

POLICY ON HANDLING ALLEGATIONS OF RESEARCH MISCONDUCT

(This section has been drafted with guidance from UKRIO and in consultation with RCUK and UKRIO procedures for investigating allegations of misconduct in research)

This policy and procedure on research misconduct will also be used to investigate and deal with allegations relating to misappropriation or misuse of research funds and equipment.

The University is able to receive and consider anonymous allegations.

(Please refer to Section H, for the University Policy on Whistleblowing)

G1 Definition of Research Misconduct

The Research Council UK definition of **Research misconduct** is **fabrication, falsification, plagiarism or other serious deviation from commonly accepted practices in research** for proposing, performing, or reviewing research, or in reporting research results.

Fabrication is making up data or results and recording or reporting them.

Falsification is manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research is not accurately represented in the research record.

Plagiarism is the appropriation of another person's ideas, processes, results, or words without giving appropriate credit.

Misrepresentation including

- Misrepresentation of data, for example suppression of relevant findings and/or data, including the researchers own ideas, or knowingly, recklessly or by gross negligence, presenting a flawed interpretation of data.
- Undisclosed duplication of publication, including undisclosed duplicate submission of manuscripts for publication.
- Misrepresentation of interests, including failure to declare material interests, either of the researcher or of the funder's of the research.
- Misrepresentation of qualifications and/or experience, including claiming or implying qualifications or experience which are not held.
- Misrepresentation of involvement, such as inappropriate claims to authorship and/or attribution of work where there has been no significant contribution, or the denial of authorship where an author has made a significant contribution (improper authorship).

Breach of duty of care, whether deliberately, recklessly or by gross negligence:

- Disclosing improperly the identity of individuals or groups involved in research without their consent, or other breach of confidentiality,
- Placing any of those involved in research in danger, whether as subjects, participants or

associated individuals, without their prior consent, and without appropriate safeguards even with consent; this includes reputational danger where that can be anticipated.

- Not taking all reasonable care to ensure that the risks and dangers, the broad objectives and the sponsors of the research are known to participants or their legal representatives, to ensure appropriate informed consent is obtained properly, explicitly and transparently.
- Not observing legal and reasonable ethical requirements or obligations of care for animal subjects, human organs or tissue used in research, or for the protection of the environment.
- Improper conduct in peer review of research proposals or results (including manuscripts submitted for publication); this includes failure to disclose conflicts of interest; inadequate disclosure of clearly limited competence; misappropriation of the content of material; and breach of confidentiality or abuse of material provided in confidence for peer review purposes.

Research misconduct does not include honest error or differences of opinion. Unlike poor research practice which needs to be identified and dealt with through training and mentoring, research misconduct needs to be investigated and dealt with appropriately through the disciplinary procedures.

G2 Terminology:

- a) **Named Person** : The 'Named Person' is the individual in the University who is responsible for:
- receiving any allegations of misconduct in research
 - initiating and supervising the procedure for investigating the allegations
 - maintaining information and records during the investigation and
 - taking decisions at key stages of the procedure, and working as an adjudicator when required.

**Named person for Swansea University:
Operating Officer.**

Registrar & Chief

- b) **Complainant:** the Complainant is the person making the allegations of misconduct of research against one or more Respondents.
- c) **Respondent:** the 'Respondent' is the person (s) against whom the allegations of misconduct in research have been made. He/she must be a present or past employee of the University.
- d) **Disciplinary process:** The 'Disciplinary process' refers to the University's mechanism for resolving disciplinary issues of staff.
- e) **Formal Investigation:** The Formal Investigation is the procedure intended to examine the allegations of misconduct in research, hear and review the evidence, determine whether the alleged misconduct occurred and take a view on who was responsible.
- f) **Screening Stage:** The Screening Stage is part of the procedure and intended to determine whether there is prima facie evidence of misconduct in research. The screening stage does not determine whether misconduct occurred or who might be responsible.

G3 Key Principles:

This policy and procedure on research misconduct will also be used to investigate and deal with allegations relating to misappropriation or misuse of research funds and equipment.

The University is committed to operating on the following principles while investigating allegations of research misconduct:

- Misconduct in research is a serious matter.
- Investigation of allegations of misconduct in research will be conducted in accordance with the highest standards of integrity, accuracy and fairness.
- The University wishes to enable all stakeholders (including funders, sponsors, regulators, staff, scientific publishers, students, research participants and patients) to have confidence that high standards of research integrity are upheld by the University at all times, and that allegations of research misconduct are treated seriously and investigated as confidentially as is reasonably practicable.
- The University will ensure that those responsible for carrying out investigations of alleged misconduct in research will act with integrity and sensitivity at all times.
- The University will ensure that investigators of such cases will conform to the statutory obligations of the University and the rights of the employees according to current law along with any rights and obligations bestowed to employees by its ordinances and statutes.
- Anyone accused of misconduct in research is entitled to the presumption of innocence.
- It is acknowledged that allegations may be made for what appears to be malicious reasons.
- Where anyone is formally accused of misconduct in research, that person will be given full details of the allegations in writing, and will be given the opportunity to set out his/her case and respond to the allegations against him/her.
- The University is committed to protecting the reputation of those suspected of, or alleged to have engaged in, misconduct, when the allegations or suspicions are not confirmed.
- Staff undertaking research will be able to exercise their right to academic freedom under the University Statutes, but must also take responsibility in ensuring that the integrity of research is upheld, and that they are aware of the legal requirements that regulate their work.
- All employees and students and any individuals authorised to work in the University, its facilities or otherwise undertaking research on behalf of the University, are obliged and have a responsibility to report to the University any concerns about potential research misconduct, whether witnessed, or where there is reasonable belief that this is, has, or is likely to occur.
- Employees and students who raise such concerns in line with this policy will not be penalised or suffer detriment by the University for doing so, provided that they do so in confidence and reasonably believe that potential research misconduct is, has or is likely to occur.
- The basis for reaching a conclusion that an individual is responsible for misconduct in research relies on a judgment that there was an intention to commit the misconduct and/or negligence in the conduct of any aspect of research undertaken and that the burden of proof required is that of 'on the balance of probabilities.'
- Where appropriate, issues may be resolved through informal discussions, advice, guidance, or agreed mediation, without the requirement for a formal investigation.

- If the route of investigation is undertaken, then depending upon the outcome of the investigation, other relevant formal procedures may be initiated including for example the University's disciplinary or capability procedures.
- In such cases the information/findings of an investigation may be used in whole or in part, to form the investigation element of such procedures.
- All parties involved are under an obligation to inform the 'Named Person' (Registrar) immediately of any conflict of interest. In such circumstances, the Registrar should decide if a declared interest warrants exclusion from involvement in the investigation.
- In the case where the Registrar declares an interest his/her nominated alternate should decide if he/she should be excluded from involvement.

G4 Procedure:

The objective of the procedure outlined below is:

- to ensure that any allegations of research misconduct brought to the University as the organisation employing the individual against whom allegations are made, or brought to the University in its capacity as the host or sponsor of research, are dealt with agreed standard practices adopted nationally by other Universities and research organisations and
- to determine the truth of the allegations.

G5 Receiving allegations:

Any allegations of 'misconduct in academic research' should ideally be submitted to the Registrar in writing with supporting documentary evidence, though postal mail or email (researchmisconduct@swansea.ac.uk)

Any allegations received by the Registrar will be initially assessed to determine:

- whether it requires urgent and immediate action to prevent further risk or harm to staff or student participants or other persons or suffering to animals or negative environmental consequences; or
- whether the complaint relates to the University or should be directed to another organisation, external body or regulator; or
- whether the allegation falls within the scope of the research misconduct process or if another internal procedure, for example the disciplinary procedure needs to be used; or
- whether any immediate action needs to be taken, based on the concerns outlined in the allegation (i.e. to protect participants, or secure funds or evidence)

G6 Preliminary Stage:

Upon receipt of an allegation of misconduct in research, the Registrar will formally acknowledge receipt by letter or email (whichever appropriate), advising the complainant of the procedure to be followed.

If an allegation falls outside the definitions of 'research misconduct', the Registrar will communicate to the Complainant in writing:

- the reason why the allegations cannot be investigated using the University procedure;
- which process for dealing with complaints might be appropriate for handling the allegations (if any); and
- to whom the allegations should be reported.

Where the allegation is within the definition of 'misconduct in research', the Registrar will inform the Vice Chancellor, Director of Human Resources, Pro Vice Chancellor for Research & Innovation and Director of Finance, details of the allegation in confidence, and would be investigated in accordance with University procedures. Details of all sources of internal and external funding and collaborators for the research in question would also be provided.

In a confidential meeting and in the presence of a representative from Human Resources, the Registrar will notify the 'Respondent', that an allegation of 'research misconduct' had been received against him/her. The 'Respondent' will be provided a redacted copy of the allegation, along with a copy of the University procedure to be followed and would be given the opportunity to respond to the allegations and set out their case at a later stage. The 'Respondent' can be accompanied to this meeting by a colleague, a Union representative or anyone else as specified by contractual rights.

If the allegations are made against more than one Respondent, the Registrar will inform all parties separately, without divulging any information on the identity of the other 'Respondents'.

Once initiated, the procedure will progress to the natural end-point irrespective of:

- whether the Complainant has withdrawn the allegation;
- the Respondent admitting or having admitted the alleged misconduct, in full or in part and/or
- the Respondent or the Complainant resigning, or having already resigned, his/her post.

The University will aim to complete the Preliminary stage within 10 working days from the receipt of the allegations.

G7 Screening stage:

- The Registrar will carry out an initial investigation of the allegations to determine whether they are mistaken, frivolous, vexatious and/or malicious.
- If the allegations are categorised as any of the above, the Registrar will dismiss the allegations in writing, informing the Complainant, Respondent and all parties who had been informed initially.
- If the allegations were found to be frivolous, vexatious and/or malicious, the Registrar will consider recommending to the Human Resources Department that action be taken under the disciplinary procedures against the Complainant, and will take appropriate steps to support the reputation of the Respondent and the research project (s).
- Those making allegations in good faith will not be penalised and would be provided with support, including training if they are employees of the University.
- If the allegations cannot be entirely discounted by the Registrar, then a '**screening panel**'

would be set up to determine whether there is prima facie evidence of misconduct in research.

- The screening panel would consist of at least two people and would normally aim to complete its work within **30 days** of being convened.
- A report from the screening panel would be made available to the Respondent and the Complainant for factual accuracy, and only in circumstances, where the report includes errors of fact will the screening panel modify the report.
- Where the allegations are considered mistaken, frivolous, vexatious and/or malicious, they will be dismissed and appropriate measures taken to protect the reputation of the Respondent and relevant research projects.
- Measures may include recommending to the appropriate authorities that action would be taken under the University's disciplinary procedures.
- Where the allegations have some substance, but due to a lack of clear intent to deceive or due to their relatively minor nature, the matter will be addressed through the University's competency, training and education or other non-disciplinary process, rather than through a formal investigation for a University employee.
- The Registrar would ensure that a programme of training or supervision is established in conjunction with the Respondent and his/her line manager.
- When the screening panel considers that the allegations are sufficiently serious and have sufficient substance to warrant recommending a Formal investigation, the Registrar would take immediate steps to set up a Formal investigation.

G8 Formal Investigation:

- Where the Screening panel recommends a formal investigation, the Registrar would take immediate steps to set up an investigation panel and would inform the Respondent, the Complainant or their representative that a formal investigation would take place.
- The Registrar would also inform the Vice Chancellor, Pro Vice Chancellor for Research & Innovation, Director of Human Resources, Director of Finance and any partner organisation with which either the Respondent and/or Complainant has an honorary contract of the case proceeding to a formal investigation.
- The Registrar would then convene a formal investigation panel with senior staff from the University with relevant expertise in the area, and if felt necessary would invite a member, external to the University to Chair the panel or be a member of the panel.
- The investigation panel would examine all evidence collected during the screening panel's investigation following the original allegation and investigate further as required.
- During the Formal investigation, the investigation panel will interview the Respondent and the Complainant.
- The investigation panel will review all evidence and documentation to conclude whether the allegations of misconduct in research are upheld in full, upheld in part or not upheld.
- The standard of proof to be used by the Investigation panel will be that of 'on the balance of probabilities'.
- The Investigation Panel may conclude that allegations are not upheld for reasons of being mistaken, frivolous, vexatious or malicious.
- During the investigation, should new evidence come to light regarding further, distinct instances of misconduct in research by the Respondent, unconnected to the allegations

under investigation or of misconduct in research by another person/persons, then the investigation panel would submit the new allegations to the Registrar to be considered under the initial steps in the procedure.

- The investigation panel will be appointed within 30 working days of the submission of the screening panel's report for recommending a formal investigation
- The investigation panel will not work to a deadline or timetable but would aim to achieve completion of the investigation as quickly as possible without compromising the principles of the procedure.
- If the investigation takes a long time, the Chair of the panel would provide regular monthly updates to the Registrar who should provide appropriate information on the progress to the interested parties.
- On completion of the investigation, a draft report would be provided by the panel to the Registrar for forwarding to the Respondent and the Complainant for factual accuracy.
- Only when the report contains errors of fact and matters that have a bearing on the facts as indicated by the Respondent and/or the Complainant, and accepted by the Investigation Panel, should the report be modified (by Chair).
- The investigation panel should then produce a final report summarising the conduct of the investigation, stating their decision on the allegations of misconduct in research, making recommendations and addressing any procedural matters that have been brought to light during the investigation. The panel recommendations may include further action including retraction/correction of articles/papers and actions to inform or protect participants and patients, and where required reporting to regulators, funders, partner bodies or professional bodies.
- If all or any part of the allegations are upheld, the Registrar, the Director of Human Resources and another Senior Staff member (Pro Vice Chancellor or Head of College) should decide whether the matter should be referred to the University's disciplinary process or for other formal actions.
- The Registrar would inform the Respondent and the Complainant (or their representatives) in writing of the conclusion of the formal investigation.
- The Registrar would also inform the Vice Chancellor, Pro Vice Chancellor for Research & Innovation and any other relevant personnel within the University along with any partner organisations, funding bodies and or regulatory or professional bodies.
- Should the allegations proceed to the University's disciplinary procedure, the report of the investigation panel would form the basis of the evidence that the Disciplinary Panel receives.

G9 Appeals:

Where the formal investigation panel finds that the allegations have been substantiated in whole or in part but the nature of misconduct is such that it should be disposed of informally, for example, through an informal warning, the Respondent may appeal against the decision on one or more of the following grounds:

- (a) that the allegation of misconduct was not heard in accordance to the above procedures; and/or
- (b) that fresh evidence has become available which was not or could not have been made formally available to the panel before.

The intention to appeal against any decision should be made in writing by the Respondent to the Registrar within 28 days of the date of the notification of the panel's decision. The notice should include all documentation relating to the grounds on which the appeal is being made.