

ACADEMIC GUIDANCE 11:

**Procedures for dealing with allegations of misconduct in
research (staff)**

2011/2012

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Procedures for dealing with allegations of misconduct in research (STAFF)

The UK Research Councils require all Higher Education Institutions to demonstrate that there are agreed principles and procedures in place to deal with allegations of misconduct in research. These procedures are expected to conform to the general guidelines issued in 1998 by the Director General of the Research Councils and the Chief Executives of the UK Research Councils.

These procedures have been informed by the recommendations of:

- the EPSRC's Good Practice in Scientific and Engineering Research
- the MRC's Policy and Procedure for Inquiry into Allegations of Scientific Misconduct
- The UK Research Integrity Office's Code of Practice for Research
- RCUK's Policy and Code of Conduct on the Governance of Good Research Conduct

At any time, an employee may have confidential discussions and consultation about concerns of possible misconduct with the Director of Human Resources and seek advice about appropriate procedures to report allegations.

Staff who believe that a serious case of research misconduct has occurred are encouraged to use the University's procedure on "[Whistleblowing](#)" available from the University Secretary, otherwise, the following three stage procedure can be used. This procedure is intended to identify whether research misconduct has occurred and if so, the seriousness of the misconduct. Procedures for resulting disciplinary action are covered by the [University Disciplinary Procedure](#).

Allegations of fraud are handled in accordance with the procedures set out in the [University Fraud Response Plan](#).

The procedures relating to discipline of students for misconduct in the prosecution of research, are set out in the [Student Disciplinary Regulations](#).

These procedures are designed to apply to current staff. They also apply to consultants who are contracted by the University to work on investigations on behalf of the University. The procedures are only applicable in regard of misconduct which is alleged to have occurred during the time that they have been employed. The procedures do not apply to persons who are employed by other organisations, even if those individuals were engaged in collaborative research with staff of the University. The University does not have powers to investigate former employees or students who are now employed elsewhere.

These procedures will be subject to review by the University Research Committee every 4 years.

Definition

In the context of these procedures, misconduct is taken to mean:

- a) **Fabrication:** This includes the creation of false data or other aspects of research, including documentation and participant consent.
- b) **Falsification:** This includes the inappropriate manipulation and/or selection of data, imagery and/or consents.

- c) **Misrepresentation:** Including:
- i) Misrepresentation of data, for example suppression of relevant findings and/or data, or knowingly, recklessly or by gross negligence, presenting a flawed interpretation of data;
 - ii) Undisclosed duplication of publication, including undisclosed duplicate submission of manuscripts for publication;
 - iii) Misrepresentation of interests, including failure to declare material interests either of the researcher or of the funders of the research;
 - iv) Misrepresentation of qualifications and/or experience, including claiming or implying qualifications or experience which are not held;
 - v) Misrepresentation of involvement, such as inappropriate claims to authorship and/or attribution of work where there has been no significant contribution, or the denial of authorship where an author has made a significant contribution.
- d) **Plagiarism:** This includes the general misappropriation or use of others' ideas, intellectual property or work (written or otherwise), without acknowledgement or permission.
- e) **Mismanagement or inadequate preservation of data and/or primary materials:** Including failure to:
- i) keep clear and accurate records of the research procedures followed and the results obtained, including interim results;
 - ii) hold records securely in paper or electronic form;
 - iii) make relevant primary data and research evidence accessible to others for reasonable periods after completion of the research;
 - iv) manage data according to the research funder's data policy and all relevant legislation;
 - v) wherever possible, deposit data permanently within a national collection.
- f) **Breach of duty of care,** which involves deliberately, recklessly or by gross negligence:
- i) disclosing improperly the identity of individuals or groups involved in research without their consent, or other breach of confidentiality
 - ii) placing any of those involved in research in danger, whether as subjects, participants or associated individuals, without their prior consent, and without appropriate safeguards even with consent; this includes reputational danger where that can be anticipated;
 - iii) not taking all reasonable care to ensure that the risks and dangers, the broad objectives and the sponsors of the research are known to participants or their legal representatives, to ensure appropriate informed consent is obtained properly, explicitly and transparently;
 - iv) not observing legal and reasonable ethical requirements or obligations of care for animal subjects, human organs or tissue used in research, or for the protection of the environment;
 - v) improper conduct in peer review of research proposals or results (including manuscripts submitted for publication); this includes failure to disclose conflicts of interest; inadequate disclosure of clearly limited competence; misappropriation of the content of material; and breach of confidentiality or abuse of material provided in confidence for peer review purposes.

Other terms used in the Procedure are:

Subject	the person accused of misconduct
Instigator	the person making the allegation (this may include external organisations such as journals).

Where allegations of misconduct are made by an individual or body external to the University, that individual or body will be made aware of the University's procedures and of the University's expectation that they will participate in the procedures and comply with their requirements.

Safeguards

An allegation of misconduct in this context is potentially defamatory and, therefore, actionable in law. For the protection of the Subject and the Instigator, these Procedures must be conducted in strict confidentiality and disclosed only to those identified as having a role in the Procedures.

A presumption of innocence is maintained until the investigation process is complete and complainants who have made allegations in good faith, whether substantiated or not, will be protected.

Procedures

There are three stages and an appeal process.

Stage 1 Initial screening

- 1 The Instigator makes an allegation of misconduct, in confidence, in writing to the Dean of the Faculty. (If the Dean is the subject of the allegation, the Pro Vice-Chancellor (Research) will substitute). The Dean will examine the allegation.
- 2 There is an initial screening to assess if the allegation is deemed to fall within the scope of these Procedures. The Dean may seek confidential legal or other expert advice. The Dean must then inform the Instigator within ten working days that either:
 - i) the allegation falls within the Procedures and warrants initial screening or
 - ii) the allegation has been dismissed as either outside the scope of the Procedures or unwarranted.
- 3 If i), the Dean shall undertake an initial screening by informing the Subject of the nature of the allegation and invite a response, while maintaining the anonymity of the Instigator. The Subject shall be given ten working days to respond.
- 4 Within five working days of the receipt of the response from the Subject, the Dean shall inform the Instigator and the subject of the decision which may be either:
 - i) that the allegation is dismissed or
 - ii) that the Subject's response is not satisfactory and the allegation will be considered under Stage 2 of the Procedures.
- 5 The Dean will then require all necessary documentation and material to be secured and shall inform the Pro Vice-Chancellor (Research). If the Pro Vice-Chancellor has carried out the initial assessment, the matter shall be referred to the Deputy Vice-Chancellor.

In circumstances where an allegation relates to research misconduct which may be placing others at risk, the Pro Vice-Chancellor will notify the Director of Human Resources of the issue, who will advise the Vice Chancellor if there are grounds for suspension of the employee concerned. The Vice Chancellor will ensure removal of the risk or, if necessary, suspend the respondent on full pay pending the outcome of the investigation.

Stage 2 Determining whether there is evidence

The purpose of this stage is to determine whether there is *prima facie* evidence of misconduct.

- 6 The Pro Vice-Chancellor (Research) shall appoint a panel of three experts, including at least one who is familiar with the area of research concerned, to advise her/him in strict confidence.
- 7 The Subject shall be invited to explain any apparent inconsistencies or irregularities in a written response which should be provided within 20 working days. This process shall maintain the anonymity of the Instigator and the Subject.
- 8 The panel shall consider the evidence within 60 working days of the receipt of the Subject's response. The panel shall provide a copy of the report to the Subject and invite a written response within 20 working days.
- 9 The panel shall then make a final recommendation to the Pro Vice-Chancellor (Research) within ten working days of the receipt of the Subject's response. The Pro Vice-Chancellor (Research) may determine that:
 - i) there is insufficient substance to warrant a formal investigation or
 - ii) the allegations should be subjected to a formal investigation under Stage 3 of these Procedures.
- 10 The Subject and the Instigator shall be informed of the Stage 2 outcome by the Pro Vice-Chancellor (Research) within ten working days of the panel submitting its final recommendations.

Stage 3 Examining evidence and deciding seriousness of misconduct

The purpose of this stage is to examine the evidence and decide if research misconduct has been committed and, if so, the seriousness of the misconduct. Given the quasi-judicial nature of this stage and the human resource implications, both the University Secretary and the Director of Human Resources should be informed in confidence.

In serious cases the question of suspension may need to be addressed, but this should only arise where the presence of an individual is likely to hinder an investigation or where it would be difficult to perform their duties while this stage of an investigation is being conducted.

Where an investigation is about someone funded by or engaged with RCUK (including as a supervisor for an RCUK postgraduate student or engaged with peer review activities), even if it is about work not connected with a grant from a UK Research Council, the case must be reported to the relevant Council at this stage, and the Councils reserve the right to take appropriate action, after consultation with the University, about any duties being performed for RCUK.

- 11 The Pro Vice-Chancellor (Research) shall establish a panel of three members with the necessary expertise to examine the evidence, interview witnesses and conduct the investigation.
- 12 Given the importance of having sufficient expertise in the panel, some of the members may have been involved as members of the panel in Stage 2. The members should have no conflict of interest and they should appoint their own chair.
- 13 The Pro Vice-Chancellor (Research) shall notify the Subject of the composition of the panel within five days of its establishment and inform the Subject of the right to object in writing to the inclusion of any of the members.

- 14 The Subject must provide any objections within five working days or the composition will be deemed to be acceptable.
- 15 Where an objection is received within the timescale, the Pro Vice-Chancellor (Research) may replace the member. No further objection is possible.
- 16 Advice should be taken from the University Secretary and the Director of Human Resources and others, as appropriate.
- 17 The panel shall then interview witnesses and provide both the Subject and the Instigator an opportunity for a meeting in confidence. Individuals have the right to be accompanied by a trade union representative or a workplace colleague. The investigators/HR will liaise with the individual and the trade union representative or workplace colleague to agree dates for a meeting within a reasonable period of time.
- 18 The panel should conclude its investigation within 60 working days by the production of a final report. There are three possible outcomes of the investigation:
 - i) no misconduct has occurred and the Procedures are complete
 - ii) misconduct has not occurred, but serious scientific errors have been identified
 - iii) misconduct is confirmed.
- 19 In all cases, the Pro Vice-Chancellor (Research) should ensure that the Subject, the Instigator and the Dean of the faculty concerned are provided with a copy of the report which must maintain the anonymity of the Instigator. This should be done within five working days of the panel submitting its report.
- 20 If the panel judges that the allegations are malicious, the Pro Vice-Chancellor (Research) shall refer the matter to the Dean for disciplinary action, usually through the formal disciplinary procedure.
- 21 In the case of i), steps should be taken to protect the reputation of the Subject. A clear statement should be made to any individuals who will have been aware of the allegations and need to know the outcome.
- 22 In the case of ii), the Dean should ensure that immediate action is taken to rectify the errors. It may be appropriate to inform the University Research Ethics Committee and disciplinary action may be considered, usually through the formal disciplinary procedure.
- 23 In the case of iii), the Pro Vice-Chancellor (Research) and the Dean, with advice from the Director of Human Resources, will consider the appropriate action to be taken. This may include, *inter alia*, informing any grant awarding body, the editors of any relevant journals, relevant statutory or regulatory bodies. If the Subject was registered for a research degree, action may be required to terminate the registration or rescind the qualification. Disciplinary action may be considered (usually proceeding directly to the disciplinary hearing stage).

The outcome of the investigation will be reported to the University Research Committee maintaining the anonymity of the individuals concerned.

Appeal

Any appeal regarding the findings of the investigation shall be made to the Vice-Chancellor whose decision is final. Such an appeal must be in writing and within ten working days of the Subject being provided with the panel's report.

Abortive termination of procedures at any stage

If procedures are terminated at any stage (for example, by the resignation of an individual) without conclusion that the complaints should be dismissed, the University will consider the seriousness of allegations outstanding, the strength of evidence supporting the allegations, and the implications for the future career of the individual.

Where serious concerns remain that misconduct may have occurred which have not been resolved, the individual complained against should be advised of this and be asked to see the investigation or hearing through to conclusion.

Where they do not agree to this, they should be advised that the details of the outstanding case may (without prejudice) be passed to any future employer or 'bona fide' enquirer about their career at the University, and may also be passed to any appropriate regulatory or professional supervisory body.

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