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requirements

Failing to responsibly conduct peer reviews

- v) failing to conduct peer reviews responsibly and in accordance with the UNSW *Responsible Peer Review Procedure*.

1.4 As illustrated in Figure 1 below, a Breach of the Research Code occurs on a spectrum, from minor (less serious) to major (more serious). There are also some matters that relate to research administration that can easily be rectified at the local level and resolved prior to the need to consider a preliminary assessment. Unintentional administrative errors, clerical errors or oversights are some examples of this.

Figure 1: Spectrum of breaches of the Research Code³

Clause 1.5 sets out the factors relevant for determining the seriousness of the Breach.

- 1.5 The following factors may be considered (without excluding others), when determining whether a Breach of the Research Code constitutes a serious breach:
- a) the extent of the departure from accepted practice
 - b) the extent to which research participants, the wider community, animals or the environment are, or may have been, affected by the breach
 - c) the extent to which there is, or may have been, incorrect information on the public record, or the potential to have incorrect information on the public record
 - d) the extent to which the breach affects the soundness or reliability of the research
 - e) the level of experience of the Researcher
 - f) whether there has been a prior Breach of the Research Code by the Researcher
 - g) whether any institutional failures have contributed to the breach
 - h) any other mitigating or aggravating circumstances.
- 1.6 Research Misconduct is a serious Breach of the Research Code, which is also intentional, reckless or negligent. However, it is important to note that:
- a) Research Misconduct does not include honest differences in judgement or unintentional errors (unless they result from behaviour that is reckless or negligent)
 - b) repeated or persistent breaches will likely constitute a serious breach, which may amount to Research Misconduct.
- 1.7 A finding of a Breach or serious Breach of the Research Code (including Research Misconduct) may also constitute:
- a) misconduct or serious misconduct in employment warranting disciplinary action up to and including termination of employment (in accordance with the provisions of the applicable Enterprise Agreement and/or employment contract)
 - b) a breach of the conditions upon which an academic title is conferred or the terms upon which a visiting appointment is approved (which may lead to the academic title or visiting appointment being withdrawn)
 - c) misconduct or serious student misconduct warranting disciplinary action up to and including permanent exclusion from UNSW in accordance with the UNSW *Student Code of Conduct* and the UNSW *Student Misconduct Procedure*.

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relevant party, and consider if further evidence is required, and/or expert advice needed, including legal advice

- c) identify whether the principles and responsibilities of the Research Code have been breached
- d) consider the seriousness of any breach
- e) prepare the Panel Report consistent with the terms of reference (which may be amended upon request to the REO); and
- f) make recommendations as appropriate.

2.6 The Review Officer (RO) is a Deputy Vice Chancellor (not already fulfilling the role of REO for the matter), or their nominee and is responsible for receiving requests for an internal review and for

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- e) will consider notifying other parties or institutions of the complaint or the commencement of the Preliminary Assessment, in accordance with relevant legislative provisions, agreements and misconduct policies and/or rules
- 4.9. Upon completion of the Preliminary Assessment, the AO will provide the DO with a Preliminary Assessment Report which includes:
- a) a summary of the complaint and the process that was undertaken in accordance with this Misconduct Procedure
 - b) an evaluation of the facts, documents and information gathered, including the response, if any, received from the Respondent
 - c) a description of how the alleged Breach of the Research Code relates to the principles and responsibilities outlined within the Research Code and/or UNSW processes and the seriousness of any such Breach; and
 - d) recommendations for further action, if appropriate.
- 4.10. Upon review of the Preliminary Assessment Report, the DO will determine, on the balance of probabilities, whether there has been any Breach of the Research Code and if so, the seriousness of any Breach. The DO may determine that:
- a) there is no Breach of the Research Code and that the matter should be dismissed (refer to clause 4.11)
 - b) the Breach is minor and should be resolved locally, with or without corrective actions (refer to clause

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Respondent with an opportunity to raise any specific concerns or objections.

- 4.25. Investigation Panel members will be appointed in writing and external members will be appropriately indemnified. The Investigation Panel will be provided with terms of reference for the Investigation and all relevant information and documentation, including that which was collected or received during the Preliminary Assessment, including the Preliminary Assessment Report.

Investigation Panel process

- 4.26. Any party who requests or is required to attend the Investigation Panel will be given reasonable notice. They may bring a Support Person. A Support Person is not an advocate and does not represent or speak on behalf of any party. If the Respondent or Complainant requires a higher level of support, they must apply to the Panel for approval.
- 4.27. Investigation Panel members must ensure that relevant interests are disclosed to the REO and managed. Where a perceived or actual conflict of interest cannot be managed, the affected panel member must be recused.
- 4.28. The principles of procedural fairness do not include the right to legal representation for any party. The Investigation Panel will decide at its discretion if legal or specialist representation will be permitted for the particular matter. The Investigation Panel may also seek specialist legal support or advice.
- 4.29.

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5. Review of an Investigation

- 5.1. The purpose of a review is to affirm, or otherwise, the determination made by the REO.
- 5.2. Requests for a review of an Investigation will only be accepted by the RO on procedural fairness grounds and must be received by the RO within 14 days of receipt of the REO determination (except where a different timeframe is stipulated by the provisions of any other Agreement, institutional disciplinary procedure or where relevant, the legislative framework governing the code of practice for providers of education and training to overseas students)
- 5.3. The request for a review should clearly outline the procedural fairness grounds relied upon, including any supporting material or documentation.
- 5.4. Requests will be assessed by the RO and will be accepted if:
 - a) received within the timeframe stated in the determination; and
 - b) procedural fairness deficiencies have been identified.

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