of good practice, in particular mentoring, training and supervision.</p> <p>The University uses this Procedure to investigate allegations of Research Misconduct or Serious Research Misconduct, including allegations of failure to follow the requirements of regulatory bodies such as the National Health and Medical Research Council, the Office of the Health Services Commissioner (Victoria), the Bureau of Animal Welfare (Victoria) and the Office of Research Integrity (U.S.A.) and licences and contracts held with these bodies.</p>																		
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<b>1. Application of Procedures</b>	This Procedure applies to everyone conducting research at La Trobe University or research whose conduct or publication is associated with La Trobe University.	
<b>2. Responsibilities of the University</b>	The University as an institution is responsible for creating and maintaining an environment where good research practice is valued and aspired to and where departures from best practice are managed appropriately. Allegations of Research Misconduct must be investigated whenever they are brought to the attention of the Designated Person and/or the Vice-Chancellor.	
<b>3. Designated Person</b>	A staff member (or staff members) with appropriate experience in research and research management, generally the Deputy Vice-Chancellor (Research), appointed by the Vice-Chancellor or delegate to conduct a preliminary investigation in relation to an allegation of Research Misconduct.	
<b>4. Duties of Senior Academics</b>	The contribution of Senior Academics within disciplines and Heads of Academic units to promote good practice and adherence to the requirements of the Code is vital to prevent departure from best practice.	

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<p><b>5. Responsibilities of Individual Staff</b></p>	<p>Each person to whom this Procedure applies:</p> <ul style="list-style-type: none"> <li>a) must refrain from engaging in Research Misconduct.</li> <li>b) has an obligation to bring instances of a suspected Research Misconduct to the attention of the Designated Person.</li> <li>c) has an obligation to cooperate with the Designated Person or their delegate in the review of any allegation of Research Misconduct and the conduct of any preliminary investigation.</li> </ul> <p>For the purposes of this Procedure, the obligation to cooperate includes the obligation to provide evidence that may be relevant to an allegation of Research Misconduct to the Designated Person or their delegate.</p>
<p><b>6. Considering and Making a Formal Allegation</b></p>	<p>A person who believes that an incidence of Research Misconduct may have occurred or is occurring (Complainant) may approach an Adviser in Research Integrity for advice about their options.</p> <p>Where possible, such beliefs about possible Research Misconduct should be raised with the Head of School, Dean or Research Integrity Advisor and opportunity offered for mediation at the local level.</p>
<p><b>7. Advisor in Research Integrity</b></p>	<p>A person (or persons) appointed by the Vice-Chancellor or delegate as an independent advisor.</p> <p>An Advisor in Research Integrity:</p> <ul style="list-style-type: none"> <li>a) must not have a conflict of interest;</li> <li>b) should not be involved in investigating or assessing the merits of any allegation of Research Misconduct;</li> <li>c) should not be involved in any subsequent inquiry into the allegations; and</li> <li>d) must explain in detail the provisions of the Code, the Enterprise Agreement and this Procedure relevant to the belief about possible Research Misconduct, particularly the steps that would be followed if a written allegation of Research Misconduct is made.</li> </ul>
<p><b>8. Whistleblower Protection Act</b></p>	<p>The <i>Whistleblower Protection Act 2001(Vic)</i> (<b>WP Act</b>) is available as an alternative complaint procedure. However, Complainants should be aware that not all instances of Research Breach or Serious Research Misconduct will fall within the scope of the WP Act. Persons who would like to make a complaint under the WP Act but are unsure about how to do this can contact the La Trobe University Protected Disclosure Officer who is also the La Trobe University Ombudsman.</p>

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<p><b>9. Options for Persons Making the Complaint</b></p>	<p>The Adviser in Research Integrity should explain to the Complainant that his or her options include:</p> <ul style="list-style-type: none"> <li>a) the Complainant referring the matter directly to a person in a supervisory relationship with the person against whom the allegation of a Research Misconduct is made for resolution at the departmental level;</li> <li>b) participating in mediation organised by the Research Integrity Advisor;</li> <li>c) not proceeding with, or withdrawing an allegation of a Research Misconduct in the light of the circumstances and advice and/or mediation; or</li> <li>d) making a formal allegation of a Research Misconduct to the Designated Person.</li> </ul>
<p><b>10. Informal and Local Complaint Resolution Processes</b></p>	<p>In the event that a Complainant elects to attempt resolution via informal methods at the local level University procedures related to conflict resolution should be followed.</p> <p>Persons, including Heads of Department or School, Deans, Chairs of Ethics Committees and Research Integrity Advisors who provide advice on allegations of research misconduct, should inform the Designated Person on a regular basis about the allegations and their resolution.</p>
<p><b>11. Contents of Formal Complaints</b></p>	<p>If a Complainant wishes to proceed to make a formal allegation of Research Misconduct, the allegation must be in writing. The formal allegation must:</p> <ul style="list-style-type: none"> <li>a) clearly identify each allegation, indicating the place or places and date or dates on which the conduct in question is alleged to have occurred;</li> <li>b) state the identity of the person alleged to have engaged in the relevant misconduct or the policy, procedure or practice, which is the subject of the allegation; and</li> <li>c) identify and attach (in as much detail as possible) any supporting evidence.</li> </ul>
<p><b>12. Fairness to Parties</b></p>	<p>The Complainant and the person who is the subject of the allegation must be treated fairly and in accordance with the Collective Agreement.</p>
<p><b>13. Actions by Designated Person after Receipt of Formal Complaint</b></p>	<p>On receipt of a formal allegation of a Research Misconduct or if the Designated Person is made aware of an allegation in writing of Research Misconduct which contains the elements specified in Section 11, the Designated Person will:</p> <ul style="list-style-type: none"> <li>a) authorise a preliminary investigation to establish whether the allegation constitutes Research Misconduct and determine, if appropriate, the seriousness of the allegation; and</li> <li>b) determine if the research regarding the allegation is the reasonable responsibility of the University. If the Designated Person comes to the view that the allegation refers to research of another institution the Designated Person will refer the allegation to the other institution.</li> </ul>

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<b>14. Authorising a Preliminary Investigation</b>	<p>In authorising the preliminary investigation, the Designated Person should:</p> <ol style="list-style-type: none"> <li>seek advice from one or more persons with considerable standing and significant knowledge in the relevant, related field of research but not directly in the research area of the allegation and be seen as independent from the accused;</li> <li>maintain full records of all matters relating to allegations of Research Misconduct and have authority to secure all relevant documents and evidence so that they are available if it is decided that the allegation is to be investigated; and</li> <li>consider whether any immediate action should be taken, such as the referral of allegations not related to Research Misconduct to other institutional disciplinary processes.</li> </ol>
<b>15. Allegations made against Undergraduate Students</b>	<p>If the allegation concerns an Undergraduate Student the Designated Person should refer it to the Head of Academic Unit of the Student for investigation according to the <a href="#">Academic Misconduct Statute</a>.</p>
<b>16. Advice of Preliminary Investigation - Staff</b>	<p>The designated person must advise the Vice-Chancellor whether a <i>prima facie</i> case of Research Misconduct exists and to recommend whether to:</p> <ol style="list-style-type: none"> <li>dismiss the allegation;</li> <li>deal with the allegation under provisions unrelated to Research Misconduct;</li> <li>instruct the department or institute on how to deal with the allegation; or</li> <li>deal with the allegation in accordance with clauses 72 or 74 of the Collective Agreement.</li> </ol>
<b>17. Role of Designated Person after Preliminary Investigation</b>	<p>After providing his or her report and recommendations to the Vice-Chancellor, the Designated Person should not play any further role in the matter, except that he or she may be called on to give evidence or an expert opinion.</p>
<b>18. Allegations made against Postgraduate Students</b>	<p>If the allegation concerns a Postgraduate Student the Designated Person should submit the results of the preliminary investigation instead to the Higher Degrees Committee (Research) to consider actions according to the <a href="#">Academic Misconduct Statute</a>.</p>
<b>19. Allegations made against a Person who has left the University</b>	<p>In circumstances in which the person(s) against whom allegations of Research Misconduct were made has left the University, a preliminary investigation to establish the facts may be pursued by the Designated Person. Distortions of the research record may need to be corrected, irrespective of whether the person involved remains at the University.</p>

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<p><b>20. Possible Decisions for the Vice-Chancellor following Preliminary Investigation</b></p>	<p>Upon receipt of the recommendations/advice of the Designated Person, the Vice-Chancellor may:</p> <ul style="list-style-type: none"> <li>a) dismiss any allegation of Research Misconduct that has been the subject of the preliminary investigation if he or she is of the opinion that the allegation is: <ul style="list-style-type: none"> <li>i. trivial;</li> <li>ii. frivolous, vexatious or not made in good faith;</li> <li>iii. ill founded; or</li> <li>iv. such as not to require the taking of any action adverse to the person against whom the allegation has been made;</li> </ul> </li> <li>b) otherwise dismiss the allegation(s) and take no further action;</li> <li>c) deal with the allegation under sub-clauses 72.31 to 72.51 of the Collective Agreement where an allegation is unrelated to Research Misconduct;</li> <li>d) determine that the misconduct involved a breach of the Code and take appropriate action such as directing the relevant Department to: <ul style="list-style-type: none"> <li>i. informally counsel and advise the staff member as to how the breach must be remedied; and</li> <li>ii. what steps should be taken to prevent recurrence;</li> </ul> </li> <li>e) determine that the misconduct involves Research Misconduct and if the misconduct is: <ul style="list-style-type: none"> <li>i. not disputed refer the matter back to the departmental level with instructions as to how it should be handled under clause 72 of the Collective Agreement, including but not limited to supervisory action, warnings, education or appraisal procedures;</li> <li>ii. deal with any allegation in accordance with clause 72 of the Collective Agreement;</li> </ul> </li> <li>f) determine that the misconduct involves Serious Research Misconduct and if the misconduct is: <ul style="list-style-type: none"> <li>i. not disputed by the person or persons alleged to have engaged therein, take appropriate action in accordance with clause 72 of the Collective Agreement; or</li> <li>ii. disputed, deal with any allegation in accordance with clause 74 of the Collective Agreement.</li> </ul> </li> </ul>
<p><b>21. Satisfying the Code if Clause 74 of Collective Agreement is Used</b></p>	<p>Any allegation dealt with in accordance with clause 74 of the Collective Agreement will be deemed to meet the inquiry requirements of the Code. In the event that a clause 74 committee finds a case of serious misconduct, the University will consult to put in place an independent external enquiry to ensure that it complies with its obligations under the code.</p>
<p><b>22. Allegations made against Honorary and Adjunct Staff</b></p>	<p>In the event that the subject of a preliminary investigation by the Designated Person is an Honorary or Adjunct appointee of the University, and the Designated Person makes a finding that the alleged conduct occurred,</p> <ul style="list-style-type: none"> <li>a) and such person <i>concedes</i> the Research Misconduct alleged, the Vice Chancellor will take appropriate action which may include (but is not limited to): <ul style="list-style-type: none"> <li>i. counselling the person;</li> </ul> </li> </ul>

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	<ul style="list-style-type: none"> <li>ii. advising them as to how the Research Misconduct must be remedied; and</li> <li>iii. advising of the steps to be taken to prevent recurrence;</li> </ul> <p>b) and such person <i>disputes</i> the Research Misconduct alleged, the Vice-Chancellor shall establish a formal inquiry consistent with the principles outlined in the Code (note that such an inquiry does not need to be convened in accordance with or comply with the obligations set out in the Collective Agreement). The finding(s) and recommendation(s) (if any) of the formal inquiry convened/established by the Vice-Chancellor must be submitted to the Vice-Chancellor who shall deal with it/them in such manner as is appropriate in the circumstances.</p>
<b>23. Providing Advice of the Vice-Chancellor's Decision</b>	<p>A copy of the decision of the Vice-Chancellor must be provided in confidence to the person against whom the allegations has/have been made and the Complainant.</p> <p>The Vice-Chancellor will inform all relevant parties of the Research Misconduct inquiry findings and the actions taken by the institution. Relevant parties may include affected staff, research collaborators including those at other institutions, all funding organisations, journal editors, and professional registration bodies. The public record, including publications, will need to be corrected if Research Misconduct has affected the research findings and their dissemination.</p> <p>The person against whom any allegations has/have been made and the Complainant shall be advised promptly of the decision of the Vice-Chancellor.</p>
<b>24. Requesting a Review of the Vice-Chancellor's Decision</b>	<p>A person against whom action has been taken by the Vice-Chancellor pursuant to this Procedure or the Complainant may have a right to make a request for review by the Australian Research Integrity Committee.</p>
<b>Status</b>	New. Approved by Academic Board, 12 October 2011, Minute 452.4.2; endorsed RGSC 30 September 2011
<b>Approval Body</b>	Academic Board
<b>Initiating Body</b>	Research and Graduate Studies Committee
<b>Definitions</b>	<p><b>Adviser in Research Integrity:</b> a person (or persons) appointed by the Vice-Chancellor or delegate as an independent advisor who can advise staff, or other persons engaged in research under the auspices of the University or any Controlled Entity who is unsure about a research conduct issue and may be considering whether to make an allegation.</p> <p>An Adviser in Research Integrity should have research experience, maturity, analytical skills, empathy, knowledge of the University's policies and</p>

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	<p>management structure and a familiarity with the Code and the commonly accepted standards within the academic and scientific community for proposing, conducting, reporting, publicising or publishing research.</p> <p><b>Complainant:</b> a person who is concerned that misconduct in or in connection with research may have occurred or is occurring and who makes an allegation under this Procedure.</p> <p><b>Designated Person:</b> a staff member (or staff members) with appropriate experience in research and research management, generally the Deputy Vice-Chancellor (Research), appointed by the Vice-Chancellor or delegate to conduct a preliminary investigation in relation to an allegation of Research Misconduct. If the allegation is directed against the Deputy Vice-Chancellor (Research) a senior person is nominated by the Vice-Chancellor as Designated Person.</p> <p><b>Enterprise Agreement:</b> the La Trobe University Collective Agreement 2009 or its successor.</p> <p><b>Breach of the Code:</b> less serious deviations from the Code that are appropriately remedied within the institution, through steps such as counselling, advice, supervisory action, warnings, education and appraisal procedures.</p> <p><b>Research Misconduct:</b> intent and deliberation, recklessness or gross and persistent negligence. It includes fabrication, falsification, plagiarism or deception in proposing, carrying out or reporting the results of research, and failure to declare or manage a serious conflict of interest. It includes avoidable failure to follow research proposals as approved by a research ethics committee, particularly where this failure may result in unreasonable risk or harm to humans, animals or the environment. It also includes the wilful concealment of facilitation of research misconduct by others. Repeated or continuing breaches of the Code may also constitute Research Misconduct. Research Misconduct does not include honest differences in judgment in management of the research project, and may not include honest errors that are minor or unintentional.</p> <p><b>Serious Research Misconduct:</b> Research Misconduct with serious consequences, such as false information on the public record, serious adverse effects on research participants, animals or the environment or serious harm to the University.</p> <p><b>The Code:</b> the Australian Code for the Responsible Conduct of Research (2007) jointly developed by the National Health and Medical Research Council (NHMRC), the Australian Research Council (ARC) and Universities Australia. Compliance with the Code is a prerequisite for receipt of NHMRC and ARC funding.</p>
<b>Date Effective</b>	12 October 2011
<b>Next Review Date</b>	October 2015
<b>Keywords</b>	Research misconduct, research integrity, Australian Code for the Responsible Conduct of Research

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<b>Owner/Sponsor</b>	Deputy Vice-Chancellor (Research)
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