

Introduction

This Procedure is a mechanism to investigate allegations of misconduct in research. As such it is designed to provide a means to facilitate full exploration of potentially complex matters in research than can arise in situations where misconduct may have taken place.

This procedure follows the guidelines for a Procedure for the Investigation of Misconduct in Research issued by the UK Research Integrity Office (UKRIO) in August 2008. Its objectives are to ensure that issues of misconduct in research may be addressed appropriately and investigated effectively and to enable an independent panel to produce a report on the basis of which the University may initiate appropriate action.

The use of this Procedure **will** be informed by the principles of Fairness, Confidentiality, Integrity, Prevention of Detriment, and Balance as defined in Annex 1.

The stages outlined in this Procedure have been developed for the investigation of acts or omissions defined in Annex 2 as misconduct in research.

Informal Process

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 of 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.

This may be taken forward by;

- a)** approaching the individual and seeking jointly to find a way to resolve the matter;
- b)** approaching the Institute Director/Head of Service Department and requesting that he/she acts as intermediary between the two parties in resolving the issue;
- c)** seeking mediation through an ACAS trained mediator at the University or at a sister university.

The Procedure

1. All allegations of misconduct in research, whether by Complainants within or outside Aberystwyth University should be made to the Pro Vice-Chancellor Staff and Students.

2. *Although* initial allegations may be made anonymously ***in order*** to proceed with an allegation the Complainant must make a formal written submission, in confidence if it is so desired, to the Pro Vice-Chancellor Staff and Students. The written submission should be accompanied by any supporting evidence that is available to the Complainant. The Complainant may submit this evidence in Welsh or English.

3. Situations which are not considered by the Pro Vice-Chancellor Staff and Students to be serious in nature will be reviewed in consultation with the relevant Institute Director and resolved by informal discussion and/or arbitration and/or dispute resolution, without the need for a formal investigation. The Pro Vice-Chancellor Staff and Students may seek advice from UKRIO about whether this process is appropriate in relation to a specific allegation.

4. Allegations which raise the potential for a conflict of interest for the Pro Vice-Chancellor Staff and Students will be referred to the Pro Vice-Chancellor Staff and Students' nominee who will then implement the Procedure. The Pro Vice-Chancellor Staff and Students is required to declare any such conflicts. The Complainant and Respondent may raise with the Vice-Chancellor any concerns that they might have that the Pro Vice-Chancellor Staff and Students may have interests which conflict with the fair handling of the allegations. Where the Vice-Chancellor or his/her nominee agrees that there is a genuine conflict of interest and s/he will request the Pro Vice-Chancellor Staff and Students Person to refer the investigation to his/her nominee.

Preliminary Stage

5. The Pro Vice-Chancellor Staff and Students will formally acknowledge receipt of any allegation of research misconduct in a letter to the Complainant, advising the Complainant of the Procedure that will be followed.

6. The Pro Vice-Chancellor Staff and Students will review the nature of the allegations by referring to the definition of misconduct in research detailed in Annex 2. Where the allegations are outside the definition, the Pro Vice-Chancellor Staff and Students will communicate to the Complainant in writing:

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

If the allegations are judged to fall within the definition, the Procedure will continue to the next stage as outlined in paragraph 10.

6.1 The Pro Vice-Chancellor Staff and Students will inform the following that allegations of misconduct in research have been received on a particular date and that they will be investigated using this Procedure:

- The Vice-Chancellor
- The Director of Human Resources
- The Director of Finance

The above individuals will be provided **in confidence** with following information:

- the identity of the Respondent;
- the identity of the Complainant;
- details of all sources of internal and external funding;
- details of all internal and external collaborators for the research in question;
- other details that the Pro Vice-Chancellor Staff and Students considers appropriate.

6.2 Where the allegations concern situations that require immediate action to prevent further risk or harm to staff, participants or other persons, suffering to animals or negative environmental consequences (where this might contravene the law or fall below good practice), then the Pro Vice-Chancellor Staff and Students will take immediate appropriate action to ensure that any such potential or actual danger, illegal activity or risk is eliminated.

6.3 It may be necessary to notify legal or regulatory authorities, where an alleged activity is potentially or actually illegal and/or a danger to persons, animals and/or the environment. As a consequence of such notification, the University may be required to comply with an investigation led by a legal or regulatory body, which will ordinarily take precedence over this Procedure **which** may have to be suspended, to be concluded later when the results of the external investigation are known by the Pro Vice-Chancellor Staff and Students.

6.4 Where allegations include behaviour which **may require investigation under the** University's disciplinary process, then the Pro Vice-Chancellor Staff and Students will take steps to implement that disciplinary process. The Procedure may continue in parallel with the disciplinary process but may have to be suspended, to be concluded later.

7. The Pro Vice-Chancellor Staff and Students will consider the contractual status of the Respondent and the contractual details specific to the research project(s) related to the allegation(s).

8. If the University is not the Respondent's employer, the Pro Vice-Chancellor Staff and Students will inform the Respondent's employer of the allegations.

9. The Pro Vice-Chancellor Staff and Students will also consider whether the research project to which the allegations relate includes contractual obligations that require the University to undertake prescribed steps in the event of allegations of misconduct in research, and ensure that any such obligations are fulfilled.

10. The Pro Vice-Chancellor Staff and Students will inform the Respondent, in a confidential meeting, at which a member of the staff of the Human Resources Department will be in attendance, that allegations of misconduct in research have been made which involve him/her. At this meeting a summary of the allegations in writing will be given to the Respondent together with a copy of this Procedure. The Respondent may be accompanied to this meeting by a colleague or trade union representative. If the allegations are made against more than one Respondent, the Pro Vice-Chancellor Staff and Students will inform each individual separately.

11. The Pro Vice-Chancellor Staff and Students will ensure that all relevant information and evidence are secured so that it is accessible for investigation. This **may** involve securing all relevant records, materials and locations associated with the work.

12. The Pro Vice-Chancellor Staff and Students, in conjunction with the Director of Human Resources, may need to consider;

- the temporary suspension of the Respondent from duties on full pay **in accordance with the University Statutes and appropriate disciplinary procedures;**
- the temporary barring of the Respondent from part, or all, of the University's premises and any of the sites of any partner organisation(s) and/or from contact with some or all of the University's staff and those of any partner organisation(s).

Any suspension or barring of the Respondent should be reviewed throughout the Procedure to ensure that it is not unnecessarily protracted.

13. In considering the allegations and the information available, the Pro Vice-Chancellor Staff and Students may decide that additional investigations into related but separate issues of misconduct in research need to be instigated.

14. The Pro Vice-Chancellor Staff and Students will carry out a preliminary investigation of the allegations to determine whether they are mistaken, frivolous, vexatious and/or malicious. **Ideally**, this should be completed within 10 working days but may take longer in complex cases.

15. If the Pro Vice-Chancellor Staff and Students decides that the allegations are mistaken, frivolous, vexatious and/or malicious, they will be dismissed. If appropriate, the Pro Vice-Chancellor Staff and Students will recommend to the Director of Human Resources that action be taken under the University's disciplinary process. Those who have made allegations in good faith should not be penalised.

15.1 This decision will be reported in writing to the Respondent, the Complainant (and their representatives by agreement) and any other party who had been informed initially.

15.2 The Pro Vice-Chancellor Staff and Students should also take steps as required and appropriate to the seriousness of the dismissed allegations, to support the reputation of the Respondent and the research project(s).

16. If the allegations cannot be entirely discounted at this point, the Pro Vice-Chancellor Staff and Students will move to the Screening Stage

Screening Stage

The Pro Vice-Chancellor Staff and Students will convene a Screening Panel to comprise the relevant Institute Director and two senior members of academic staff at least one of whom should be from the same Faculty as the Respondent.

17. The Screening Panel will normally aim to complete its work within 30 working days of being convened and should determine whether the allegations of misconduct in research:

- are mistaken, frivolous, vexatious and/or malicious;
- should be referred directly to the University's disciplinary process 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
- are sufficiently serious and have sufficient substance to justify a Formal Investigation.

18. The Chair will provide a report of the Screening Panel's findings to the Pro Vice-Chancellor Staff and Students, the Respondent and the Complainant having first allowed the Respondent and the Complainant to comment on its factual accuracy in Welsh or English.

19. The Screening Panel should determine whether the allegations of misconduct in research:

- are sufficiently serious and have sufficient substance to warrant recommending a Formal Investigation (the Pro Vice-Chancellor Staff and Students will initiate a **Formal Investigation** by convening an Investigation Panel comprising a Pro Vice-Chancellor (normally the PVC with responsibility for Research) in the Chair and two senior members of academic staff from the same Faculty as the Respondent).
- are considered to be mistaken, frivolous, vexatious and/or malicious, they will be dismissed.
- have some substance, but due to a lack of clear intent to deceive or due to their relatively minor nature, it is considered that it would be appropriate to address the matter through the University's training and development and support for the Respondent, the use of this Procedure should be concluded.

20. The Pro Vice-Chancellor Staff and Students will then take such steps, as are appropriate in the light of seriousness of the allegations, to sustain the reputation of the Respondent and the relevant research project(s).

20.1 The University's disciplinary process *or the internal process should be referred to*. Those who have made allegations in good faith should not be penalised.

Formal Investigation Stage

21. The Formal Investigation Panel will comprise a Pro Vice-Chancellor (normally the PVC with responsibility for Research) in the Chair and two senior members of academic staff from the same Faculty as the Respondent.

22. The Pro Vice-Chancellor Staff and Students will inform the following that a Formal Investigation of the allegations is to take place:

- Respondent;
- Complainant ;
- The Vice-Chancellor;
- The Director of Human Resources;
- The PVC with responsibility for Research; and
- The Pro Vice-Chancellor Staff and Students of any Partner Organisation with which either the Respondent and/or Complainant has an honorary contract, and through him/her the Heads of Organisation, **Human Resources** and Research.

23. The Formal Investigation Panel should be appointed within 30 working days of the submission of the Screening Panel's report recommending a Formal Investigation. In carrying out the Formal Investigation the Investigation Panel will not work to a prescribed timetable, but it should conduct the investigation as quickly as possible without compromising the Principles of the Procedure.

24. The Investigation Panel will examine the evidence collected during the Screening Panel's investigation and investigate further as required, including interviewing both the Respondent and Complainant. The parties will be advised that they may use Welsh or English in the interview and, if necessary, a simultaneous translation service will be provided to facilitate this. Having reviewed all the relevant evidence the Investigation Panel will conclude whether, on the balance of probabilities, the allegations of misconduct in research are:

- upheld in full;
- upheld in part;
- not upheld.

25. The Chair will provide a report of the Investigation Panel's findings to the Pro Vice-Chancellor Staff and Students, the Respondent and the Complainant having first allowed the Respondent and the Complainant to comment on its factual accuracy in Welsh or English. The report will:

- summarise the conduct of the investigation;
- state 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;
- make recommendations on matters relating to any other misconduct identified during the investigation;
- address any procedural matters that the investigation has brought to light within the University and/or relevant partner organisations and/or funding bodies.

26. If all or any part of the allegations are upheld, the Pro Vice-Chancellor Staff and Students, the Director of Human Resources and at least one other member of senior staff will decide whether the matter should be referred to the University's disciplinary process or for other formal actions.

27. If the allegations proceed to the University's disciplinary procedure, the report of the Investigation Panel will form the basis of the evidence in that procedure. All the information collected and brought to light through the Procedure for Misconduct in Research will be transferred to the disciplinary procedure.

28. Where the Investigation Panel concludes that the allegations are upheld in full or part, there may be a requirement to consider action in addition to any that might be recommended through the University's Disciplinary procedure.

29. Where allegations have not been upheld (in full or in part), the Pro Vice-Chancellor Staff and Students will 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).

30. The Pro Vice-Chancellor Staff and Students will inform the following of the conclusion of the Formal Investigation:

- The Respondent and the Complainant;
- The Vice-Chancellor the PVC with responsibility for Research, the Director of Human Resources, the Head(s) of the relevant Department(s) and any other relevant members of staff;
- Where appropriate, the responsible person within any relevant partner organisations, funding bodies and/or regulatory or professional bodies;

Additionally, the Pro Vice-Chancellor Staff and Students may wish to inform UKRIO of the conclusion of the Formal Investigation, using the forms provided by UKRIO

31. As with the Screening Process, where the Investigation Panel concludes that the allegations are frivolous, vexatious and/or malicious, the Pro Vice-Chancellor Staff and Students will consider recommending to the appropriate authorities that action be taken

under the relevant University Disciplinary Procedure against anyone who is found to have made frivolous, vexatious and/or malicious allegations of misconduct in research.

32. Questions relating to the reports of both the Screening and Investigation Panels can only be raised with the Chair of either Panel over matters of fact. There is no right of appeal against the reports of either stage of the Procedure.

33. Should any evidence be brought to light during the course of the Formal Investigation that suggests:

- further, distinct instances of misconduct in research by the Respondent, unconnected to the allegations under investigation; or,
- misconduct in research by another person or persons,

then the Investigation Panel will submit these new allegations of misconduct in research to the Pro Vice-Chancellor Staff and Students in writing, along with all supporting evidence, for consideration under the preliminary stage of the Procedure.

Review

The procedure for the Investigation of Misconduct in Research will be reviewed 12 months after its adoption.

34. Welsh Language – Employee Rights

In accordance with the Welsh Language Standards that came into effect on 1 April 2018 employees have the right to use the Welsh language to

(a) make a complaint

(b) respond to a complaint or allegation

and employees also have the right to use the Welsh language in meetings where they are the subject of

(c) complaints and allegations (or have made the complaint)

(d) disciplinary proceedings

(e) effective contribution scheme discussions

(f) individual consultation meetings

A simultaneous translation service from Welsh to English will be provided at the meeting when the meeting cannot be conducted solely in Welsh.

The university has, in conjunction with its recognised trade unions, incorporated the above requirements into all relevant HR policy and procedural documents.

Version 06.07.18

Annex 1

Principles

Misconduct in research is a serious matter. Equally, the investigation of allegations of misconduct in research must be conducted in accordance with the highest standards of integrity, accuracy and fairness. The following principles of Fairness, Confidentiality, Integrity, Prevention of Detriment, and Balance as defined below must inform the carrying out of this Procedure.

1. Fairness

The investigation of any allegations of misconduct in research must be carried out fairly and in accordance with the statutory human rights of all parties involved. Those responsible for carrying out this Procedure should do so with knowledge of:

- the statutory obligations of the University and the rights of employees according to current law;
- the rights and obligations of the University and/or its employees bestowed by the Charter, statutes and ordinances.

(i) Anyone formally accused of misconduct in research must be given full details of the allegations in writing (except where the allegations involve matters which are subject to a covert criminal investigation).

(ii) Those who are formally investigated for alleged misconduct in research ('Respondents') must be given the opportunity to set out their case in Welsh or English in response to the allegations against them. Respondents must also be allowed to:

- ask questions;
- present information (evidence) in their defence;
- adduce evidence of witnesses;
- raise points about any information given by any witness (regardless of who has called the witness in question).

(iii) The Respondent, Complainant (the person making an allegation of research misconduct) and any witnesses involved in the Screening Process or the Formal Investigation may:

- be accompanied by a fellow employee or trade union representative when he/she is required or invited to attend meetings relating to this Procedure;
- seek advice and assistance from anyone of his/her choosing.

(iv) To ensure a fair investigation, no individual may be a member of both the Screening Panel and the Investigation Panel. Anyone who has been involved in either panel should not be part of the University's Disciplinary Process.

2. Confidentiality

(i) In order to protect the Complainant, the Respondent and others involved, the Procedure should be conducted as confidentially as is reasonably practicable without compromising the investigation of the misconduct allegations, any requirements of health and safety, or any issue related to the safety of participants in research.

(ii) The identity of the Complainant or the Respondent should not be made known to any third party unless:

- it has been deemed necessary (by those conducting the investigation) in order to carry out the investigation;
- it is necessary as part of action taken against the Respondent when (at the end of the Procedure and the University's disciplinary/appeals processes) the allegations have been upheld;
- it is necessary as part of action taken against a person who has been found to have made malicious, vexatious or frivolous allegations;

(iii) The University and/or its staff may have contractual/legal obligations to inform third parties, such as funding bodies or collaborating organisation(s), of allegations of misconduct in research. In such cases, those responsible for carrying this Procedure out should ensure that any such obligations are fulfilled at the appropriate time through the correct mechanisms, always keeping in mind the legal rights of the employees involved in the allegations. Any disclosure to a third party of the identity of the Complainant or Respondent, or of any other details of the investigation, should be made on a confidential basis. Third parties must respect the confidentiality of any information received.

(iv) While the allegations are under investigation using this Procedure (and/or the University's disciplinary procedure), the Complainant, the Respondent, witnesses or any other persons involved in this Procedure should not make any statements about the allegations to any third parties, unless formally sanctioned by the University or otherwise required to by law. Breaching confidentiality may lead to disciplinary action, unless covered by the Public Interest Disclosure Act and/or the University's own grievance or whistle-blowing procedures.

(v) In the event of any conflict between the principle of confidentiality and any of the other principles of this Procedure, those conducting the Procedure should consider the principle of Balance (see 5 below).

3. Integrity

(i) Anyone asked to take part in the processes as a Panel member must make sure that the investigation is impartial and extensive enough to reach a reasoned judgement on the matter(s) raised. Similarly, those who give evidence to the investigation should do so honestly and objectively in accordance with the Principles of the Procedure and should be provided with relevant sections of the Procedure before giving evidence.

(ii) All parties involved must inform the Pro Vice-Chancellor Staff and Students immediately of any interests that they have which might constitute a conflict of interest in relation to any aspect of the allegations, the investigation, the area(s) of research in question, or any of the persons concerned. Where the Pro Vice-Chancellor Staff and Students has any interest which might constitute a conflict, he/she should declare any such conflicts and refer the investigation to his/her nominated alternate, who should decide if the Pro Vice-Chancellor Staff and Students should be excluded from involvement in the investigation, recording the reasons for the decision.

(iii) It is the responsibility of the Pro Vice-Chancellor Staff and Students to ensure that detailed and confidential records should be maintained on all aspects, and during all stages, of the Procedure, and that they are made available at all stages, including, should it be necessary, in any use of the University's Disciplinary Processes.

(iv) At the conclusion of the proceedings, all records should be retained by the Human Resources Department for a period of not less than six years.

4. Prevention of Detriment

(i) In using this Procedure care must be taken to protect:

- individuals against frivolous, vexatious and/or malicious allegations of misconduct in research;
- the position and reputation of those suspected of, or alleged to have engaged in, misconduct, when the allegations or suspicions are not confirmed;
- the position and reputation of those who make allegations of misconduct in research in good faith, i.e. in the reasonable belief and/or on the basis of supporting evidence that misconduct in research may have occurred.

(ii) The Preliminary and Screening stages of the Procedure are intended to determine whether allegations are mistaken, frivolous, vexatious and/or malicious. Only allegations that are judged to be sufficiently serious and of sufficient substance will proceed to a Formal Investigation.

(iii) Anyone accused of misconduct in research is entitled to the presumption of innocence.

(iv) The Formal Investigation should establish, on the balance of probabilities, the truth of any allegations.

(v) Any formal steps taken to discipline or otherwise reprimand the Respondent, or which might undermine his/her good name or reputation (or that of any other party), must be taken through the University's disciplinary procedure which provides the Respondent with the right of appeal. Only when allegations have been upheld through the University's disciplinary procedure and, where called upon, the appeals process, may it be appropriate to apply any sanctions to the Respondent.

(vi) The University will take all reasonable steps to ensure that the Respondent (or any other party) does not suffer because of unconfirmed or unproven allegations.

5. Balance

(i) Those responsible for carrying out this Procedure must be aware that there may be occasions when a balance has to be struck in the application of the Principles: for example, in certain circumstances it may be impracticable to undertake a detailed screening of the allegations without releasing the Complainant's identity to the Respondent.

(ii) The Pro Vice-Chancellor Staff and Students is responsible for resolving any such conflicts between the Principles, keeping in mind at all times that the primary goal of this Procedure is to determine the truth of the allegations. The Pro Vice-Chancellor Staff and Students can seek guidance from UKRIO and other bodies, as well as seeking legal advice.

Annex 2

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).

Misconduct in research

The following are useful terms for considering what might be investigated as misconduct in research, using the Procedure. 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;
- 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;
 - the environment;

- Failures to follow accepted procedures or to exercise due care in carrying out responsibilities in relation to 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.