

UCT POLICY AND PROCEDURES FOR BREACH OF RESEARCH ETHICS CODES AND ALLEGATIONS OF MISCONDUCT IN RESEARCH

This document must be read with the UCT Authorship Practices Policy, the Policy on Conflict of Interest at UCT, the UCT Research Ethics Code for Research Involving Human Participants and the UCT Research Ethics Code for Use of Animals in Research and Teaching, the UCT Non-Human Policy, the Policy for Avoiding Plagiarism, the [DRAFT] Whistle-blowing for Academic Misconduct Policy, as well as Faculty-level Codes, Policies and Standard Operating Procedures.

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1. Introduction

The UCT Authorship Practices Policy,¹ the Policy on Conflict of Interests at UCT,² the UCT Research Ethics Code for Research Involving Human Participants and the UCT Research Ethics Code for Use of Animals in Research and Teaching,³ the UCT Non-Human Policy, the Policy for Avoiding Plagiarism,⁴ the [DRAFT] Whistle-blowing for Academic Misconduct Policy together with the Faculty-level Codes, Policies and Standard Operating Procedures (hereafter all referred to as 'the Codes') describe the principles and practices for encouraging responsible conduct of research at UCT.⁵

Misconduct or inappropriate behaviour in research is a serious matter. It undermines the discovery, production, and dissemination of knowledge, and its implications have the potential for harm that goes beyond the immediate parties. If proven, misconduct in research has negative implications for the researcher, the institution, funding bodies, journal publishers as well as colleagues, students and human research participants. In the case of misconduct in research involving animals, prosecution in terms of the Animals Protection Act⁶ is also possible.

Processes and procedures for dealing with allegations of misconduct or inappropriate behaviour must be clear and consistent. Investigation of allegations must take place in accordance with the highest standards of integrity, fairness, due process and reasonableness. Persons who are tasked with investigating allegations must act with utmost integrity and sensitivity.

This Policy and Procedures document⁷ applies to all teaching staff, researchers and other staff members of UCT as well as students, postdoctoral fellows and research associates, honorary research associates, visiting scholars, UCT staff on sabbatical leave or on leave without remuneration, and adjunct staff. If the respondent has left UCT, the procedures may nevertheless be used to determine the culpability of the respondent.⁸

The Policy seeks a balance between, on the one hand, providing safeguards for those who raise genuine concerns about improper conduct and, on the other, providing protection against uninformed, inaccurate and malicious allegations that can cause serious harm to innocent persons as well as to the University. This balance is found in an independent and formal procedure and proper investigation, preceded by a less-formal process that permits

inquiry into the merit of the allegation. The objective is to provide a safe and secure mechanism for raising genuine concerns about improper conduct without fear of victimisation and without resorting to complaints to the media that may bring the University into unwarranted disrepute.

This Policy and Procedures document outlines how to respond to allegations of research misconduct. It explains the expectations of Faculties – each must have appropriate guidance and procedures that address the nature and variety of possible research misconduct in the disciplines of the Faculty.⁹ Because the number of people with experience of dealing with these matters is small, attention must also be on building capacity and institutional memory. Simultaneously, conflicts of interest must be avoided, while the achievement of transparency and accountability is to be promoted.

2. Principles

The following principles underpin the university's attitude towards allegations of research misconduct or scholarly misbehaviour.

The University of Cape Town believes

2.1 in the importance of **impeccable ethical standards** in teaching, research, and clinical activities to all researchers at UCT and to the entire institution

2.2 that **reporting** suspected research misconduct is a **shared and serious responsibility** of all members of UCT

2.3 that the University has a **responsibility to respond** to credible reports of allegations of research misconduct

2.4 that the integrity of teaching, research and clinical activities at UCT requires that allegations of research misconduct or scholarly misbehaviour must be dealt with **equitably, confidentially and as expeditiously as possible**, taking care to provide opportunities for all interested persons to be heard

2.5 that the **procedures** for dealing with alleged research misconduct or inappropriate scholarly behaviour must be **accessible, understandable, fair and expeditious**

2.6 that the University has a **responsibility to protect the rights and reputations of all** individuals, including the person against whom an allegation is made (respondent) and the person who makes the allegation (complainant)

2.7 that persons who are requested to participate in investigations must do so with integrity, objectivity and without conflict of interest¹⁰

2.8 that **proven research misconduct** is dealt with in terms of **existing university procedures**.

3. Unacceptable conduct

Unacceptable conduct or research misconduct includes but is not limited to:

3.1 **Fabrication** – deliberate creation of false data, including documentation and participant consent, dishonesty in reporting results, in collecting or analysing data, or omission of conflicting data

3.2 **Falsification** – deliberate misrepresentation of research including progress in research or inappropriate adjustment and/or selection of data, imagery, results and/or consents, or undisclosed duplication of publication, or inappropriate claims to authorship or attribution of work contrary to the UCT Authorship Practices Policy

3.3 **Plagiarism** – misappropriation or use of someone else’s work, ideas, results, methods or intellectual property without acknowledgement or permission

3.4 **Abuse of confidentiality** – taking or releasing the ideas or data of others which were shared with the legitimate expectation of confidentiality, e.g. taking ideas from others’ grant proposals, award applications, or manuscripts for publication when tasked with reviewing same

3.5 **Breach of research ethics codes or other regulatory requirements** – failure to obtain required approval(s) or to adhere to research ethics codes and SOPs, including but not limited to

- the UCT Authorship Practices Policy
- the Policy on Conflicts of Interest at UCT
- the UCT Research Ethics Code for Research Involving Human Participants
- the UCT Research Ethics Code for Use of Animals in Research and Teaching
- Guidelines for Use of Recombinant DNA
- Guidelines for Use of Radioactive Material
- Guidelines for Use of Hazardous Chemicals or Biologicals
- the Faculty-level Codes, Policies and Standard Operating Procedures

3.6 **Deliberate misrepresentation in publication** refers to the situation where a researcher knowingly publishes material that is likely to mislead readers, including undisclosed duplication of publication, or inappropriate claims to authorship, or attribution of work contrary to the UCT Authorship Practices Policy

3.7 **Improper conduct in peer review** of research proposals or results (including manuscripts submitted for publication), or failure to disclose conflicts of interest, or inadequate disclosure of clearly limited competence

3.8 **Retaliation and Intimidation** – taking punitive action against a person thought to have reported suspected research misconduct, or threatening to take such action against a person who may intend to resport suspected research misconduct

4. Framework for responding to allegations of research misconduct

Faculty procedures should be in place to meet the requirements set out below.

4.1 *Procedures for Complainant*

4.1.1 A person who suspects research wrongdoing should take action in terms of these or other appropriate procedures; use of the UCT Whistleblower policy, for example, may be more appropriate for acute circumstances associated with matters of health and safety.

4.1.2 The Faculty-based Adviser on Research Integrity should be approached in confidence for advice on whether and how to proceed, so that the appropriate channels and procedures are accessed as soon as possible.¹¹

4.1.3 The allegation should be dealt with at a level that best matches the facts; see Faculty-level Procedures (4.2) below. In addition, some forms of misconduct may relate to the specific purview of an animal ethics or research ethics committee charged with oversight of the matter and/or the research protocol in which the matter arises.

4.1.4 A complaint not resolved in terms of 4.1.3 must be lodged in terms of the Faculty-level Procedures or as an escalated matter in terms of the Escalated Procedures.

4.1.5 The formal process includes an inquiry, a formal investigation, the findings of the investigation and the outcome.

4.2 *Faculty-level Procedures*

Faculties are expected to have

4.2.1 Written and accessible processes

Each Faculty should have written and accessible processes that provide appropriate guidance and procedures, including timelines, for making and receiving complaints related to alleged research misconduct. Processes must ensure that the communication channels are clear and that confidentiality and due process can be maintained without difficulty.

The Faculty-level processes must describe the procedures so that any interested person may know

- the extent to which anonymity may be afforded to complainants
- whether the identities of complainant and respondent are kept confidential from third parties
- whether the respondent will know the identity of the complainant

4.2.2 Appropriately customised guidance

Faculty-level processes should include specific guidance for discipline-specific research activities and possible misconduct; descriptions of the escalation procedures; and the triggers for the various decision-making points in the procedures.

Procedures must ensure that perceptions of conflict of interest, bias and unfairness are ruled out. Propriety and fairness are most important especially at lower levels of the hierarchy of staffing where collegiality and power hierarchies are likely to be strained in the context of an allegation. Special attention must be given to protection of witnesses, especially when a respondent has positional power. His or her presence may have a chilling effect on the willingness of a witness to provide information.

Faculty-level processes should also explain whether there are types of misconduct that may **not** be dealt with at Faculty-level.

4.2.3 Preliminary Informal Enquiry

Before a conclusion is reached that a formal investigation is warranted, the Adviser should conduct a **preliminary informal enquiry** to the circumstances. The purpose is to establish whether, on the face of it, an answerable case can be made out. The nature of the complaint and whether it is contested may determine the level at which the enquiry is initiated, e.g. at departmental, school or faculty level. Allegations of serious misconduct must be particularly carefully managed to ensure that due process is followed.

The informal enquiry should be prompt, discreet and effective, and should reach a decision about whether formal investigative procedures should be instituted, preferably within 10 working days of the initial allegation being brought. If the informal enquiry indicates the need for a formal investigation, then the matter should be escalated in accordance with the procedures under 5.2ff.

If the informal enquiry shows that further action is not warranted because the complaint can be dealt with appropriately elsewhere or by other means, then no further action is taken. The Adviser writes a report for the record.¹²

If the matter is not to be dealt with at Faculty-level, the Escalated Matters procedures below must be followed.

5 Escalated Matters

5.1 Escalating the allegation

When, according to faculty processes, the matter concerned must be escalated, e.g. there should not be a preliminary investigation within faculty structures, the allegation should be made in writing on the appropriate form and delivered to the Adviser; evidence supporting an allegation may take different forms, e.g. direct observation, disclosure by the respondent, credible second-hand information, suspicious data or published writing.

The Adviser reports the matter to the Dean who reports this to the DVC responsible for research.

The DCV responsible for research designates an individual or individuals without conflicts of interest to inquire into the allegation to determine whether a formal investigation is warranted.

The inquiry is to be conducted promptly to provide a speedy determination of whether a formal investigation is warranted. While no time frame is stipulated, the **expectation is that the responsible individual(s) designated by the DVC will describe the expected deadlines** so that the matter can be dealt with expeditiously.

The Office of Research Integrity provides administrative support.

5.2 Prior to the formal inquiry

If the Preliminary Informal Enquiry indicates the need for further action, the Adviser should follow the process outlined here.

5.2.1 Suspect data and sufficiently detailed notes and other documentation must be retained to permit later assessment of the adequacy of the inquiry

5.2.2 A written report must be prepared¹³ that includes a statement of the allegation, a description of the evidence reviewed, summaries of relevant interviews, and the conclusions reached, including a determination of whether a formal investigation is warranted

5.2.3 In the event that the allegation is found to be lacking in good faith, disciplinary action against the complainant may be recommended

5.2.4 The respondent and the complainant must be afforded the chance to comment on the report, which comments become part of the report

5.2.5 The report is forwarded to the DVC responsible for research who decides, in consultation with the Dean, whether a formal investigation is warranted

5.2.6 If no formal investigation follows, the DVC and the Dean must make reasonable efforts to restore the reputation of the respondent and also to protect the complainant and witnesses who in good faith made the allegation and assisted the initial investigation

5.3 Formal Investigation

5.3.1 A formal investigation is a formal process conducted in accordance with the usual UCT Investigating Committee procedures

5.3.2 A Special Investigating Committee (SIC) is appointed to conduct the investigation

5.3.3 Membership of this SIC must include a person who is an expert in the general academic field of the respondent. If necessary, to avoid conflicts of interest, this person may be appointed from outside the university. Membership must also include a member of SEiRC or SAEC and the faculty's REC or AEC, as the case may be

5.3.4 The DVC responsible for research must inform the respondent of the SIC, its composition and the charges being brought

5.3.5 The SIC must gather and evaluate the evidence promptly (usually within 120 days of appointment) and determine whether research misconduct has occurred and whether the respondent is culpable and, if so, include recommendations of sanctions for resolution of the matter

5.3.6 During the investigation, all reasonable efforts must be made to protect the identity of the respondent and the complainant from third parties. However, the complainant should note that the respondent is permitted to know the identity of witnesses, especially when the allegation rests on personal observation of misconduct. This means that the complainant cannot remain anonymous if he or she must give evidence of the observation.

5.3.7 The respondent is entitled to be present during fact-finding meetings of the SIC but not during its deliberative meetings

5.3.8 The ORI provides administrative support to ensure a thorough, timely, and authoritative investigation¹⁴

5.4 Formal findings

5.4.1 Suspect data and sufficiently detailed notes and other documentation must be retained to permit later assessment of the adequacy of the investigation

5.4.2 Summaries of interviews conducted must be prepared and interviewees given the opportunity to comment on and revise them. The summaries become part of the record.

5.4.3 A written report must be prepared that records the results of the investigation and the recommendations regarding outcome.

5.4.4 The respondent must be afforded the opportunity to comment on the report, such comment becoming part of the record. The complainant must have the opportunity to comment on those parts of the report that describe his or her role and opinions in the investigation.

5.5 *Resolution and outcome*

5.5.1 The report and the record are forwarded to the DVC responsible for research, who decides what action to take in light of the report. The DVC notifies the respondent, the Dean and the Registrar of the decision.

5.5.2 If disciplinary action is to be instituted, the set procedures for disciplinary action must be followed.

5.5.3 In the case of a person who is a joint medical staff member appointed on provincial or national conditions of service, the CEO of GSH must be notified of the outcome of the investigation

5.5.4 If appropriate, after appeal avenues have been exhausted, the Registrar must inform relevant sponsors, journal editors, previous affiliations of the respondent, and decide whether a public statement should be made

5.5.5 If the allegations of research misconduct are dismissed, DVC responsible for research, together with the Registrar, must make all reasonable efforts to restore the reputations of the respondent and also to protect the complainant and witnesses who in good faith made the allegation and assisted the investigation

APPENDIX 1

Definitions

Abuse of confidentiality – taking or releasing the ideas or data of others which were shared with the legitimate expectation of confidentiality, e.g. taking ideas from others’ grant proposals, award applications, or manuscripts for publication, when tasked with reviewing same (see also **Improper conduct in peer review**)

Adviser on research integrity refers to a faculty-based person who can advise whether and how a suspected misconduct complaint should be lodged; this person should not have conflicts of interest and must be independent of other research-related bodies like RECs or Research Committees. The Adviser in research integrity should have research experience, wisdom, analytical skills, and empathy, knowledge of the institution’s policy and management structure and familiarity with accepted practices in research.

Allegation is a written or oral statement or other indication of possible research misconduct made to the Adviser in research integrity

Complainant is the individual who makes an allegation of possible research misconduct

Conflict of interest refers to the situation where a member of UCT’s interests and his or her professional obligations to UCT diverge so that an independent third party might reasonably question whether the member’s professional actions or decisions are determined by considerations other than the maintenance of high ethical standards in research

Deliberate violation of the Codes refers to the situation where a researcher fails to adhere to the Codes

Deliberate misrepresentation in publication refers to the situation where a researcher knowingly publishes material that is likely to mislead readers, including undisclosed duplication of publication or inappropriate claims to authorship or attribution of work contrary to the UCT Authorship Practices Policy

Fabrication refers to deliberate creation of false data, including documentation (including information regarding animal welfare monitoring records) and participant consent, dishonesty in reporting results, in collecting or analysing data, or omission of conflicting data

Failure to report violations of the Codes refers to the situation where a researcher covers up or otherwise fails to report a violation observed by him or her

Falsification refers to deliberate misrepresentation of research including progress in research or inappropriate adjustment and/or selection of data, imagery, results and/or consents

Improper conduct in peer review – refers to failure to disclose or to manage conflicts of interest, or inadequate disclosure of clearly limited competence (see also **Abuse of confidentiality**)

Plagiarism refers to misappropriation of use of someone else’s work, ideas, results, methods, or intellectual property without acknowledgement or permission

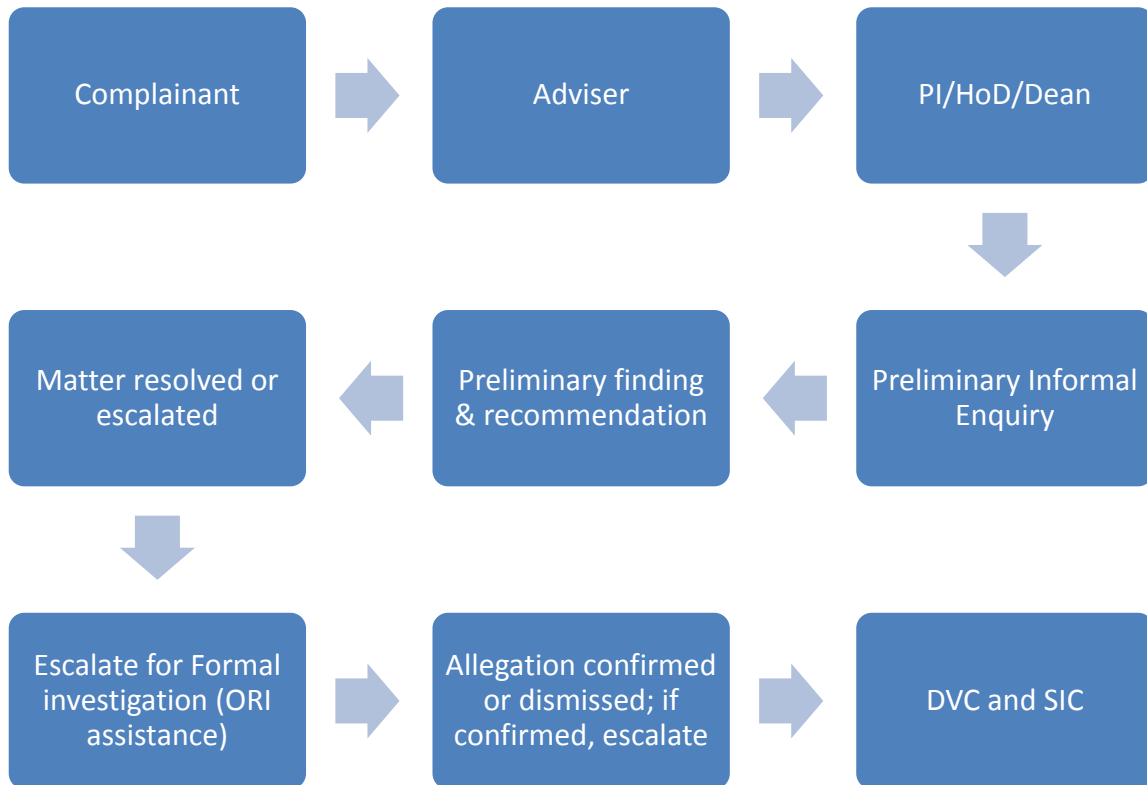
Property violations refer to the situation where a researcher disposes of, tampers with or destroys the property of others, e.g. equipment, research papers and records, supplies, or products of research or scholarship

Research misconduct may include the following: fabrication; plagiarism; abuse of confidentiality; falsification; deliberate misrepresentation in publication; deliberate violation of the Codes; property violations; knowingly exposing persons or animals to a biohazard; failure to report violations of the Codes; improper conduct in peer review; retaliation against persons who report alleged violations of the Codes.

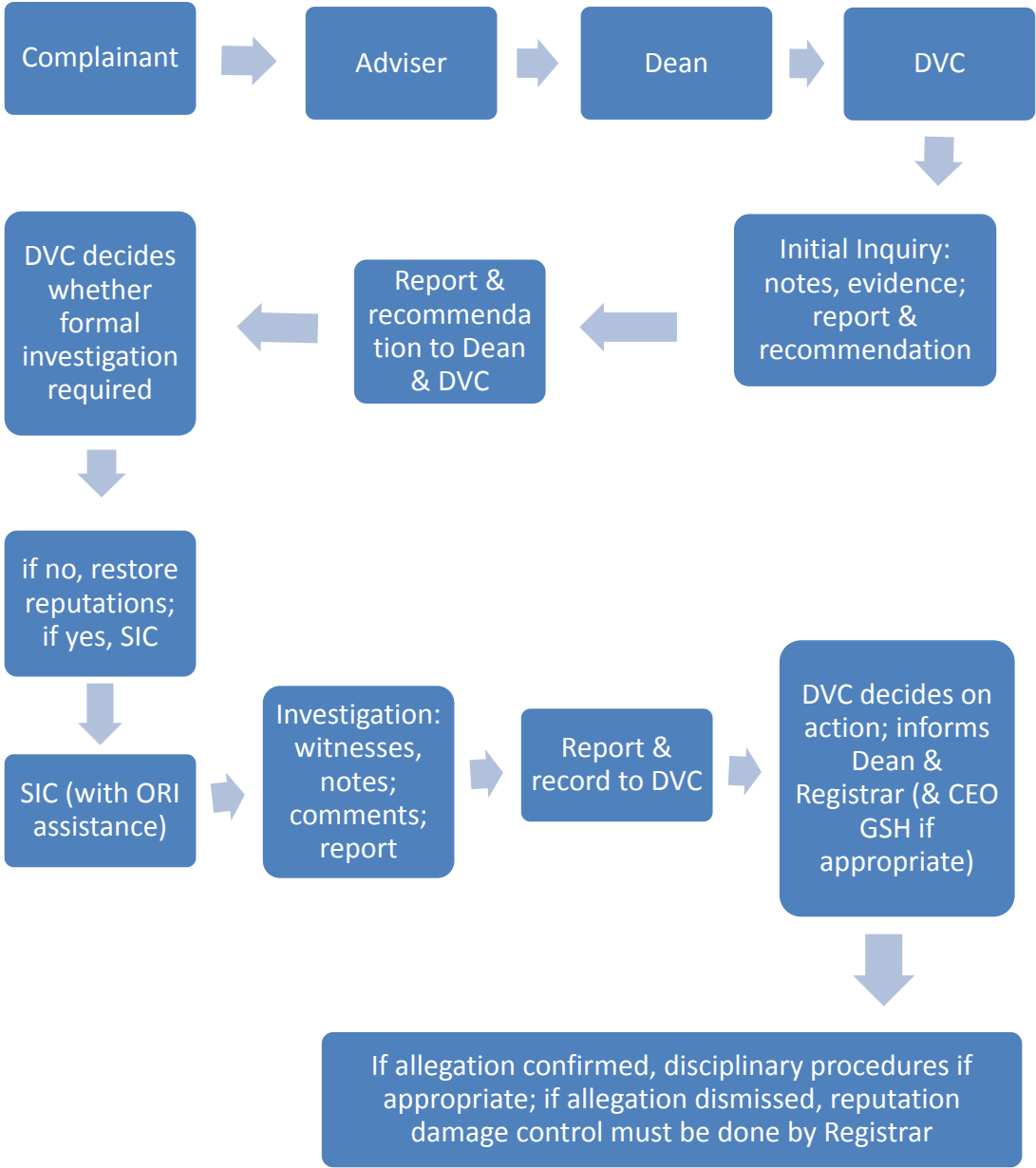
Research misconduct does not include honest error or honest differences in judgement in the management of a research project. Where breaches or violations of the codes have occurred in error or because of differences in judgment or opinion, these must be dealt with appropriately by supervisors and responsible officers of UCT, including SEiRC and SAEC so that clarity and consistency are achieved.

Respondent is the individual(s) against whom an allegation is made or whose actions are the subject of the inquiry or investigation

Example for In-Faculty process



Escalated process



¹ Approved PC 1/2011

² Approved by Council 28 September 2013

³ Approved by Senate 30 March 2012

⁴ Under revision

⁵ This policy provides the framework for responding to allegations of research misconduct or inappropriate scholarly behaviour. This Policy focuses on entirely unacceptable types of research conduct. Persons engaging in research are expected not to commit the acts of misconduct discussed in this Policy.

The policy complements and does not replace the university's misconduct procedures. Rather the policy and its procedures are intended to precede invoking the formal misconduct procedures. It explains how to respond to allegations of violations of research ethics codes and other research-related conduct that may or may not be misconduct.

The range of inappropriate behaviour is broad, and includes 'minor misdemeanours which may happen occasionally and inadvertently, to significant acts of misappropriation or fabrication. Poor practices, such as weak procedures or inadequate record-keeping which may jeopardise the integrity of the research but might only require further training or development rather than formal disciplinary action, are usually a matter for the faculty to rectify'. (Research Councils UK 2011 RCUK Policy and Code of Conduct on the Governance of Good Research Conduct 'Integrity, Clarity and Good Management' <http://www.rcuk.ac.uk> p 6).

⁶ Act No 71 of 1962

⁷ This document has drawn on the Australian Code for the Responsible Conduct of Research Part B © Australian Government 2007 www.nhmrc.gov.au; the University of Michigan Standard Practice Guide: Policy Statement on the Integrity of Scholarship and Procedures for Investigating Allegations of Misconduct in the Pursuit of Scholarship and Research 2009 www.drda.umich.edu/policies/um/integrity.html; Harvard Medical School Principles and Procedures for Dealing with Allegations of Faculty Misconduct www.hms.harvard.edu/public/coi/policy/misconduct.html; Northwestern University Policy for Reviewing Alleged Research Misconduct www.research.northwestern.edu/ori; Keith-Spiegel, Sieber & Koocher *Responding to Research Wrongdoing: a user-friendly guide* 2010 <http://www.ethicsresearch.com/freeresources/rwresearchwrongdoing.html>; UK Research Integrity Office <http://www.ukrio.org/ukR10htre/UKRIO-Procedure-for-the-Investigation-of-Misconduct-in-Research2.pdf>; Research Councils UK 2011 RCUK Policy and Code of Conduct on the Governance of Good Research Conduct 'Integrity, Clarity and Good Management' <http://www.rcuk.ac.uk>; Stellenbosch University 2011 'Procedure for the Investigation of Research Misconduct at Stellenbosch University'.

⁸ The description in the text (above) includes 'visiting scholars', i.e. a researcher who is temporarily based at UCT and engages in research activities. The list excludes non-UCT persons who collaborate with UCT personnel, because of the problem of jurisdiction – UCT cannot act against someone who is not actually present at UCT or at least juridically connected with UCT in some way. FHS personnel appointed 'jointly' with NHLS, PGWC, etc. have a juridical tie to UCT which means that jurisdiction is established. In the case of

researchers who merely use UCT's facilities as a base, care should be exercised to ensure that there is a written agreement with such researcher that stipulates the expectations and the consequences for breach of UCT's Codes, rules and values, including how breaches will be addressed.

Faculty-level research misconduct documents should stipulate that, if allegations of misconduct concerning a 'collaborator' (i.e. someone without any juridical tie to UCT) have substance, a formal complaint will be made to the person's home institution.

Each faculty should make provision for the likely or possible scenarios that may occur and ensure that the procedures are accessible and made known to students and contract staff etc.

⁹ The policy is established with the expectation that each faculty make customized guidelines to suit the diversity of disciplines and researchers, as well as the variations in the nature of research and thus the types of 'violations' that may occur. In particular, faculties should provide protective processes for people in precarious or junior positions, especially research students and temporary lecturers who may be complainants or respondents. Junior researchers, such as PhD students, are often the only people aware of the alleged misconduct apart from the perpetrator (e.g. appropriating a PhD student's research idea).

This customized flexibility does not mean that different standards should apply in different parts of the university. Rather, where differences of understanding regarding definitions or concepts might exist as between faculties, these should be justifiable in light of the principles articulated in this document and should not lead to an inference of a difference in standards being applicable.

Faculties should address allegations of inappropriate behaviour internally if possible. Faculties may decide whether allegations may be addressed at departmental level or only at Faculty-level, bearing in mind the potential for conflicts of interest and intimidation. Faculty processes must reflect the principles articulated in this policy.

¹⁰ All parties involved in investigations, including complainant and respondent, must avoid frivolous, vexatious or malicious allegations of unacceptable conduct. During investigations, the reputation of the respondent must be protected, especially if the allegation is not confirmed. Similarly, the reputation of the complainant who makes an allegation in good faith must be protected. A good faith allegation is one where prima facie factual evidence supports an allegation that unacceptable conduct has occurred or is occurring. Prima facie evidence is factual information that on the face of it appears objectively to show a particular inference is reasonable.

¹¹ Adviser(s) on Research Integrity in each faculty conducts the Preliminary Informal Enquiry (see 4.2 below). Part of the task is to clarify whether the conduct complained of is 'unacceptable conduct' (as described above). Where lack of clarity about the facts or about the relevant policy exists, the Adviser should consult e.g. with the Chair of the Senate Ethics in Research Committee or the Senate Animal Ethics Committee, as the case may be, or with the Manager of the Office of Research Integrity or other person. Such consultation must be discreet and preserve confidentiality because it is still unclear whether misconduct has occurred. The expectation is that the Adviser would have proper briefing and training.

The faculty processes should accommodate the range of complaints and allegations that may arise. It should be remembered too that unacceptable research-related conduct may be linked to other misconduct, such as **bullying, harassment or financial irregularities, all of which have separate and specific procedures**. Consequently, it is advisable for a complainant to seek advice before lodging a formal complaint so that the appropriate channels can be accessed sooner rather than later.

An online source with helpful discussion of the concepts, processes and how to respond appropriately to allegations of research wrongdoing can be found at:

<http://www.ethicsresearch.com/freeresources/rwrresearchwrongdoing.html> P Keith-Spiegel, J Sieber & G P Koocher Responding to Research Wrongdoing: a user-friendly guide 2010 [this source may be used freely for educational purposes].

¹² To have a record in case e.g. a complainant makes a habit of lodging vexatious complaints.

¹³ This report is prepared either by the Faculty-based Adviser on Research Integrity or by the Chair of the fact-finding inquiry committee (see 5.1).

¹⁴ Prolonged investigation processes and guilty findings that take a long time to move to disciplinary action raise procedural and fairness concerns. It is desirable that the minimum time frame expectations are adhered to. Unnecessary delays and prevarication should be avoided. Past experience shows that allegations of serious misconduct can take more than 18 months to resolve, during which time considerable harm may be done to staff and students. While it is unethical and unjust to allow matters to remain pending or under submission without justification, it may not be prudent to stipulate fixed time lines that cannot accommodate unavoidable delays. The prevailing ethos of a responsible response to an allegation of research misconduct must be that it should be dealt with as swiftly as possible.