

# Procedure for Investigating Cases of Alleged Misconduct in Research (University Staff)

From: University Executive Board

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# PART I

## 1. INTRODUCTION

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- 1.1 The University of Southampton ('the University') is strongly committed to responsible conduct and probity of academic research, and expects all its staff and students to maintain the highest standards of research integrity and ethics in every aspect of their work in line with the University's [Code of Conduct for Research](#). The University has a responsibility to investigate any allegations of research misconduct, but at the same time has a duty to protect researchers from malicious, vexatious, or frivolous allegations.
- 1.2 This Procedure for Investigating Cases of Alleged Misconduct in Research ('the Procedure') was developed by the University to ensure that any concerns raised (both by internal or external sources) about the conduct of research undertaken by University staff, are fully investigated in a fair, thorough, objective and timely manner. This Procedure should be followed prior to the use of the University's formal disciplinary process or any non-disciplinary steps that might be required.
- 1.3 Situations that may appear as research misconduct, but are a result of either a misunderstanding or a professional dispute between individuals, may be resolved by an informal route such as alternative dispute resolution without a need for following this Procedure. Where such mechanisms are considered inappropriate due to the nature of the allegation, the investigation under this Procedure should be initiated.
- 1.4 This Procedure consists of Part I, Part II and Part III, all of which should be read and used in conjunction to ensure that any allegations of research misconduct are investigated appropriately, effectively and fairly.
- 1.5 In this Procedure:
  - 1.5.1 **Complainant** – is a person making an allegation of research misconduct against one or more Respondents. This may be internal or external to the University.
  - 1.5.2 **Respondent** – is a person against whom an allegation of research misconduct was made. She/he must be a present or past member of the University.
  - 1.5.3 Where a reference is made to a Complainant or a Respondent, the singular should be viewed to include the plural as appropriate.

## 2. SCOPE

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- 2.1 This Procedure is applicable to all research carried out for the University of Southampton, irrespective of how research activities are funded or sponsored. This includes research funded by the United States Public Health Service (USPHS) as per Appendix A below.
- 2.2 This Procedure will be used in the case of any allegations of research misconduct in relation to University's staff (including technical and professional services staff), as well as anybody authorised to undertake research under the auspices of the University of Southampton, using the University's facilities, working on the University's premises anywhere in the world, or elsewhere on behalf of the University. This may include visiting or emeritus researchers, associates, honorary contract holders, casual workers, consultants and contractors.
- 2.3 This Procedure does not apply to the University's students (both undergraduate and postgraduate). Any concern about research misconduct in relation to a University student should be reported to the relevant Faculty's Curriculum and Quality Assurance (CQA) Team. It will be treated as a

potential breach of academic integrity (AI) and investigated in line with the University's [Regulations Governing Academic Integrity](#).

## 2.4 Cross-institutional research misconduct allegations

- 2.4.1 Where allegations of research misconduct involve more than one institution, the University of Southampton, where appropriate, will liaise and fully cooperate on the matter with all relevant parties affected. This may include situations where a project or staff members are based at multiple institutions, or when researchers move to another institution.
  - 2.4.2 As a member of the Russell Group Universities, the University is a party to the Russell Group [Statement of Cooperation in respect of cross-institutional research misconduct allegations](#).
  - 2.4.3 The University may decide not to take action, where it will be agreed that the employing institution, for instance where the Respondent has an honorary contract with the University, will invoke its own investigation.
- 2.5 Once initiated, this Procedure should be followed to conclusion even if:
- 2.5.1 The Complainant withdraws the allegation at any stage.
  - 2.5.2 The Respondent admits to the alleged misconduct in full or in part.
  - 2.5.3 The Respondent or the Complainant resign and leave the University.

## 3. RESEARCH MISCONDUCT DEFINITION

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- 3.1 Research misconduct is defined as any breach of the University's [Code of Conduct for Research](#), a breach of the [University's research policies or regulations](#), or any breach of the research standards imposed by law, professional, regulatory or funding bodies. Misconduct in research can also amount to any other practices that seriously deviate from those that are commonly accepted within the academic and research communities for proposing, conducting and reporting research, as well as curating research data.
- 3.2 Research misconduct includes, but is not limited to:
  - 3.2.1 **Plagiarism**

This is deliberate use/copying of other people's ideas, intellectual property, words, data or other work (written or otherwise), without acknowledgement or permission.
  - 3.2.2 **Fabrication**

This involves creation of false/fictitious data or other aspects of research and recording them as if they were real. It may include fabricating research documentation, regulatory or internal approvals, participant consents, and false claims in relation to experiments, interviews or surveys.
  - 3.2.3 **Falsification**

This comprises manipulation of research materials, equipment or processes, or changing or omitting data, imagery, or consents with intention to deceive.
  - 3.2.4 **Misrepresentation**

This may include:

- a) Misrepresentation of data, including suppression of relevant findings, or knowingly or negligently presenting flawed interpretation of data.
- b) Undisclosed duplication of publication, including duplicate submission of manuscripts for publication.
- c) Misrepresentation of interests, including failure to declare any actual or potential conflicts of interest.
- d) Misrepresentation of qualifications or experience, including claiming or implying skills, qualifications or experience which is not held.
- e) Misrepresentation of involvement, such as attribution of work where there has been no significant contribution, or the denial of authorship where the author has made a substantial contribution (i.e. not following the guidance issued by relevant bodies or journals).

### 3.2.5 Mismanagement of Data or Primary Materials

This may include:

- a) Failing to keep clear and accurate records of the research procedures followed and the results obtained.
- b) Failing to keep records securely in paper or electronic form.
- c) Failing to ensure that relevant primary data and research evidence are preserved and accessible to others for reasonable periods after the completion of research.
- d) Failing to manage research data according to all relevant legislation or any data policy of research funders.
- e) Misuse of research findings.

### 3.2.6 Breach of duty of care

This may involve deliberately, recklessly or through gross negligence:

- a) Not observing legal and ethics requirements, and health and safety protocols designed to prevent unreasonable risk or harm to humans, animals, the environment or research artefacts, as well as human organs or tissue used in research. This includes placing those involved in research in danger, including reputational danger, without their prior consent, or without appropriate safeguards where informed consent is given.
- b) Failing to obtain appropriate informed consent, unless there are valid reasons for not doing so, or not obtaining relevant permissions from the University or external bodies.
- c) Any breach of data protection legislation and failure to properly handle privileged, personal or private information collected during the research.
- d) Not taking all reasonable care to ensure that the risks and dangers, the broad objectives, and the funders of research are known to participants or their legal representatives, to ensure appropriate informed consent is obtained properly, explicitly and transparently.
- e) Improper conduct in peer review of research proposals or publications, including failure to disclose conflicts of interest, inadequate disclosure of clearly limited competence, breach of confidentiality or abuse of material provided for peer review.

3.2.7 Examples of other unacceptable practices also include:

- a) Failing to obtain appropriate ethics approval to conduct research.
- b) Intentional or reckless unauthorised use, disclosure or removal of, or damage to the research related property of other researchers.
- c) Inciting others to commit research misconduct, or facilitating it by collusion in, or concealment of such actions by others, as well as reprisals against whistle-blowers.
- d) Submitting an accusation of research misconduct based on malicious, vexatious or frivolous motives.
- e) Financial fraud by misuse of research funds for unauthorised purchases or for personal gain.
- f) Providing wrong or careless advice/information to students by Supervisors e.g. advising that a research project can be commenced without necessary permissions in place.

3.3 For the avoidance of doubt, research misconduct includes acts of omission as well as acts of commission.

3.4 Research misconduct normally does not include:

- 3.4.1 Professional disputes or differences in interpretation or judgement in evaluating research methods or results, or professional competence.
- 3.4.2 The application or exploration of controversial or unpopular methods or ideas.
- 3.4.3 Challenging received wisdom.
- 3.4.4 Any other misconduct unrelated to the research process.

#### **4. MAKING A RESEARCH MISCONDUCT ALLEGATION**

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- 4.1 All University staff and students have a responsibility to preserve and protect the integrity and probity of research, and are under a general obligation to report any concerns about research misconduct, whether witnessed or suspected.
- 4.2 Those entitled to bring complaints about research are not restricted to members of staff, or students of the University (present or past).
- 4.3 All those raising concerns in good faith will be protected, supported and not penalised, in line with the University's Whistleblowing Policy. However, where there is evidence that an allegation of research misconduct is founded on malicious, vexatious or frivolous intent, it may be subject to action under the University's formal disciplinary process (where possible).
- 4.4 Any allegations/complaints should be related to research undertaken under the auspices of the University of Southampton. Where the Respondent is currently employed by the University of Southampton, but research in question was conducted at a different University/Research Organisation, the University of Southampton may be unable to investigate such cases. Please contact the Research Integrity and Governance (RIG) Team, Research and Innovation Services (RIS) by emailing [researchintegrity@soton.ac.uk](mailto:researchintegrity@soton.ac.uk) for further information and advice.

- 4.5 All allegations received will be treated with strict confidentiality and in line with the data protection legislation. The Complainant will be required to provide their name and contact details so that they can be contacted if further information or evidence will be required.
- 4.6 Anonymous allegations will not normally be investigated under this Procedure and will only be considered at the discretion of the Vice-President (Research and Enterprise) after taking into account the seriousness and credibility of the concern raised, and the likelihood of obtaining confirmatory evidence.
- 4.7 The University of Southampton reserves the right to investigate any allegations, or suspicions of research misconduct, that were made available in the public domain, or otherwise made known to the University, but where there is no specific Complainant. Such cases will be considered at the discretion of the Vice-President (Research and Enterprise).
- 4.8 **Research Misconduct Allegations**
- 4.8.1 Any allegations of research misconduct in relation to a current or past member of the University staff, should be initially reported, preferably in writing, to the relevant University Faculty by contacting the Faculty's Research Integrity Champion (RIC) or the Associate Dean Research (ADR).
- 4.8.2 Where contacting the Faculty would be considered as inappropriate, a concern/allegation of research misconduct can be submitted in writing to the RIG Team by contacting:
- Email: [researchintegrity@soton.ac.uk](mailto:researchintegrity@soton.ac.uk)
- 4.8.3 Information provided to the Faculty/RIG Team should ideally include:
- a) Name of the Respondent and the Complainant, and their affiliation to the research in question.
  - b) Project title and/or grant number of the relevant research (if known).
  - c) Description of the alleged research misconduct, and when and where it occurred.
  - d) Any supporting evidence/documentation.
  - e) Any other relevant information.

## **5. PROCEDURE IMPLEMENTATION**

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- 5.1 The Vice-President (Research and Enterprise) has an overall responsibility for overseeing the implementation of this Procedure. The day to day responsibility for the operation of this Procedure lies with the University's Research Integrity and Governance (RIG) Team based within the Research and Innovation Services (RIS).
- 5.2 The role of the RIG Team includes:
- 5.2.1 Receiving allegations of research misconduct.
  - 5.2.2 Initiating and administering this Procedure.
  - 5.2.3 Undertaking suitable checks to establish sources of research funding.
  - 5.2.4 Liaising with appropriate individuals including Research Integrity Champions (RICs), Associate Deans Research (ADRs), the Vice President (Research and Enterprise), the Lead Investigator and members of the Investigation Panel.
  - 5.2.5 Contacting and liaising with relevant funding bodies (in line with funders' policies or procedures), and other third parties that should be notified about the research misconduct allegation/investigation, where appropriate and/or required by law or contractual obligations.

- 5.2.6 Where appropriate and/or necessary, liaising with the University's Human Resources, the Legal Services Team and/or other teams/departments.
- 5.2.7 Attending relevant meetings in order to take notes/produce interview transcripts.
- 5.2.8 Maintaining a detailed and confidential record of information and decisions made on all aspects, and during all stages of the investigation, and appropriately sharing it with all relevant parties involved at the various stages of the Procedure.
- 5.2.9 Reporting on the outcome of the investigation, by sharing relevant information with appropriate individuals/organisations (both internal and external) in a confidential manner and in compliance with the data protection legislation.
- 5.2.10 Ensuring the integrity of any proceedings conducted under this Procedure.
- 5.2.11 Where appropriate, seeking confidential advice and guidance from the [UK Research Integrity Office \(UKRIO\)](#) or other individuals with relevant expertise or experience.

## PART II - Principles

### 6. GENERAL PRINCIPLES

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- 6.1 Investigations of misconduct in research should maintain the highest standards of integrity, accuracy and fairness. All proceedings must be conducted under the presumption of innocence, carried out with sensitivity and confidentiality, and in a timely manner.
- 6.2 All enquiries into allegations of research misconduct should be thorough and objective. All those appointed to implement this Procedure must ensure that their examination is sufficiently extensive to allow them to reach well-founded conclusions, and that they act impartially and professionally at all times.
- 6.3 Those who give evidence/provide information under this Procedure, should do so with honesty and integrity.
- 6.4 The standard of proof used for the purpose of this Procedure is *on the balance of probabilities*.

### 7. GENERAL INVESTIGATION RULES

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- 7.1 The RIG Team will support the Lead Investigator, members of the Investigation Panel and the Vice-President (Research and Enterprise) throughout this Procedure.
- 7.2 While the investigation is taking place, the Complainant, the Respondent, or any witnesses should not directly or indirectly contact the Lead Investigator, or members of the Investigation Panel. Any queries should be addressed through the RIG Team by contacting [researchintegrity@soton.ac.uk](mailto:researchintegrity@soton.ac.uk).
- 7.3 The RIG Team will seek the permission of those invited to attend any meetings, to record the interviews so that a transcript can be prepared. Where the permission to record the interview is not granted, the minutes of the meeting will be produced instead. A copy of the transcript or minutes will be shared with those attending the meeting so that it can be checked for factual accuracy. Where the record includes any errors of fact, this will be corrected by the RIG Team and a new version of the transcript/minutes will be distributed accordingly.

- 7.4 All those involved in an investigation under this Procedure are able to seek confidential advice from individuals with relevant experience both within and from outside the University. Those seeking advice must, as far as possible, not disclose any information which could lead to the identification of the Complainant, the Respondent, or other individuals involved in the case. Individuals who might be consulted include but are not limited to:
- 7.4.1 Experts in particular disciplines of research, or aspects of the conduct of research.
  - 7.4.2 Representatives of the University departments such as Human Resources, the Legal Services Team, Finance, Health and Safety, Research and Innovation Services and/or other teams/departments.
  - 7.4.3 Legal advisers.
- 7.5 The RIG Team should be informed and provided with any supporting evidence, if at any stage of this Procedure, further information is brought to light suggesting:
- 7.5.1 Further, distinct instances of research misconduct by the Respondent; or
  - 7.5.2 Misconduct in research by another person or research team.

All the information received will be considered under the initial steps of the Procedure.

## **8. CONFIDENTIALITY AND DATA PROTECTION**

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- 8.1 All allegations of research misconduct will be investigated in a confidential manner.
- 8.1.1 The provision of confidentiality shall however not preclude the University from disclosing information where necessary, including the outcome of the investigation, for the discharge of duties, or as required by law or any contractual obligations owed to third parties. This may include informing the funding bodies (in line with their individual policies and procedures), collaborating organisations, or any other professional or regulatory authorities.
- 8.2 All those involved in an investigation under this Procedure, including the Complainant, the Respondent, and any witnesses, have a duty of strict confidentiality and must not discuss, disclose or make any statements about the allegation to any third parties, during and after the investigation, unless formally sanctioned by the University or otherwise required by law. All relevant parties will be required to sign a Confidentiality and Conflicts of Interest Declaration.
- 8.2.1 Any unauthorised breaches of confidentiality may lead to disciplinary action.
- 8.3 At the conclusion of the proceedings, all records related to the investigation will be retained by the University for the period of:
- 8.3.1 6 years where the allegation was not upheld.
  - 8.3.2 10 years if the allegation was upheld (either in full or in part).
  - 8.3.3 The University reserves the right to retain records of research misconduct investigation for longer, where this is necessary due to the nature of the allegation.



## 9. CONFLICTS OF INTEREST

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- 9.1 All relevant parties involved in the investigation under this Procedure, including the Lead Investigator and members of the Investigation Panel, should not have any actual or potential conflicts of interest. Any such conflicts, for instance links with the Respondent or the Complainant, must be declared; however, declaration of an interest will not automatically exclude an individual from participating in the investigation. The final decision will be made by the Vice-President (Research and Enterprise). Relevant individuals will be asked to sign a Confidentiality and Conflicts of Interest Declaration.
- 9.2 Where an allegation of research misconduct is in any way linked to the Vice-President (Research and Enterprise), or raises the potential for a conflict of interest for the Vice-President (Research and Enterprise), the investigation under this Procedure should be overseen by another member of the University Executive Board (UEB) as appointed by the Vice-Chancellor.

## 10. THE RIGHT TO BE ACCOMPANIED

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- 10.1 At any meeting or hearing convened under this Procedure, the Complainant, the Respondent and any witnesses, save expert witnesses, may be accompanied by a fellow employee or a Trade Union representative, while clinical staff can be accompanied by a member of their defence organisation.
- 10.2 The accompanying colleague or representative plays an important role in supporting the relevant member of staff. They do not however have the right to answer questions on behalf of the individual concerned, or to address the hearing if the Complainant/Respondent does not wish them to do so. They are also not allowed to represent the member of staff concerned in any legal capacity, even if they are legally qualified.

## 11. PRECAUTIONARY MEASURES

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- 11.1 The RIG Team, after the consultation with the Vice-President (Research and Enterprise), and if appropriate other relevant individuals, teams or departments, may take such precautionary measures as necessary to ensure that all relevant information and evidence are secured for the purpose of the investigation. This may include, but is not limited to:
- a) Securing all relevant records, materials and locations associated with the research.
  - b) Liaising with the Human Resources and line managers in order to:
    - i. Request the temporary suspension of the Respondent from duties on full pay (if a member of the University staff).
    - ii. Request the temporary barring of the Respondent from part or all of the University, and any of the sites of partner organisations.
    - iii. Request a temporary restriction be placed on the Respondent requiring him/her not to have contact with some or all of the staff and students of the University and those of any partner organisations.
- 11.2 Such actions will be only taken by the University in situations where there is a clear risk to individuals, or that evidence might be destroyed. The reasons for taking any precautionary measures should be recorded in writing and communicated to all relevant parties. It should be emphasised that any such actions might be taken to ensure that allegations are properly investigated, they are therefore not disciplinary in nature, and do not indicate that the allegations are considered to be true by the University.

- 11.3 Any suspension or barring of the Respondent will be reviewed throughout the investigation to ensure that it is not unnecessarily protracted.
- 11.4 Precautionary measures may be instigated at any stage of this Procedure.

## 12. PREVENTION OF DETRIMENT

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- 12.1 The University must take all reasonable steps to:
- 12.1.1 Protect researchers from malicious, vexatious, or frivolous allegations.
  - 12.1.2 Ensure that the position and reputation of those accused of research misconduct, the relevant research project(s), or any other party, does not suffer because of unconfirmed or unproven allegations.
  - 12.1.3 Protect the position and reputation of those who made allegations of research misconduct in good faith i.e. in the reasonable belief and/or on the basis of supporting evidence that research misconduct may have occurred.
- 12.2 Involvement of the Respondent in an investigation under this Procedure should not prevent him/her from being considered for promotion, the completion of probation, or any other steps related to his/her professional development. The University may however decide to suspend the implementation of any such matter for the period when an allegation is investigated under this Procedure.

## 13. ACADEMIC FREEDOM

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- 13.1 This Procedure recognises and is not intended to detract from the guiding principles of academic freedom, which are at the centre of all activities of the University, as set out in [Section III of the Statutes of the University, Part 1, Clauses 2\(1\) and 2\(2\)](#).
- 13.2 The University Statutes state that all University staff '*have freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, with due regard for the need to respect others and promote the best interests of the University and academic learning, without placing themselves in jeopardy of losing their jobs or privileges*'.
- 13.3 The principles of academic freedom adopted by the University reflect those set out in Sections VI and VII of the [Recommendation concerning the Status of Higher-Education Teaching Personnel](#) adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organisation (UNESCO) in Paris on 11 November 1997.

## PART III – The Procedure

### 14. PROCEDURE STAGES

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- 14.1 This Procedure consists of three stages:
- 14.1.1 Initial assessment of the allegation.
  - 14.1.2 Preliminary Investigation.
  - 14.1.3 Panel Investigation.

## 15. INITIAL ASSESSMENT OF THE ALLEGATION

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### 15.1 Allegation received at the Faculty Level

- 15.1.1 Upon receipt of the concern/allegation of research misconduct, the Research Integrity Champion (RIC) or the Associate Dean Research (ADR) should acknowledge its receipt in writing, and discuss it among themselves. At this stage an initial assessment of the allegation should be carried out to establish whether the allegation:
- a) Falls within the definition of research misconduct under this Procedure (as per section 3).
  - b) Concerns situations that require immediate action(s) to prevent further risk of harm to staff, participants or other individuals, suffering to animals or negative environmental consequences (where this might contravene the law or fall below good practice).
  - c) Is malicious, vexatious or frivolous.
  - d) Is a result of either a misunderstanding or a professional dispute between the individuals.
  - e) Should be dealt with under a different University Procedure.
- 15.1.2 The RIC/ADR must inform the RIG Team about the allegation received and the details of their initial assessment. The decision will be then jointly taken whether the matter amounts to a professional dispute and therefore could be resolved at the Faculty level through internal or external mediation, or whether it should be referred to the RIG Team for a full investigation under this Procedure. In any event, normally within 10 working days from the date the complaint was made, the Complainant should be informed by the Faculty about the proposed actions and whether they will be pursued by the Faculty or the RIG Team.
- 15.1.3 Where it has been decided that the allegation is malicious, vexatious or frivolous, the allegation will be dismissed. This will be communicated in writing to the Complainant. Appropriate action, where possible, might be taken against those who made the allegation. If the Complainant is a member of the University, the Dean of the relevant Faculty or Director of the Professional Service may be notified in order to decide whether disciplinary action should be taken. If the Complainant is a member of another University or research organisation, the Dean or Director of the Professional Service, should (with advice from Legal Services) make a recommendation whether the relevant University/research organisation should be contacted and informed about any allegations that were found to be malicious, vexatious or frivolous.
- 15.1.4 Where the allegation was dismissed, the RIG Team might contact the Respondent to inform them about the allegation and its nature. This will be decided on case by case basis and in consultation with the Vice-President (Research and Enterprise). Any information provided will be anonymised.
- 15.1.5 Where it has been decided that the allegation should proceed to the next stage of this Procedure, the RIG Team will follow the steps 15.2.5 and 15.2.6 as listed below.

### 15.2 Allegation received by the RIG Team

- 15.2.1 Upon receipt of the allegation of research misconduct, the RIG Team will formally acknowledge its receipt in writing, and will conduct an initial assessment of the allegation in order to determine whether the allegation:
- a) Falls within the definition of research misconduct under this Procedure (as per section 3).

- b) Concerns situations that require immediate action(s) to prevent further risk of harm to staff, participants or other individuals, suffering to animals or negative environmental consequences (where this might contravene the law or fall below good practice).
- c) Is malicious, vexatious or frivolous.
- d) Is a result of either a misunderstanding or a professional dispute between the individuals.
- e) Should be dealt with under a different University Procedure.

15.2.2 The RIG Team will assess whether the RIC/ADR of the relevant Faculty should be informed about the allegation.

15.2.3 Following the Initial Assessment of the allegation, the RIG Team in consultation with the RIC/ADR (if appropriate) should decide what actions need to be taken and by whom. This will be communicated by the RIG Team to the Complainant normally within 10 working days from the date the complaint was made.

15.2.4 Where it has been decided that the allegation is malicious, vexatious or frivolous, the allegation will be dismissed. This will be communicated in writing to the Complainant. Appropriate action, where possible, might be taken against those who made the allegation as per point 15.1.3 above.

15.2.5 The RIG Team will inform the Vice-President (Research and Enterprise) about the allegation that should proceed to the Preliminary Investigation stage of the Procedure so that a Lead Investigator can be appointed (as per section 16).

15.2.6 In order to proceed to the Preliminary Investigation stage, the RIG Team will inform the Respondent about the allegation made against him/her and its nature. If the allegation is against more than one Respondent, each individual will be notified separately, and where appropriate the identity of any other Respondents should not be divulged. In order to ensure a fair and transparent investigation, the identity of the Complainant will be disclosed to the Respondent.

15.3 The Respondent will be given an opportunity to respond to the allegation and provide any relevant documents/evidence in support of their case. Copies of any evidence, records or materials received/gathered for the purpose of the investigation should be provided to the Respondent where possible. If the records are in a form which cannot be readily copied, the Respondent should be given reasonable access to the material while it is impounded.

15.4 Where an allegation is of a serious nature, for instance concerning an activity that is potentially or actually illegal, the Vice-President (Research and Enterprise) may decide that the appropriate authority or regulatory body should be notified by the University.

15.4.1 As a consequence of such notification, the University may be required to comply with an investigation led by a legal or regulatory body, which may take precedence over this Procedure.

## **16. PRELIMINARY INVESTIGATION**

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16.1 The Preliminary Investigation aims to determine whether there is *prima facie* case of misconduct in research. It does not have to establish whether the misconduct has occurred, but to assess available evidence so that an initial determination can be made on how to proceed.

16.2 The Preliminary Investigation is conducted by the Lead Investigator appointed by the Vice-President (Research and Enterprise). The Lead Investigator should be appointed, where possible, within 10

working days from the decision to proceed to the Preliminary Investigation. She/he should be a senior member of the University staff with relevant experience, knowledge and skills.

- 16.2.1 If the allegation is complex, the Vice-President (Research and Enterprise), at their discretion, may appoint a Screening Panel to support the work of the Lead Investigator. The Screening Panel should consist of a minimum of three members with the Lead investigator acting as a Chair.
- 16.3 The Lead investigator, and if relevant all the members of the Screening Panel, will be required to sign a Declaration confirming that they will abide by the conditions and provisions of this Procedure, that they do not have any conflicts of interest, and that they will maintain the confidentiality of the proceedings during and after the University investigation.
- 16.4 Both the Complainant and the Respondent will be informed by the RIG Team about who has been appointed as the Lead Investigator/members of the Screening Panel. Any concerns they may have about the appointment(s) will be appropriately considered by the Vice-President (Research and Enterprise); however, neither the Complainant nor the Respondent have a right of veto over the nomination of the Lead Investigator/members of the Screening Panel.
- 16.5 The RIG Team will seek/confirm with the Respondent details of all sources of research funding, and any internal or external research collaborators. Where appropriate, in line with the funding bodies' policies and procedures, the RIG Team may need to contact the relevant funding body and other third parties, to inform them about the research misconduct allegation/investigation.
- 16.6 In line with relevant policies and procedures of funding bodies, or other relevant external organisations, an observer status on Preliminary Investigations will be granted by the University, if requested by a funding body/external organisation. This means that observers may be given access to relevant documentation, attend hearings and/or be present for key discussions during the investigation process. Any observers will be required to sign a Confidentiality and Conflicts of Interest Declaration, and will not have the right to interfere or exert any direct or indirect influence on the work of the Lead Investigator/members of the Screening Panel.
- 16.7 **Duties of the Lead Investigator**
  - 16.7.1 The Lead Investigator should normally complete the Preliminary Investigation within 4 to 6 weeks, or sooner where possible. If additional time is needed to make a determination, this should be agreed with the Vice-President (Research and Enterprise) and appropriately communicated to all parties involved.
  - 16.7.2 The Lead Investigator should:
    - a) Review the allegation and all supporting evidence/documents provided by the Complainant.
    - b) Review any background information relevant to the allegation.
    - c) Request and assess any further documents (e.g. files, notebooks, copies of emails or other records) and/or information from the Complainant, the Respondent or other relevant individuals.
    - d) Interview both the Complainant and the Respondent, and any other witnesses/individuals who might provide relevant information.
      - i. All individuals invited by the Lead Investigator to attend meetings should be given sufficient written notice informing them of the date, time and place set for the

interview. Where appropriate, copies of any evidence received/gathered should be provided in advance to the relevant parties.

16.7.3 Where the Screening Panel is appointed, it should support the above activities.

16.7.4 On conclusion of the Preliminary investigation, the Lead Investigator should produce a draft confidential written Report which should make a recommendation to the Vice-President (Research and Enterprise) that:

- a) The allegation is unfounded and therefore there is no case to answer.
- b) The allegation appears to be malicious, vexatious or frivolous.
- c) The essence of the allegation is a dispute between two or more parties which can reasonably be resolved through reconciliation and agreement.
- d) The allegation has some substance but due to a lack of intent or deception, or due to its relatively minor nature, it should be addressed through education, training and/or supervision, or other non-disciplinary approach.
- e) The allegation should proceed to the next stage of the Procedure so that it can be assessed by the Investigation Panel.

16.7.5 If there is no case to answer, the Lead Investigator should recommend in their written Report, where appropriate, any steps that should be taken to support the research project(s), the reputation of the Respondent against whom the allegation was dismissed, or the Complainant who made the allegation in good faith.

16.7.6 Where the Lead Investigator concludes that the allegation is malicious, vexatious or frivolous, she/he should make a recommendation whether disciplinary action should be considered against the Complainant (if a member of the University). If the Complainant is a member of another University or research organisation, the Lead Investigator should (with advice from Legal Services) make a recommendation whether the relevant University/research organisation should be contacted and informed about any allegations that were found to be malicious, vexatious or frivolous.

16.8 On receiving the Lead Investigator's draft Report, the Vice-President (Research and Enterprise) should decide, normally within 5 working days, whether or not to accept the recommendation(s) made.

16.9 The Vice-President (Research and Enterprise) should communicate his decision and provide a copy of the Lead Investigator's draft Report to the Complainant and the Respondent for them to comment on the factual accuracy of the Report. The Report is strictly confidential and its content, or the Report itself, must not be shared with anybody without the permission of the University. Only when the Report includes any errors of fact, should it be modified by the Lead Investigator where appropriate.

16.10 The copy of the final Report should be provided to the Respondent and the Complainant, and other relevant parties where required.

16.11 Any corrective actions that need to be implemented and completed, should be overseen by the Vice-President (Research and Enterprise) with the support of the RIG Team and/or other relevant individuals as designated by the Vice-President (Research and Enterprise).

## 17. PANEL INVESTIGATION

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- 17.1 Where it is determined that the Panel Investigation is warranted, it will be conducted by the Investigation Panel ('the Panel') appointed by the Vice-President (Research and Enterprise). The RIG Team will communicate this decision to all relevant parties, including the funding and regulatory bodies where appropriate. Any allegations that proceed to the Panel Investigation are yet unproven and must be treated as confidential by all those involved in the proceedings.
- 17.2 The role of the Panel is to review all relevant evidence, and to establish whether, *on the balance of probabilities*, research misconduct was committed (either intentionally or unintentionally), and the possible nature and extent of the misconduct. The Panel should make recommendations regarding any further necessary actions that should be undertaken to address any misconduct it may have found.
- 17.3 The Panel should be normally appointed within 15 working days, or sooner where possible, from the decision to proceed with the Panel Investigation. The composition of the Panel should follow the rules in section 17.7 below.
- 17.4 Both the Complainant and the Respondent will be informed by the RIG Team about the Panel's composition, and may raise concerns they might have about those selected to serve on the Panel. Any concerns will be appropriately considered by the Vice-President (Research and Enterprise); however, neither the Complainant nor the Respondent have a right of veto over those appointed as members of the Panel.
- 17.5 All members of the Panel will be required to sign a Declaration confirming that they will abide by the conditions and provisions of this Procedure, that they do not have any conflicts of interest, and that they will maintain the confidentiality of the proceedings during and after the University investigation.
- 17.6 All individuals invited by the Panel to attend hearings should be given sufficient written notice informing them of the date, time and place set for the interview. Where appropriate, copies of any evidence received/gathered should be provided in advance to the relevant parties.
- 17.7 Composition of the Investigation Panel**
- 17.7.1 The Investigation Panel is formally appointed by the Vice-President (Research and Enterprise) and should consist of a minimum of three senior members with relevant experience, knowledge and skills. The Lead Investigator may assist the Vice-President with selection of the Panel, but must not be a member of the Panel.
- 17.7.2 In the interest of transparency, the Investigation Panel must have at least one external member who is not affiliated to the University of Southampton. External membership will be sought through the networks available to the University, or through the consultation with the UKRIO, where a suitable individual can be nominated from the UKRIO Register of Advisers.
- 17.7.3 At least one member of the Panel should have expert knowledge and experience in the area of research in which the alleged misconduct has taken place, but where possible, should not be a member of the same Academic Unit as the Respondent. The Panel member specialising in the particular discipline can be also from outside the University.
- 17.7.4 Where an allegation involves a member of staff with a joint/honorary contract, or involves research conducted in conjunction with a partner organisation, at least one member of the Panel should be an appropriate member of staff from the other employing/collaborating organisation (where possible).

- 17.7.5 The Panel should have a Chair, who can be appointed by the Vice-President (Research and Enterprise) or elected by the members of the Panel themselves.
- 17.7.6 No member of the Panel shall have had any previous involvement with the case.
- 17.7.7 Once convened, the membership of the Panel should not be changed. In the event that the Chair stands down or the membership falls below three, the Vice-President (Research and Enterprise) should take steps to appoint additional Panel members.
- 17.7.8 Where the case involves complex legal issues, the Vice-President (Research and Enterprise) may appoint an internal or external lawyer, or other suitably qualified person, to act as adviser to the Panel.
- 17.7.9 In line with relevant policies and procedures of funding bodies, or other relevant external organisation, an observer status on Panel Investigations will be granted by the University, if requested by a funding body/external organisation. This means that observers may be given access to relevant documentation, attend hearings and/or be present for key discussions during the investigation process. Any observers will be required to sign a Confidentiality and Conflicts of Interest Declaration, and will not have the right to interfere or exert any direct or indirect influence on the work of the Investigation Panel.

## 17.8 Duties of the Investigation Panel

17.8.1 The work of the Investigation Panel should be normally completed within 8 to 12 weeks, or sooner where possible. Where additional time is needed to ensure a full and fair investigation, the estimated timescale should be appropriately communicated to all the parties involved.

17.8.2 To perform its task the Panel should:

- a) Review the allegation and all supporting evidence/documents provided by the Complainant and the Respondent.
- b) Assess any background information relevant to the allegation.
- c) Review the transcripts/minutes of the interviews conducted by the Lead Investigator, and any other documents/evidence gathered during the Preliminary Investigation.
- d) Request and assess any further documents (e.g. files, notebooks, copies of emails or other records) and/or information from the Complainant, the Respondent or other relevant individuals.
- e) Interview both the Complainant and the Respondent, and any other witnesses/individuals (including the Lead Investigator) who might provide relevant information.
- f) Determine and take any other actions as appropriate.

17.8.3 At the conclusion of the Panel Investigation, the Panel should produce a draft confidential written Formal Report which should state:

17.8.3.1 How the investigation was conducted.

17.8.3.2 Whether the allegation of research misconduct is:

- a) Upheld in full.
- b) Upheld in part.
- c) Not upheld.
- d) Not upheld for reasons of being malicious, vexatious or frivolous.



- 17.8.3.3 The reasons for the Panel's decision.
- 17.8.3.4 Any recommended actions that should be taken.

17.8.4 The Panel's recommendations should include, but are not limited to:

- a) Where the allegation of research misconduct is upheld (either in full or in part), the Panel should make recommendations regarding any further action(s) deemed necessary to address the misconduct, correct the research record, and/or preserve the academic reputation of the University. This may include but is not limited to:
  - i. Retraction/correction of article(s) in journal(s).
  - ii. Appropriate education, training or supervision.
  - iii. Initiation of the University's disciplinary process.
  - iv. Referral to another University Procedure, e.g. investigation of alleged financial fraud or other irregularities.
  - v. Notifying research participants and/or doctors in case of medical research.
  - vi. Review of internal management, training or supervisory procedures for research.
  - vii. Informing appropriate individuals within the University or external organisations. This might include but is not limited to:
    - 1) The Director of Legal Services.
    - 2) The Executive Director of Human Resources.
    - 3) The Faculty's Dean and Associate Dean Research (ADR).
    - 4) The Head of the relevant School.
    - 5) The Director of the relevant Professional Service.
    - 6) The Executive Director of Finance.
    - 7) Any other relevant members of the University staff.
    - 8) The relevant funding body, partner organisation or a regulatory/professional body.
    - 9) (Having taken advice from Legal Services) the Respondent's current employer (if known), if the Respondent is no longer an employee of the University of Southampton.
- b) Where the allegation is not upheld, and depending on the seriousness of the allegation, appropriate restorative actions should be recommended by the Panel to support the reputation of the Respondent and any relevant research project(s).
- c) Where the Panel concludes that the allegation is malicious, vexatious or frivolous, it should make a recommendation whether disciplinary action should be considered against those who made the allegation (if members of the University). Where the Complainant is a member of another University or research organisation, the Panel should (with advice from Legal Services) make a recommendation whether the relevant university/research organisation should be contacted and informed about the allegations that were found to be malicious, vexatious or frivolous.

17.9 The Investigation Panel's draft Report will be shared with the Vice-President (Research and Enterprise) who must decide, normally within 10 working days, whether or not to accept the recommendations made.

17.10 The Vice-President (Research and Enterprise) should communicate his decision and provide a copy of the Panel's draft Report to the Complainant and the Respondent for them to comment on the factual accuracy of the Report. The Panel's Report is strictly confidential and its content, or the Report itself, must not be shared with anybody without the permission of the University. Only when

the Report includes any errors of fact, should the Investigation Panel modify the Report where appropriate.

- 17.11 The copy of the final Report should be provided to the Respondent and the Complainant, and other relevant parties where required.
- 17.12 Any corrective actions that need to be implemented and completed, should be overseen by the Vice-President (Research and Enterprise) with the support of the RIG Team and/or other relevant individuals as designated by the Vice-President (Research and Enterprise).
- 17.13 If the case has received publicity, the University should, where appropriate, issue an official statement/press release to make the outcome of the investigation public.

## **18. SANCTIONS**

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- 18.1 Appropriate action, which may include disciplinary action, may be taken against:
  - 18.1.1 The Respondent where the allegation of research misconduct was upheld in accordance with this Procedure.
  - 18.1.2 Anyone whose allegation of research misconduct was found to be malicious, vexatious or frivolous.
- 18.2 **Disciplinary action**
  - 18.2.1 Any disciplinary action must be taken under the University's disciplinary policy.
  - 18.2.2 Where formal disciplinary action is taken under the University's disciplinary policy, evidence gathered in the course of the research misconduct investigation, including formal Reports, will be used at the investigation stage of the disciplinary procedure.

## **19. APPEALS**

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- 19.1 The Respondent and the Complainant cannot appeal against the decision made by the Vice President (Research and Enterprise) following a recommendation by the Lead Investigator/the Investigation Panel. The right to appeal only exists under the University's disciplinary procedure in cases where this was recommended and instigated.

## **20. PROCEDURE REVIEW**

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- 20.1 This Procedure will be reviewed regularly in the light of any new available guidance or forthcoming legislation and at least once every three years.

## 21. APPENDIX A

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Statement on dealing with Allegations of Research Misconduct under United States Public Health Service (USPHS) Research-related Activities for Foreign Institutions.

**The University of Southampton** has incorporated into its policies and procedures the following approach for dealing with and reporting possible research misconduct when USPHS funds are involved.

1. **The University of Southampton** will designate an official to receive allegations and develop procedures for use by research employees or others who wish to make an allegation of research misconduct involving USPHS funds. The designated official will notify the U.S. Office of Research Integrity (ORI) when an allegation of research misconduct involving USPHS funds is received. Phone: (240) 453-8800. Fax: (301) 594-0043. Email: [askORI@osophs.dhhs.gov](mailto:askORI@osophs.dhhs.gov)
2. **The University of Southampton** will then work with ORI or other appropriate offices of the U.S. Department of Health and Human Services (HHS) to develop and implement a process for responding to the research misconduct allegation that is consistent with U.S. Federal Regulation, 42 CFR Parts 50 and 93.
3. **The University of Southampton** will submit appropriate reports (in English) to ORI that describe the process followed in conducting the investigation, the evidence on which the conclusions of the investigation are based, and if a finding of research misconduct is made, the administrative actions that are taken against the respondent.
4. **The University of Southampton** will inform research employees about the official who is designated to receive allegations and the procedures for the employee or other individuals to make an allegation of research misconduct involving USPHS supported research. This information will also be posted on the organisation's web site.
5. **The University of Southampton** certifies that this statement will be a permanent amendment to the institution's procedures for responding to allegations of research misconduct.
6. **The University of Southampton** will submit the 'Annual Report on Possible Research Misconduct' to ORI by April 30<sup>th</sup> of each year. The report is submitted electronically through the ORI web site at <http://ori.hhs.gov>

**Name of Organisation:** University of Southampton

**Address:** Highfield Campus, University Road, Southampton, SO17 1BJ, United Kingdom

**Phone:** (+44) 2380 595000

**Responsible Official's Title:** Head of Contracts, Policy and Governance, Research and Innovation Services

## 22. ACKNOWLEDGEMENTS

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The University of Southampton gratefully acknowledges that the following documents were referred to when preparing this Procedure:

ALLEA, 2017. *The European Code of Conduct for Research Integrity (Revised Edition)*.

RCUK, 2017. *Policy and Guidelines on Governance of Good Research Conduct*.

UK Research Integrity Office, 2008. *Procedure for the Investigation of Misconduct in Research*.

University of Leeds, 2004. *Protocol for investigating and resolving allegations of misconduct in academic research*.

University of Portsmouth, 2013. *Procedure for the Investigation of Allegations of Misconduct in Research*.

## 23. VERSION CONTROL

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<b>Date Approved:</b> February 2019		<b>Author:</b> Research Integrity and Governance (RIG) Team, Research and Innovation Services (RIS)	<b>Revision Date:</b> February 2022
<b>Version:</b>	<b>Revision Date:</b>	<b>Revised by:</b>	<b>Authorised by:</b>
1.0	N/A	No previous versions.	University Executive Board