

Research Misconduct Procedure

Research at Birkbeck

1. Birkbeck, University of London is a research-intensive university. Central to our mission is the aim of maintaining and developing excellence in research and providing the highest quality research training in all our subject areas, and also of making available the results of research and the expertise acquired, through teaching, publication, partnerships with other organisations and the promotion of civic and public debate. It is embedded in the culture of Birkbeck that we should carry out excellent research across the entire range of disciplines represented in the College's Schools; that this research should range across 'blue skies' scientific work, cutting edge scholarship in the arts, humanities and social sciences, and highly applicable interventions in technology, social policy and artistic work; and that we seek to offer research-led and research-informed teaching at all levels.
2. Birkbeck's Research Integrity Code of Practice defines and promotes a culture of good practice in research, demonstrating the College's commitment to a culture and environment where high standards of personal and professional conduct are encouraged and expected.

The term "Research" refers to all aspects of the research process including developing research questions, preparing applications for research grants and contracts, literature review, research project design, recruiting research participants, generating data, data recording and analysis, writing-up and publishing and other forms of disseminating results.

Principles of good research

3. Birkbeck expects all members of the College, including staff and students, anyone conducting research on College premises or using College facilities, and anyone with a research affiliation with the College to observe the highest standards of professionalism, integrity, independent thought and application of ethical principles in the conduct of their research.
4. To foster and maintain its research culture, Birkbeck expects all researchers to understand the expected standards of rigour and integrity relevant to their research and to maintain the highest standards of rigour and integrity in their work at all times. Researchers are also expected to understand and observe these principles:
 - Maintaining open and honest professional standards
 - Encouraging and Facilitating equality, diversity and inclusion
 - Exercising accountability in research
 - Ensuring leadership and cooperation in research groupings
 - Taking special account of the needs of inexperienced researchers, and ensuring they have sufficient training in supervision and management
 - Ensuring training and supervision for researchers
 - Planning and conducting research in accordance with the requirements of funders and all relevant College and external codes of practice, legislation and regulatory bodies
 - Following best current ethical practice
 - Exercising care and respect for participants in research projects
 - Ensuring data is stored, shared, preserved and disposed of in an appropriate and responsible manner
 - Documenting and making available research data
 - Ensuring the results of research are openly accessible
 - Acknowledging the contribution of others

- Taking appropriate measures to protect intellectual property
- Taking action if research misconduct is suspected
- Managing any conflicts of interest in line with the College policy

The College undertakes to provide the necessary training to all researchers to enable them to understand and observe these principles.

Research misconduct

5 *According to the Concordat to Support Research Integrity (2019), Commitment 4, pages 12-13: Research misconduct 'is characterised as behaviours or actions that fall short of the standards of ethics, research and scholarship required to ensure that the integrity of research is upheld. It can cause harm to people and the environment, wastes resources, undermines the research record and damages the credibility of research.'*

6 The Concordat recognises that academic freedom is fundamental to the production of excellent research. This means that responsibility for ensuring that no misconduct occurs rests primarily with individual researchers'. Research misconduct can take many forms, including but not limited to:

- **fabrication:** making up results, other outputs (for example, artefacts) or aspects of research, including documentation and participant consent, and presenting and/or recording them as if they were real
- **falsification:** inappropriately manipulating and/or selecting research processes, materials, equipment, data, imagery and/or consents
- **plagiarism:** using other people's ideas, intellectual property or work (written or otherwise) without acknowledgement or permission
- **failure to meet legal, ethical and professional obligations**, for example:
 - not observing legal, ethical and other requirements for human research participants, animal subjects, or human organs or tissue used in research, or for the protection of the environment
 - breach of duty of care for humans involved in research whether deliberately, recklessly or by gross negligence, including failure to obtain appropriate informed consent
 - misuse of personal data, including inappropriate disclosures of the identity of research participants and other breaches of confidentiality
 - improper conduct in peer review of research proposals, results or 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 the purposes of peer review
- **misrepresentation of:**
 - data, including suppression of relevant results/data or knowingly, recklessly or by gross negligence presenting a flawed interpretation of data
 - involvement, including inappropriate claims to authorship or attribution of work and denial of authorship/attribution to persons who have made an appropriate contribution
 - interests, including failure to declare competing interests of researchers or funders of a study
 - qualifications, experience and/or credentials
 - publication history, through undisclosed duplication of publication, including undisclosed duplicate submission of manuscripts for publication
- **improper dealing with allegations of misconduct:**

- failing to address possible infringements, such as attempts to cover up misconduct and reprisals against whistle-blowers
 - failing to adhere appropriately to agreed procedures in the investigation of alleged research misconduct accepted as a condition of funding
 - improper dealing with allegations of misconduct includes the inappropriate censoring of parties through the use of legal instruments, such as non-disclosure agreements.
- 7 For the avoidance of doubt, misconduct in research includes acts of omission as well as acts of commission.
- 8 The College will take seriously any allegation of research misconduct. At the same time the College is committed to protecting its staff from vexatious or malicious accusations.
- 9 In addition, the standards by which allegations of misconduct in research should be judged should be those prevailing in the country in which the research took place and at the date that the behaviour under investigation took place (the requirements on the processing and storage of personal and research data). This is particularly important (and not straightforward) when investigating allegations relating to research that was carried out many years previously.
- 10 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.
- 11 The College will take seriously any allegation of research misconduct. Plagiarism, deception or the fabrication or falsification of results is regarded as a serious disciplinary offence. All researchers are expected to report cases of suspected misconduct or malpractice and to do so in a responsible and appropriate manner in accordance with the College's procedures.
- 12 Researchers will:
 - act in good faith with regard to allegations of research misconduct, whether in making allegations or in being required to participate in an investigation, and take reasonable steps, working with employers as appropriate, to ensure the recommendations made by formal research misconduct investigation panels are implemented
 - handle potential instances of research misconduct in an appropriate manner; this includes reporting misconduct to employers, funders and professional, statutory and regulatory bodies as circumstances require
 - declare and act accordingly to manage conflicts of interest
- 13 When the College receives an allegation of research misconduct it will:
 - act with no detriment to whistle-blowers who have made allegations of misconduct in good faith, or in the public interest, including taking reasonable steps to safeguard their reputation. This includes avoiding the inappropriate use of legal instruments, such as non-disclosure agreements
 - take reasonable steps to resolve any issues found during the investigation. This can include imposing sanctions, requesting a correction of the research record and reporting any action to regulatory and statutory bodies, research participants, funders or other professional bodies as circumstances, contractual obligations and statutory requirements dictate

- take reasonable steps to safeguard the reputation of individuals who are exonerated
 - provide information on investigations of research misconduct to funders of research and to professional and/or statutory bodies as required by their conditions of grant and other legal, professional and statutory obligations
 - support our researchers in providing appropriate information when they are required to make reports to professional and/or statutory bodies
- 14 All members of the College are expected to report cases of suspected misconduct or malpractice and to do so in a responsible and appropriate manner in accordance with this procedure.
 - 15 Anyone outside the institution wishing to report a case of research misconduct should also follow the information provided in this procedure. Further informal advice is available as described in paragraph 21 below.
 - 16 This procedure applies to all researchers in the College (including employees, postgraduate research students, and anyone with a research affiliation with the College) and to anyone conducting research on the College premises or using College facilities.
 - 17 Where allegations relate to taught students a case by case assessment will be made as to whether this policy should be followed or if the matter is better dealt with by established policies to uphold academic standards.
 - 18 The College may also receive allegations of Research Misconduct where the College is asked to apply this procedure to research which was undertaken at the College but the specific researcher(s) is(are) no longer employed by the College. In this scenario the College will undertake three reasonable attempts to contact the researcher cited in the allegation (in this sequence: writing to the address given to HR at the point of departure, using professional contact details easily found through an internet search such as an email address at a different university from a web page which confirms CV details, then using professional social media such as LinkedIn). If it is not possible to make contact with the individual in this case the allegation will be investigated in good faith and to the best of the Colleges abilities in absentia. The College recognises the potential issues of fairness an investigation in absentia can create and will proactively seek to mitigate these risks as much as is possible.
 - 19 It should also be noted that there are other practical limitations when investigating historic cases of misconduct which may mean, for example, that these investigations take a longer time than the process described below and/or it is not possible to progress outcomes beyond noting what occurred.
 - 20 Any investigation of research misconduct undertaken by the College will itself maintain the highest standards of integrity, accuracy and fairness; any investigations will be undertaken with sensitivity and confidentiality and with the presumption of innocence.

Informal Processes

- 21 Anyone who suspects that research misconduct is taking place or has taken place should raise it as soon as possible. Normally, staff should first discuss their concerns with their line manager and students with their supervisor. However, the College recognises that misconduct in research is a serious matter and it may be difficult to discuss this with a line manager/supervisor and that a suspicion of research misconduct may originate outside the College. Informal advice can be sought in confidence at any time from the Deputy Director of Research (Strategy). The Deputy Director of Research (Strategy) can provide advice on whether or not the suspicious event or activity constitutes (or may constitute) research misconduct, other possible avenues for mediation and resolution (if/where appropriate) including informal discussion, arbitration or dispute resolution, advice about other mechanisms which could be used e.g. to

investigate the behaviour of research students, and/or the details of the process of making a formal allegation of research misconduct.

- 22 There is no time limit on when a concern or complaint can be raised or on how long informal discussions can continue before deciding whether or not to formally raise an allegation of research misconduct. The College recognises it may take some time to consider all the issues and that both the individual raising the query and the Deputy Director of Research (Strategy) may need to seek additional advice before a decision can be made. However, it is also recognised that the Deputy Director of Research (Strategy) has a duty of care to ensure that this process is not needlessly drawn out and that the individual is in a position to move to the next phase as quickly as is practical.
- 23 If an individual has raised concerns of research misconduct with an intermediary such as their line manager or supervisor, Trade Union representative or officer of the Students Union, Executive Dean, Faculty Head of Research Innovation and Knowledge Exchange, Head of School, (or any other appropriate third party internal or external to the College) then the intermediary can also seek informal advice from the Deputy Director of Research (Strategy) as defined in points 22 and 23 above.. In this case, advice can also be sought about whether the intermediary is an appropriate person to raise a formal complaint and what other support mechanisms can be put in place if this is not appropriate.

Formal Process

- 24 Formal concerns about research misconduct should be raised with the contact named on the College website (normally the Chair of the College Ethics Committee). If the named contact has a conflict of interest in relation to the matter, the concerns should be raised with the Deputy Secretary (Governance). The person making the allegation should put it in writing or email and include supporting evidence where possible.
- 25 Under certain circumstances the College may choose to initiate an investigation into research misconduct in the absence of a specific complaint from an individual; however, the process described in this procedure will still be followed, with an officer from the College (who is fully briefed and understands why the College has chosen to follow this route) taking on the role of the complainant.
- 26 The named contact (or the Deputy Secretary (Governance)) will assess whether sufficient evidence that misconduct may have occurred to warrant further investigation has been presented. If the named contact does not consider that sufficient evidence has been presented to warrant investigation, then this will be communicated to the complainant.
- 27 If sufficient evidence has been presented to warrant investigation, the Chair of the named contact will formally acknowledge receipt of the allegation and notify the respondent that the allegation has been received with an explanation of the initial next steps in the process (emphasising that the initial stage is merely to assess whether or not the allegation constitutes research misconduct), and if so whether or not there is evidence that research misconduct has or may have occurred.
- 28 The named contact will convene a Screening Panel to determine whether the allegations constitute evidence of research misconduct within the definition of research misconduct detailed above. The panel will comprise the PVC (Research) or their nominated representative, a suitable representative from HR (or Registry if the allegation relates to a student) and a senior researcher from an appropriate discipline (from within or outside the College).

Screening Panel Procedure

- 29 All persons appointed to the Screening Panel will confirm to the named contact in

writing that:

- Their participation involves no conflict of interest, seeking advice from the Named Person if unsure;
 - They will abide by the Procedure;
 - They will respect the confidentiality of the proceedings; and
 - They will adhere to the Principles and Standards of the Procedure.
- 30 Where the Complainant has raised an allegation relating to a large body of work, or work carried out over a significant period, the Screening Panel will need to carry out a sufficient investigation to reach a robust conclusion on the allegation(s). This can take time and resources, and advice should be sought from named contact on how to best approach this.
- 31 The Screening Panel should operate under the principles of fairness, confidentiality, transparency, thoroughness, prevention of detriment and balance.
- 32 The Screening Panel does not determine whether misconduct occurred or who might be responsible; its role is to determine whether or not the allegation constitutes research misconduct and, if so whether or not there is *prima facie* evidence that research misconduct has or may have occurred.
- 33 The Screening Panel should also ask the Deputy Director of Research (Strategy) if informal advice had been sought and any investigations undertaken following the processes described in paragraphs 22 and 23. The Deputy Director of Research (Strategy) should respect that queries come in confidence and should only release information which is materially pertinent to the Screening Panels investigation.
- 34 It is expected that in most cases the Screening Panel will be able to reach a conclusion in a single meeting. However, it should be noted that, in more complex cases more than one meeting may be required. It should also be noted that in questions relating to more complex cases there may be circumstances where the Screening Panel feel it is necessary to ask the complainant and/or respondent for some additional information.
- 35 The standard of proof used by the Initial Investigation is that of "*on the balance of probabilities*". This means that the activity was more likely than not to have occurred.
- 36 The Screening Panel will determine whether the allegation of misconduct in research:
- is sufficiently serious and has sufficient substance to warrant a full investigation of the complaint; or
 - has some substance but due to its relatively minor nature or because it relates to poor practice rather than to misconduct, will be addressed through education and training or another non-disciplinary approach, such as mediation, rather than through the next stage of the Procedure or other formal processes; or
 - warrants referral directly to another formal process of the Organisation, including but not limited to examination regulations, academic misconduct process or equivalent; bullying/ harassment procedure or equivalent; financial fraud investigation process or equivalent; disciplinary procedure; or
 - warrants referral directly to an external organisation, including but not limited to statutory regulators or professional bodies, the latter being particularly relevant where there are concerns relating to Fitness to Practise; or
 - is unfounded, because it is mistaken or is frivolous or is otherwise without substance (this could include difference of opinion on methodology), and will be dismissed; or
 - is unfounded, because it is vexatious and/or malicious, and will be dismissed; or
 - cannot be taken forward to the next stage of full investigation due to a lack of cogent evidence and it has not been possible to resolve this through the Screening Panel process.

- 37 The Screening Panel should produce a full set of confidential minutes of their deliberations plus a summary which includes both their decisions and the reasons behind them for wider use in the process. This summary should provide enough information to allow for a transparent process but reflect the need for confidentiality and anonymity.
38. If the Screening Panel decides the allegations do not constitute research misconduct or that the evidence provided does not support the conclusion that research misconduct has or may have occurred, the allegations will be dismissed at this stage.
- 39 In some cases the Screening Panel may recommend further investigation into other actions that may need to be taken, for example that a correction needs to be made to the research record, or that training or mentorship in a specific area should be strengthened.
40. If the Screening Panel decides there is a case to answer, then they should provide any necessary advice to the College about how to ensure a fair and accurate investigative process. It should be noted that in making these recommendations the panel is not being asked to make any judgements about the likely outcome of the formal inquiry, merely for advice about the conduct of the formal inquiry. For example, if there is a risk to individuals or that evidence might be destroyed, the panel may recommend that the College takes action to secure relevant records and material, request the temporary suspension of an experiment or the respondent on full pay, or temporary barring of the respondent from part or all of the College premises and/or temporary restriction of contact with other staff at the College or partner organisations. The respondent should be reassured that these measures are not part of any disciplinary action but are essential to ensure the allegations of misconduct can be properly investigated. The respondent should be given copies of any records or material that are secured.
41. If, having reviewed the allegation, the Screening Panel considers there is a risk of harm to staff, participants or other persons, suffering to animals or negative environmental consequences, they should take immediate action to eliminate this risk. If necessary, appropriate legal or regulatory authorities should be notified, in consultation with the College Secretary.
- 42 The summary of the findings will be sent to the Complainant and the Respondent for comment on matters of factual accuracy. The Screening Panel will consider the responses received and if they consider that the report includes errors of fact, will modify the report as necessary.
- 43 Once this process is complete the named contact will communicate the conclusion of the Screening Panel (in writing or by email) to the complainant and respondent. Normally, no more than 25 working days should have elapsed between the named contact acknowledging receipt of the allegation and this communication to the person making the allegation.
- 44 The named contact should emphasise to all parties that the information is confidential and that the allegation has either been reviewed by the Screening Panel and dismissed or is to be investigated, but is as yet unproven and that the presumption of innocence stands. If a formal investigation is to be instigated, in addition to the final report from the Screening Panel the complainant and respondent should be given , a copy of this procedure, a list of the names of individuals only referred to by job titles in this document, and an initial timetable for the next phase of the investigation. Alternatively, this communication may set out the reason why the allegation cannot be investigated using this procedure and what, if any, process might be appropriate for addressing the concerns raised.
- 45 If the allegation is deemed to provide evidence of research misconduct, within the definition of research misconduct above, the named contact will inform, in confidence, the following that a substantiated allegation of research misconduct has taken place,

including the date of the allegation, the identity of the complainant and the respondent and details of sources of funding and collaborators for the research in question:

- Vice Chancellor
 - HR Director
 - Pro Vice Chancellor (Research)
 - Director of Finance
 - Head of the Research Office
 - Any other parties the Screening Panel determined should be informed
 - Any other party the named contact deems appropriate
- 46 If Birkbeck is not the primary employer of the respondent, or if the allegation involves work undertaken as part of a collaboration, the Chair of the College Ethics Committee will normally contact the respondent's primary employer and/or the primary employer of the project collaborators to inform them of the allegation at this stage. The Colleges preferred route in these cases is to follow the principles laid out in the Russell Group Research Integrity Statement of Cooperation. In the event this is not acceptable to our partners in these cases, The named contact will seek approval from the Vice Chancellor, Director of HR, Pro Vice Chancellor (Research), Director of Finance and Head of the Research Office before an alternative investigation route is approved by the College
- 47 If there are contractual obligations linked to the research project that require prescribed steps to be taken in the event of substantiated allegations of research misconduct, the named contact will work with the Deputy Director of Research (Operations) to ensure these are fulfilled, also liaising with HR as necessary to ensure that the rights of the complainant and respondent and the integrity of the investigation are not compromised. For example, if the respondent is funded by, or is known to act as a reviewer for, one of the UK Research Councils, the Deputy Director of Research (Operations) will notify the relevant Research Council at this point.

Investigating Panel Procedure

- 48 If there is a case to answer, an Investigating Panel should be convened comprising a member of the College's senior management team (but not the Executive Dean from the Faculty of the respondent or complainant) (Chair), a suitable member of the Colleges professoriate (who is not a member of the School of the respondent or complainant), a senior representative from HR (or Registry if the complaint relates to a student) and at least one senior researcher from the discipline who is not a member of the College. If it is not possible to identify a suitable member of the College professoriate who is not a member of the School of the respondent or complainant then a second external member of the panel should be appointed.
- 49 Depending on the circumstances of the investigation and at the discretion of the Chair, in consultation with the named contact, the Panel may consist of a greater number of persons, for example, to ensure that it contains sufficient expertise or diverse perspectives to reach a thorough and fair conclusion on the allegation(s) under investigation. Where allegations concern highly specialised areas of research the Panel should have at least one member with specialised knowledge of the field. Such specialists can be drawn from within the Organisation, bearing in mind the conflict of interest requirements
- None of these people should have been involved in the Screening Panel who made the initial assessment of the allegation.
- 50 All persons appointed to carry out the full investigation, will confirm to the Named Person that:

- Their participation involves no conflict of interest, seeking advice from the named contact if unsure;
 - They will abide by the Procedure;
 - They will respect the confidentiality of the proceedings and data protection requirements; and
 - They will adhere to the Principles and Standards of the Procedure.
- 51 The Investigating Panel should operate under the principles of fairness, transparency, thoroughness, confidentiality, prevention of detriment and balance and should reflect equality and diversity considerations as much as is practical.
- 52 Both the respondent and the complainant may raise any concerns with the composition of the Investigating Panel to Chair of the Investigating Panel. These concerns should be taken seriously; however, neither the respondent nor the complainant has the right of veto.
- 53 The Investigating Panel may wish to contact the UK Research Integrity Office for advice and guidance on investigating allegations of research misconduct.
- 54 The Investigating Panel has the right to call witnesses and review whatever evidence they deem appropriate. In addition, they should review the original complaint, a written response to it from the respondent (plus any supporting evidence provided with either statement); any relevant background information; and the confidential minutes of the Screening Panel phase.
- 55 The panel must hold a formal hearing in which the both the respondent and the claimant have the opportunity to set out and discuss their case.
- 56 Complainants and Respondents have the right to be interviewed, and to be accompanied to interviews by a colleague, trade union or student union representative, or whoever else is specified in any additional contractual rights (such as by university statutes and ordinances).
- 57 When interviewed, the Respondent will be allowed to respond to the allegations made against them, set out their case and submit their evidence for consideration by the Panel, before interview. They can also suggest witnesses for the Panel to interview; the Panel then chooses whether or not to invite the suggested witnesses to interview.
- 58 If the Complainant or Respondent does not wish to be interviewed, they should be asked to engage with the process through other means, such as providing written answers to questions posed by the Panel.
- 59 The Panel should also interview relevant witnesses; these can include witnesses suggested by the Complainant or Respondent.
- 60 Where the Complainant has raised an allegation relating to a large body of work, or work carried out over a significant period, the Panel will need to carry out a sufficient investigation to reach a robust conclusion on the allegation(s).
- 61 The Panel shall assess the evidence provided and any additional information they require. The work of the Panel will include:
- determination of whether the allegation is made in good faith;
 - a confidential review and assessment of the evidence provided;
 - reaching a conclusion on the allegation(s) in line with the possible outcomes set out in paragraph 69;
 - it may choose to make recommendations on further actions which might be necessary to address what the Investigating Panel discovers in line with the possible outcomes set out in paragraph 70.
- 62 The Investigating Panel should also consider whether to recommend action is taken

under the College's disciplinary procedures against anyone who they feel has made frivolous, vexatious and/or malicious allegations of misconduct in research. Those who have made allegations in good faith should not be penalised.

- 63 All parties will be mindful that the panel operates under the presumption of innocence, and that there is a need for discretion and confidentiality to protect all parties and as such will only call those witnesses who are deemed to be absolutely necessary to the case, and will only disclose as much information to these witnesses as is necessary to conduct a full and fair investigation. However, the need to conduct a full and fair investigation outweighs all other considerations.
- 64 As with the Screening Panel, the Investigating Panel operates on the balance of probabilities.
- 65 The Chair of the Panel will be responsible for the conduct of the proceedings during the investigation. The Investigating Panel does not have any disciplinary powers. The Investigating Panel shall decide its way of working based on the provisions of this stage of the Procedure and the information that it has been given, as to what information it needs and whom it wishes to interview/ take statements from in addition to the Complainant and the Respondent, who must be interviewed as described in paragraphs 56-58.
- 66 When making any decisions about the conduct or conclusion of the full investigation, the Investigating Panel will attempt to reach a consensus by discussion.
- 67 The Investigating Panel should endeavour to complete its investigation within 50 working days of being formally convened, and all parties should be notified as early as possible if the process is expected to take longer than this. If an investigation does take longer than 50 working days to conclude then the College should receive an interim report from the panel at this stage and then every 50 days thereafter. These reports should be sent to the named contact.
- 68 Once the Investigating Panel has completed its investigation and delivered their final report, the outcome will be disseminated to the respondent and complainant as described above for the Screening Panel part of the process. The named contact will also notify everyone called as a witness that the proceedings have been completed.
- 69 The Investigating Panel will conclude, giving the reasons for its decision and recording any differing views, whether the allegation of misconduct in research:
- is upheld in full; or
 - is upheld in part; or
 - has some substance but due to its relatively minor nature or because it relates to poor practice rather than to misconduct, will be addressed through education and training or another non-disciplinary approach, such as mediation, rather than through the next stage of the Procedure or other formal processes; or
 - warrants referral directly to another formal process of the Organisation, including but not limited to examination regulations, academic misconduct process or equivalent; bullying/ harassment procedure or equivalent; financial fraud investigation process or equivalent; disciplinary procedure; or
 - warrants referral directly to an external organisation, including but not limited to the current employer, statutory regulators or professional bodies, the latter being particularly relevant where there are concerns relating to Fitness to Practise; or
 - is unfounded, because it is mistaken or is frivolous or is otherwise without substance and will be dismissed; or
 - is unfounded, because it is vexatious and/or malicious, and will be dismissed;
- 70 The Investigating Panel may also make recommendations, for consideration by the named contact and/or appropriate Organisational authorities, regarding any further

action(s) which should be taken by the Organisation and/or other bodies to address any misconduct the full investigation may have found; correct the record of research, and/or address other matters uncovered. Such recommendations might include but are not limited to:

- whether the matter should be referred to the Organisation's relevant disciplinary procedure; and/or
- whether the matter should be referred to another relevant Organisational process, such as the examination regulations, academic misconduct process or equivalent or the Organisation's financial fraud investigation process; and/or
- what external organisations should be informed of the findings of the investigation, with appropriate confidentiality, including statutory regulators, relevant funding bodies, partner organisations and professional bodies, the latter being particularly relevant if concerns relate to Fitness to Practise; and/or
- whether any action will be required to correct the record of research, including informing the publishers and editors of any journals that have published articles concerning research linked to an upheld allegation of misconduct in research or to correct honest errors; and/or
- whether procedural or organisational matters should be addressed by the Organisation or other relevant bodies through a review of the management of research; and/or
- informing research participants or patients or their doctors; and/or
- other matters that should be investigated, including allegations of misconduct in research which are either unrelated to the allegation in question or alleged to have been committed by persons other than the Respondent and/or other forms of alleged misconduct.

- 71 The outcome of the investigation will be sent to the Complainant and the Respondent for comment on matters of factual accuracy. The Investigating Panel will consider the responses received and if they consider that the report includes errors of fact, will modify the report as necessary.
72. The Investigating Panel will submit their final report to the named contact, setting out the conclusions of the Investigation stage on the allegation(s) under investigation, their recommendations regarding further actions to be taken and any other matters they wish to draw to the attention of the Organisation. The Chair and Panel will also hand over to the named contact or their nominated representative all records/ material relating to the full investigation.
- 73 The named contact will convey the substance of the Panel's findings and recommendations to the Complainant, the Respondent and such other persons or bodies as they deem appropriate.
- 74 Those who have contributed to the disbanded Panel should have no further involvement in the Procedure unless formally asked to clarify a point in their written report at a subsequent stage or as part of any subsequent action or process. A role as Chair or member of the Panel rules out participation in any subsequent disciplinary or other processes.
- 75 It is the responsibility of the named contact to ensure any actions determined to be appropriate by the Investigation panel are carried out. This may include:
- Ensuring any actions relating to the operation and conclusion (subject to any subsequent appeal) of this Procedure, including appropriate transfers of information to any subsequent Organisational processes or informal measures, and/or to any relevant processes of external organisations are completed.
 - Reporting the outcomes to relevant colleagues/ bodies within the Organisation, for example, line managers, Human Resources and/or Student Services, Academic Board or equivalent and/or to another relevant Organisational

process, such as the examination regulations, academic misconduct process or equivalent or the Organisation's financial fraud investigation process;

- Making necessary disclosures on the outcomes of uses of the Procedure to external organisations and other interested parties.
- Ensuring any relevant duties of care to Complainants, Respondents and other involved parties, including but not limited to research participants are discharged effectively by the relevant people.
- Ensuring that appropriate efforts are made to correct the research record, including but not limited to informing the editors of any journals that have published articles concerning research linked to an upheld allegation of misconduct in research and/or by a person against whom an allegation of misconduct in research has been upheld
- Addressing procedural or organisational matters uncovered during the investigation.
- Determining what external organisations should be informed of the findings of the investigation, with appropriate confidentiality, such as statutory regulators, relevant funding bodies, partner organisations and professional bodies, the latter being particularly relevant if concerns relate to Fitness to Practise; and/or
- Commissioning a review of the management of research and other measures as appropriate;
- Determining if other matters that should be investigated following on from this investigation, including allegations of misconduct in research which are either unrelated to the allegation in question or alleged to have been committed by persons other than the Respondent and/or other forms of alleged misconduct;
- recommending to the appropriate authorities that action be taken against anyone where there is clear evidence that a complaint was vexatious and/or malicious. This may include disciplinary action where the individual is internal to the Organisation.
- the communication of anonymised summary data on uses of this Procedure within a specific period. This includes reporting required in the Annual statement on research integrity required under The Concordat to support Research Integrity, reports to relevant central committees/ departments within the Organisation, and dissemination of anonymised learning points within the Organisation as appropriate.

- 76 If the full investigation does not uphold the case the College recognises its duty to preserve the good reputation of the Respondent. If the case has received any adverse publicity the respondent may be offered the opportunity to have an official statement released by the Organisation.
77. The College also recognises that those who have raised concerns/ made allegations in good faith will not be penalised and shall take appropriate steps to preserve the good reputation of the Complainant.
- 78 The College will take such steps as are appropriate, given the seriousness of the allegations, to support the reputation of the Complainant and, if the allegation has been upheld in part rather than in full, the Respondent as appropriate, and any relevant research project(s).
- 79 At the end of the procedure (including any appeals – see paragraphs 85 – 101) Should the allegations proceed to the Organisation's disciplinary process, the report of the Investigating Panel should form the basis of the evidence that the disciplinary panel receives and relevant information collected and brought to light through the Procedure should be transferred to the disciplinary process, normally acting as the investigation phase for that process.

For the avoidance of doubt, the officers and panels involved in reviewing and hearing disciplinary cases under these procedures should consider the following potential outcomes when considering cases involving allegations of research misconduct:

- The allegations are mistaken, frivolous, vexatious and/or malicious
- There has been misconduct which is serious enough to merit disciplinary action
- The allegations have some substance but due to a lack of intent to deceive or due to their relatively minor nature should be addressed through education, training or other non-disciplinary approach

Normally, the officers and panels involved in the formal disciplinary procedure should not have been a member of either the screening or the Investigating Panel (or appeals panel where appropriate).

80 Where an allegation is upheld in full the College will take appropriate actions. Examples of potential actions may include, but are not limited to, the following, listed in no particular order:

- Recommendations for retraction/correction of published research, via notification of findings to editors/ publishers;
- withdrawal/repayment of funding;
- notifying research participants and other involved parties;
- notification of findings to relevant employers, statutory, regulatory, professional, grant-awarding bodies or other public bodies with a relevant interest;
- notifying other employing organisations;
- notifying other organisations involved in the research;
- adding a note of the outcome of the investigation to a researcher's file for any future requests for references;
- review internal management and/or training and/or supervisory procedures for research; and/or
- revocation of any degrees awarded based on research that is the subject of a research misconduct finding.

81 Where an investigation has established research misconduct relating to a significant body of work over some time, the Organisation will wish to consider whether it needs to review other work carried out by the individual or individuals concerned, including work not specifically flagged up in the course of the investigation.

82 At the end of the investigation phase the Complainant and Respondent will be informed of:

- The actions arising from this stage of the Procedure and any relevant actions arising from earlier stages and, where relevant, the contact points for any follow-up communications regarding those actions.
- The options for appeal open to them.
- They should also be informed that, unless an appeal is raised, the investigation and the use of this Procedure have now concluded.

Appeals Panel Procedure

83 In certain circumstances the Complainant and/or the Respondent may appeal against the outcomes of the Procedure, including the decisions and/or recommendations associated with them. The purpose of the appeal is not to carry out a re-investigation of the allegation(s) in question, rather it is a mechanism to address procedural irregularities, to consider whether fresh evidence could have changed the outcome, to address bias from the original decision makers and/or to apply a correction to how the recommended actions from the panels are being implemented.

84 The appeals process will be managed by an individual not involved in the screening or investigation phases as they could be implicated in the substance of any appeal. An

alternative designated individual who has not been involved in the matter previously will establish an Appeals Panel. At least one member of the Appeals Panel must be from outside the Organisation.

- 85 The Appeals Panel has the power to uphold, reverse or modify the following outcomes of the Procedure, including the decisions and/or recommendations associated with them. The Appeals Panel can uphold or reverse the following::
- A conclusion from the Screening Panel or Investigating Panel that an allegation is unfounded, because it is mistaken or is frivolous or is otherwise without substance, and will be dismissed; or
 - A conclusion from the Screening Panel or Investigating Panel that an allegation is unfounded, because it is vexatious and/or malicious, and will be dismissed; or
 - A conclusion from the Screening Panel or Investigating Panel that an allegation has some substance but due to its relatively minor nature or because it relates to poor practice rather than to misconduct, will be addressed through education and training or other non-disciplinary approaches, such as mediation, rather than through the next stage of the Procedure or other formal processes; or
 - A conclusion from the Investigating Panel that an allegation is upheld in full; or
 - A conclusion from the Investigating Panel that an allegation is upheld in part.

In addition, the Appeals Panel can determine that the outcome is unsafe and that a new investigation should be undertaken, determining whether the new investigation should start from either the Screening Panel phase or the Investigating Panel phase.

- 86 Any appeal should normally be heard within two months of the outcome of the investigation. Any delays to this timescale will be explained to the Complainant and the Respondent in writing, presenting an estimated revised date of completion.

- 87 Appeals may be permitted on any or all of the following grounds:
- Procedural irregularity/ies in the conduct of the investigation up to and before the Appeal Panel, and the nature of the irregularity/ies is such that it could have had a material impact on the outcome.
 - Fresh evidence becoming available which was not available to the screening and/or the Investigating Panel.
 - There was evidence of bias or unfairness in the process or decisions taken by the named contact, members of the Screening Panel and/or members of the Investigating Panel.
 - The recommendations made as part of an outcome of the Procedure and/or subsequent actions taken are either excessive or inadequate to effectively address the misconduct found by the investigation.

- 88 When an appeal is to be raised, the person raising the appeal should inform the named contact within 10 days of receiving the outcome of the investigation that they wish to appeal. The named contact will then appoint an alternative contact and pass this information to the person raising the appeal. The appeal shall be made in writing to an alternative contact within 10 working days of being notified of the identity of the alternative contact. The written notice of appeal shall set out the grounds of appeal, and be accompanied, wherever possible, by supporting documentation. This notice shall be assessed by the alternative contact to determine whether it falls within one or more of the grounds for appeal set in paragraph 85, seeking clarification from the person(s) submitting the appeal as necessary.

- 89 If the appeal does not fall within one or more of the grounds for appeal set out above, then the appeal is dismissed and this decision should be communicated to the person who submitted the appeal. The Appeals stage now ends.

- 90 If the appeal does fall within one or more of the grounds for appeal, then, as soon as is

practicable, an Appeals Panel will be appointed to undertake the appeals process.

- 91 The Appeals Panel will normally consist of three persons. Depending on the circumstances of the investigation and at the discretion of the alternative contact, the Appeals Panel may consist of a greater number of persons, for example, to ensure that it contains sufficient expertise or diverse perspectives to reach a thorough and fair conclusion on the appeal. No individual involved in the Appeals Panel will have been involved at any stage previously.
- 92 One member of the Appeals Panel shall be from outside the Organisation. At the discretion of the Chair, the Appeals Panel may include more than one external member.
- 93 One member of the Appeals Panel shall be an academic specialist in the general area within which the misconduct is alleged to have taken place (where allegations concern highly specialised areas of research they should instead have specialised knowledge of the field). Such a specialist can be drawn from within the College, bearing in mind the conflict of interest requirements, or from the Appeals Panel's external member(s).
- 94 All persons appointed to carry out the Appeals stage, and all persons allowed to observe it, will confirm to the Alternative Named Person that:
- Their participation involves no conflict of interest,
 - They will abide by the Procedure as it affects the work of the Appeals stage;
 - They will respect the confidentiality of the proceedings; and
 - They will adhere to the Principles and Standards of the Procedure.
- 95 Both the Respondent and Complainant may raise concerns that they may have about those chosen to carry out the Appeals stage but neither has a right of veto.
- 96 The Appeals Panel will review the conduct of the investigation and any evidence submitted in support of the appeals(s) in question, rather than carry out a re-investigation of the allegation(s) in question. When making any decisions about the conduct or conclusion of the Appeal the Appeals Panel will do so by reaching a consensus.
- 97 The Chair is responsible for keeping a full record of the work of the Appeals Panel.
- 98 The decision of the Appeal Panel is final. The Appeals Panel shall write a report setting out its conclusions, giving the reasons for its decision and recording any differing views. A summary of the conclusions will be sent to the Complainant and the Respondent for comment on matters of factual accuracy. The Appeals Panel will consider the responses received and if they consider that the report includes errors of fact, will modify the report as necessary. The Appeals Panel will then submit their final report as described above for other stages in this procedure and relevant subsequent steps will be followed.
- 99 Once the work of the Appeals Panel is concluded the Appeals Panel is disbanded. As the matter may then give rise to disciplinary or other action, the Chair and members of the disbanded Appeals Panel should not make any comment on the matter in question, unless formally permitted by the Organisation or otherwise required to by law. They should also remember that all information concerning the case was given to them in confidence. Those who have contributed to the disbanded Appeals Panel should have no further involvement in the Procedure unless formally asked to clarify a point in their written report at a subsequent stage or as part of any subsequent action or process. A role as Chair or member of the Appeals Panel rules out participation in any subsequent disciplinary or other processes

