This document comprises the following three parts:

**Part 1.** This provides key definitions for terms used in this document;

**Part 2.** This sets out a Code of Responsible Research Conduct which all Researchers within the University are required to observe;

**Part 3.** This sets out principles for dealing with Misconduct in Research. Procedures for dealing with allegations of Misconduct in Research are set out in Schedule 1 and Schedule 2 of this Part.

The *Massey University Code of Responsible Research Conduct and Procedures for Dealing with Research Misconduct* must be read in conjunction with the *Massey University Policy on Responsible Research Conduct*.

**Part 1: Key Definitions**

**Affected Persons** means those persons who may be affected by an Allegation as per Paragraph 5 of Schedule 1 of this document.

**Allegation of Misconduct in Research (or Allegation)** means an allegation that a Researcher has breached the Code of Responsible Research Conduct.

**Code of Responsible Research Conduct** means the code of conduct set out in Part 2 of this document.

**Complainant** means a person who has made an Allegation of Misconduct in Research against a Researcher.

**Conflict of Interest** is defined as a situation in which the activities of a staff member outside their employment obligations lead to material benefit to the staff member concerned, either directly or indirectly (eg. through a family member, associated entity, or external agency), to the detriment of the University.

**Data** mean any information generated by Research.

**Head of Department** means the Managers responsible for a School, Department, Institute, Section, or Research Centre within Massey University.

**Investigation** means an investigation of Allegations by the RCIC pursuant to Paragraph 6 of Schedule 1 of this document.

**Investigation Report** means a report of the findings of an Investigation by the RCIC.
Misconduct in Research means a breach of the Code of Responsible Research Conduct by a Researcher.

Preliminary Enquiry means an initial enquiry into an Allegation in accordance with Paragraph 3 of Schedule 1 of this document.

RCAC means the Research Conduct Appeal Committee established in accordance with Paragraph 9.4 of Schedule 1 of this document.

RCIC means the Research Conduct Investigations Committee established in accordance with Paragraph 6.1 of Schedule 1 of this document.

Report of Preliminary Enquiry means the report specified in Paragraphs 3.6 to 3.8 of Schedule 1 of this document.

Research means a programme of study or investigation conducted under the auspices of the University (e.g. by those using University resources and processes and/or by Massey Staff or Students) by which it is intended to generate new information, cultural artefacts or theories to expand the current level of knowledge on the subject.

Research Centre means a properly constituted centre of research activity established under the policy and procedures for Establishment of Research Centres at Massey University.

Research Project means a specific piece of Research, usually approved by relevant committees, supervisors or Departmental Heads.

Research report means a written document incorporating and drawing on Data. This includes Student research reports of .25 - .74 EFTS and research theses from .75 upwards. For Staff, this refers to any written documentation that is consistent with the definition of Research.

Researcher means a Staff Member or Student and anyone involved in conducting Research either on or off-Campus.

Respondent means a person against whom an Allegation has been made.

Staff or Staff Member means a person employed by the University under either individual employment contracts or a collective employment contract and includes Staff who are also formally enrolled as Students at the University.1

Student means a person who has formally enrolled at the University in any paper listed in the University Calendar, has received a student identity card/number and is undertaking a .25 research report (or thesis) or more, or assisting with a Research Project. This would normally be a postgraduate research student.

Supervisor means a Staff Member who is responsible for the supervision of a Researcher undertaking a Research Project.

1 Where disciplinary procedures are invoked, the role of the respondent at the time (i.e. as staff member or student) of the misconduct will determine the procedures to be applied.
PART 2: Code of Responsible Research Conduct

1. General Obligations

1.1. Researchers shall only undertake Research in fields in which they have the necessary competence or in which they are provided with appropriate and responsible supervision to ensure that the Research is completed to proper standards. If a Researcher has any doubt as to his or her ability or suitability to carry out certain Research, they should seek advice from their Supervisor, Head of Department or relevant Massey University ethics committee before commencing the Research.

1.2. All Researchers are required to adhere to the highest standards of professional and ethical conduct in relation to Research in general and to any specific protocols applying to the particular Research Project in which they are engaged. Prior to embarking on a Research Project, Researchers must acquaint themselves with relevant legal and ethical protocols relating to the Research to be undertaken.

1.3. It is the duty of Supervisors to ensure that Researchers under their jurisdiction are aware of the Policy on Responsible Research Conduct and associated Code and Procedures. It is the responsibility of Researchers to be familiar with the content of these documents.

1.4. All Researchers must comply with all relevant legislation relating to privacy and confidentiality in relation to information collected or received for the purposes of a Research Project. Researchers must comply with the provisions of all University policies and procedures.

1.5. Confidential data obtained or generated by Research must be treated by Researchers as confidential and not disclosed to any other person except as necessary for carrying out the Research Project or as required by law. Researchers should use confidential information for the academic purpose for which it was intended and not for commercial gain.

1.6. When participating in joint Research Projects, Researchers must make every effort to work co-operatively and collegially with other Researchers involved in the project and may not knowingly denigrate, disparage or misrepresent the contributions of others. This does not preclude rational debate relating to Research directions, methods, outcomes or theoretical interpretations as these are pivotal for the production of quality Research.

1.7. All Researchers, and particularly those in positions of leadership or seniority, must ensure that credit for work done is appropriately attributed to the Researcher(s) responsible for generating it. No person may knowingly claim credit for work done by others.

1.8. Genuine mistakes or rational differences of opinion in the interpretation of data, methodology or theory and matters of personal grievance between individuals are not considered breaches of the Code of Responsible Research Conduct.

1.9. Researchers must not engage in the following:

1.9.1. the fabrication of Data, including claiming results where they have not been obtained through a rigorous Research process;

1.9.2. the falsification of Data, including fraudulent or improper changing of records;
1.9.3. plagiarism, including the direct copying of textual material, the use of other people’s Data without acknowledgement or the use of ideas from other people without proper attribution;

1.9.4. misleading ascription of authorship, including listing authors without their permission, attributing work to others who have not contributed to the Research and failing to properly acknowledge work primarily produced by a Research Student, trainee or associate;

1.9.5. intentional infringements of the University’s policies and procedures, ethical practices and codes of ethics and/or other relevant professional practices and codes of ethics;

1.9.6. other practices which deviate in some inappropriate manner from those commonly acceptable within the Research community for proposing, conducting or reporting Research.

2. Retention of Data

2.1. Data generated by Researchers should be recorded in an appropriately referenced and durable form having regard to:

2.1.1. any Research or ethical protocols under which the Data have been obtained;

2.1.2. the time such Data may be held;

2.1.3. the extent to which the Data will be accessible.

2.2. Data held in libraries and archives must be accurately and fully referenced.

2.3. Individual Researchers should be entitled to hold copies of the data. While such action does not of itself prevent the falsification of primary data, it is vital if there are questions asked subsequent to publication. If data are not available genuine errors may be mistaken for misconduct to the detriment of individual Researchers and the University.

3. Publication and Authorship

3.1. Before releasing a Research Report for publication, Researchers must refer this to a Staff Member (or peer in another institution) outside the group immediately responsible for the Research for review to ensure that it adequately communicates the findings and major conclusions of the Research. This is not a requirement where Research information is subjected to an external (independent) formal peer review process prior to entering the public domain.

3.2. Where a Research Report is to be published, the attribution of authorship of the work must be carefully established according to the prevailing protocols for the discipline within which that Research has been undertaken. It is the responsibility of the principal Researcher, Research team leader, Research Supervisor or, in the case of uncertainty, the Head of Department or Research Centre, to ensure that authorship is appropriately attributed.

3.3. The contributions of all persons to a Research Report that leads to a publication must be appropriately acknowledged in the publication according to established practice within the discipline.

3.4. No person may be stated to be an author of a Research Report that is published unless they have contributed in a substantial way to the conception, execution or interpretation of at least part of the Research or in the composition of the Research Report derived from it.

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3.5. No person shall attribute or knowingly have attributed to them "honorary authorship" of any Research Report.

3.6. Where a Researcher submits papers which are substantially the same for publication to more than one journal or publisher, the Researcher must inform each of the potential publishers of this.

4. Research Management and Supervision

4.1. An appropriately qualified Researcher may be assigned the task of supervising the work of other Staff Members or Students within the context of a Research Project. Responsibility for selecting the appropriate Supervisor shall lie with the Head of Department or Research Centre, in consultation with the Supervisor and Student.

4.2. Supervisors of Students conducting research must comply with the requirements and responsibilities of Supervisors as specified by either the Doctoral Research Committee or the College and Academic Unit (whichever is appropriate for the qualification sought by the Student).

4.3. Supervision workloads are to be kept at levels that ensure effective personal interaction between each Researcher, their Supervisor. For this reason, Supervisors and their respective Heads of Department will need to limit the numbers any one person may supervise where difficulties are likely to arise. As workloads will differ according to the nature of the research and the field of study, any such limitations should be reasonable under the prevailing circumstances.

4.4. Supervisors should be the primary source of guidance to supervised Researchers in all matters of Research and must ensure that Researchers under their supervision have the necessary skills to complete the Research Project for which they are being supervised.

4.5. Heads of Department, in consultation with Supervisors, must endeavour to secure adequate resources for Research Projects within their Department or Research Centre and encourage and support Staff and Research Students to secure funding from external sources.

4.6. It is the responsibility of the Head of Department to ensure that all obligations to third parties and supervised Researchers are met.

4.7. Where Research is undertaken on a joint basis or as part of a team or co-operative project, particularly where non-academic Staff or Students are involved, responsibility for ensuring that the Research conforms to the required standards shall lie with the Research team leader or, in the absence of such a person, with the Head of Department or Research Centre in which that Research is conducted.

4.8. Supervisors must ensure that work submitted by any supervised Researchers for examination, publication or incorporation in a joint project is that of the supervised Researchers and that all Data provided as part of the work submitted have been reported accurately to the fullest extent possible.

4.9. All Heads of Department should have a detailed awareness of all Research Projects underway in their Departments.

4.10. Heads of Department should monitor Research Projects to ensure that the rights of Researchers under the principles of academic freedom are maintained.
4.11. Wide discussion of the work of all Researchers among their peers is encouraged, although reasonable limits may need to be imposed where commercially sensitive Research, Data or Research Reports are involved.

5. **Student Participation in Research**

5.1. Students and Supervisors are bound by the University's Student Contract (See current University Calendar) and, pursuant to this, students must undertake to follow Research practice agreed upon with their Supervisor(s) and may be denied acceptance as a Researcher if they fail to so agree.

5.2. Where Supervisors are in breach of the Student Contract, Students working on approved Research topics have recourse to the Student Grievance Policy and Procedures. These can be found at [policyguide.massey.ac.nz](http://policyguide.massey.ac.nz).

6. **Disclosure of Potential Conflict of Interest**

6.1. Researchers must inform their Supervisor(s), Head of Department, Pro Vice-Chancellor or a member of the Doctoral Research Committee (as appropriate) if they become aware of any Conflict of Interest resulting from their Research. Guidelines and procedures for this are set out in the University's Policy on Conflicts of Commitment and Interest.

7. **Breach of the Code of Responsible Research Conduct**

7.1. Any alleged breach of the Code of Responsible Research Conduct shall be investigated and disposed of by the University as quickly as possible in accordance with Paragraph 3 of the Code of Responsible Research Conduct and Schedule 1.

**PART 3: Principles for dealing with allegations of Misconduct in Research**

1. If an Allegation of Misconduct in Research is made, the University shall assess the rights of all Affected Persons through the relevant Supervisor(s), Head of Department or other appropriate person as soon as possible after the complaint has been received and take any interim steps necessary to protect the rights of such Affected Persons.

2. The Protected Disclosures Act 2000 provides protection for those reporting serious wrongdoing. The Massey University Policy and Procedure for Disclosing Serious Wrongdoing should also be consulted in these circumstances.

3. The University shall investigate and dispose of any Allegation of any Misconduct in Research as quickly as possible in accordance with the procedure set out at Schedule 1 of this document and according to the following principles:
3.1 the investigation and disposal of the Allegation of Misconduct in Research shall be conducted fairly;

3.2 notice of any Allegation of Misconduct in Research shall be given to the Respondent as soon as possible after the Allegation has been made;

3.3 notice of any Allegation of Misconduct in Research shall be given to all Affected Persons as soon as reasonably practicable after the Allegation subject to privacy and other legal constraints and obligations;

3.4 the University shall provide Respondents with comprehensive details of any Allegations made against them and shall be given a reasonable opportunity to investigate the Allegations and respond to them;

3.5 Respondents shall be entitled to challenge any information given in support of any Allegations of Misconduct in Research and the Complainant shall be entitled to reply to the Respondent’s response;

3.6 the investigators or hearing personnel shall be neither biased nor have a conflict of interest in relation to the Allegation of Misconduct in Research and shall act judicially;

3.7 comprehensive information upon which a decision is based shall be disclosed to the Respondent; and

3.8 the Respondent shall have the right to representation by an advocate, to make submissions and to produce evidence in support and shall be notified of this right at the start of the investigation.

4 A formal Allegation of Misconduct in Research is a serious matter and must not be made without proper cause or where disputes can be resolved by less formal means. Allegations of Misconduct in Research that are shown to be frivolous, vexatious or malicious may be treated as a breach of the Code of Research Conduct and may be subject to the procedures set out in Paragraph 4 of Schedule 1 of this document.
SCHEDULE 1: PROCEDURES FOR DEALING WITH MISCONDUCT IN RESEARCH

1. Informal Resolution Procedures

1.1 Wherever possible, informal procedures involving such persons as Heads of Department or Research Centres, Pro Vice-Chancellors or University Mediators should be used to resolve issues of a relatively minor nature or those involving personal grievances.

2. Receipt of the Allegation

2.1 Allegations may originate from individuals or groups either inside or outside the University.

2.2 All Allegations must be made in writing to the Assistant Vice-Chancellor (Research). Other Staff members receiving such Allegations must pass them to the Assistant Vice-Chancellor (Research). Such Allegations must specify:

(a) the name(s) and contact details of the Complainant(s);
(b) the name(s) of the Respondent(s);
(c) the nature and full details of the Allegation; and
(d) documented evidence in support of the Allegation.

3. Preliminary Enquiry

3.1 On receipt of an Allegation, the Assistant Vice-Chancellor (Research) shall:

3.2 In the case of students, follow procedures commencing under Section 9 of the Student Code of Conduct. (Note that Paragraphs 5.1, 5.2, and 10.2(c) of the Procedures for Dealing with Misconduct in Research and these paragraphs only continue to apply to allegations or complaints of Research misconduct relating to Students).

3.3 In the case of staff:

(a) immediately notify the Respondent in writing that an Allegation has been made, the nature and detail of the Allegation, the name of the Complainant and the procedures to be followed;
(b) seek preliminary comment from the Respondent;
(c) conduct a Preliminary Enquiry, based on interviews or other communication with the Complainant, the Respondent and other interested or affected parties (e.g., Heads of Department);
(d) examine the evidence provided in support or rebuttal of the Allegation;
(e) seek the assistance of such technical experts as is required to complete the Preliminary Enquiry and shall also take precautions against real or perceived conflicts of interest on the part of those involved in the Preliminary Enquiry.
3.4 Both the Complainant and the Respondent shall have the right to seek independent advice and to be represented by any person they choose during the Preliminary Enquiry.

3.5 The Preliminary Enquiry shall be completed within 60 calendar days of its initiation unless, in the opinion of the Assistant Vice-Chancellor (Research), circumstances clearly warrant a longer period of investigation. This period includes conducting the inquiry and preparing a draft Inquiry Report.

3.6 At the conclusion of the Preliminary Enquiry, the Assistant Vice-Chancellor (Research) shall prepare a written report that:

(a) states all relevant evidence that was reviewed;

(b) summarises relevant interviews with Affected Persons; and

(c) sets out the conclusions of the Preliminary Enquiry.

3.7 The Respondent shall be given a copy of the draft Report of Preliminary Enquiry and shall be given 21 days to comment on the draft Report of Preliminary Enquiry. If the Respondent chooses to comment on the report, those comments shall be incorporated into the Report and the Complainant shall be given 14 days to respond, in writing, to those comments. If the Complainant chooses to comment on the report those comments shall be incorporated into the Report. Once all comments have been incorporated, the Assistant Vice-Chancellor (Research) shall finalise the Report of Preliminary Enquiry.

3.8 If the Preliminary Enquiry has taken longer than 60 days to complete, the Report of Preliminary Enquiry shall include reasons for exceeding the 60-day period.

3.9 Subject to Paragraphs 3.10 and 3.11 of this Schedule, on completion of the Preliminary Enquiry, the Assistant Vice-Chancellor (Research) shall advise the Vice-Chancellor whether a prima facie case exists in relation to the Allegation so as to warrant an Investigation.

3.10 A Preliminary Enquiry should not proceed to an Investigation if:

(a) the Allegation is found in the Preliminary Enquiry to lack substance;

(b) the Allegation can be resolved by mediation or other means; or

(c) the Respondent admits the Allegation:

in which case, the Assistant Vice-Chancellor (Research) shall, advise the Vice-Chancellor, the Complainant and the Respondent, in writing, of the outcome of the Preliminary Enquiry.

3.11 In the event that the Respondent admits the Allegation, the Assistant Vice-Chancellor (Research) shall pass to the Vice-Chancellor all material pertaining to the Preliminary Enquiry. The Vice-Chancellor shall then determine what disciplinary action, if any, will be applied in accordance with Paragraph 10 of this Schedule.

3.12 If an Allegation is found by the Preliminary Enquiry to have substance and cannot be resolved by mediation or other means, and the Respondent does not accept the Allegation, the Assistant Vice-Chancellor (Research) shall recommend to the Vice-Chancellor that the matter pass to an Investigation.
3.13 The University shall retain all documentation relating to the Preliminary Enquiry for at least six years.

4. Frivolous, vexatious or malicious allegations

4.1 If the Assistant Vice-Chancellor (Research) finds that an Allegation has been made in a frivolous, vexatious or malicious manner, or is an abuse of process, he or she shall report this finding to the Vice-Chancellor who will notify the Complainant of this conclusion.

4.2 The Complainant shall be given reasonable opportunity to dispute or refute a finding that an Allegation has been made in a frivolous, vexatious or malicious manner, and has recourse by appeal to the RCAC.

4.3 If the RCAC determines in favour of the Complainant against the finding that the Allegation was frivolous, vexatious or malicious or an abuse of process, this conclusion shall be conveyed to the Vice-Chancellor. The RCAC may, if appropriate, direct the Vice-Chancellor to reinstate the Investigation of the Respondent by establishing a RCIC under Paragraph 6.1 of this Schedule.

4.4 If the RCAC finds that an Allegation has been made in a frivolous, vexatious or malicious manner or was an abuse of process, this finding will be reported to the Vice-Chancellor who, if the Complainant is a member of the University, will determine the appropriate disciplinary action in accordance with Paragraph 10 of this Schedule. If the complaint originates from outside the University, the Vice-Chancellor will consider what action, if any, should be taken in respect of the Allegation.

5. Protection of affected persons during the preliminary enquiry and investigation

5.1 When an Allegation is made, the Assistant Vice-Chancellor (Research) should endeavour to assess the risk to, and protect the interests of, all Affected Persons.

5.2 Affected Persons may include:

(a) the Complainant;
(b) the Respondent;
(c) Researchers collaborating with the Respondent;
(d) publishers by whom allegedly fraudulent manuscripts have been or are about to be published;
(e) funding bodies who have contributed to the Research in question;
(f) the University; and
(g) members of the public.

5.3 The Preliminary Enquiry and the Investigation should be concluded as quickly as possible.

5.4 Confidentiality must be protected to the maximum extent possible during the Preliminary Enquiry and Investigation. Only such information relating to the Allegation as is strictly necessary to conduct the Preliminary Enquiry and the Investigation may be disclosed by the University or any Staff Member or Student. During the Preliminary Enquiry, confidential information may only be disclosed with the
When determining whether confidential information should be released to any person, the Assistant Vice-Chancellor (Research) or the RCIC, as the case may be, should take into account the following points:

(a) the Preliminary Enquiry and Investigation shall be conducted expeditiously and, as far as possible, confidentiality shall be maintained;

(b) if the Respondent is in receipt of a grant from an external funding body and the matter passes to the stage of Investigation, the Assistant Vice-Chancellor (Research) shall advise the appropriate officer of that funding body, in confidence, that a case is being formally investigated on the understanding that the funding body will not terminate the grant until the outcome of the Investigation is known. If the Respondent is subsequently exonerated, then the Assistant Vice-Chancellor (Research) shall advise the funding body accordingly;

(c) there may, in some circumstances, be reason to inform the publishers of a manuscript that the authenticity of a manuscript or manuscripts is in doubt;

If Allegations are made which appear to cast doubt on the validity of one or more manuscripts produced by the Respondent, it may be necessary to investigate the person’s past Research as well as that covered by the Allegations.

If an Allegation is substantiated, the position of Researchers supervised by or working with the Respondent must be clarified. In some cases it may be necessary to provide assistance or compensation to those affected by the misconduct of others.

If the Respondent is a member of the University and is the subject of an Allegation, the Vice-Chancellor may, at the time that the substance of the Allegation is conveyed to the Respondent, and on the recommendation of the Assistant Vice-Chancellor (Research), suspend the Respondent from duty (with pay, if applicable) or from enrolment and exclude him or her from the University. This shall occur only in situations in which the Vice-Chancellor is satisfied that continued presence of the Respondent at the University may lead to criminal, unsafe or malicious behaviour prejudicial to the well-being of other University personnel or to resolution of the problem.

A Researcher who is suspended and excluded from the University shall be permitted reasonable access to the University in order to prepare his or her response to the Allegation and to collect books, papers and other personal property.

If an Allegation is dismissed, any Respondent who has been suspended or excluded from the University under Paragraph 5.8 of this Schedule shall be reinstated with an unblemished record.

The University should provide all necessary protection to the Complainant(s) during the course of the Preliminary Enquiry and Investigation to ensure that they are not the subject of victimisation or undue pressure in relation to the Allegation.

6. Investigation

The Investigation shall be conducted by a RCIC, created for each Investigation, which shall comprise the following members appointed by the Vice-Chancellor. These members shall normally be:
(a) a Chairperson appointed by the Vice-Chancellor;
(b) a member of the Doctoral Research Committee;
(c) a member of the Research Committee; and
(d) up to two persons proposed by the Chairperson on the basis of their having skills relevant to the Investigation.

6.2 The Vice-Chancellor shall appoint a secretariat to service the RCIC.

6.3 The Vice-Chancellor shall take precautions against real or perceived conflicts of interest on the part of those involved in the Investigation and shall ensure that those involved are able to act impartially. The Vice-Chancellor shall notify the Complainant and Respondent of the composition of the RCIC and both parties shall have the right to make written comment on the composition of the RCIC within 14 days of receiving the notice.

6.4 The RCIC shall conduct an Investigation of the Allegation, considering all evidence provided by the Complainant, the Respondent and other Affected Persons. Such evidence may include (but not necessarily be limited to):

(a) documentation (e.g. Research proposals, Data, publications and correspondence);
(b) records or transcripts of meetings or telephone conversations; and
(c) interviews (or transcripts of interviews) with any Affected Persons.

6.5 The Complainant, Respondent and other Affected Persons shall be interviewed and shall have the right to be represented at the interview. Complete summaries of these interviews shall be prepared by the RCIC, and shall be provided to the interviewed party for comment and included as part of the file relating to the Investigation.

6.6 The Investigation shall ordinarily be completed within 120 calendar days of its initiation. This includes conducting the Investigation and preparing a draft Investigation Report.

6.7 A draft Investigation Report shall, on completion, be prepared by the RCIC and provided to the Respondent who shall be given 21 days in which to provide written comments. Those comments shall be included as part of the Investigation Report.

6.8 The Complainant(s) should be given the portions of the draft Investigation Report which address his/her/their role and opinions in the Investigation and be given 14 days to provide written comments. Those comments shall be included as part of the Investigation Report.

6.9 Once all comments have been received, the RCIC shall finalise the Investigation Report.

7. **Outcome of the investigation**

7.1 Having completed the final Investigation Report, the RCIC shall report its findings to the Vice-Chancellor, who shall provide copies of the Investigation Report to both the Complainant and the Respondent.
7.2 If the RCIC finds that the Allegation is not proven beyond reasonable doubt, the Respondent and Complainant shall be informed by the Vice-Chancellor in writing that no further action will be taken. This shall be recorded on the file of the Respondent, with agreement by the Respondent as to the content of this record (where possible).

7.3 If the RCIC finds that the Allegation is proven beyond reasonable doubt, the Vice-Chancellor shall inform the Respondent and Complainant in writing and give the Respondent 21 days in which to lodge an appeal pursuant to Paragraph 9 of this Schedule.

7.4 If the RCIC finds that the Allegation has been made in a frivolous, vexatious or malicious manner, or is an abuse of the process, it shall report this finding to the Vice-Chancellor who will convey this conclusion to the Complainant. The provisions of Paragraphs 4.2 to 4.4 of this Schedule shall then apply.

8. Researchers who are the applicants for or holders of grants from a research funding agency with its own policy for dealing with and reporting possible misconduct in research

8.1 If a Preliminary Enquiry or Investigation involves a Researcher who is an applicant for or holder of a grant from a research funding agency with its own policy for dealing with and reporting possible misconduct in research, then Schedule 2 of this document applies.

9. Right of Appeal

9.1 If the Respondent wishes to contest the findings of the RCIC, he or she may lodge an application for appeal within 21 days with the Vice-Chancellor, requesting a review of the Investigation process by a RCAC.

9.2 An application for appeal under Paragraph 9.1 of this Schedule shall state in detail the grounds for the appeal which must relate to alleged shortcomings in the procedures used during the Investigation.

9.3 The RCAC should hear appeals as soon as possible after an appeal has been lodged, preferably within 60 days.

9.4 The RCAC shall be made up of three persons, including:

   (a) a nominee of the Vice-Chancellor (but excluding members of the RCIC which conducted the Investigation of the Allegation in question);

   (b) a nominee of the President of the local branch of an appropriate registered union (e.g. AUS, ASTE);

   (c) and (as Chairperson) a senior member of the legal profession or a person with appropriate experience appointed by agreement between the Vice-Chancellor and the President of the local branch of AUS.

9.5 The RCAC shall have access to all persons and documents relevant to the Investigation and shall rule on whether University policies and procedures were adhered to in the conduct of the Investigation and whether the outcome of the Investigation was consistent with the evidence available to the RCIC.

9.6 If the Respondent appeals to the RCAC, the Respondent and Complainant shall have the right to be heard by the RCAC and are entitled to legal representation.
9.7 Appeal to the RCAC is the final step in the internal investigative process within the University. This does not, however, preclude Affected Persons from pursuing judicial review or other remedies outside the University.

9.8 If an appeal to the RCAC by a Respondent is successful, the Respondent and Complainant shall be informed by the Vice-Chancellor in writing that no further action will be taken. This shall be recorded on the file of the Respondent, with agreement by the Respondent as to the content of this record (where possible).

9.9 If the RCAC finds that an Allegation has been made in a frivolous, vexatious or malicious manner, or is an abuse of the process, it shall report this finding to the Vice-Chancellor who will convey this conclusion to the Complainant. The provisions of Paragraph 4.4 of this Schedule shall then apply.

9.10 If an appeal to the RCAC is not successful, the Investigation Report will stand, subject to any changes or amendments made to the report by the RCAC.

10. Disciplinary outcomes

10.1 These may apply if:

(a) the Respondent admits the Allegation(s) at the Preliminary Enquiry or Investigation,

(b) the RCIC finds and reports to the Vice-Chancellor that the Allegation is upheld and the Respondent does not appeal against this finding; or

(c) the Respondent loses an appeal to the RCAC following an Investigation:

10.2 Any of the outcomes of 10.1 being the case:

(a) the Vice-Chancellor shall determine the appropriate disciplinary action, if any, under the provisions of the current contract of employment of the Respondent;

(b) if the Respondent is not a Staff member of the University, the Vice-Chancellor shall consider and may adopt such measures as are necessary and available within the law to protect the reputation of the University;

(c) if the Respondent is in receipt of a grant from an external funding body, the Assistant Vice-Chancellor (Research) shall advise the appropriate officer of that funding body, in confidence:

(i) that an Allegation against the Respondent was formally investigated by the University and found to be proven; and

(ii) whether the Researcher is able to continue as a Researcher and under what conditions; and

(iii) the Assistant Vice-Chancellor (Research) shall notify all affected publishers that that an Allegation against the Respondent was formally investigated by the University and found to be proven.
10.3 If an Allegation is found to have been frivolous, vexatious or malicious, or an abuse of process, the Vice-Chancellor shall:

(a) if the Complainant is a member of the University, determine the appropriate disciplinary action to be taken against the Complainant under the provisions of the appropriate contract of employment or the student Disciplinary Regulations; or

(b) if the Complainant is not a member of the University and the Respondent wishes to take legal proceedings against the Complainant for defamation or other cause of action, determine whether it is appropriate in the circumstances for the University to make a contribution to the Respondent's legal costs and the extent of that contribution.
SCHEDULE 2: ADDITIONAL REQUIREMENTS PERTAINING TO RESEARCHERS WHO ARE APPLICANTS FOR, OR HOLDERS OF, A GRANT FROM A RESEARCH FUNDING AGENCY THAT HAS ITS OWN POLICY FOR DEALING WITH AND REPORTING POSSIBLE MISCONDUCT IN RESEARCH

Application

In the event that Massey University engages with a research funding agency that has its own policy for dealing with and reporting possible misconduct in research, then Massey University may choose to adopt that policy as a framework under which the research will be completed. One example of this is the US Department of Health and Human Services (HHS). The HHS has a policy relating to misconduct in research; this policy is supported by the US Public Health Service (PHS), which has mechanisms for applying for PHS research support and procedures in relation to the research. See the link below for a full copy of the PHS Policies on Research Misconduct 42 CFR Part 50 and 93; Final Rule at: http://www.ori.dhhs.gov/sites/default/files/42_cfr_parts_50_and_93_2005.pdf

If Massey University adopts the policy of the PHS, HHS, or any other institution which has a policy for dealing with and reporting possible misconduct, then Massey University’s policies are intended to be superseded by the relevant policy involved.

It will be stated in individual contracts that Massey University is electing to adopt the policies of the PHS, HHS, or any other institution, so that all parties are aware.

In the event of conflict with any applicable general parts of any Massey University policies, the PHS Final Rule or adopted policy processes and procedures are to be read into and applied to such parts so as to support the intention and objectives of the PHS Final Rule or adopted policy.

Specific requirements in the PHS’s Final Rule are summarised below:

- An obligation to start and finish investigations within set timeframes in the PHS Final Rule
- Recording, transcribing, disclosing and correcting interviews
- Reporting to the US Office of Research Integrity (ORI) Director, and notifying at various stages, and cooperating with, the ORI
- Responsibility for maintenance and custody of research records and evidence
- Application of selection criteria for those conducting the inquiry or investigation
- Appeals
- Retention of records of proceedings
- Interim protective actions including protective court orders, and suspension of the research, and notifying the ORI of the same
- Cooperation and compliance with ORI/HHS administrative actions, and
- Restoration of reputations of complainants/respondents

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No investigation where the PHS Final Rule (or any other adopted external policy applies) should begin until specific requirements have been considered and suitable procedures agreed on. An infringement of the standards where applicable in the PHS Final Rule, or any other adopted policy, will be a breach of this policy and may result in disciplinary action.

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