

# Procedures for Investigating Cases of Alleged Misconduct in Research

## Part I: Introduction and Definitions

1. This Procedure has been developed for the University of Southampton and is based on the procedure developed by the UK Research Integrity Office to ensure that all allegations of research misconduct made against staff of the University of Southampton are the subject of a full and fair investigation.
2. The Procedure is intended to be used in accordance with the General Principles in Part II of this Procedure. Those responsible for implementing the Procedure should be guided by the General Principles at all times to ensure that the Procedure is carried out in a comprehensive, fair, and timely manner, and with integrity, sensitivity and confidentiality.
3. The Procedure is a mechanism to investigate allegations of misconduct in research. As such it is designed to provide a means to facilitate full exploration of potentially complex matters in research that can arise in situations where misconduct may have taken place. Appropriate conduct expected in research from staff of the University is set out in the Research Integrity and Academic Conduct policy.
4. The Procedure has been designed to be additional to the University's existing procedures for handling situations where allegations of misconduct are made. It is designed to be used in its entirety prior to any use of the University's disciplinary processes. It is intended to allow the full and fair investigation of research-related issues, using an expert panel to investigate the matters raised, and to reach a conclusion on any allegations prior to consideration of any disciplinary or other non-disciplinary steps that might be required or recommended.
5. In research, situations arise that might present as misconduct but are the result of either a misunderstanding or a dispute between individuals. It may be possible to mediate or resolve such differences at the individual or local level and this route should be considered and explored where appropriate, before the formal steps in Part III of this Procedure are initiated. In such situations, Part III of the Procedure should only be taken forward if the informal route is considered to be inappropriate, due to the serious nature of the allegations, or where mediation and/or arbitration has been refused or proved unsuccessful.
6. Those entitled to bring complaints about research are not restricted to members of staff or students of the University (present or past).

## Definitions

7. In this Procedure, unless the context indicates otherwise:
  - 7.1 *Accepted Procedures (for research)*  
Accepted procedures include but are not limited to the following:
    - i. gaining informed consent where required;
    - ii. gaining formal approval from relevant organisations where required;
    - iii. any protocols for research contained in any formal approval that has been given for the research;
    - iv. any protocols for research as defined in contracts or agreements with funding bodies and sponsors;
    - v. any protocols approved by the Medicines and Healthcare products Regulatory Authority (MHRA) for a trial of medicinal products;

- vi. any protocols for research set out in the guidelines of the employing institution and other relevant partner organisations;
- vii. any protocols for research set out in the guidelines of appropriate recognised professional, academic, scientific, governmental, national and international bodies any procedures that are aimed at avoiding unreasonable risk or harm to humans, animals or the environment;
- viii. good practice for the proper preservation and management of primary data, artefacts and materials;
- ix. any existing guidance on good practice on research.

Accepted procedures do **not** include: un-consented to/unapproved variations of the above; any procedures that would encourage or would lead to breaches in the law. Although allegations of misconduct in research are often raised as departures from accepted procedures in the conduct of research, investigations should aim to establish the existence of intentional and/or reckless behaviour as set out in the definition of misconduct in research (at 7.6 below).

#### 7.2 *Complainant*

The Complainant is a person making allegations of misconduct in research against one or more Respondents.

#### 7.3 *Disciplinary Process*

The Disciplinary Process refers to the University's promulgated procedures for disciplining Members of the University.

#### 7.4 *Formal Investigation*

The Formal Investigation is that part of the Procedure which is intended to examine the allegations of misconduct in research, hear and review the evidence and determine whether the alleged misconduct occurred, who was responsible, and which may make recommendations as to any response that the University might make. The Formal Investigation will be preceded by the Preliminary Investigation and will be conducted by the Formal Investigation Panel.

#### 7.5 *Named Person*

The Named Person is the individual appointed by the Vice Chancellor or his/her nominee to have responsibility in a particular case for receiving any allegations of misconduct in research; initiating and supervising the Procedure for investigating allegations of misconduct in research; maintaining the record of information during the investigation and subsequently reporting on the investigation to internal contacts and external organisations.

#### 7.6 Misconduct in research

7.6.1 The following non exhaustive list may serve as useful guidance in terms of conduct or performance which would normally be regarded as unacceptable, and could therefore lead to charges of misconduct.

- i. Fabrication: this may include the creation of (fictitious) data or other aspects of research, including documentation and participant consent.
- ii. Falsification: this may include inappropriate manipulation and/or selection of data, imagery and/or consent(s).
- iii. Misrepresentation: this may include misrepresentation of data, including undisclosed suppression of findings or data, or knowingly or negligently presenting flawed interpretation of data; undisclosed duplication of publication, including undisclosed duplicate submission of publications; misrepresentation of interests, including

failure to declare interests of either the researcher or the funders of the research; misrepresentation of qualifications and/or experience, including claiming or implying qualifications or experience which are not held; misrepresentation of involvement, such as inappropriate claims to authorship and/or attribution of work, or the denial of the same to others.

- iv. Plagiarism: this includes the general misappropriation or use of ideas, intellectual property or work (written or otherwise) of others, without acknowledgment or permission.
- v. Management and preservation of data and primary materials: this may include failing to ensure that relevant primary data and research evidence are preserved and accessible to others for reasonable periods after the completion of the research. This is a shared responsibility between researcher and the research organisation, but individual researchers should always ensure that primary material is available to be checked. Such conditions should also be applied where ownership of data may rest with third parties, for example where there is commercial sponsorship of research.
- vi. Breach of duty of care: this may involve deliberately, recklessly or by gross negligence: disclosing improperly the identity of individuals or groups involved in research without their consent or other breach of confidentiality; placing any of those involved in research in danger, whether as subjects, participants or associated individuals, including reputational danger where that can be anticipated, without their prior consent, and without appropriate safeguards even with consent; 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, and that this is obtained explicitly and transparently; not observing legal and reasonable ethical requirements or obligations of care for animal subjects of research; not observing legal and reasonable requirements or obligations of care for the protection of the environment; improper conduct in peer review of applications or publications, including gross misrepresentation of the content of material, inadequate disclosure of clearly limited competence, or abuse of material provided in confidence for peer review.

- 7.6.2 For the avoidance of doubt, misconduct in research includes acts of omission as well as acts of commission. Principal Investigators should ensure that all researchers and support staff are always aware of these requirements, and are provided with appropriate training and mentoring to ensure that they can address them. This should include appropriate training modules for new researchers and those taking on research managerial responsibilities. Researchers should always be aware of a senior independent person within the University with whom they can confidentially raise any concerns they have at any time.

### *7.7 Preliminary Investigation*

Preliminary Investigation is that part of the Procedure which is intended to determine whether there is prima facie evidence of misconduct in research. The Preliminary Investigation does not determine whether misconduct occurred or who might be responsible. The Preliminary Investigation will be conducted by the Named Person.

#### 7.8 Respondent

The Respondent is the person against whom allegations of misconduct in research have been made. He/she must be a present or past Member of the University.

#### 7.9 Sponsor

An individual, company, institution or organisation which takes responsibility for the initiation, management and/or financing of a research study.

## Part II: General Principles

8. Misconduct in research is a serious matter. Equally, the investigation of allegations of misconduct in research must be conducted in accordance with the highest standards of integrity, accuracy and fairness.
9. Those responsible for carrying out investigations of alleged misconduct in research should act with integrity and sensitivity at all times.

## Academic Freedom and General Principles

10. This Procedure shall be construed in every case to give effect to the guiding principles set out in Section 31 of the Statutes of the University Part I Clause 2(1)(i):
  - 10.1 to ensure that staff of the University have the 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;
  - 10.2 to enable the University to provide education, promote learning and engage in research efficiently and economically; and
  - 10.3 to apply the principles of justice and fairness.

## Confidentiality

11. For any action taken under this Procedure, the University shall seek to ensure that confidentiality is maintained. However, this shall not preclude the University from disclosing information where necessary for the discharge of duties or as required by law or any contractual obligations owed to a third party, nor shall this preclude the University from disclosing any information about any outcome under this Procedure.
12. Unauthorised breaches of confidentiality may lead to disciplinary action, unless covered by the Public Interest Disclosure Act and/or the University's own Grievance or Whistle-Blowing procedures.

## Right to be accompanied

13. At any meeting or hearing convened under this Procedure, the Complainant, Respondent and any witnesses, save expert witnesses, may be accompanied by a colleague or trade union representative, and in the case of a member of clinical staff, the Named Person may permit that Member of the University to be accompanied by a member of his/her defence union.
14. In any event, although an accompanying friend or representative may be legally qualified, he/she will not be representing the member of staff concerned in any legal capacity.

## Precautionary measures

15. The Named Person may take such Precautionary Measures as are necessary to ensure that all relevant information and evidence are secured, so that any investigation under this Procedure has access to them. This may include, but is not limited to:

- 15.1 securing all relevant records, materials and locations associated with the research;
- 15.2 liaising with the Human Resources Department and line managers in order to:
  - 15.2.1 request the temporary suspension of the Respondent from duties on full pay in the case of members of staff;
  - 15.2.2 request the temporary barring of the Respondent from part or all of the University and any of the sites of partner organisations; and/or
  - 15.2.3 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.
- 16. The Named Person should only take such actions in situations where there is a clear risk to individuals or that evidence might be destroyed. The reasons for taking such action should be recorded in writing and communicated to all parties, emphasising that such actions are not disciplinary in nature and do not indicate that the allegations are believed to be true by the University; rather it should be stressed that it is essential to ensure that allegations of misconduct in research are properly investigated.

## Prevention of detriment

- 17. In using this Procedure, and in any action taken as a result of using the Procedure, care must be taken to protect:
  - 17.1 individuals against frivolous, vexatious, and/or malicious allegations of misconduct in research;
  - 17.2 the position and reputation of those suspected of, or alleged to have engaged in, misconduct, when the allegations or suspicions are not confirmed; and
  - 17.3 the position and reputation of those who make allegations of misconduct in research in good faith, i.e. in the reasonable belief and/or on the basis of supporting evidence that misconduct in research may have occurred.
- 18. The Preliminary Investigation is intended to determine whether allegations are mistaken, frivolous, vexatious and/or malicious. Only allegations that are judged to be sufficiently serious and of sufficient substance will proceed to a Formal Investigation.
- 19. It is acknowledged that allegations may be made for what appear to be malicious reasons. The Procedure should still be used where the Complainant makes a formal complaint, to establish whether the allegations are of sufficient substance to warrant investigation.
- 20. Anyone accused of misconduct in research is entitled to the presumption of innocence.
- 21. The Formal Investigation should establish, on the balance of probabilities, the truth of any allegations.
- 22. Any formal steps taken to discipline or otherwise reprimand the Respondent, or take steps which might undermine his/her good name (or that of any other party), must be taken through the University's disciplinary process which provides the Respondent with the right of appeal. Only when allegations have been upheld through the University's disciplinary process, and where called upon, the appeals process, may it be appropriate to apply any sanctions to the Respondent.
- 23. The University must take all reasonable steps to ensure that the Respondent (or any other party) does not suffer because of unconfirmed or unproven allegations.
- 24. Involvement of the Respondent in this Procedure should not prevent the Respondent from being considered for promotion, the completion of probation or from any other steps related to his/her professional development. The University may however choose to suspend the implementation of any promotion, completion of probation, placement or other similar step for

the period that allegations are investigated under the Procedure, rather than delay the actual consideration of such matters.

25. It should be made clear that any Precautionary Measures that might be taken by the Named Person in response to the notification of allegations of misconduct in research are not to be regarded as a disciplinary action and do not themselves indicate that the allegations are believed to be true by the University. The Named Person and members of any subsequent Formal Investigation Panel should take steps to make it clear to the Respondent, Complainant and any other involved parties that these actions are necessary to ensure that the allegations of misconduct in research can be properly investigated.
26. Appropriate action should be taken against:
  - 26.1 Respondents where the allegations of misconduct in research have been upheld in accordance with this Procedure; and
  - 26.2 Anyone who is found to have made frivolous, vexatious or malicious allegations of misconduct in research.

### Part III: The Procedure

27. This Procedure allows allegations of misconduct in research to be investigated once submitted to the Vice Chancellor formally in writing (where possible). Situations that are not considered to be serious in nature might be resolved by informal discussion and/or mediation without the requirement for a Formal Investigation.
28. The Vice Chancellor or his or her nominated representative should establish an accessible means to receive formal allegations from Complainants, from both within and outside the University. This system must be confidential and enable allegations to be made without the name of the Complainant being known except to the Vice Chancellor or his/ her nominated representative and advisors initially. The allegations should be submitted in writing (where possible) and be accompanied by any supporting evidence that is available to the Complainant.
29. An initial approach to the Vice Chancellor or his or her nominated representative might be anonymous, but to take forward allegations the Complainant should make a formal written submission, in confidence if it is so desired, to the Vice Chancellor or his or her nominated representative.
30. Before making a decision as to whether to take further action under this Procedure, the Vice Chancellor or his or her nominee shall appoint an appropriate person - 'the Named Person', to conduct a preliminary investigation.

#### *Preliminary investigation*

31. Within 7 days of being appointed to conduct a preliminary investigation, the Named Person should make an initial determination of the case and recommend to the Vice Chancellor that:
  - 31.1 there is no case to answer;
  - 31.2 a Formal Investigation Panel needs to be convened;
  - 31.3 the Complainant's allegations should be dealt with under a different Procedure and/or should be dealt with informally or by way of referral back to the appropriate Head of School;
  - 31.4 the allegations appear to be frivolous, vexatious or malicious; or
  - 31.5 additional time is needed to make a determination and agree with the Vice-Chancellor a timetable for such determination.
32. The Named Person may interview the Complainant or Respondent at this stage, but only if it is necessary in order for an initial determination to be made. In the event that an interview is conducted with either the Complainant or the Respondent, the Named Person must arrange an interview with the other.

33. On receiving the Named Person's recommendation, the Vice Chancellor or his/her nominee should decide normally within five working days whether or not to accept the recommendation and communicate his or her decision to both the Complainant and Respondent.
34. It should be stressed where allegations of misconduct in research are to be investigated by a Formal Investigation Panel they are as yet unproven and that the information is confidential.
35. Where the allegations have been dismissed, the Vice Chancellor or his/her nominee may decide that action should be taken under the University's disciplinary process against anyone who is found to have made frivolous, vexatious and/or malicious allegations of misconduct in research. Those who have made allegations in good faith should not be penalised and might require support. The Vice Chancellor or his/her nominee should also take steps as required and appropriate to the seriousness of the dismissed allegations, to support the reputation of the Respondent and the research project(s).

*Formal investigation*

36. Where the Vice Chancellor or his/her nominee determines that the allegations need to be investigated by a Formal Investigation Panel, the Formal Investigation Panel will be convened by the Named Person.
  - 36.1 Each Formal Investigation Panel shall consist of three persons, one of whom will be a Dean or Deputy or Pro Vice-Chancellor who will be appointed to act as Chair.
  - 36.2 At least two members of the Formal Investigation Panel must be drawn from outside the Respondent's Faculty.
  - 36.3 It is a requirement that where allegations involve members of the University with joint/honorary contracts, that one member of the Formal Investigation Panel must be an appropriate member of staff from the other employing organisation. The Named Person may appoint a member of the Formal Investigation Panel from outside the University in other cases where this is considered appropriate in all the circumstances.
  - 36.4 No member of the Formal Investigation Panel shall have had any previous involvement with the case.
  - 36.5 Secretarial support will be provided to the Formal Investigation Panel by either the University's Human Resources; and
  - 36.6 The Formal Investigation Panel must be appointed within 30 working days of the submission of the decision to proceed with a Formal Investigation, and both the Complainant and the Respondent should be informed by the Named Person of the Formal Investigation Panel's composition.
37. The role of the Formal Investigation Panel is to interview the Complainant, Respondent and all relevant witnesses, to review all relevant evidence and to conclude whether the allegations of misconduct in research are:
  - 37.1 upheld in full;
  - 37.2 upheld in part; or
  - 37.3 not upheld.
38. The standard of proof used by the Formal Investigation Panel is that of 'on the balance of probabilities'.
39. The Formal Investigation Panel may conclude that allegations are not upheld for reasons of being mistaken, frivolous, vexatious and/or malicious.
40. The Formal Investigation Panel must hold a formal hearing during which the Respondent must be given the opportunity to respond to the allegations that have been made. The Complainant and other witnesses may be invited to provide evidence when members of the Formal Investigation Panel consider that it may have relevance to the investigation.

41. The Complainant, Respondent and any witnesses that the Formal Investigation Panel wishes to hear from must be given at least 10 working days written notice of:
  - 41.1 the date, time and place set for the hearing;
  - 41.2 the issues to be considered by the Formal Investigation Panel and copies of any evidence that has been gathered);
  - 41.3 their right to be accompanied at the hearing (although not by a legal representative);
  - 41.4 the names of any witnesses who will be called to give evidence at the hearing; and
  - 41.5 the potential outcomes of the Formal Investigation, including disciplinary sanctions against the Respondent if the allegations are upheld, and potentially against the Complainant if the allegations were not made in good faith.
42. At least 5 working days before the formal hearing the Respondent must provide the Formal Investigation Panel with copies of any documents that he/she wishes to refer to. The Respondent and the Complainant may also suggest to the Formal Investigation Panel witnesses whom the Formal Investigation Panel may wish to hear from who may have evidence relevant to the complaint under investigation.
43. The Formal Investigation Panel will submit a reasoned written decision to the Named Person normally within 10 days of the formal hearing.
44. Should any evidence of misconduct be brought to light during the course of the Formal Investigation that suggests:
  - 44.1 further, distinct instances of misconduct in research by the Respondent, unconnected to the allegations under investigation; or
  - 44.2 misconduct in research by another person or persons,then the Formal Investigation Panel should submit these new allegations of misconduct in research to the Named Person in writing, along with all the supporting evidence, for consideration under the initial steps of the Procedure.
45. The Named Person should inform the following of the conclusion of the Formal Investigation.
  - 45.1 The Respondent and the Complainant (and their representatives by agreement).
  - 45.2 The Vice Chancellor, the Deputy Vice Chancellor (Research), the Head of Legal Services, the Director of Human Resources, the Head(s) of the relevant School or Professional Service(s) and any other relevant members of staff.
  - 45.3 If the Respondent and/or the Complainant are employed on joint clinical/honorary contracts, the relevant contact(s) of the other organisation(s).
  - 45.4 Where appropriate, the responsible person within any relevant partner organisations, funding bodies and/or regulatory or professional bodies.
46. Where allegations of research misconduct on the part of a current member of staff is upheld, the Named Person should report the findings to the Vice Chancellor together with a recommendation that the Respondent be subject to the relevant disciplinary process.
47. In cases that relate to a former employee of the University, it is open to the Named Person to make a recommendation to the Vice Chancellor that the Respondent's professional body (where relevant), and current employer, be informed of the allegations and provided with a copy of the Formal Investigation Report.
48. Where allegations have not been upheld (in full or in part), the Named Person should take such steps as are appropriate, given the seriousness of the allegations, to support the reputation of the Respondent and any relevant research project(s).



49. If the Investigation Panel concludes the allegations are frivolous, vexatious and/or malicious, the Named Person should consider recommending to the appropriate authorities that action be taken under the University's disciplinary process against anyone who is found to have made frivolous, vexatious and/or malicious allegations of misconduct in research.
50. It is not intended that this Procedure should be used as part of any disciplinary or regulatory process. However, information gathered in the course of an investigation may become relevant to, and disclosed in, any such disciplinary or regulatory process.
51. Questions relating to this Procedure can only be raised with the Named Person over matters of fact. The Respondent does not have the option of appealing against any decisions made under the Procedure. The Respondent has a right of appeal should the matter be referred to any of the University's disciplinary processes.

*Approved by AQSC on 13 May 2015 and Senate on 17 June 2015  
Reviewed in June 2016; no changes made  
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