

**Policy Title:** Fraud and Misconduct Prevention and Management

**Policy Owner:** Director, Risk and Assurance Services Centre

**Keywords:** 1) Fraud 2) Corruption 3) Misconduct 4) Integrity

**Policy Code:** PL205 [rm006]

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## 1. INTENT

This policy seeks to:

- Protect the University's assets, interests and reputation;
- Ensure a fair and coordinated approach by the University in dealing with suspected acts of fraud, corruption and misconduct;
- Where appropriate, endeavour to safeguard the rights of individuals who are subject to the operation of this policy; and
- Ensure that the University meets its reporting obligations under section 28 of the *Corruption, Crime and Misconduct Act (WA) 2003* and other relevant external agencies.

## 2. ORGANISATIONAL SCOPE

This policy applies to Council members and all University staff. It does not apply to the Student Guild as it is a notifying authority in its own right with responsibility for reporting any suspected acts of misconduct to the Corruption and Crime Commission or the Public Sector Commission. Misconduct by students is excluded from this policy as they are not public officers as defined by the *Corruption, Crime and Misconduct Act (WA) 2003*. Complaints not covered by this policy are to be dealt with in accordance with the established complaints handling mechanisms at the University.

## 3. Definitions

TERM	DEFINITION
"Corruption and Crime Commission (CCC)"	The Corruption and Crime Commission established under Section 8 of the <i>Corruption, Crime and Misconduct Act (WA) 2003</i> [CCM Act].

“Corruption”	As defined in <i>Australian Standard (AS 8001-2008) - "Fraud and corruption control"</i> as dishonest activity in which a director, executive, manager, employee or contractor of the entity acts contrary to the interests of the entity and abuses his/her position of trust in order to achieve some personal gain for him or herself or for another person or entity.
“Fraud”	As defined in <i>Australian Standard (AS 8001-2008) - "Fraud and corruption control"</i> as a dishonest activity causing actual or potential financial loss to any person or entity including theft of other moneys or other property by employees or persons external to the entity and whether or not deception is used at the time, immediately before or following the activity.
“Industrial Instrument”	The relevant employment contract and instrument covering the terms and conditions of employment for a University employee.
“Misconduct”	As defined by section 4 of the <i>Corruption, Crime and Misconduct Act (WA) 2003</i> .
“Notifying Authority”	As defined in section 3 of the <i>Corruption, Crime and Misconduct Act (WA) 2003</i> . The definition of Notifying Authority includes Edith Cowan University.
“Public Officer”	As defined in section 1(1) of the <i>Criminal Code (WA)</i> and refers to a person exercising authority under a written law, and includes a member, officer or employee of any authority, board, corporation, commission, local government, council or committee or similar body established under a written law, (i.e., the <i>Edith Cowan University Act, 1984</i> ).
“Public Sector Commission”	The Public Sector Commission established under Section 16 of the <i>Public Sector Management Act 1994</i> .

### 3. POLICY CONTENT

#### 3.1 Policy Statement

This policy and the associated Guidelines establishes the strategies, controls and processes for the prevention, detection and management of misconduct, fraud and corruption, and for fair dealing in specific matters pertaining to these behaviours.

### 3.2 Principles

- *Natural Justice* – the University in dealing with allegations of fraud, corruption and misconduct will endeavour to act fairly and in good faith without bias, malice, ill will or improper motives.
- *Confidentiality* – as far as possible the University will maintain confidentiality and will only notify those individuals that are necessary to be informed in order to investigate the matter fully.
- *Complainant Protection* - The University will take all reasonable steps to provide protection to parties that make disclosures from any detrimental action in reprisal for the making of the disclosure.
- *Protection of the Rights of Persons of Interest* – The person of interest has the right to consistent and fair decision-making, the right to be fully informed on all aspects of the investigation and the right to respond to claims.

## 4. Accountabilities and Responsibilities

This policy requires the investigation of suspected acts of Misconduct, Fraud and Corruption; and the reporting of Misconduct to the Corruption and Crime Commission, Public Sector Commission and other external agencies. The “Fraud and Misconduct Prevention and Management Guidelines” will in more detail describe the following:

- Fraud and Misconduct Prevention and Detection Strategies;
- Definitions;
- Roles and Responsibilities;
- Investigation Practices relating to Fraud, Corruption and Misconduct.

## 5. Related Documents:

The policy is supported by the Fraud and Misconduct Prevention and Management Guidelines. The procedures described in the Guidelines shall be adhered to.

Other documents which are relevant to the operation of this policy are as follows:

- Acceptance of Gifts by ECU Staff Policy – RM007)
- Corruption, Crime and Misconduct Act 2003 (WA)
- Better Management: Fraud Prevention in the Western Australian Public Sector 1999 – a publication from the Ministry of the Premier and Cabinet
- ECU Academic and Professional Staff Union Collective Agreement 2013
- Edith Cowan University Code of Conduct – HR117
- Prevention of Harassment, Bullying and Discrimination Policy – HR013
- Grievance Resolution Policy – HR147
- Fraud and Misconduct Prevention and Management Guidelines
- Research Misconduct Policy – AC091
- Public Interest Disclosure Act 2003 (WA)

## 6. CONTACT INFORMATION

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## 7. APPROVAL HISTORY

Policy Approved by:	Council, Resolution UC 117/10
Date Policy First Approved:	17 August 2006
Date last modified:	7/09/2015
Revision History:	<ol style="list-style-type: none"> <li>1) 8 July 2009 – Minor amendments associated with Policy Framework Development Template.</li> <li>2) 20 June 2010 – Amendments made to better reflect the reporting requirements of the Corruption and Crime Commission.</li> <li>3) 9 December 2010 – policy updated and revisions approved by Council</li> <li>4) 25/6/2015 – policy updated and approved by Council</li> <li>5) 7/09/2015 - Minor amendments associated with changes to the CCM Act</li> </ol>
Next Revision Due:	7/9/2018
TRIM File Reference	SUB/470



# **GUIDELINES**

## ***Fraud and Misconduct Prevention and Management***

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## FRAUD AND MISCONDUCT PREVENTION AND MANAGEMENT GUIDELINES

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## FRAUD AND MISCONDUCT PREVENTION AND MANAGEMENT GUIDELINES

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**The Fraud and Misconduct Prevention and Management Guidelines are to be read with the  
“Fraud and Misconduct Prevention and Management Policy (FMPMP)”**

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## **A. Fraud and Misconduct Prevention and Detection Strategies**

It is important that the University has strategies to prevent and detect acts of fraud, corruption and misconduct. Of critical importance is the creation of a University environment and culture that discourages these behaviours and should they occur, supports early detection and appropriate responses.

The strategies the University employs to prevent acts of fraud, corruption and misconduct include the following:

### **1. Staff Training and Development**

Staff Training and Development is a key component to combat fraudulent, corrupt or other wrongful acts. To that end:

- Integrity related training programs will include making staff aware of the relevant provisions of the *Corruption, Crime and Misconduct Act (WA) 2003*, the *Public Interest Disclosure Act (WA) 2003* and the Procedures Relating to ECU's Obligations under the *Public Interest Disclosure Act 2003*, the ECU Code of Conduct, the Acceptance of Gifts by ECU Staff Policy, Conflicts of Interest Policy, ECU Corporate Credit Card Use Policies and the Fraud and Misconduct Prevention and Management Policy.
- The Risk and Assurance Services Centre (RASC) will work with the Human Resources Services Centre (HRSC) and Centre for Learning & Development (CLD) to identify resources to develop and conduct fraud, corruption and misconduct awareness and prevention training for management and staff.
- The University Website will refer to the ECU Values, Code of Conduct, the Acceptance of Gifts by ECU Staff Policy, Conflict of Interest Policy, University Credit Card Policy and the Fraud and Misconduct Prevention and Management Policy.

### **2. Code of Conduct and Integrity Related Policies**

The University has developed a Code of Conduct and a number of policies as part of its strategy to combat fraudulent, corrupt or other wrongful acts.

#### *a. The ECU Code of Conduct*

- The [ECU Code of Conduct](#) provides a framework for appropriate behaviour for all staff at the University. It is not intended to cover all issues that may arise, but rather to provide a framework within which staff can address ethical issues, which may arise through the daily business of the University.
- The Code establishes a standard by which staff and management:
  - Conduct themselves towards other staff or colleagues, staff representatives, the student body and their representatives, government authorities and the general community;
  - Perform their duties and obligations to the University;
  - Fulfil the mission, vision, goals and objectives of the University; and
  - Practice fairness and equity.
- The successful development of an ethical environment relies on individuals being responsible for their own professional behaviour within the provisions of the Code of Conduct, policies of the



University, obligations of Federal and State legislation, Industrial Instruments and professional codes of conduct.

- Acts contrary to the Code of Conduct may result in disciplinary sanctions and actions in accordance with the Fraud and Misconduct Prevention and Management Policy.

*b. The Acceptance of Gifts by ECU Staff Policy*

The [Acceptance of Gifts by ECU Staff Policy](#) provides guidance for ECU staff in the event they are offered gifts by internal or external parties. The policy outlines University staff responsibilities when offered gifts and details ECU's requirement to record gifts accepted by staff on its behalf.

*c. Conflicts of Interests Policy*

The ECU [Conflicts of Interests Policy](#) provides guidance to staff about what conflicts of interests are, when and how they should be declared and how declared conflicts of interests should be managed. Acts contrary to the Conflicts of Interests Policy may result in disciplinary sanctions and actions in accordance with the Fraud and Misconduct Prevention and Management Policy.

*d. University Credit Card Policy*

The [University Credit Card Policy](#) defines the situations when a University Credit Card may be used and the accountabilities of the University Credit Card Holder. The Policy also explains the responsibilities of the credit card holder in instances where the ECU credit card has been used in error for personal or private transactions.

### 3. Integrity Risk Assessment (IRA)

The IRA is the specialist fraud and misconduct risk assessment for the University that is distinct from other ECU risk assessments. The IRA is grouped into 7 Risk Categories. The IRA identifies the risks associated with each risk category as well as whether a School or Centre is vulnerable to the identified risks. Risks within risk categories are sorted in order of those risks that ECU is most vulnerable to, to those that ECU is the least vulnerable to.

Schools and Centres can use the information contained within the IRA to identify their fraud and misconduct risks and shall then use this information to design and implement their risk mitigation strategies.

A summary version of the IRA indicating the level of vulnerability the University has to the risks is attached as Appendix A.

### 4. Audits and Compliance Reviews

The Audit Assurance and Compliance teams within RASC will use the information contained within the IRA and Strategic and Operational risk registers to test the controls implemented by Schools and Centres to mitigate their fraud and misconduct risks. The audits and compliance reviews will also identify any high risk areas and control weaknesses with regard to fraud and misconduct. Any recommendations for policy or process improvement will be entered into the ECU Recommendations Tracking System (ECURTS) for follow up to ensure implementation of remedial actions.

### 5. Complaints Monitoring

Complaints are a valuable early warning device in detecting that something might be wrong. In accordance with the University's Integrated Complaints Framework, RASC maintains a complaints web page which informs prospective complainants (students, staff and public) about the complaints processes that exist within the University.

RASC maintains university-wide data in relation to the complaints received. This information will assist in identifying at risk areas, services and practises. RASC will use this information as a basis for conducting further inquiries and recommending corrective measures if required. Any recommendations for policy or

process improvement will be entered into the ECU Recommendations Tracking System for follow up to ensure implementation of remedial actions.

## **B. Definitions**

The following definitions are applicable to the Guidelines and the Fraud and Misconduct Prevention and Management Policy:

CCC means the Corruption and Crime Commission (CCC) established under Section 8 of the *Corruption, Crime and Misconduct Act (WA) 2003*.

Corruption is defined in Australian Standard (AS 8001-2008) - "Fraud and corruption control" as dishonest activity in which a director, executive, manager, employee or contractor of the entity acts contrary to the interests of the entity and abuses his/her position of trust in order to achieve some personal gain for him or herself or for another person or entity..

Criminal Conduct means where a public officer has committed a scheduled offence whilst acting or purporting to act in his or her official capacity.

ECU Committee means a University Council Committee, Academic Board and its committees and Committees of the Vice-Chancellor.

Fraud is defined in Australian Standard (AS 8001-2008) - "Fraud and corruption control" as a dishonest activity causing actual or potential financial loss to any person or entity including theft of other moneys or other property by employees or persons external to the entity and whether or not deception is used at the time, immediately before or following the activity.

Grievance shall mean any type of problem, concern or complaint related to work of the work environment. A grievance can be about any act, behaviour, omission, situation or decision, which the employee perceives to be unfair or unjustified.

Industrial Instrument means the relevant employment contract and instrument covering the terms and conditions of employment for a University employee.

Management refers to the University Executive, Directors and Managers who organise and control the affairs of the University.

Misconduct includes Minor and Serious Misconduct as defined in these Guidelines.

Minor Misconduct for the purposes of these Guidelines refers to minor misconduct as defined by the *Corruption, Crime and Misconduct Act (WA) 2003* and occurs if a public officer engages in conduct that:

- 1) adversely affects, or could adversely affect, directly or indirectly, the honest or impartial performance of the functions of a public authority or public officer whether or not the public officer was acting in their public officer capacity at the time of engaging in the conduct; or
- 2) constitutes or involves the performance of his or her functions in a manner that is not honest or impartial; or
- 3) constitutes or involves a breach of the trust placed in the public officer by reason of his or her office or employment as a public officer; or
- 4) involves the misuse of information or material that the public officer has acquired in connection with his or her functions as a public officer, whether the misuse is for the benefit of the public officer or the benefit or detriment of another person,

and constitutes or could constitute a disciplinary offence providing reasonable grounds for the termination of a person's office or employment as a public service officer under the *Public Sector Management Act 1994* (whether or not the public officer to whom the allegation relates is a public service officer or is a person whose office or employment could be terminated on the grounds of such conduct).

A Notifying Authority includes:

- 1) a department or organisation as defined in the *Public Sector Management Act 1994*;
- 2) an entity in respect of which a declaration is in effect under section 56(2) of the *Financial Management Act 2006*;
- 3) a statutory authority as defined in the *Financial Management Act 2006*;
- 4) an authority to which the *Parliamentary Commissioner Act 1971* applies;
- 5) a person or body, or holder of an office —
  - a) under whom or which a public officer holds office or by whom or which a public officer is employed; or
  - b) who or which is prescribed for the purposes of this subparagraph, but does not include the President of the Legislative Council or the Speaker of the Legislative Assembly.

Public officer has the same meaning as in section 1(d) of the *Criminal Code (WA)* and refers to a person exercising authority under a written law, or a member, officer or employee of any authority, board, corporation, commission, local government, council or committee or similar body established under a written law, (i.e., the *Edith Cowan University Act (WA) 1984*).

Public Sector Commission means the Public Sector Commission established under Section 16 of the *Public Sector Management Act 1994*.

Serious Misconduct for the purposes of these Guidelines refers to serious misconduct as defined by the *Corruption, Crime and Misconduct Act (WA) 2003* and occurs if a public officer:

- 1) corruptly acts or corruptly fails to act in the performance of the functions of the public officer's office or employment; or
- 2) corruptly takes advantage of the public officer's office or employment as a public officer to obtain a benefit for himself or herself or for another person or to cause a detriment to any person; or
- 3) whilst acting or purporting to act in his or her official capacity, commits an offence punishable by 2 or more years' imprisonment.

Note: At ECU staff misconduct includes the definitions used in these Guidelines and the associated Fraud and Misconduct Prevention and Management Policy and the definition used in the Industrial Instrument. Not all misconduct as defined in the ECU Industrial Instrument will be captured by these Guidelines. If staff are in doubt with regard to whether the matter they are dealing with refers to Misconduct as defined in these Guidelines they should contact the Director Human Resource Services Centre or the Director, Risk and Assurance Services Centre for advice.

University Council means the governing authority of the University, as defined in Section 8 of the *Edith Cowan University Act (WA) 1984* and as constituted under Section 9 of the *Edith Cowan University Act (WA, 1984*.

Vexatious refers to complaints which are instituted or pursued without reasonable ground or instituted to harass or annoy, to cause delay or detriment, or for any other wrongful purpose.

## **C. Roles and Responsibilities**

### 6. Vice-Chancellor

6.1 The Vice-Chancellor has the ultimate responsibility for the prevention and detection of fraud, corruption and misconduct and is responsible for ensuring that appropriate and effective internal control systems are in place.

6.2 The Vice-Chancellor or the Vice-Chancellor's duly appointed delegate, on the advice of the Director RASC has the responsibility of notifying the Corruption and Crime Commission, the

Public Sector Commission and other agencies as required, of any allegations of suspected Misconduct.

7. Director, Human Resources Services Centre

7.1 Where the alleged offence involves Misconduct that requires disciplinary action, the Director HRSC will be responsible for overseeing disciplinary investigations to ascertain whether a breach of discipline has occurred. Disciplinary investigations may proceed simultaneously with Misconduct investigations.

7.2 The Director HRSC or their nominee will ensure that any acts of suspected Misconduct of which he or she becomes aware, are reported to the Director RASC within 5 working days of becoming aware of them.

8. Director, Risk and Assurance Services Centre

8.1 The Director RASC is responsible for the receipt of complaints in accordance with these Guidelines and for the coordination, and conduct where appropriate, of initial assessments and investigations into Misconduct within the University.

8.2 The Director RASC has to ensure that the necessary reports are forwarded to the Vice-Chancellor so as to ensure that the University meets its reporting requirements to the Corruption and Crime Commission, the Public Sector Commission and any other relevant agencies.

8.3 The Director RASC shall consult with the Director HRSC for advice on any potential disciplinary action associated with the reported Misconduct.

8.4 The Director RASC shall also promulgate and update the Fraud and Misconduct Prevention and Management Policy and these Guidelines.

9. Management

9.1 All levels of management (both academic and professional) are responsible for the prevention and detection of acts of fraud, corruption and misconduct and for the implementation and operation of controls that minimise such activities within their areas of responsibility.

9.2 Management is also responsible for reporting suspected acts of fraud, corruption and Misconduct to the Director RASC within 5 working days of becoming aware of them.

9.3 Management may also, on the advice of the Director RASC or the Director HRSC, be required to perform initial enquiries regarding any complaints of suspected fraud, corruption and misconduct and will assist with any further investigations into these activities.

9.4 It is the responsibility of all managers, in their day-to-day operations, to ensure that there are mechanisms in place within their areas of control to assist with:

- Assessment of the risk of fraud, corruption and misconduct through awareness of the risks and exposures inherent in their area of responsibility;
- Promotion of staff awareness of ethical principles subscribed to by the University including the ECU Code of Conduct;
- Education of staff about fraud, corruption and misconduct prevention and detection.
- Promotion of a positive and appropriate attitude towards compliance with laws, rules and regulations.
- Prompt and positive responses to all allegations or indications of fraudulent, corrupt or other wrongful acts.

9.5 Where managers and supervisors do not have the expertise to evaluate internal controls they should call on support from Risk and Assurance Services Centre.

9.6 Management should incorporate into their annual planning processes, fraud, corruption and misconduct control measures that cover risk assessment, awareness programs and appropriate training.

9.7 Management should be aware of common indicators and symptoms of fraud, corruption or other wrongful acts and respond to those indicators as appropriate.

#### 10. University Staff

10.1 These guidelines are applicable to *all* staff and are taken to include University Council members, the various University committee members, agents acting on behalf of the University, contract staff, secondees, visiting scholars, adjunct, honorary and all other volunteer appointees.

10.2 Staff members are responsible for compliance with controls, policies and procedures.

10.3 Staff members, like management, should be aware of the signs of acts of fraud, corruption and misconduct and to that end; examples of such activity are included in Appendix B to these guidelines.

10.4 If staff become aware of fraudulent and corrupt activity, or of acts of misconduct, there is a duty to immediately report such activity to either management within their area, or should they believe this to be inappropriate, to the Risk and Assurance Services Centre, or the Director HRSC. Staff may report such activities utilising the Public Interest Disclosure reporting procedures referred to in section D 4.

10.5 Staff members are expected to assist with any enquiries and investigations pertaining to fraud, corruption or misconduct.

#### 11. Quality Audit & Risk Committee of Council

11.1 Reports and recommendations arising from any investigation by the Risk and Assurance Services Centre into Misconduct shall be referred to the Quality Audit and Risk Committee (QARC) of the University Council. This will only apply to substantiated claims and not where the investigation has revealed that the initial claims were unfounded or unsubstantiated.

11.2 Reports received by QARC pursuant to these guidelines will be written and in the format as presented in Appendix D.

11.3 As part of its report to the University Council, QARC will notify the University Council of any reports received pursuant to these guidelines.

### **D. Investigation Practices relating to Fraud, Corruption and Misconduct**

#### 12. Case Management

Appendix E to these guidelines contains the process maps for the Initial Inquiry and Preliminary investigation by the University into allegations of Misconduct.

##### 12.1 *Initial Assessment*

a. The person responsible for investigating an allegation of fraud, corruption or misconduct shall contact the Director, RASC or the Director HRSC for preliminary advice and guidance before initiating any initial assessment.

b. If, in the opinion of the complainant, the complainant's immediate supervisor or line manager cannot resolve the matter, the complainant should deal directly with the Risk and Assurance Services Centre or the Director HRSC.

- c. During any preliminary investigation HRSC are responsible for employee relations' advice and any related action. RASC will ensure that HRSC is kept informed of the progress of any initial assessment into alleged Misconduct and will take into account advice regarding employee relations while conducting such assessments.

#### *12.2 Suspected Misconduct Matters*

- a) Management should report complaints and allegations of suspected acts of Misconduct to the Director RASC within 5 working days of becoming aware of them.
- b) The Director RASC will evaluate any suspected matters of Misconduct reported to RASC and shall make reasonable enquiries to establish whether there is a reasonable suspicion that Misconduct had occurred. These inquiries should include liaising with the Director HRSC and any other relevant staff.
- c) If a reasonable suspicion is formed that Misconduct has occurred the Director RASC shall draft a report for the Vice-Chancellor's review.
- d) The Vice-Chancellor shall review the report of the Director RASC and make a determination whether a notification to the Corruption and Crime Commission, Public Sector Commission or any other agency is required.
- e) The Vice-Chancellor will be responsible for notifying the Corruption and Crime Commission and the Public Sector Commission of Misconduct and may approve the notification of other agencies as required.
- f) The Director RASC shall conduct or coordinate the investigation of suspected Misconduct matters.
- g) Upon conclusion of the investigation the Director RASC will provide a report of the outcome of the investigation to the Vice-Chancellor.
- h) The Vice-Chancellor will consider the content of the investigation report and any recommendations it may contain.
- i) The Vice-Chancellor will notify the Corruption and Crime Commission or the Public Sector Commission of the outcome of the investigation. The Director RASC will notify any other agencies that have been informed, of the outcome.
- j) The Director RASC will notify the informant/complainant of the outcome of the investigation.
- k) The Vice-Chancellor will liaise with the Director HRSC to ensure that any disciplinary process that may result from the outcome of the investigation is concluded in accordance with relevant industrial instruments.
- l) The Director RASC shall ensure that any recommendations for process or policy improvement made as a result of the investigation are entered into the ECU Recommendations Tracking System (ECURTS) and followed up until conclusion.
- m) Should the Vice-Chancellor, Director RASC or the Director HRSC form the subject of an allegation, their role in the process will be undertaken by their line manager or in the case of the Vice-Chancellor, the Chancellor.

#### *12.3 Evidence Gathering*

- a) Staff members are encouraged not to make anonymous complaints as they may be difficult to pursue if further information is required and anonymity will prevent the University reporting back to any complainant. Well substantiated anonymous complaints will however receive due and proper consideration.
- b) Complaints about suspected fraudulent and corrupt behaviour should be written, dated and signed by the complainant. Desired evidence characteristics are presented as Appendix C to

these guidelines. The complainant should identify or provide evidence of the following to the extent that this detail is known or available to the complainant:

- The section and location of the alleged incident(s).
  - Key personnel involved in the alleged behaviour.
  - The nature of the alleged incident.
  - The time period over which the alleged incident has occurred.
  - An estimate of the monetary value, if appropriate, associated with the alleged incident.
  - Documentary evidence in support of the alleged incident.
- c) Staff members making initial assessments and investigations should preserve and secure any physical exhibits, including written and electronic material, with details of the persons known to have or suspected of having handled any exhibit. This is required for the process of elimination and for continuity purposes. A confidential central records file shall be created for this purpose.
- d) Where documents are required for further evidence, the original should be secured and a copy taken for working paper purposes. In no circumstances should the original document be tampered with or changed in any physical way. This would include writing on the document, punching holes in it etc.
- e) If discussion with a staff member who is the subject of a complaint is unavoidable (for example they may wish to admit their involvement) the discussion should occur in the presence of an appropriate third party and if the employee requests, an employee support person. Notes of the discussion should be taken. External advice should be sought if a digital or other recording device is used. Application of this requirement will require the advice of HRSC. The unauthorised recording of private conversations may constitute a breach of the *Surveillances Devices Act 1998*.

#### 12.4 Investigation File Management

- a) The person appointed to investigate a suspected act of misconduct should maintain an investigations file during the course of the investigation. Depending on the nature of the allegation or complaint made, the following could be contained within the investigations file:
- Original Informant Documentation
  - A Running Sheet
  - File Notes
  - Witness Statements
  - Letters
  - Seized Documents
  - Respondent Statements
  - An Evidence Log
  - Photographs/Sketches

This list is not exhaustive as other items may be contained within the investigations file. Further information relating to the management of an investigation and an investigations file is contained in the Investigations Manual kept by the Risk and Assurance Services Centre.

#### 12.5 Reporting

- a) Reports on any investigation into Misconduct should be prepared by the Risk and Assurance Services Centre and should contain:
- An assessment as to whether the subject of the complaint has a *prima facie* case to answer.
  - A recommendation as to whether or not the matter needs to be referred to an external agency and if so what action the University must take.
  - Recommendations as to improvement in controls and processes that need to be implemented in order to minimise future recurrences of the behaviour identified by the complaint.

- b) Reports on investigations prepared under these guidelines will, as a minimum, be sent to the Vice-Chancellor as soon as is practicable and to the Quality Audit & Risk Committee of the University Council at its next scheduled meeting. This will not apply in instances where the investigation revealed that the initial claims were unfounded or unsubstantiated.
- c) The Director RASC will as soon as is practicable after forming a view that there is a reasonable suspicion that Misconduct had occurred prepare and forward a report in relation to the allegation to the Vice-Chancellor. The Vice-Chancellor shall then review and consider whether a notification to the Corruption and Crime Commission or Public Sector Commission is required. Notifications of Serious Misconduct to the Corruption and Crime Commission are to be made in accord with the *CCC Guidelines for Notification of Serious Misconduct* made under Section 30 of the CCM Act. Notifications of Minor Misconduct are to be made to the Public Sector Commission as soon as practicably possible.
- d) In instances where the Vice-Chancellor forms the subject of a complaint the procedure as detailed in paragraph 12.2(n) should be followed.
- e) Reports may also be sent to the WA Police, the Ombudsman Western Australia or the Office of the Auditor General for Western Australia. Such reports are not to be sent without the express consent of the Vice-Chancellor or the Vice-Chancellors delegated nominee. In the event of such reports being made, the Chancellor and or the Chair of the Quality Audit & Risk Committee are to be notified.
- f) If the investigation relates to a public interest disclosure, the person conducting the investigation should ensure that the outcome of the investigation is clearly and comprehensively recorded as outlined in the [Procedures relating to ECU's Obligations under the PID Act \(Refer section 7\)](#). In addition to any investigation report, the person conducting the investigation should complete part 4 of the Assessment Form for Public Interest Disclosure (see Appendix 7 to the Public Interest Disclosure document). The result of the investigation should also be recorded in the Public Interest Disclosure Register, described in section J of the Public Interest Disclosure document.

#### 12.6 *ECU Recommendations Tracking System (ECURTS)*

Recommendations for policy or process improvement arising from the investigation of a matter will be entered into the ECU Recommendations Tracking System (ECURTS) by Risk and Assurance Services Centre. The Director, Risk and Assurance Services is responsible for following up the recommendations entered into ECURTS to ensure that the agreed management actions to address the identified weaknesses are completed.

### 13. Natural Justice

#### 13.1 *Complainant Protection*

The University is committed to the aims and objectives of the *Public Interest Disclosure Act 2003*. It recognises the value and importance of contributions of staff to enhance administrative and management practices and strongly supports disclosures being made by staff relating to fraud, corruption and other acts of misconduct.

The University will take all reasonable steps to provide protection to parties that make Public Interest and other disclosures from any detrimental action in reprisal for the making the disclosure. The University does not tolerate any of its officers, employees or contractors engaging in acts of victimisation or reprisal against those who make public interest disclosures or other disclosures of fraud, corruption or misconduct.

#### 13.2 *Protection of the Rights of Persons of Interest*

The person of interest has the right to:

- a) Consistent and fair decision-making.



- b) Equality in the treatment of individuals.
- c) The opportunity to respond to claims.
- d) The right to be fully informed on all aspects of the investigation, the direction of any action taken under these guidelines as well as any possible future consequences.
- e) The right to representation. The person of interest has the right to have a union representative, family member or friend to represent them or to accompany them to any interview.

Although the person of interest has a right to the aforementioned, the timing of when to disclose information to the person of interest and when to afford him/her an opportunity to respond will vary with each investigation. The person of interest should not initially be advised of any inquiries where this may prejudice future investigations. The investigator will have to make a decision on the timing of such disclosures based on the facts of the investigation. At an appropriate point during the process the person of interest will be advised of the complaint and will be afforded the opportunity to respond.

### *13.3 Investigation Practices*

The person appointed to investigate a matter should:

- a) Ensure to the best of their ability that any statements made are true or fair.
- b) Act fairly and in good faith without bias, malice, ill will or with improper motives.

### *13.4 Confidentiality*

- a) The consent of an informant/complainant should always be sought before identifying the person. However the identifying information relating to an informant/complainant may be disclosed without their consent where:
  - it is necessary to do so, having regard to the rules of natural justice; or
  - it is necessary to do so to enable the matter to be investigated effectively.
- b) In the event that it is necessary to disclose identifying information relating to an informant/complainant, the person making the disclosure (usually the investigator) must take all reasonable steps to inform the person whose identity is to be disclosed:
  - that the disclosure is being made; and
  - the reasons for the disclosure being made.
- c) Where identifying information in relation to an informant/complainant is conveyed to another person, the other person should be warned that disclosure of the information to a third person may involve a serious offence.
- d) Identifying information relating to a person of interest may be disclosed at the investigation stage where the disclosure:
  - is necessary to enable the matter to be investigated effectively;
  - there are reasonable grounds to believe that the disclosure of identifying information is necessary to prevent or minimise the risk of injury to any person or damage to any property.
- e) The person of interest should not initially be advised of any inquiries where this may prejudice future investigations. The person of interest shall be advised of the complaint and will be afforded the opportunity to respond at an appropriate time.
- f) Information pursuant to any initial assessment or investigation shall only be made available on a need-to-know basis. Notification of the staff member subject to the complaint shall be on the advice of the Director, RASC.

- g) Managers are required to maintain confidentiality with respect to complaints or matters referred to them. Any statements, reports or letters containing potentially defamatory statements should be enclosed in a sealed envelope and clearly marked "Private and Confidential". Care should be taken in drafting such reports or letters to minimise potential damage arising from any remarks made in such correspondence. Staff members are reminded that such documentation is potentially discoverable under the *Freedom of Information Act, 1992*.
- h) Any records arising from initial assessments and investigations should be placed on a confidential central records file.
- i) Great care needs to be taken in the investigation of suspected fraud, corruption and misconduct to avoid:
- unfounded and incorrect accusations;
  - unnecessarily and prematurely alerting individuals against whom allegations have been made; and
  - making statements that could expose the University to legal liability for damages arising from a wrongful accusation.
- j) Complainants, informants or management should not:
- Attempt to personally conduct any formal investigations or interviews in order to determine whether or not a suspected activity is improper. However, this does not preclude management from conducting appropriate preliminary inquiries to determine whether or not there is a basis for the complaint and further action. Such preliminary inquiries must consider the constraints imposed by these guidelines.
  - Contact the person(s) of interest to determine facts or demand restitution.
  - Discuss any facts, suspicions or allegations associated with the complaint with anyone, unless specifically directed by the Director, RASC, the Vice-Chancellor or officers from a law enforcement or regulatory agency.
- k) When taking action, the confidentiality of identifying information must be maintained.
- Maintain strict confidentiality.
  - Persons who investigate a matter may need to inform persons who have a duty to know about the issues of concern. All documentation must be stored and transmitted in a secure and confidential manner.

#### 14. Referral to External Agencies

If the matter is considered sufficiently serious, the University will refer the matter to an appropriate external authority. Reference to an external agency will not occur without the express permission of the Vice-Chancellor or the Vice-Chancellor's delegated nominee, or in instances where the Vice-Chancellor forms the basis of an allegation, the Chancellor.

<b><i>When the disclosure relates to...</i></b>	<b><i>The proper authority is...</i></b>
Offences under State Law eg. criminal offences under the Criminal Code related to corruption and fraud	The WA Police, Corruption and Crime Commission or the Public Sector Commission
Substantial unauthorised or irregular use of, or substantial mismanagement of, public resources	The Office of the Auditor General for Western Australia
Misconduct	The Corruption and Crime Commission or the Public Sector Commission

- o *Corruption and Crime Commission*

Section 28 (3) of the *Corruption, Crime and Misconduct Act (WA) 2003* requires the University to notify the Corruption and Crime Commission of any reasonably held suspicions of Serious Misconduct. Notifications of Serious Misconduct to the Corruption and Crime Commission are to be made in accord with the *CCC Guidelines for Notification of Serious Misconduct* made under Section 30 of the CCM Act.

- o *Public Sector Commission*

Section 45H(3) of the *Corruption, Crime and Misconduct Act (WA) 2003* requires the University to notify the Public Sector Commission of any reasonably held suspicions of Minor Misconduct as soon as is reasonably practicable after becoming aware of them.

- o *Suspicion on reasonable grounds*

A suspicion on reasonable grounds means that an assessment has been made about the alleged Misconduct and that the allegation has been determined to be well-founded. Suspicion on reasonable grounds requires some factual basis, and a stronger level of knowledge than mere speculation, rumour, gossip or innuendo.

- o *Paramount Reporting*

The duty to notify the Corruption and Crime Commission or the Public Sector Commission is paramount and means that a notification under section 28 or 45 must be complied with despite:

- a) The provisions of any other Act, whether enacted before or after the *Corruption, Crime and Misconduct Act (WA) 2003*; or
- b) any obligation the University has to maintain confidentiality about a matter to which the allegation relates,

and the University does not commit an offence by reason of the compliance.

Paramount reporting does not require the University to report suspected misconduct matters to the Corruption and Crime Commission as soon as a reasonable suspicion is formed. Notifications of Serious Misconduct to the Corruption and Crime Commission are to be made in accord with the *CCC Guidelines for Notification of Serious Misconduct* made under Section 30 of the CCM Act. Notifications of Minor Misconduct are to be made to the Public Sector Commission as soon as practicably possible.

## 15. Public Interest Disclosures

The [Procedures relating to ECU's Obligations under the PID Act](#) document provides for the manner in which the University will comply with its obligations under the *Public Interest Disclosure Act 2003*. The document provides for:

- a. The appointment of an officer(s) to whom such complaints may be made.
- b. The investigation of disclosures.
- c. The remedy of any defects or wrongdoings.
- d. The provision of protection for the complainant including, confidentiality, employment protection and, where appropriate, immunity from any criminal or civil liability.
- e. The notification to the complainant of action or contemplated action to be taken by the University.

## 16. The relationship between the Fraud and Misconduct Prevention and Management Policy and the University's Industrial Instruments, the ECU Act and other ECU Regulations

The Fraud and Misconduct Prevention and Management Policy should be read in conjunction with the University's Industrial Instruments, the *Edith Cowan University Act* or any of the University's Regulations when dealing with acts of fraud, corruption and misconduct.

However, it should be noted that the duty for reporting suspected acts of Misconduct as required under Section 28 and 45 of the *Corruption, Crime and Misconduct Act (WA) 2003* is paramount. All suspected acts of Misconduct by University staff should be dealt with in accordance with the Fraud and Misconduct Prevention and Management Policy and these Guidelines.

## **E. Policy Matters**

### **17. Policy Access**

The Fraud and Misconduct Prevention and Management Policy is available electronically at: [Office of Governance Services - Edith Cowan University](#).

The Fraud and Misconduct Prevention and Management Guidelines are available at: [Risk and Assurance Services Centre - Fraud & Misconduct Prevention and Management](#).

All documents are available in hard copy from Risk and Assurance Services Centre.

### **18. Policy Implementation Maintenance and Review**

Risk and Assurance Services Centre is delegated the strategic responsibility for implementing, reviewing and amending the Fraud and Misconduct Prevention and Management Policy and these Guidelines as appropriate. Academic areas and Service Centres are responsible for the operational implementation and management of the Policy and Guidelines. Policy and Guidelines amendments will be undertaken in consultation with the Human Resources Service Centre.

### **19. References**

Document Code: RMG001

File Number: 04/000

Policy Owner: Director, Risk and Assurance Services Centre

Approved By: ECU University Council

Date Approved: 17 August 2006

Revision Date: 7 September 2018

Amendments: 18 December 2014 & 7 September 2015

Related Policies/Documents:

- Acceptance of Gifts by ECU Staff – RM007
- Australian Standard 8001-2008 Fraud and Corruption Control
- Conflicts of Interest Policy – RM009
- Corruption, Crime and Misconduct Act 2003
- Criminal Code Act Compilation Act 1913 (WA)
- ECU Academic and Professional Staff Union Collective Agreement 2013
- Edith Cowan University Code of Conduct – HR147
- ECU Procedures Relating to ECU's Obligations under the Public Interest Disclosure Act (WA) 2003
- Fraud and Misconduct Prevention and Management Policy – RM002
- Fraud Prevention in the Western Australian Public Sector 1999 – a publication from the Ministry of the Premier and Cabinet
- Misconduct and Serious Misconduct – General Staff – HR153
- RASC Investigation Manual
- Research Misconduct Policy – AC091
- University Credit Card Policy – AD041

### **20. Contact Information**

Mr Phillip Draber, Director, Risk Management & Audit Assurance  
Telephone: (08) 6304 2495  
Facsimile: (08) 6304 2866  
Email: [p.draber@ecu.edu.au](mailto:p.draber@ecu.edu.au)

<b>Risk Category (Risks)</b>	<b>ECU Vulnerability Percentage</b>
<b>ACADEMIC</b>	
Fraudulent documentation presented by student applicants and agents	72.79
Offshore partners and staff compromising entry or academic quality standards	70.91
Plagiarism - student assessments	68.06
Collusion/Inducements - staff and students re assessments	66.37
Cheating - student assessments	64.57
Misuse of Research funds	58.89
Research Fabrication	58.89
Research Conflicts of Interest - with engagement entities or research parties	58.89
Research Travel - use travel for personal gain	58.89
Marking (Soft, Hard & Inconsistent)	57.01
<b>FINANCIAL</b>	
Unauthorised/inappropriate use of ECU credit card	100.00
Overstated overtime claims by staff	100.00
Intentional failure to record liabilities in order to manipulate financial reporting results	100.00
Manipulating revenue recognition in order to manipulate financial reporting results	100.00
Intentional failure to record or disclose information in order to improve the financial position of the School or Area	100.00
False employee FBT declarations	100.00
Theft of petty cash and other cash	94.89
Lapping and/or misappropriation of cash receipts and concealing shortages by delaying postings of cash receipts	86.94
Kiting receivables by misapplying bank deposits	86.41
Unauthorised refund of student tuition and other fees	72.18
Failure to record necessary write-offs	18.98
Money laundering via student accounts	15.09
False commission claims by overseas ECUI agents	5.84
Unauthorised changes to vendor master file	5.15
<b>PROCUREMENT</b>	
Receiving and accepting inappropriate gifts, receiving and accepting kickbacks and or favouring suppliers	100.00
Conflicts of interest with suppliers	100.00
Collusion between staff & supplier - fictitious invoice from supplier	100.00
Manipulating procurement documentation/processes to circumvent higher level tender/procurement processes	100.00
Charging personal expenses to the University through the misuse of purchase orders, credit cards and the staff kiosk	100.00
Non - competitive contracts entered into as a result of contracts not being put out to tender	100.00

Corruption - employees collude with suppliers to accept goods/services at inflated prices in order to obtain a personal benefit.	100.00
Corruption - employees collude with suppliers resulting in payment for goods/services the University has not received in order to obtain a personal benefit.	100.00
Collusion - permitting GST errors where potential GST refunds may be claimed by third parties	6.95
Vendors collude to rig bids in order to win work at higher prices. The other vendors then become sub-contractors of the winning bidder	6.92
Alteration of vendor invoices for the purpose of making payment to benefit a third party	6.92
<b>PAYROLL</b>	
False wages/expense reimbursement claims	100.00
Creating and paying fictitious employees	6.92
<b>PHYSICAL PROPERTY</b>	
Unauthorised removal of ECU Assets including IT Equipment	100.00
Theft of medications from campus medical suites at ML and Jo	34.41
<b>HUMAN RESOURCES</b>	
Falsification of employee time records, annual or sick leave records	100.00
Staff not working required hours	100.00
Use of confidential employee information to commit fraud eg ID fraud	100.00
Insider trading or misuse of ECU IP/Patents	100.00
Unauthorised use or disclosure of ECU staff/student information	100.00
Unauthorised use or disclosure of ECU competitor data information	100.00
Staff conflict of interest as a result of outside employment or business associations	100.00
Falsified qualifications and employment history quoted with job application	100.00
False workers compensation claims	100.00
<b>INFORMATION TECHNOLOGY</b>	
Misuse of ECU software licenses on non-ECU equipment	100.00
Unauthorised Software introduced to the computer environment	100.00
Misuse of computer facilities and Services	100.00
Unauthorised changes made to staff/student information or financial information	100.00
Misuse of Social Media platforms to commit fraud eg ID theft and cash grabs	100.00

<b>KEY</b>	
ECU Vulnerability is less than 25%	Low
ECU vulnerability is between 25% and 75%	Moderate
ECU Vulnerability is more than 75%	High

*The ECU Integrity Risk Assessment is available as a hard copy from the RASC centre or electronically at the RASC website on the staff intranet.*

## APPENDIX B - POSSIBLE INDICATORS OF FRAUD

The following list contains some of the possible indicators of fraud. They are presented to heighten staff awareness of potential control lapses that make an environment more conducive to fraudulent and corrupt behaviour. These indicators can be viewed in isolation or in total combination, although the latter will generally indicate that circumstances of fraudulent or corrupt behaviour are a distinct possibility.

Staff members need to proceed with caution, as the presence of one or more of the following indicators of fraud or corruption does not mean that such behaviour is occurring. Such lapses in control may be the result of other factors. As a consequence, these indicators should be viewed from a wider context. The scope of these guidelines must also be given appropriate consideration when analysing these factors to determine potentially fraudulent or corrupt conduct. Further, these indicators should not be taken to be exhaustive or definitive as they are only a guide. Please contact Risk and Assurance Services Centre should you need further guidance with these indicators.

### Work Practices

- Missing expenditure vouchers & unavailable official records,
- Crisis management coupled with a pressured business environment,
- Excessive variations to budgets or contracts,
- Bank reconciliations are not maintained or cannot be balanced,
- Excessive movements of cash funds,
- Unauthorised changes to systems or work practices,
- Lowest tenders or quotes passed over with minimal explanation recorded,
- Lost assets,
- Absence of controls and audit trails, and
- Lack of clear financial delegation.

### Employee Behaviour

- Refusal, evasion or excessive delays in producing files, minutes or other records.
- Unexplained employee absences.
- Gambling while at work.
- Borrowing money from fellow employees while at work.
- Placing undated or post dated cheques in petty cash.
- Personal creditors appearing at the workplace.
- Covering up inefficiencies.
- Excessive staff turnover in any specific position.
- Employees with outside business interests or other jobs that conflict with their duties, other than those approved in connection with the University Consultancy Policy.
- Signs of excessive drinking or drug abuse.
- Managers bypassing subordinates, subordinates bypassing managers.
- Secretiveness.
- Marked character changes.
- Excessive or apparent total lack of ambition.
- Excessive control of records by one officer.
- Refusal to comply with normal rules and practices.

*Reference - Fraud Prevention in the Western Australian Public Sector 1999 – a publication from the Ministry of the Premier and Cabinet.*



## APPENDIX C – DESIRABLE EVIDENCE CHARACTERISTICS

Good evidence is crucial to initial assessments and investigation. Evidence from initial assessments and investigations may be used in further investigations and as such, must be the best that the University can obtain consistent with its powers. Ideally evidence gathered in support of an initial inquiry or a investigation should meet the following standards:

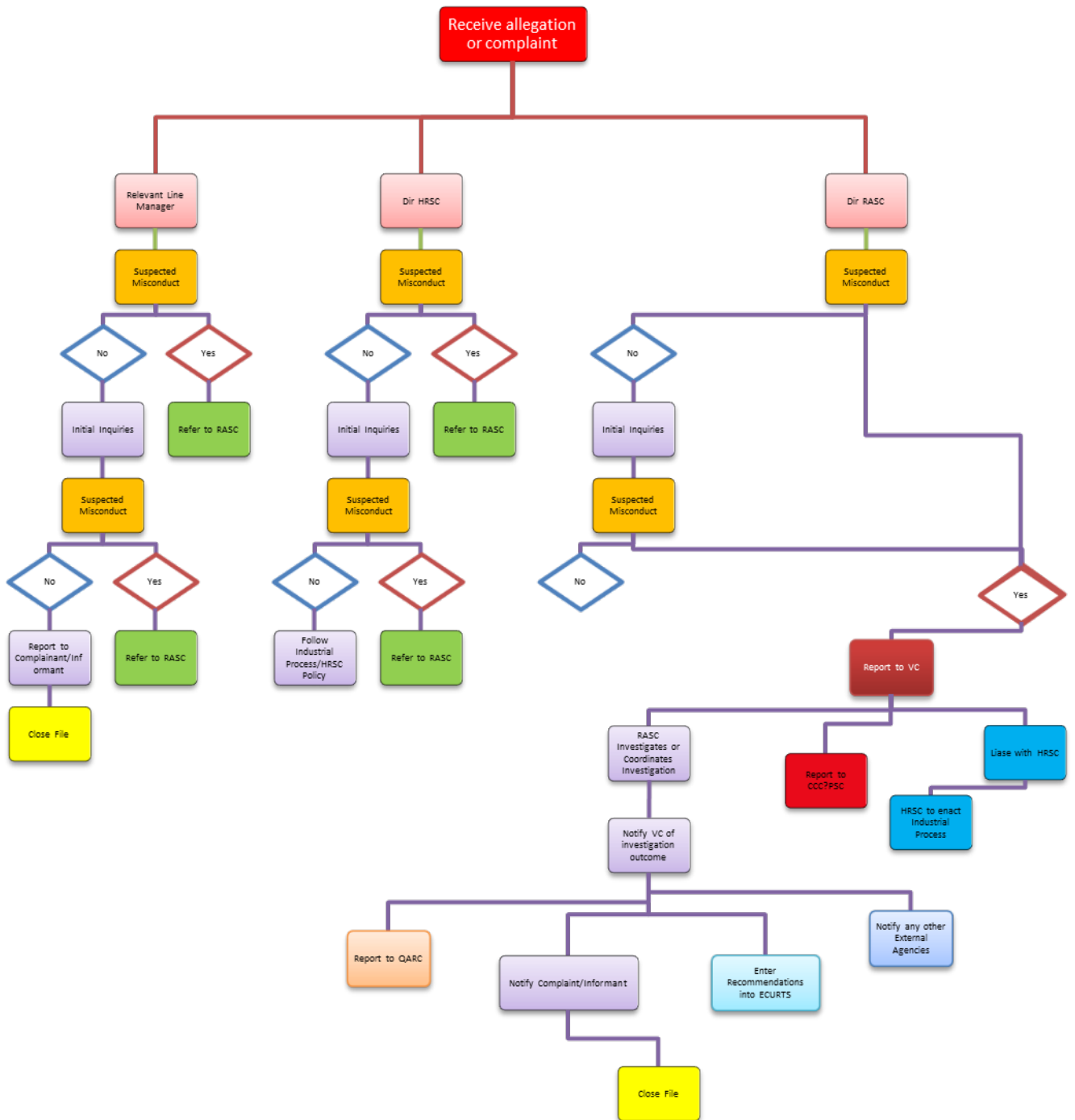
1. Sufficient. This means that the evidence, in total, is sufficient to prove an allegation beyond reasonable doubt. Sufficient evidence should be factual, adequate and convincing.
2. Competent. This means that any piece of evidence is the best possible available. Competence is best illustrated by example. Written evidence is more competent than verbal evidence; corroborative evidence from a third party with no interest in the complaint will be more persuasive than evidence from a party to the complaint. In short competent evidence is reliable and the best available.
3. Relevant. This means that the evidence supports any findings and recommendations that relate to the objectives of the initial inquiry or investigation.
4. Useful. This means that the evidence helps the University meet its organisational goals.

The University acknowledges that it may not be possible under all circumstances to obtain evidence that meets these tests. These standards are provided to assist staff in their consideration of evidence collected in connection with either initial assessments or investigations.

**APPENDIX D – QARC REPORT TEMPLATE**

<b>File Reference</b>	<b>School/Centre</b>	<b>Reported to CCC/PSC</b>	<b>Final Report to CCC/PSC</b>	<b>CCC/PSC Inv Completed</b>	<b>ECU Inv Completed</b>	<b>Reported to WAPoI</b>	<b>WAPoI Inv Completed</b>
SUB/	Name	Yes/No	Yes/No	Yes/No	Yes/No	Yes/No	Yes/No

## APPENDIX E – INVESTIGATION PROCESS MAP



**NOTE:** AT AN APPROPRIATE POINT DURING THE PROCESS THE PERSON OF INTEREST WILL BE ADVISED OF THE COMPLAINT AND WILL BE AFFORDED THE OPPORTUNITY TO RESPOND