

ULSTER UNIVERSITY

PROCEDURE FOR THE INVESTIGATION OF ALLEGATIONS OF RESEARCH MISCONDUCT

1. Background

This procedure is based on a template provided by the UK Research Integrity Office (UKRIO), an organisation established to provide guidance on the handling of research misconduct and supported by Universities UK, the HE Funding Councils, UK Departments of Health, the ABPI and others. Account has also been taken of guidance provided by Research Councils UK (RCUK).

2. Introduction

It is a requirement of this procedure that all allegations of research misconduct must be reported to a single individual known as the Named Person (see Appendix II to this document). It is the role of the Named Person to arrange investigation of allegations in line with the procedures, supported by the University's Department for Research & Impact or other administrative department as appropriate.

Until further notice the University's Named Person is Professor Ian Montgomery, Pro-Vice-Chancellor.

This procedure is not intended as a replacement for any part of the University's disciplinary procedures and is consistent with Section 1.7 *Investigations and Suspensions* of the Staff Disciplinary Ordinance Pursuant to Statute V Part III.

This is an investigative procedure and does not include an appeals process. If it is found that on the basis of the evidence an allegation of research misconduct appears to have been substantiated, the matter will be referred to the University's disciplinary procedures which include mechanisms for appeal.

3. Making an allegation of research misconduct

Allegations of research misconduct should be made to the Named Person in writing. It is recommended that all correspondence should be marked as confidential and for the attention of the addressee only. Allegations may be made in confidence, although it is expected that the identity of the Complainant will be divulged to those involved in the investigation. The University is under no obligation to investigate allegations made anonymously but may choose to do so depending upon the supporting information provided. Complainants must note that unless legal advice is received to the contrary, all materials received by the Named Person may be disclosed to all concerned. For the purposes of these procedures, an instance of self-reporting of research misconduct will be regarded as equivalent to an allegation, and the individual concerned will be regarded as equivalent to a respondent.

4. Procedure for Investigation

The University's procedures are contained within a six stage process as detailed below.

4.1 Stage 1 Receipt of an allegation of research misconduct

4.1.1 Upon receipt of an allegation of research misconduct the Named Person will:

- review the nature of the allegations and if necessary, depending upon the seriousness or immediacy of the concerns raised, take steps to stop any further activity;
- where there are regulatory or legal implications, take steps to inform the appropriate authority or the police as required;
- where there is a *prima facie* requirement, invoke University disciplinary procedures, overriding the procedure for investigating research misconduct and inform the appropriate University departments;
- acknowledge receipt of the allegations in a response to the Complainant and advise him/her of the procedure that will be followed; and
- seek to determine if the allegations fall within the definition of research misconduct as defined in Appendix I to this document.

4.1.2 If it is determined that the allegations do not fall within the definition of research misconduct provided in Appendix I, the Named Person will write to the Complainant indicating:

- why the allegations cannot be investigated using this procedure;
- which University or other process, if any, might be appropriate; and
- to whom the allegations should be reported.

4.1.3 If it is determined that the allegations fall within the definition of research misconduct, the Named Person will notify the following that an investigation is to take place:

- Vice-Chancellor
- Pro-Vice-Chancellor (Research & Innovation)
- Director of Human Resources (where the respondent is a member of staff)
- Director of Finance

The notification will be in writing, in confidence and will indicate:

- the nature of the allegations
- the name of the Respondent;
- the name of the Complainant;
- details of any financial implications;
- details of any external collaborators;
- any other appropriate information.

4.1.4 The Named Person will then seek, in collaboration with the individuals named above, to establish the employment status of the Respondent and any specific

contractual details of the research in question, including the involvement of external funding, sponsoring or other organisations and whether or not these should be involved in the investigation and at what stage they should be informed of the allegations.

4.2 *Stage 2 Informing the Respondent*

- 4.2.1 The Named Person will inform the Respondent that allegations of research misconduct have been made against him/her; this will take place formally at a meeting.
- 4.2.2 Where the respondent is a member of staff, a representative of HR will be in attendance.
- 4.2.3 The Respondent will be informed in advance: of the purpose of the meeting; that he or she is entitled to be accompanied by a colleague or trade union representative; and that this is an investigative, not a disciplinary procedure and if it is found that on the basis of the evidence that an allegation of research misconduct appears to have been substantiated, the matter will be referred to the University's disciplinary procedures which include mechanisms for appeal.
- 4.2.4 At the meeting the Respondent will be provided with a copy of the allegation(s) and a copy of the procedures.
- 4.2.5 The Respondent will be informed that he/she will be given the opportunity to respond to the allegations at a later stage (see 4.3.4 and 4.4.5 below).

4.3 *Stage 3 Review of information and evidence*

- 4.3.1 Upon receiving the allegation and normally within 10 working days, the Named Person will appoint a lead reviewer, in accordance with the principles outlined in Appendix III to this document.
- 4.3.2 Where it is thought to be necessary, consideration will be given to seeking the suspension of the Respondent from his/her duties or to restricting his/her access to premises, colleagues and research materials relevant to the investigation.
- 4.3.3 Such steps should only be taken in agreement with the appropriate University authorities and should take into account the seriousness of the allegations and the overall duties of the Respondent.
- 4.3.4 The lead reviewer will seek to ensure that all relevant information and evidence including, where appropriate, research records, laboratory or other notebooks or similar, are secured and available and will normally interview the Complainant and Respondent.
- 4.3.5 The lead reviewer will prepare a report based on a review of the information and evidence and will determine if the allegations of research misconduct:

- are mistaken, frivolous, vexatious or malicious;
- have some substance but due to lack of intent to deceive or due to being minor in nature should be addressed through education and training in preference to disciplinary proceedings;
- have a basis that is sufficiently complex to justify further investigation; or
- are clearly substantiated

4.3.6 It is expected that Stage 3 of the process will normally be completed within 20 working days of the appointment of the lead reviewer.

4.4 *Stage 4 Report and action*

4.4.1 The report will be submitted to the Named Person.

4.4.2 Where the report indicates that the allegations:

are mistaken, they will be dismissed by the Named Person who will inform the Respondent, Complainant and those named in 4.1.3 above and will initiate steps to ensure that the reputation of the Respondent is protected;

are frivolous, vexatious or malicious, they will be dismissed by the Named Person who will inform the Respondent, Complainant and those named in 4.1.3 above, initiate steps to ensure that the reputation of the Respondent is protected and consider, with reference to appropriate University departments, whether or not to take disciplinary action against the Complainant; or

have substance but due to lack of intent to deceive or due to being minor in nature should be addressed through education and training in preference to disciplinary proceedings, the appropriate resources will be made available to the Respondent and the investigation procedure will be terminated and all concerned, including those named under 4.1.3, above will be informed.

4.4.3 Where the report indicates sufficient complexity to justify further investigation, the Named Person will take appropriate steps as indicated under stage 5 (below).

4.4.4 Where the report indicates that on the basis of the evidence the allegations appear to have been substantiated, the Named Person will write to the Respondent, enclosing a copy of the report, and inviting him/her to respond to the findings and present any new evidence that was not available during the course of the investigation within 10 working days.

4.4.5 Upon receipt of the response to the findings, the Named Person will invite the Respondent and his/her representative to attend a meeting at which the response and any new evidence will be considered.

- 4.4.6 Where the Named Person considers that the response and/or any new evidence require further investigation, steps will be taken as described under Stage 5 (below).
- 4.4.7 Where the Named Person considers that the response and/or any new evidence do not require further investigation, the matter will be referred to the appropriate departments for the consideration of disciplinary or other appropriate action.
- 4.4.8 Where the University determines that the matter should be addressed through disciplinary procedures, it is expected that the report and evidence provided by the lead investigator will be transferred to the disciplinary process.

Please note that the following stages in the procedure (Stages 5 and 6) will only be implemented under 4.4.3 and 4.4.6 above.

4.5 *Stage 5 Further Investigation*

- 4.5.1 If the outcome of Stage 4 (above) is that further investigation is required or justified (see 4.4.3 and/or 4.4.6), the Named Person will inform the following:
- the Respondent (and any representative by agreement)
 - the Complainant (and any representative by agreement)
 - Vice-Chancellor
 - Director of Human Resources (where the respondent is a member of staff)
 - Pro-Vice-Chancellor (R&I)
 - the Named Person at any partner or collaborating organisation
- 4.5.2 The Named Person will appoint an Investigating Panel within 10 days of concluding Stage 4 (above) in accordance with the principles outlined in Appendix IV to this document.
- 4.5.3 The Investigating Panel will convene to interview the Respondent and the Complainant and other parties as appropriate and will review all of the relevant evidence, including evidence gathered during Stages 3 and 4 (above).
- 4.5.4 It is expected that the Investigating Panel will conduct its investigations as quickly and thoroughly as possible and, where necessary, will report on the progress of the investigation to the Named Person on a regular basis.

4.6 *Stage 6 Report and action*

- 4.6.1 At the conclusion of the investigation, the Investigating Panel will provide a report to the Named Person which will:
- summarise the conduct of the investigation;
 - state whether or not the allegations of research misconduct appear to have been substantiated;
 - indicate reasons for the decision;

- identify and make recommendations relating to any other instances of misconduct discovered during the investigation;
- address any procedural, management, structural or regulatory matters brought to light by the investigation;
- make recommendations relating to the ongoing conduct of and amendments to the particular piece of research under investigation.

4.6.2 In addition, any evidence brought to light during the investigation that suggests:

- further distinct instances of research misconduct by the Respondent; or
- research misconduct by another person or persons

should be made known to the Named Person by the Investigating Panel for consideration under the initial steps of the procedure (see 4.1 etc above).

4.6.3 The Named Person will inform those named under 4.5.1 above of the conclusion of the investigation.

4.6.4 Where the report of the Investigating Panel concludes that the allegations are not substantiated because they are mistaken, they will be dismissed by the Named Person, who will initiate steps to ensure that the reputation of the Respondent is protected and all concerned, including those named under 4.5.1 above, are informed.

4.6.5 If the allegations have been determined to be frivolous, vexatious or malicious they will be dismissed by the Named Person who will inform the Respondent, Complainant and those named in 4.5.1 above, initiate steps to ensure that the reputation of the Respondent is protected and consider, with reference to appropriate University departments, whether or not to take disciplinary action against the Complainant.

4.6.6 Where the report indicates that on the basis of the evidence the allegations appear to have been substantiated, the Named Person will invite the Respondent and his/her representative to attend a meeting at which they will receive the report of the investigating panel and will be informed that the matter is being referred to the appropriate University departments for the consideration of disciplinary or other appropriate action.

4.6.7 The Named Person will refer the matter to the appropriate University departments for the consideration of disciplinary or other appropriate action.

4.6.8 Where the University determines that the matter should be addressed through disciplinary procedures, it is expected that the report and evidence provided by the investigating panel will be transferred to the disciplinary process.

Appendices

Appendix I Definition of research misconduct

Appendix II	Named Person
Appendix III	Screening Panel
Appendix IV	Investigation Panel

Appendix I Definition of Research Misconduct

The following are intended as examples of research misconduct.

Fabrication

Falsification

Misrepresentation of data and/or interests or involvement

Plagiarism

Failure to follow procedures, regulations or legislation in relation to:

 risk or harm to human subjects (including their data or tissues), animals or the environment

 the proper handling and storage of personal information obtained from research subjects

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 upon which the behaviour under investigation took place.

The basis for reaching a conclusion that an individual is responsible for misconduct in research lies 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 or not the matter should be investigated using the Procedure.

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Appendix II Named Person

In accordance with the requirements of the UKRIO, the Named Person should:

- a. be an individual within the organisation with significant knowledge and experience of research.

- b. have responsibility for:
- receiving any allegations of misconduct in research;
 - initiating and supervising the procedure for investigating such allegations;
 - maintaining the overall information record during the investigation;
 - taking decisions at key stages of the Procedure.
- c. Have a nominated alternate who will receive allegations of research misconduct and initiate and supervise the Procedure in the absence of the Named Person.

The Named Person and his/her alternate (where appropriate) should **not** be:

- a. the Head of the Organisation;
- b. the Head of Research; or
- c. the Head of Human Resources/Personnel

The University has nominated an appropriate senior officer (Professor I Montgomery) to act as the Named Person as required by the UKRIO Procedures. An alternate will be nominated to deal with cases for which the Named Person is not available or in which there is a conflict of interest.

Appendix III Review of Information and evidence

This stage of the procedure is intended to determine whether or not there is *prima facie* evidence of misconduct in research. Its purpose is to review allegations of misconduct in research which have received initial consideration by the Named Person and are viewed as:

- not encompassing breaches of the law or areas within the domain of the relevant regulatory authority;
- not encompassing breaches of the University's regulations such as might require the immediate implementation of the disciplinary process;
- constituting research activity for which the University is the Sponsor or for which the University has primary responsibility;
- involving a Respondent where the University is the primary employer or where it has primary responsibility, agreed with other employing organizations; and
- having substance, in that it is not considered **at this stage**, to be mistaken, frivolous, vexatious and/or malicious.

The Lead Reviewer

1. The lead reviewer will be a senior member of staff appointed by the Named Person.
2. In appointing the lead reviewer, the Named Person should consider:
 - the subject matter of the allegations, including whether or not it would be advantageous for him or her to possess any specialised knowledge or investigative skill;
 - any conflicts of interest that might arise;
 - any links with any of the persons involved (Respondent or Complainant);
 - any personal connections with the subject matter of the allegations; and
 - any connections with the work through, for example, the University's groups established to review proposals for research or ethics committees.
3. The Named Person must **not** seek to influence the work of the lead reviewer.

Terms of Reference for the Lead Reviewer

1. The lead reviewer should confirm that they:
 - will adhere to the principles of the procedure;
 - will abide by the procedure as it affects the conduct of the review;
 - will work within the Terms of Reference for the review;
 - have declared any links to the research and/or the individuals involved in the allegations or any interest which might conflict with the principles of the procedure; and
 - will maintain the confidentiality of the proceedings throughout the process and afterwards, unless formally sanctioned by the University or otherwise required to by law.
2. The lead reviewer will:
 - maintain a record of evidence sought and received, and conclusions reached, supported by an appropriate administrative resource
 - conduct an assessment of the evidence including, where necessary, interviewing the Respondent and Complainant and other staff or witnesses whom they consider relevant to the investigation
 - produce a report which considers the allegations of misconduct in research and make a recommendation that these:
 - are mistaken, frivolous, vexatious or malicious;
 - have some substance but due to lack of intent to deceive or due to being minor in nature should be addressed through education and training in preference to disciplinary proceedings;

- appear to have been substantiated and should be referred to be dealt with through the University's disciplinary procedures; or
 - have a basis that is sufficiently complex to justify further investigation.
- provide this report to the Named Person
 - aim to complete this stage of the process **within 20 working days**.
3. Following submission of the report the work of the lead reviewer is complete. He or she should take no part in any further investigation of the matter or make any comment on the continuing investigation, unless formally sanctioned by the University or otherwise required to by law and undertake to ensure that all information concerning the case will be held in confidence.

Note:

- the University may add to the Terms of Reference to address specific aspects of the investigation.
- those interviewed by the lead reviewer may be accompanied by a fellow employee or a trade union representative;
- the University may not be in a position to compel those with information to provide that information to the lead reviewer.

Appendix IV Investigating Panel

An Investigating Panel will be convened to investigate allegations of research misconduct which have been through the review stage and for which additional evidence has been presented or which are considered to have a basis that is sufficiently complex to justify further investigation.

The Investigating Panel

1. The Investigating Panel should consist of three members, selected by the Named Person from those with relevant skills and experience to serve on such a panel; the chair of the panel will be appointed by the Named Person.
2. The Named Person must **not** be a member, nor seek to influence the work, of the Investigating Panel.
3. In appointing the members of the Investigating Panel, the Named Person should consider:
 - the subject matter of the allegations, including whether it would be

- advantageous for members of the panel to possess any specialised knowledge or investigative skills;
 - any potential conflicts of interest;
 - any potential links with any of the persons involved (Respondents or Complainants), or personal connections with the subject matter of the allegations;
 - whether a nominee was involved in the review stage of the process, as this excludes such a person from serving on the Investigating Panel; and
 - any connections with the work through, for example, the University's groups established to review proposals for research or its ethics committee(s).
4. It is recommended that one or more members of the Investigating Panel be selected from outside the University. Such external members replace internal members of the panel rather than being in addition to them. Allegations that involve senior staff and/or that are judged to be especially serious, complex or controversial may benefit particularly from a member who is not associated with the University. There would also be advantage in the review of allegations that involved staff on joint clinical/honorary contracts for the panel to include an appropriate member of staff from the other employing organization(s).
 5. 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.
 6. At least one member of the Panel should have experience in a research discipline related to that in which the alleged misconduct has taken place, although they should not be members of the department concerned.
 7. Once convened, the membership of the Investigating 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 investigation process.

Terms of Reference of the Investigating Panel

1. Members appointed to the Investigating Panel should confirm that they:
 - will adhere to the principles of the procedure;
 - will abide by the procedure as it affects the work of the Investigating Panel;
 - will work within the Terms of Reference for the Investigating Panel;
 - have declared 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 University or otherwise required to by law.
2. The Investigating Panel will:

- receive all relevant information from the lead reviewer as background for the investigation;
- set a date for commencing the investigation, which should be conducted as quickly as possible without compromising the stated principles of the procedure;
- set an intended date for the completion of the investigation, which should be as soon as is practical without compromising the principles of the procedure;
- maintain a record of evidence sought and received, and conclusions reached, supported by an appropriate administrative resource;
- conduct an assessment of the evidence;
- interview the Complainant and such other individuals, including expert witnesses, as the panel consider relevant to the investigation;
- hold interviews, at which the Respondent must be given the opportunity to set out his/her case and respond to the allegations made against him/her;
- consider the allegations of misconduct in research and reach a conclusion on the allegations;
- report progress in writing, with reference to the dates agreed by the Panel, to the Named Person during protracted investigations;
- 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
- aim to reach a unanimous decision, failing which a majority decision will be acceptable.

Note that the Investigating Panel may conclude that allegations are partly or fully substantiated.

3. The Investigating Panel should then produce a final report that:

- summarises the conduct of the investigation;
- states whether the allegations of misconduct in research appear to have been partly or fully substantiated, giving the reasons for its decision and recording any differing views;
- makes recommendations in relation to any matters relating to any other misconduct identified during the investigation; and
- addresses any procedural matters that the investigation has brought to light within the University and relevant partner organizations and/or funding bodies.

In addition to reaching a conclusion over the nature of the allegations, the Investigating Panel may make recommendations with respect to:

- a. whether the allegations should be referred to the relevant University's disciplinary process;
- b. whether any action will be required to correct the record of research;
- c. whether University matters should be addressed by the University

through a review of the management of research; and
d. other matters that should be investigated.

4. The Report should be sent to the Named Person who will inform the following of the conclusion of the investigation:
 - the Respondent and the Complainant (and their representatives by agreement);
 - the Vice-Chancellor, the Pro-Vice-Chancellor (Research & Innovation), the Director of Human Resources, the relevant Dean and Head(s) of the relevant Department(s)/School(s) and any other relevant members of staff;
 - If the Respondent and/or Complainant are employed on joint clinical/honorary contracts, the Named Person, the Head of Personnel and the Head of Research of the other employing organization(s);
 - Where appropriate, the Named Person should notify any relevant partner Universities, funding bodies and/or regulatory or professional bodies; and
 - Additionally, the Named Person may wish to inform UKRIO of the conclusion of the Formal Investigation, using the forms at Annex 3.
5. Once it has completed the report and reached a conclusion, the work of the Investigating Panel is complete and it should be disbanded and members should 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 Investigating Panel should not make any comment on the matter in question, unless formally sanctioned by the University or otherwise to by law. They should also remember that all information concerning the case was given to them in confidence.

Note:

 - the University may add to the Terms of Reference to address specific aspects of the investigation;
 - those interviewed by the Investigating Panel may be accompanied by a fellow employee or a trade union representative;
 - the University may not be in a position to compel those with information to attend, or to provide that information to the Panel.
7. Any queries or requests for comment addressed to members of the Investigating Panel should be referred to the Named Person.
8. The Chairperson of the Investigating Panel will present the findings of the investigation to any disciplinary panel; otherwise, the involvement of any individual in the review process or membership of the Investigating Panel will rule out participation in the disciplinary process.

