



## Protocol for investigating and resolving allegations of misconduct in academic research

*The University is committed to maintaining the integrity and probity of academic research; regards it as fundamental that the conduct of research and the dissemination of the results of research are truthful and fair; and has adopted the following protocol for the investigation and resolution of any allegations of misconduct in research.*

*All members of the University are under a general obligation to preserve and protect the integrity and probity of research; in particular, if they have good reason to suspect any misconduct in research, they should report their suspicions as prescribed below. Nonetheless, members of the University should bear in mind that an allegation of academic impropriety is serious and potentially defamatory, and could lead to the threat (or even the instigation) of legal proceedings. It is in that context that this protocol contains provision for preliminary screening of allegations, and lays stress on principles of confidentiality, natural justice and no-detriment. It also seeks to ensure that no-one making an allegation of misconduct in research is victimised for having made the allegation.*

### Introduction

1. This protocol sets out a framework for the investigation and resolution of allegations of misconduct in academic research made against employees or research students of the University. 'Misconduct' is taken to include in particular (but is not limited to):
  - (a) **piracy**, defined as the deliberate exploitation of ideas from others without proper acknowledgement;
  - (b) **deliberate plagiarism**, where plagiarism is defined as the copying of ideas, text, data or other work (or any combination thereof) without permission and due acknowledgement;
  - (c) **misrepresentation**, defined as a deliberate attempt to represent falsely or unfairly the ideas or work of others, whether or not for personal gain or enhancement;
  - (d) **fraud**, defined as deliberate deception (which may include the invention or fabrication of data).

In brief, misconduct may be characterised as *dishonesty* in proposing, executing or reporting on research or scholarship: honest error or honest differences in interpretations or judgements of data do not count as misconduct.

2. The Secretary shall have a general responsibility for ensuring the integrity of any proceedings under the protocol, and shall determine the procedure to be followed

in cases of doubt. He or she may, however, depute to another administrative officer some or all of the responsibilities ascribed to the Secretary in this protocol.

## Principles

3. The University is committed to ensuring that all allegations of misconduct in academic research are investigated **fully, fairly** and **quickly**. To that end, this protocol is informed by the following principles.
  - 3.1 Whilst committed to ensuring that any allegation is investigated thoroughly, the University recognises that it has also to protect researchers from mischievous, frivolous and malicious allegations, and from allegations which are wholly without substance. Before any allegation is formally investigated, it will therefore be subject to **preliminary screening**, as outlined below.
  - 3.2 The *investigation* of any allegation will be carried out in accordance with the principle of **natural justice**, which shall be taken to mean in particular
    - (a) that any person against whom an allegation of misconduct is formally investigated in accordance with 12 or 16-22 below shall be given full details of the allegation, in writing, shall be afforded every reasonable opportunity to respond to that accusation and to produce evidence in his or her defence, and may seek University support in connection with expenses incurred in obtaining independent legal advice (but not in respect of legal representation);
    - (b) that any party to any proceedings under this protocol may seek advice and assistance from any person of his or her choosing, and may be accompanied by that person when interviewed at any stage of the procedure;
    - (c) no person may act both as a screener (see 6-15 below) and as a member of an investigating panel (see 16-22 below);
    - (d) although it is open to screeners and investigating panels to make *recommendations*, no person who has served either as a screener or as a member of an investigating panel may play any part in *deciding* what action is taken against an individual against whom an allegation is upheld (see 27 below).
  - 3.3 Enquiries into any allegation shall be *thorough* and *objective*: those asked to undertake such enquiries are under an obligation to ensure that their enquiries are sufficiently full as to allow them to reach well-founded conclusions on the matters they are considering, and that they pursue their enquiries disinterestedly. They are also under an obligation to inform the Secretary at the outset of any personal interest which they might have in the case. It is possible that an individual asked to undertake such enquiries may know one or more parties to the case personally; in such circumstances, the Secretary shall determine whether the nature of the relationship is such as to render it inappropriate for the individual concerned to take any part in the enquiries.
  - 3.4 So far as is reasonably practicable, the principle of *no-detriment* shall apply to the screening or investigation of allegations, which is to say that neither the person making the allegation ('the initiator') nor the person against whom an allegation is made ('the respondent') should suffer *solely* as a result of the allegation having been made. In particular, those responsible for screening or investigating any allegation and the Secretary shall take reasonable measures to ensure

- (a) that no party to the proceedings in this protocol is victimised;
- (b) that the respondent suffers no loss of reputation or other loss unless and until the allegation in question is upheld in accordance with this protocol.

Appropriate action will however be taken against any person against whom an allegation of misconduct has been upheld in accordance with this protocol; and action may be taken against any member of the University who is found to have made a *malicious* allegation.

3.5.1 So far as is reasonably practicable, the screening or investigation of any allegation shall be carried out in accordance with the principle of *confidentiality* so as to protect the interests both of the initiator and of the respondent. This principle means in particular that those responsible for screening or investigating any allegation and the Secretary shall take all reasonable measures to ensure

- (a) that the identity of the initiator is not disclosed to the respondent without consent; and
- (b) that neither the identity of the initiator nor the identity of the respondent is made known to any third party except
  - as may be deemed necessary for carrying out enquiries under the protocol, or
  - as action taken against an individual against whom an allegation has been upheld, or
  - as action taken against an individual who is found to have made a malicious allegation.

3.5.2 Similarly, neither the initiator, nor the respondent nor any witnesses or other parties to a case should make any statements about the case - whether orally or in writing - to any third party while the allegation in question is being screened or being investigated or subject to an appeal. However, this principle shall not override the prerogative of the parties to the case in seeking proper advice.

3.5.3 The principle of confidentiality shall also be taken to mean that, in the event of the University or any of its officers or employees being asked to provide a reference for the respondent during the *screening* process (whether in respect of employment, a research grant or otherwise), then no mention will be made in the reference to the allegation being screened. It will however be at the discretion of the Secretary, after taking advice as appropriate, whether mention should be made of an allegation in any reference required while the allegation is undergoing *formal investigation* (in accordance with 16-22 below) or is the subject of departmental action (in accordance with 12 below) or is the subject of an *appeal* (see 26 below).

3.6 All proceedings under this protocol will be undertaken with due *expedition*. Any screening or investigation will be carried out as quickly as is consistent with such proceedings being thorough and fair.

3.7 In accordance with the principles of *integrity*, appropriate confidential records will be maintained by the Secretary of all stages to any proceedings under this protocol. At the conclusion of the proceedings, all such records will be retained by the Secretary for such period as he or she deems necessary, but that period shall not be less than three years.

4. It is acknowledged that there may be occasions when a balance has to be struck between some of the principles enumerated in 3 above. It may prove to be impractical for example, to undertake a thorough investigation without disclosing the identity of the

initiator to the respondent or to a third party; and where the initiator is unwilling to consent to such disclosure, it may not be possible to pursue the complaint. Any such conflict shall be referred to the Secretary for adjudication, on the basis that the overriding objective of any proceedings under this protocol is to seek the truth. The Secretary shall in any case have a general responsibility for ensuring the integrity of any proceedings under the protocol, and shall determine the procedure to be followed in cases of doubt.

## Outline

5. As indicated in 3.1 above, there shall be two stages to enquiries into any allegation:
  - (a) a preliminary screening to ascertain whether there is a *prima facie* case which requires more thorough investigation;
  - (b) a formal investigation

save that both stages may be waived wholly or in part, at the discretion of the Secretary, if the facts of the matter are not in dispute – for example, if the respondent admits the allegation in question.

Any allegation of misconduct in academic research shall be made to the Secretary (though, if he or she so prefers, the initiator may communicate the allegation to the Secretary through the head of the department or the dean of the faculty concerned or through some other senior member of the University). The initiator - who need not be a member of the University - shall be required to produce a detailed statement in writing in support of the allegation and to attest that he or she has produced a complete record of all the incidences of alleged misconduct of which he or she is at that time aware. The initiator shall be given an assurance that his or her anonymity will be preserved subject to the caveats set out in paragraphs 3 and 4 above.

## Screening

6. Upon receipt of an allegation, the Secretary shall, normally within one week, appoint three individuals to screen the allegation ('the screeners') and shall provide such guidance as they require. Of the three screeners, one shall be a lay member drawn from the membership of the Court or the Council, and the other two shall be academic members, normally drawn from the faculty concerned. The screeners will be required to attest to there being no conflict of interest that may disbar them from serving and, so as to protect them from untoward pressure, their identities will at no stage be disclosed to any parties to the proceedings in question. The lay screener - who may be legally qualified - will be charged explicitly with reporting to the Pro-Chancellor if he or she has any concerns that the rights of individuals are being undermined, and to ensure that the timescales for the screening process are reasonable (see footnote 1 below).
7. It shall be at the discretion of the screeners whether or not to inform the respondent of the allegation, and to invite comment from him or her; but the screeners may not recommend the initiation of a formal investigation unless and until they have given the respondent the opportunity to comment on the allegation. In any event, the screeners shall consider the evidence that has been made available to them, and may, at their own discretion, consult experts in the relevant discipline, subject to the principles set out in 4 above. At any stage in their enquiries, the screeners may, with the agreement of the Secretary, seek copies or original versions of any files, notebooks or other records

(‘evidence’) which they consider material, such evidence to be held on behalf of and at the discretion of the Secretary on the basis that

- (a) if a formal investigation is instigated in accordance with 11 or 12 (b) below, the evidence will be made available to the investigating panel;
  - (b) if the allegation is dismissed, the evidence will be returned to the individual or individuals from which it was obtained;
  - (c) in any event, the respondent shall be given a copy of any material that is supplied, or, if the material is in a form which cannot readily be copied, he or she shall, under the supervision of the Secretary, have reasonable access to that material while it is impounded.
8. To the extent that the matter in question involves a dispute between two or more parties, it shall be open to the screeners to explore the scope for reconciliation and agreement.
  9. The screeners may at their discretion widen the scope of their enquiries if they discover evidence which suggests that there has been misconduct over and above the misconduct alleged in the original complaint.
  10. The screeners shall report in writing to the Secretary, normally no longer than four weeks<sup>1</sup> after their appointment as screeners, indicating into which of the following five categories they judge the matter to fall:
    - (a) the allegation is unfounded, either because it is mistaken or because it is frivolous, trivial or otherwise without substance;
    - (b) a *prima facie* case of misconduct has been established *and* the allegation is sufficiently serious that a formal investigation is justified by reference to the public interest (including in particular the interest of science and scholarship);
    - (c) there is *prima facie* evidence of misconduct but such misconduct is not sufficiently serious that the public interest requires it to be subject to formal investigation;
    - (d) the essence of the allegation is a dispute between two or more parties which can reasonably be resolved through reconciliation and agreement;
    - (e) the allegation should more properly be referred for resolution under a different procedure (for example, the Grievance Procedure), provided always that the conditions for a formal investigation are not met.
  11. If the screeners judge that the allegation falls into the second category [10(b)], the Secretary shall instigate a formal investigation as outlined in 16-25 below.
  12. If the screeners judge that the allegation falls into the third category [10(c)], the Secretary shall refer the matter for departmental remedy, asking a senior member of the department concerned (the ‘nominated officer’) to ensure that appropriate action is taken. This may include a departmental enquiry, the form of which shall be determined by the nominated officer, but which shall be in accordance with the principles set out in 3-4 above, and consistent with the procedural framework set out in 16-22 below; and it may lead to action under the University’s published disciplinary procedures. In any event

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<sup>1</sup> If the screeners cannot complete the screening within this timescale they will be required to report to the Pro-Chancellor, giving reasons for the delay, and to submit further reports every four weeks for so long as the screening is not concluded. If the Pro-Chancellor is not satisfied that the screening process is being carried out expeditiously he may conduct a review of that process.

- (a) the respondent must be informed of the allegation and given the opportunity to explain any apparent misconduct;
  - (b) the respondent may decline to have the allegation considered at departmental level, in which case the allegation shall be subject to formal investigation as set out in 16-22 below; and
  - (c) the Secretary shall be informed of the action taken and the outcome; and
  - (d) action under this paragraph shall not count as action under the protocol.
13. If the screeners judge that the allegation falls into the first category [10(a)], the Secretary shall dismiss the allegation, and, subject to 14-15 below, no further action shall be taken.
14. If the screeners judge that the allegation falls into the first category [10(a)] *and* is malicious, the Secretary may instigate appropriate disciplinary action against the initiator under the University's published disciplinary procedures.
15. In any event, the Secretary shall inform the initiator, in writing, of the outcome of the screeners' enquiries. In the event of the screeners judging that the allegation falls into the first, third or fourth category [10(a) or 10(c) or 10(d)] and the initiator not being satisfied with that judgement, he or she may appeal. Any such appeal, which shall have to be lodged within fourteen days, must be addressed to the Vice-Chancellor, who shall refer it to a senior officer of his or her choosing. That officer may, at his or her absolute discretion, instigate a formal investigation as outlined in 16-25 below.

## **Formal investigation**

### *Procedure*

16. If a formal investigation is instigated in accordance with 11, 12 or 15 above, the Secretary shall, normally within ten days, appoint a panel of at least three individuals to carry out that investigation. At least one member of the panel may be from outside the University, and at least two shall be academic specialists in the general area within which the misconduct is alleged to have taken place. One of the members shall be appointed (by the Secretary) to chair the panel; he or she will normally be a senior member of the University from outside the discipline in which the misconduct is alleged to have taken place. The members shall be required to attest to there being no conflict of interest that may disbar them from serving. The Secretary shall provide any necessary secretarial support for the panel.
17. As soon as the panel is appointed, it shall notify the respondent, in writing, of the allegation, and invite him or her to respond to the allegation, normally within three weeks. In any event, both the respondent and the initiator shall be asked to produce relevant documentary evidence (for example, laboratory notebooks, papers, statements by witnesses, and computer records).
18. Within the framework laid down by this protocol, and subject to the principles of natural justice, the panel shall determine its own detailed procedure. Specifically, it may
- (a) interview the respondent, the initiator and any other parties it chooses;
  - (b) widen the scope of its investigation if it considers that necessary;

(c) require the respondent - and, if it judges it necessary, other members of the University - to produce files, notebooks or other records;

(d) seek evidence from other parties.

19. It shall be for the panel to form its own view on apparently contradictory pieces of evidence.

20. If the panel's preliminary conclusion is that the allegation is upheld, it shall so inform the respondent, giving reasons for its view and providing appropriate supporting evidence; and the panel shall offer the respondent the opportunity to provide further explanations and evidence for its consideration.

21. If the panel's preliminary conclusion is that the allegation is not upheld, it shall so inform the initiator, giving reasons for its view and providing appropriate supporting evidence; and the panel shall offer the initiator the opportunity to provide further evidence or argument for its consideration.

22. The panel shall continue its enquiries - and may in that connection repeat the steps outlined at 20-21 above - until it is satisfied that justice has been served, and that it can reach a well-founded final conclusion on the allegation. (See also 23 below.)

### *Findings*

23. Once it has reached a final conclusion, the panel shall report in writing to the Secretary, indicating whether or not it finds the allegation proven, in whole or in part, and giving reasons for its conclusion. It shall uphold an allegation (or elements of an allegation) only if it finds the allegation (or the relevant elements thereof) proven on the balance of probabilities.

24. It shall be open to the panel to make such recommendations as it sees fit to rectify any misconduct it has found and to preserve the academic probity of the University.

25. Where an allegation is upheld, the Secretary shall convey the panel's findings to the initiator, the respondent, the relevant head of school, the dean of the faculty and such other persons or bodies as he or she deems appropriate. (See also 28 below.)

### *Appeals*

26. Any appeal by the respondent or the initiator against the findings or procedures of the panel must be addressed to the Vice-Chancellor, and normally lodged within seven days of the panel's findings being conveyed to the person making the appeal. The Vice-Chancellor shall refer the appeal to a senior officer of his or her choosing (one who has not previously had any role in the case); and that person may take such action as he or she deems necessary including, in exceptional circumstances, the instigation of a new investigation *ab initio*.

## **Subsequent action**

27. If the panel has found the allegation proven, in whole or in part, or where the Secretary has exercised his or her discretion in accordance with 5 above, the Secretary shall invite two pro-vice-chancellors (normally those with responsibility for staff and research) jointly to determine what action needs to be taken. Such action may include:

(a) conveying the panel's findings or the admission of the allegation to any relevant professional body, and relevant grant-awarding bodies, and the editors of any

journals which have published articles by the person against whom the allegation has been upheld or who has admitted the allegation;

- (b) subject to the concurrence of the Senate, revoking any degree or other qualification which has been obtained, in whole or in part, through proven or admitted misconduct in research;
- (c) instigating formal disciplinary proceedings, under the University's published disciplinary procedures, against the individual against whom the allegation has been upheld or who has admitted the allegation.

Any appeal against the decision of the pro-vice-chancellors must be addressed to the Vice-Chancellor, and normally lodged within seven days of the decision being conveyed to the person making the appeal. The Vice-Chancellor shall refer the appeal to a senior officer of his or her choosing. That officer may take such action as he or she deems necessary, including referring the matter back to the pro-vice-chancellors for reconsideration.

- 28. If the allegation has not been upheld, the Secretary shall take appropriate steps to preserve the good reputation of the respondent, and in any event shall ensure that any reference to the case is expunged from the respondent's personal file. If the case has received any publicity, the respondent shall be offered the possibility of having an official statement released by the University to the press or to other relevant parties (or both). If the panel has found that the initiator's allegation was malicious, the Secretary may instigate appropriate disciplinary action against the initiator under the University's published disciplinary procedures.
- 29. The Secretary shall normally inform the Senate - and, in cases where the respondent is a member of staff, the Council - of any allegation which has been the subject of a formal investigation, and of the final outcome of that investigation, or of any allegation that has been admitted, save that, if the allegation has not been upheld, the respondent shall have the option of deciding that no report be made to the Senate or the Council.
- 30. In any event, the Secretary shall take appropriate steps to protect the initiator from victimisation, subject however to 28 above.

## **Acknowledgements**

*This protocol is modeled on those in use at some other institutions. The University wishes gratefully to acknowledge the use of the following documents in particular:*

- (a) *The Royal College of Physicians Report 'Fraud and Misconduct in Medical Research; Causes, Investigation and Prevention (February 1991)*
- (b) *The University of Manchester's 'Code of Practice for Dealing with Allegations of Misconduct in Research' (May 1993).*