

# **Manchester Metropolitan University**

## **Procedure for the Investigation of Misconduct in Research**

### **1. Introduction**

The University has the responsibility for maintaining the highest standards in research carried out by its staff and students. It is responsible for monitoring all research and investigating any alleged misconduct. Any investigation will be carried out promptly, independently and fairly.

#### **1.1 Purpose of the Procedure**

This procedure is designed to:

- provide a means to facilitate exploration of potentially complex matters in research that can arise in situations where such misconduct may have taken place,
- reach a conclusion on any such allegations,
- consider potential remedies available, depending upon the circumstances including if relevant, subsequent referral to another policy (such as disciplinary/capability).

Allegations found to be made frivolously, maliciously or vexatiously may result in a recommendation for referral of the complainant to the disciplinary procedure or other appropriate action.

The procedure has been designed to be additional to Manchester Met'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 Manchester Met's standard disciplinary or capability 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 considering any disciplinary or other non-disciplinary steps that might be required or recommended.

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 this procedure are initiated. Where appropriate, opportunities to resolve matters through mediation should be considered. Options for internal and/or external arbitration and/or dispute resolution might also be explored. In such situations, the formal part 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.

## 1.2 Principles

- Misconduct in research is a serious matter. The investigation of allegations of misconduct in research must be conducted in accordance with the highest standards of integrity, accuracy and fairness.
- Where anyone is formally accused of misconduct in research, that person will be given full details of the allegations in writing. The only exception to this Principle might be in circumstances where the allegations involve matters which are subject to a covert criminal investigation.
- When someone is formally investigated for alleged misconduct in research, he/she will be given the opportunity to set out his/her case and respond to the allegations against him/her.
- At any stage of the formal procedure employees/students have the right to be accompanied by a work colleague or by their trade/student union representative. No representative (work colleague or trade union representative) may act in a legal capacity.
- Any steps under this procedure should be taken promptly unless there is a good reason for delay and all reasonable steps will be taken to deal with capability and misconduct matters in a timely manner. However, in the interests of clarity, this procedure sets out guidelines regarding the timeframes that would normally be expected for the various stages of the process.
- Written records of alleged research misconduct matters will be kept to include:
  - The nature of the alleged misconduct
  - Records of discussions and any other evidential documentation
  - The decision and actions to be taken
  - The reasons for the action
  - Any subsequent developments

Records will be kept according to the guidelines in Appendix 4.

- Appropriate levels of confidentiality and privacy will be maintained at all times during the procedure by all parties. This applies to all documentation, investigations, interviews and hearings.

- Records will be treated as confidential and be kept in accordance with the Data Protection Act 1998. Copies of appropriate documents will be given to employees/students as necessary during the procedure.
- Where an individual refuses to co-operate with any aspect of this policy, this may be deemed to be wilful non co-operation and may be addressed directly through the disciplinary procedure or the student code of conduct.

### **1.3 Scope**

This policy applies to all individuals carrying out research for the University including, without limitation, all University employees, irrespective of whether their current place of work is within or outside University premises and all visiting researchers of the University, irrespective of whether they are employed by the University, including persons with honorary positions conducting research within, or on behalf of, the University.

The policy also applies to all matriculated postgraduate research students and visiting postgraduate research students undertaking research associated with the University. After investigation into alleged misconduct by any person who is not an employee or matriculated PGR of the University, the Named Person will determine the nature of any further action to be taken in relation to the misconduct, which may involve liaison with the employing, host or home institution.

Any disciplinary proceedings against a matriculated postgraduate research student in respect of alleged research misconduct would be dealt with in accordance with the provisions of the University's Procedure for Handling Academic Misconduct. However, the application of this research misconduct procedure in terms of the University's Staff Disciplinary Procedures will take precedence over the Procedure for Handling Academic Misconduct where an employee is both a student and an employee of the University. The procedures for investigating research misconduct involving postgraduate research students are the same as those for staff.

Those entitled to bring complaints about alleged misconduct in research include (but are not restricted to) members of staff or honorary staff of Manchester Met (present or past), students of Manchester Met (present or past), individuals external to Manchester Met, as well as external bodies such as, but not limited to, regulators, professional bodies, funders and journals.

The procedure is designed specifically for the investigation of allegations of misconduct in research as defined in Appendix 1. Allegations of misconduct in research are often raised as departures from accepted procedures in the conduct of research, as defined in Appendix 1, section 1. The procedure should only be used for investigating the intentional and/or reckless

behaviour set out in the definition of misconduct in research, as defined in Appendix 1, section 8. Allegations relating to other forms of misconduct should be investigated using the appropriate procedure(s).

The procedure is designed to operate in conformity with the Principles outlined above. Those using the procedure should refer to the Principles with respect to all decisions or interpretations. Where they are unable to resolve matters by reference to the Principles, users of the procedure should seek appropriate guidance from a source such as UKRIO.

#### **1.4 Roles & Responsibilities**

Manchester Met will designate a senior member of staff as the **Named Person (NP)** and another member of staff as a nominated alternate, to act in his/her absence. Additionally, the organisation will nominate senior individuals from the HR function, Finance Department/Research Grants Office, or Graduate School, ideally with some experience of research, who should liaise with the Named Person, to investigate allegations of misconduct in research.

The Named Person should:

- be an individual within the Organisation with significant knowledge and experience of research.
- have responsibility for:
  - receiving any allegations of misconduct in research;
  - initiating and supervising the Procedure for investigating allegations of misconduct in research;
  - maintaining the information record during the investigation and subsequently reporting on the investigation with internal contacts and external organisations;
  - taking decisions at key stages of the Procedure.
- have a nominated alternate who will receive allegations of misconduct in research and initiate and supervise the Procedure for investigating them in the absence of the Named Person;

The named person will not be:

- a. the Vice Chancellor;
- b. the PVC for Research; or
- c. the Director of HR.

## **2. Procedure**

### **Informal Stage**

- 2.1 Individuals with concerns are encouraged, in the first instance, to attempt to address them informally either with the individual concerned or the appropriate Head of Department, line manager, or Director of Studies for in the case of postgraduate research students. The Head of Department/line manager/Director of Studies may seek to initiate an informal resolution process, in liaison with Human Resources or the postgraduate office e.g. via agreed mediation or a facilitated meeting. This approach may be relevant where the issue appears to be basic or minor or where there appears to be a potential misunderstanding or dispute between individuals.
- 2.2 In the event that the individual is not satisfied with the outcome of an informal approach, then the matter should be addressed formally (see 2.5 below).
- 2.3 A record of any informal concerns raised and outcomes should be made and retained by the relevant Head of Department/Line Manager/Supervisory Team. (Copied to the Ethics and Research Governance Manager and Head of Graduate School in the case of PGRs for monitoring purposes).
- 2.4 The Head of Department/Line Manager/Supervisory Team should immediately forward all allegations they are made aware of, that they deem to be serious, to the Registrar, as informal resolution would not be appropriate in such cases.

### **Formal Stage**

- 2.5 A formal allegation should be submitted in writing to the Registrar (Named Person) providing full written details regarding the allegation, including confirmation of the individual(s) against whom the allegation is being made (referred to as the respondent) and the exact nature of the complaint with any and all evidence available to them.
- 2.6 If the complaint is against the Named Person it should be made directly to the Pro Vice-Chancellor for Research (PVCR), if it is against the PVCR it should be made directly to the Vice-Chancellor who will appoint another senior manager to act in the case, if against the Vice-Chancellor it should be made to the Board of Governors.
- 2.7 All allegations received by those other than the Named Person should be forwarded by the recipient to the Named Person, within two working days, where reasonable practicable.

- 2.8 Individuals who submit an allegation (referred to as the complainant), are expected to put their name to any formal allegations they make. Allegations may be sent anonymously to the Ethics and Research Governance Manager (ethics@mmu.ac.uk), who will remove any identification before sending on to the Named Person for informal consideration. Should a complaint proceed to the formal stage, Complainants will not be able to remain anonymous.
- 2.9 The Named Person will advise the appropriate Faculty Dean, Head of Faculty Research Degrees, substantive employer (if not Manchester Met), and any other appropriate body (such as a regulatory body), upon receiving any research misconduct allegations.
- 2.10 Where an allegation of research misconduct has been formally raised this procedure will progress to the natural end-point irrespective of:
- the Complainant withdrawing the allegation at any stage,
  - the Respondent admitting, or having admitted, the alleged misconduct, in full or in part; or
  - the Respondent or Complainant resigning or having already resigned their post, or withdrawing for PGR students.

### **Stage 1: Preliminary Investigation**

- 2.11 Upon receipt of allegations of misconduct in research, the Named Person should formally acknowledge receipt of the allegations by letter to the Complainant (and his/her representative by agreement), in which he/she should also advise him/her of the Procedure that will be followed.
- 2.12 The Named Person will undertake an initial assessment of the allegation, in consultation with a relevant HR Business Partner or the Head of Graduate School, And will determine any initial action that may need to be undertaken to:
- ensure that any potential or actual danger/illegal activity or risk is prevented or eliminated,
  - ensure that any contractual, legal, regulatory or professional body obligations are fulfilled at the appropriate time, through the correct mechanisms; and
  - consider if it can be resolved informally or for it to proceed to formal investigation. As this preliminary stage is not intended to pre-empt any subsequent Formal Investigation, once the Registrar is satisfied that the matter

is sufficiently serious and has sufficient substance, this should be referred to a Formal Investigation.

2.13 The Named Person should investigate whether the research project which the allegations relate to includes contractual obligations that require Manchester Met to undertake prescribed steps in the event of allegations of misconduct in research being made. Such an undertaking might be in:

- a contract from a funding organisation;
- a partnership contract / agreement / Memorandum of Understanding; or
- an agreement to sponsor the research.

An external Sponsor, funding organisation and/or collaborators might have a valid interest in, or responsibility for, the way that the investigation is conducted. The Named Person should confirm whether Manchester Met has any contractual/legal obligations towards such organisations concerning any aspects of the investigation to ensure that any such obligations are fulfilled at the appropriate time through the correct mechanisms. The Named Person should liaise with the HR Business Department and/or the head of the Graduate school to ensure that the rights of the Respondent and Complainant, and the integrity of the investigation are not compromised by any such actions.

2.14 Subject to processes that may override the Procedure as defined above the Named Person will inform the Respondent of the allegations of misconduct in research have been made against him/her. The Respondent will be invited to discuss these allegations at a confidential meeting. Where practicable, the Respondent will receive reasonable notice of the interview. This will not be a misconduct hearing, but will be part of the process for assessing whether further action is warranted. The Respondent can be accompanied by a work colleague or a trade/student union representative. The Respondent should inform the investigating manager of the names of any witnesses whom he/she feels are relevant to the case. The Named Person will normally be accompanied by a member of HR/Graduate School staff to take a formal note of the interview.

2.15 If allegations are made against more than one Respondent, the Named Person should inform each individual separately and not divulge the identity of any other Respondent. A summary of the allegations in writing should be given to the Respondent(s) (and his/her representative by agreement) at the meeting, together with a copy of the procedure to be used to investigate the allegations.

- 2.16 The Named Person will meet any witnesses they feel are appropriate to the case and will be supported by the HR Business Partner/Head of Graduate School.
- 2.17 Any member of staff involved in this procedure must cooperate fully and promptly with any initial investigation. This will include informing the Named Person of the names of any relevant witnesses, disclosing any relevant documents to the manager and attending any investigative interviews.
- 2.18 Unreasonable refusal to attend a meeting will be treated as a disciplinary matter.
- 2.19 The Named Person should ensure that all relevant information and evidence are secured, so that any investigation conducted under this Procedure can have access to them. This may include, but is not limited to:
- securing all relevant records, materials and locations associated with the work;
  - for staff, liaising with the relevant HR Business Partner and the relevant line manager(s) to request the temporary suspension of the Respondent from duties on full pay and to request the temporary barring of the Respondent from part, or all, of the premises of Manchester Met and any of the sites of any partner organisation(s); and/or
  - request a temporary restriction be placed on the Respondent requiring him/her not to have contact with some or all of the staff of Manchester Met and those of any partner organisation(s).
  - For postgraduate research students, consideration may be given to suspension from research degree studies.
- 2.20 The Named Person should only take such actions in situations where there may be a risk to individuals or that evidence might be destroyed and only after careful consideration of those risks and consequences. Suspension is not an assumption of guilt and is not considered a disciplinary sanction.
- 2.21 The Named Person will normally decide whether or not suspension is appropriate, with advice from their HR Business Partner or Graduate School.
- 2.22 Employees or post graduate research students who are suspended will be notified in writing of the reasons for the suspension and the expected duration of the suspension period. The suspended individual will be required to make themselves available to be interviewed during the investigation.
- 2.23 The suspension will be carried out by the appropriate senior manager supported by their HR Business Partner or the Head of Graduate School.

- 2.24 In considering the allegations and the information available, the Named Person may decide that additional investigations into related but separate issues of misconduct in research need to be instigated.
- 2.25 The Preliminary stages of the Procedure should normally be completed within a maximum of 10 working days from the receipt of the allegations.
- 2.26 Following the preliminary investigation, the Named Person will assess the case and recommend appropriate action. Possible outcomes of the preliminary investigation may be:
- 2.26.1 to resolve the issue without the need to take further action - a letter will be sent to the Respondent(s) confirming that there is considered to be no case to answer;
  - 2.26.2 there is a case to answer but not sufficient to warrant using formal proceedings. It may be appropriate to arrange advice, support and/or training in an attempt to resolve the problem without recourse to the disciplinary procedure; this could also include reference to objectives agreed through the PDR process or Annual Review process for postgraduate research students (see Appendix 3). If an individual is not prepared to accept the process determined by the Named Person, there will be recourse to the formal procedure;
  - 2.26.3 to recommend that a case exists. Where this is the case, a formal investigation will be instigated. The Named Person will convene a Formal Investigation Panel.
- 2.27 If the Named Person determines the allegations are mistaken, frivolous, vexatious and/or malicious, the allegations will then be dismissed. This decision should be reported in writing to the Respondent(s) and the Complainant and all the parties who had been informed initially.
- 2.28 The Named Person will consider recommending to the appropriate authorities that action be taken under Manchester Met's disciplinary processes 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 (see Appendix 3).

### **3. Stage 2 – Formal Investigation**

- 3.1 The Formal Investigation Stage is intended to determine whether there is prima facie evidence of misconduct in research. The Named Person should inform the complainant, respondent and relevant parties that that a formal investigation of the allegations is to take place. The Named Person should then convene an Investigation Panel, which should be constituted and work in accordance with the Principles outlined in section 1.2 and the process outlined in Appendix 2.
- 3.2 The Investigation Panel will determine whether the allegations of misconduct in research:
- should be referred directly to the University’s disciplinary processes or other internal process; or
  - have some substance but due to a lack of intent to deceive or due to their relatively minor nature, should be addressed through education and training or other non-disciplinary approach rather than through the next stage of the Procedure or other Formal Proceedings; or
  - there is insufficient evidence to reach a definite conclusion, the panel will set their reasons for this and recommend any methods for closure.
- 3.3 The Investigation Panel should normally aim to complete its work within 30 working days of being convened.
- 3.4 The Chair will forward the final version of the Investigating Panel’s report to the Named Person, the Respondent and the Complainant (and their representatives by agreement).
- 3.5 The Named Person will consider recommending to the appropriate authorities that action be taken under Manchester Met’s disciplinary processes 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 (see Appendix 3).
- 3.6 When there is clear evidence of an infringement that might contravene the Manchester Met’s disciplinary code/Procedure for Handling Academic Misconduct, the Named Person should consult the HR Business Partner/Head of Graduate School on the full and accurate transfer of all case information to the disciplinary process. A full written record should be kept of the decision to transfer to the disciplinary process.

- 3.7 When the allegations have some substance, but due to a lack of clear intent to deceive or due to their relatively minor nature, the matter should be addressed through Manchester Met's competency, education and training mechanisms, or other non-disciplinary processes, rather than through the Procedure's Formal Investigation stage. The investigation using the Procedure would then conclude at this point. The Named Person should take steps to establish a programme of training or supervision in conjunction with the Respondent and his/her line manager/supervisory team. This programme should include measures to address the needs of staff and students working with the Respondent.
- 3.8 It is not intended that this Procedure should be used as part of any disciplinary or regulatory process. Information gathered in the course of an investigation may become relevant to, and disclosed in, any such disciplinary or regulatory process.
- 3.9 Questions relating to the report of the Investigation Panel can only be raised with the Chair of the Panel over matters of fact. The Respondent does not have the right to appeal against the outcome of either stage of the Procedure. However, should the matter be transferred to the University's Disciplinary or Capability processes, the Respondent has right of appeal through this.

## **Appendix 1 - Definitions**

### **1. Accepted Procedures (for research)**

Accepted procedures include but are not limited to the following.

- gaining informed consent where required;
- gaining formal approval from relevant organisations where required;
- any protocols for research contained in any formal approval that has been given for the research;
- any protocols for research as defined in contracts or agreements with funding bodies and sponsors;
- any protocols approved by the Medicines and Healthcare products Regulatory Authority (MHRA) for a trial of medicinal products;
- any protocols for research set out in the guidelines of the employing institution and other relevant partner organisations;
- 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;
- good practice for the proper preservation and management of primary data, artefacts and materials.
- 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 intentional and/or reckless behaviour as set out in the definition of misconduct in research (below).

### **2. Complainant**

The Complainant is a person making allegations of misconduct of research against one or more Respondents (see below).

### **3. Disciplinary Process**

The Disciplinary Process refers to the Manchester Met Disciplinary Procedure, details of which can be found on the University staff web pages, or if it is academic related this refers to the Procedure for Handling Academic Misconduct, details of which can be found on the CASQE web pages.

#### **4. Employer**

The Employer is defined in this procedure as the person or organisation who has retained the person (e.g. the Respondent (see below)) to carry out work, usually, but not always, through a contract of employment.

#### **5. Formal Stage**

The Formal stage is that part of the procedure which is intended to examine the allegations of misconduct in research. It includes hearing and reviewing the evidence and consideration of whether the alleged misconduct occurred, taking a view on who was responsible, and making recommendations as to any response that the Organisation might make. The Formal stage will be preceded by the Informal Stage (see below).

#### **6. Honorary Contract**

Honorary contracts are used in a variety of circumstances. As a result, it is not possible to provide blanket guidance as to which organisation should lead an investigation into allegations of misconduct in research against someone holding such a contract.

Examples of arrangements that commonly involve the issue of an honorary contract are:

- for a clinical academic working in both a university and an NHS organisation, in which case the NHS organisation would issue the honorary contract;
- or an NHS consultant with an arrangement to undertake teaching and/or research in a university, in which case the university would issue the honorary contract;
- or a researcher employed by a university and undertaking a research project in an NHS organisation, in which case the NHS organisation would issue the honorary contract.

There are significant differences in the responsibilities that an organisation might have for an individual according to the type of honorary contract used. For example, in the case of clinical academics with honorary contracts with an NHS organisation and NHS consultants with honorary contracts with a university, it is generally held that the honorary contract is a contract of employment in law and, therefore, depending on the circumstances of the case, the university or the NHS organisation might take the lead in an investigation of allegations of misconduct in research.

In the case of a researcher employed by a university and undertaking research in an NHS organisation, however, the honorary contract issued by the NHS organisation is not generally considered to be a contract of employment in law (though, in the case of a dispute, whether it is or not would be for a court to decide) and, in these circumstances, only the university, as the employer, could take the lead in an investigation of allegations of misconduct in research.

In either case, however, the outcome of any investigation by one party might affect the contractual relationship of the individual investigated with the other party. These are complex

issues and it is therefore recommended that legal advice is sought before any investigation commences and that partner organisations liaise closely.

## **7. Informal Stage**

The Informal Stage is that part of the Procedure which is intended to determine whether there is prima facie evidence of misconduct in research.

## **8. Misconduct in research**

To assist in determining if misconduct in research has occurred and therefore needs to be investigated under this procedure, examples of terms which could constitute research misconduct are given below, (this is not an exhaustive list). Interpretation of the terms will involve judgements, which should be guided by previous experience and decisions made on matters of misconduct in research.

- Fabrication;
- Falsification;
- Misrepresentation of data and/or interests and or involvement;
- Plagiarism; and
- Failures to follow accepted procedures or to exercise due care in carrying out responsibilities for:
- Avoiding unreasonable risk or harm to:
  - humans;
  - animals used in research; and
  - the environment; and
  - the proper handling of privileged or private information on individuals collected during the research.

For the avoidance of doubt, misconduct in research includes acts of omission as well as acts of commission. In addition, the standards by which allegations of misconduct in research should be judged should be those prevailing in the country in question and at the date that the behaviour under investigation took place.

The basis for reaching a conclusion that an individual is responsible for misconduct in research relies on a judgement that there was an intention to commit the misconduct and/or recklessness in the conduct of any aspect of a research project. Where allegations concern an intentional and/or reckless departure from accepted procedures in the conduct of research that may not fall directly within the terms detailed above, a judgement should be made as to whether the matter should be investigated using the Procedure.

## **9. Named Person**

The Named Person is defined in the procedure as the individual nominated by Manchester Met (see below) to have responsibility 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;

and

taking decisions at key stages of the procedure. The Named Person should have a nominated alternate who should carry out the role in his/her absence or in the case of any potential or actual conflict of interest. The Named Person and the nominated alternate should not be the Vice Chancellor, Director of Research or Director of HR.

## **10. Organisation**

The Organisation as defined in this Procedure is Manchester Metropolitan University and will normally be the establishment in which the postgraduate research student is registered (or enrolled) or that employs the Respondent, the Named Person and, on occasions, other parties involved in the proceedings and is the host and (most likely) the Sponsor for the research to which allegations of misconduct refer.

In collaborative research involving multiple institutions, where witnessed or suspected incidents of research misconduct are raised, reference should be made to any formal agreement between the parties to ensure any agreed procedure for reporting and investigating such issues are adhered to.

Where not previously agreed, discussions should be undertaken by the Named Person with his/her comparable counterparts within the other institutions to nominate one institution to co-ordinate investigations and act as the point of contact.

## **11. Professional Body**

A professional body is an organisation with statutory powers to regulate and oversee a particular profession, such as doctors or solicitors. Examples relevant to this Procedure include the General Medical Council, the Nursing and Midwifery Council and the Health Professions Council.

## **12. Regulatory Authority**

A regulatory authority is an organisation with statutory powers to regulate and oversee an area of activity, such as health and safety, or medicines to be used on humans. Examples relevant to this Procedure include the MHRA, the Healthcare Commission, the Health and Safety Executive, the Mental Health Act Commission and the Council for Healthcare Regulatory Excellence.

### **13. Research**

The Research Excellence Framework 2014 (Appendix C, page 48) defines research and scholarship as the following:

“a process of investigation leading to new insights, effectively shared. It includes work of direct relevance to the needs of commerce, industry, and to the public and voluntary sectors; scholarship; the invention and generation of ideas, images, performances, artefacts including design, where these lead to new or substantially improved insights; and the use of existing knowledge in experimental development to produce new or substantially improved materials, devices, products and processes, including design and construction.

It excludes routine testing and routine analysis of materials, components and processes such as for the maintenance of national standards, as distinct from the development of new analytical techniques. It also excludes the development of teaching materials that do not embody original research.”

### **14. Respondent**

The Respondent is the person against whom allegations of misconduct in research have been made. He/she must be a present or past employee/student of the Organisation that is investigating the allegations using the Procedure.

### **15. Sponsor**

The Department of Health (DH) Research Governance Framework (Department of Health 2005, p. 22) defines a sponsor as the following:

Individual, organisation or group taking on responsibility for securing the arrangements to initiate, manage and finance a study. (A group of individuals and/or organisations may take on sponsorship responsibilities and distribute them by agreement among the members of the group, provided that, collectively, they make arrangements to allocate all the responsibilities in this research governance framework that are relevant to the study.)

For full details of the responsibilities of the Sponsor, refer to the latest version of the DH Research Governance Framework, available on the DH website (see reference in Annex 8). The DH definition of sponsor is used here rather than that defined by the MHRA, as it is broader in scope and relevant to research in health and biomedical sciences, rather than specifically to clinical trials.

## **Appendix 2: Operation of the Investigating Panel**

The Investigation Panel should be convened to investigate allegations of misconduct in research which have passed through Stage 1 – Preliminary Investigation and are considered to be sufficiently serious and of sufficient substance to justify a Formal Investigation.

### **1. Composition of the Investigation Panel**

- 1.1 The Investigation Panel should consist of at least three senior members of staff selected by the Named Person from those with relevant skills and experience to serve on such a Panel.
- 1.2 When selecting members of the Investigation Panel, the Named Person should consider:
  - 1.2.1 the subject matter of the allegations, including whether it would be advantageous for members of the Panel to possess any specialised knowledge or investigative skill;
  - 1.2.2 any potential conflicts of interest;
  - 1.2.3 any potential links with any of the persons involved (Respondents or Complainants), or personal connections with the subject matter of the allegations;
  - 1.2.4 whether a nominee was involved in the Screening Panel, as this excludes such a person from serving on the Investigation Panel; and
  - 1.2.5 any connections with the work through, for example, the Organisation's groups established to review proposals for research or its ethics committee(s).
- 1.3 It is a requirement that at least one member of the Investigation Panel be selected from outside the Organisation.
- 1.4 The Named Person may choose to consult UKRIO to nominate member(s) from the Register of Advisers to sit as member(s) of the Investigation Panel.
- 1.5 At least two members of the Panel should have experience in the area of research in which the alleged misconduct has taken place, although they should not be members of the Department concerned. Where allegations concern highly specialised areas of research the Investigation Panel should have at least one member with specialised knowledge of the field.
- 1.6 The Named Person must not be a member nor seek to influence the work of the Investigation Panel

- 1.7 The Named Person should nominate members of the Investigation Panel for approval by the PVC for Research or a nominated deputy. The PVC for Research, or his/her deputy, may veto nominations for the Investigation Panel, recording the reason for the veto in writing and communicating it to all parties.
- 1.8 Both the Respondent and the Complainant may raise with the Named Person any concerns that they may have about those chosen to serve on the Investigation Panel, but do not have a right of veto over those selected.
- 1.9 Once convened, the membership of the Investigation Panel should not be changed or added to. Members who are not able to continue should not be replaced. In the event that the Chair stands down or the membership falls below three, the Named Person should take steps to recruit additional members or re-start the Formal Investigation process.

## **2. Terms of reference of the Investigation Panel**

2.1 Members appointed to the Investigation Panel should:

- elect a Chair;
- declare any links to the research and/or the individuals involved in the allegations or any interests which might conflict with the Principles of the Procedure; and
- will respect the confidentiality of the proceedings throughout the work of the Panel and afterwards, unless formally sanctioned by the Organisation or otherwise required to by law.

2.2 The Investigation Panel should:

- 2.2.1 receive all relevant information from the Named Person as background for the investigation;
- 2.2.2 set a timetable for the investigation, which should be conducted as quickly as possible without compromising the stated Principles of the Procedure;
- 2.2.3 maintain a record of evidence sought and received, and conclusions reached;
- 2.2.4 conduct an assessment of the evidence;
- 2.2.5 hear the Complainant and such other individuals as the Panel consider relevant to the investigation;
- 2.2.6 hold a Formal Hearing, to hear the Respondent's response to the allegations made;

- 2.2.7 consider the allegations of misconduct in research and reach a conclusion on the allegations with the standard of proof used to reach that decision being “on the balance of probabilities”;
  - 2.2.8 report any further, distinct, instances of misconduct in research by the Respondent which may be disclosed, unconnected to the allegations under investigation and/or misconduct in research by another person or persons, to the Named Person in writing, along with supporting evidence; and
  - 2.2.9 aim to reach a unanimous decision, failing which a majority decision will be acceptable.
- 2.3 The Investigation Panel will produce a final report that:
- 2.3.1 summarises the conduct of the investigation;
  - 2.3.2 states whether the allegations of misconduct in research have been upheld in whole or in part, giving the reasons for its decision and recording any differing views;
  - 2.3.3 makes recommendations in relation to any matters relating to any other misconduct identified during the investigation; and
  - 2.3.4 addresses any procedural matters that the investigation has brought to light within the Organisation and relevant partner organisations and/or funding bodies.
  - 2.3.5 provide the report to the Named Person. The Chair of the panel will seek the agreement of the Panel before submitting the final report to the Director of Research or their nominated Deputy;
- 2.4 Once it has completed the report and reached a conclusion, the work of the Investigation Panel is complete and it will be disbanded and members take no part in any further investigation of the matter, unless formally asked to clarify a point in their written report at a subsequent investigation. As the matter may then give rise to disciplinary or other action, members of the disbanded Investigation Panel should not make any comment on the matter in question, unless formally sanctioned by the Organisation or otherwise required to by law. They should also remember that all information concerning the case was given to them in confidence.

### **3. The work of the Investigation Panel**

- 3.1 The Investigation Panel may call expert witnesses to give advice, if necessary and as appropriate. Such witnesses do not become members of the Investigation Panel. The Investigation Panel may also seek guidance from UKRIO and its Advisers.

- 3.2 The Chair is responsible for keeping a full record of the evidence received and of the proceedings.
- 3.3 To perform its task the Investigation Panel should review:
  - 3.3.1 the submission(s) and supporting evidence provided by the Complainant;
  - 3.3.2 the response(s) and supporting evidence from the Respondent(s) who should be given the opportunity to respond to the allegations made and to present evidence;
  - 3.3.3 background information relevant to the allegations; and
  - 3.3.4 any interviews conducted with the Respondent, the Complainant, and other staff who may provide relevant information to assist the Investigation Panel.
- 3.4 The Panel must hold a Formal Hearing during which:
  - 3.4.1 the Respondent must be given the opportunity to set out his/her case and respond to the allegations made against him/her. He/she will also be allowed to ask questions, to present evidence, call witnesses and raise points about any information given by any witness (including the Complainant), regardless of who has called the witness in question; and
  - 3.4.2 the Complainant and other staff may be invited to provide evidence when members of the Panel consider that it may have relevance to the investigation.

## **Appendix 3 - Actions and Outcomes**

The conclusion of the Procedure for the investigation of allegations of misconduct in research and actions taken either through the University's disciplinary processes or through other steps to respond to the conclusions reached by the Investigation Panel should take account of the Principles of the Procedure (see section 1.2) and the matters listed in (1) to (5) below:

### **1. Specialised research**

It is recognised that the subject area of certain cases may be so specialised as to require equally specialised advice as to how to resolve or correct matters arising from the misconduct in research; the recommendations and experience of the Investigation Panel may prove particularly useful if this is the case.

### **2. Support provided to the Complainant**

Where allegations have been upheld (in full or in part), or found to be mistaken but not frivolous, vexatious and/or malicious, then appropriate support, guidance and acknowledgment should be given to the Complainant, given that his/her role in the process will most likely have been stressful and may well have caused friction with colleagues. The Named Person should take whatever steps he/she considers necessary to support the reputation of the Complainant.

### **3. Support provided to the Respondent**

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). Appropriate support and guidance should be given to the Respondent, given that his/her role in the process will most likely have been stressful and may well have caused friction with colleagues, their supervisory team or fellow PGRs.

### **4. Handling wrongful allegations**

If the Named Person and/or Investigation Panel has found that the Complainant's allegations were frivolous, vexatious and/or malicious, the Named Person may consider recommending that action be taken against the Complainant, under the University's disciplinary process.

### **5. Other actions that may be required or be considered appropriate**

Following the conclusion of the Procedure, the Investigation Panel may need to recommend additional measures in addition to those that may be taken by way of the Organisation's disciplinary process.

Examples of potential actions that an organisation may consider include:

- retraction/correction of articles in journals;
- withdrawal/repayment of funding;
- notifying patients/patients' doctors of any potential medical issues that may arise;
- notification of misconduct to regulatory bodies (such as the MHRA, the Healthcare Commission, the Home Office [for research involving animals], professional bodies, etc.);
- notifying other employing organisations;
- notifying other organisations involved in the research;
- adding a note of the outcome of the investigation to a researcher's file for any future requests for references; and/or
- review internal management and/or training and/or supervisory procedures for research.

## **Appendix 4: Communications and record-keeping**

### **General**

1. In accordance with the principle of integrity, appropriate confidential records should be maintained by the Named Person of all stages of any proceedings under this Procedure.
2. The Chair of the Investigation Panel will assume responsibility for keeping accurate records of the activities, deliberation and reporting of the Investigation Panel and pass these records to the Named Person for inclusion in the archive of the case upon the completion of their Panel's work.
3. At the conclusion of the proceedings, the HR Team will retain all such records for a period that accords with the Organisation's policy. Where the Respondent(s) is a postgraduate research student, the Graduate School will maintain records. It is recommended that this period should not be less than six years. Access to this archive should be limited to appropriate members of the HR Department/Graduate School, the Named Person and his/her nominated alternate.
4. The Named Person is responsible for ensuring the accurate, timely and confidential transfer of information between all parties involved in any of the stages of the Procedure.
5. Upon the conclusion of the Procedure, at whatever stage, the Named Person is responsible for the accurate, timely and confidential transfer of information to any relevant parties, which could include, the University's HR team or an Assessment Disciplinary Committee.
6. If the University's Disciplinary Process is to be invoked as a result of the outcome of this Procedure, the report of the Investigation Panel should form the basis of evidence that the Disciplinary Panel receives. In such a case, all of the information relating to the Procedure should be transferred to the Disciplinary Panel.
7. Depending on the outcome of the Procedure, the Named Person should liaise with the HR Business Partner/Graduate School to obtain any further relevant information from any relevant parties, such as the HR Department or Graduate School, and add it to the confidential case archive.

### **Communication with Involved parties**

8. The Investigation Panel will be supported by a member of the Named Person's staff or a member of staff from the Human Resources Department/Graduate School, through whom all documentation and all other communication should be passed.

9. No direct communication, either written or oral, should take place between the members and support staff of the Investigation Panel and either the Respondent, Complainant or any other member(s) of staff concerned outside the formal process, for the duration of the Procedure and any subsequent disciplinary process.
  
10. Communication, either written or oral, by any party (to include Respondent, Complainant or any other member(s) of staff) directly with members of the Panel should not be admitted as part of the documentation relating to the case except when it takes place at the request of the Panel, or at formal meetings called by the Chair of the Investigation Panel.

## Appendix 5: Flow chart for procedure

