University of the West of England

Procedure for the Investigation of Research Misconduct (Staff)

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Procedure for Investigation of Research Misconduct

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1. Introduction

In line with the Concordat to Support Research Integrity ('the Concordat') the University has set in place specific procedures for dealing with allegations of research misconduct. The following procedures reflect the University's commitment to ensuring that research is conducted to the highest scientific and ethical standards.

This procedure, which applies only to staff, is additional to the University's Procedure for Investigating Matters of Conduct. This procedure relates specifically to the investigation of alleged research misconduct, and will conclude with a judgment on whether or not such misconduct took place, and if so, the degree of seriousness of that misconduct. As a result, a recommendation may be made on appropriate action to be taken which may include invoking the University's Procedure for Investigating Matters of Conduct.

This procedure will usually take place prior to any action being taken under the University's Procedure for Dealing with Matters of Conduct (Conduct Procedure). However, this will depend on the seriousness of the allegation, and the extent to which urgent action is needed to avoid harm, or where there are criminal proceedings that take precedence.

2. Principles and Scope

2.1 Principles

The Procedure is informed by the principles of Fairness, Confidentiality, Integrity, Prevention of Detriment and Balance, as set out at **Annex 1**.

2.2 Scope

2.2.1 What is Research Misconduct?[1]

For the purposes of this procedure, research misconduct includes the following:

- **Fabrication**
- **Falsification**
- **Plagiarism**
- **Misrepresentation**

[1] The definitions in this document draw heavily upon useful documents drawn up by others. Sources are set out in the 'References' section in Annex 9.

- **Failure to meet ethical, legal and professional obligations**
- **Mismanagement or inadequate preservation of data and/or primary materials**
- **Breach of duty of care**
- **Improper dealing with allegations of misconduct**

A more detailed description of research misconduct is provided in the Definitions at **Annex 2**. This list is not intended to be exhaustive. Honest errors and differences in, for example, research methodology and interpretations are not examples of research misconduct. Misconduct can include failure to act/omissions as well as deliberate actions.

2.2.2 Who does this procedure apply to?

This procedure applies to all current employees of UWE who are conducting research under the University's auspices or on university premises. A complaint of research misconduct may be made against an individual or individuals who are alleged to have committed the offence. Individuals are responsible for their own research conduct. This procedure may also apply to emeritus staff and visiting academics, staff with honorary UWE positions, contractors and consultants, and staff not now at UWE but who were conducting research under the auspices of UWE or on University premises at the time of the alleged offence[2]. Where there is a more appropriate alternative, such as the researcher's primary employer or other arrangement specified in a contract such as a secondment agreement, this will usually be the preferred route. However, UWE will not allow research misconduct which takes place under its auspices to remain uninvestigated and where there is no appropriate alternative, the alleged research misconduct will, where appropriate, be investigated under this procedure, although the sanctions available to the University will vary in such cases (the Conduct Procedures apply only to UWE staff).

3. The procedure for the investigation of research misconduct

3.1 Introduction

3.1.1 The 'Responsible Person' will manage investigations under this procedure. The Responsible Person for UWE is the Pro Vice-Chancellor Research and Business Engagement. The Responsible Person will be supported throughout the Procedure by the Research Governance Team, who will normally provide confidential secretariat support at all stages of the proceedings. The Procedure allows allegations of misconduct in research to be investigated once submitted to the Research Governance Manager formally in writing

[2] The current procedures relate only to staff. The inclusion of research students will be considered at a later date. Taught programme students will be covered by the Academic Regulations and Procedures.

(where possible). In cases of doubt about whether a matter should be dealt with under the Procedure, guidance should be sought from the Research Governance Manager.

3.1.2 The Responsible Person has established an accessible means to enable the University to receive formal allegations from Complainants, from both within and outside the University. This system is confidential. The allegations should be submitted in writing[3] to the Research Governance Manager and be accompanied by any supporting evidence that is available to the Complainant. This will then be passed on by the Research Governance Manager, in confidence, to the Responsible Person.

3.1.3 An initial approach to the Responsible Person (via the Research Governance Manager) might be anonymous but it will not usually be possible to respond to anonymous complainants, so to take forward allegations the Complainant should make a formal written submission.

3.1.4 There may be occasions where there is no formal complainant. For example, someone external to the University raises an issue, but wishes to have no further involvement, or where a junior member of staff or student raises a concern with a person in authority, such as a senior staff member, a committee chair or a member of the Research Governance team, but does not wish to make a formal allegation (either via these procedures or the 'whistleblowing' procedures). It should be noted that although the confidentiality of those who raise issues informally in this way will be protected where possible and appropriate, this cannot be guaranteed. In such cases, the lack of a formal complainant should not mean that potential research misconduct is ignored. Such instances should be referred by the relevant person in authority, via the Research Governance Manager, to the Responsible Person, who will take a decision about whether the allegation should be investigated under these procedures.

3.1.5 Allegations which are in any way linked to the Responsible Person or which raise the potential for a conflict of interest for the Responsible Person – including links with any persons involved (Respondent or Complainant) or where the Responsible Person is in some way personally concerned with the subject matter of the allegations – will immediately be referred to the Responsible Person's alternate, the Deputy Vice Chancellor: Academic**,** who will then implement the Procedure, and for the purposes of the investigation will be the Responsible Person.

3.1.6 The Responsible Person will ensure that, in using any part of the Procedure for the investigation of the allegation of misconduct in research, any required actions are carried out to protect the interests of staff and students of the

[3] If a complainant is unable to make an allegation in writing, for example due to a physical impairment or language barrier, then the Research Governance Manager should be consulted for guidance.

University and colleagues and students of the Respondent and/or the Complainant.

3.1.7 The University will take action (including for staff disciplinary action under the Conduct Procedures) against any individual found to be attempting to influence, victimise or intimidate the individual(s) making the allegation of research misconduct.

3.2 Preliminary Steps Stage

3.2.1 Upon receipt of formal allegations of misconduct in research, the Research Governance Manager will formally acknowledge receipt of the allegations in writing to the Complainant (and her/his representative by agreement), in which she/he will also advise her/him of the Procedure that will be followed. The Research Governance Officer will then pass the allegation to the Responsible Person. The Responsible Person will, where necessary to complete the Preliminary Steps, take advice, in confidence, from others.

3.2.2 The Responsible Person will, assisted by the Research Governance Team, perform an initial review of the nature of the allegations and, where there are concerns 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), or where urgent action is needed to prevent or rectify a breach of legislation or regulation, then the Responsible Person will take immediate appropriate action to ensure that any such potential or actual danger/illegal activity/ risk is prevented/ eliminated/rectified. In taking such actions it will be made clear to all parties that the actions taken are not to be regarded as disciplinary action and do not in themselves indicate that the allegation is considered to be true by the University.

3.2.3 The Responsible Person will, assisted by the Research Governance Team, carry out a preliminary investigation to determine whether:

a) the University is the Respondent's primary employer. It may be necessary to consult with the Director of Human Resources, or nominee, at this stage to determine the Respondent's contractual status. Where the University is not the primary employer, the Responsible Person will contact the Responsible Person of the Respondent's primary employer and inform her/him of the allegations. The normal presumption will be that the primary employer of the Respondent (where there is one) will be responsible for investigating the allegations according to their procedures, unless exceptionally agreed otherwise, where prescribed by other agreements such as sponsorship arrangements or agreements relating to visiting researchers or secondees, or where there is no appropriate employer organisation, as for example may sometimes be the case with public research partners. The Responsible Person, or nominee, would expect to be co-operatively involved where

appropriate in any investigation conducted by a third party primary employer or other organisation.

b) The allegations fall inside the scope of the Procedure. Where the allegations are outside the scope, the Responsible Person will ask the Research Governance Manager to communicate to the Complainant in writing:

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

c) the allegations can be completely discounted at this point. If this is the case, the Complainant will be informed, and given the opportunity to respond if they consider they have been misunderstood or key evidence has been overlooked.

d) the allegations can, without further investigation, be seen to be mistaken, frivolous, vexatious and/or malicious. If the Responsible Person decides that the allegations are mistaken, frivolous, vexatious and/or malicious, the allegations will then be dismissed. This decision will be reported in writing to the Respondent and the Complainant (and their representatives by agreement). The Responsible Person will consider recommending to the Director of Human Resources that action be taken under the University's Procedure for Investigating Matters of Conduct against anyone who is found to have made frivolous, vexatious and/or malicious allegations of misconduct in research. The Responsible Person will also consider informing any secondary employer of Complainants on joint contracts that an allegation was made and found to be frivolous, vexatious and/or malicious. Those who have made allegations in good faith should not be penalised and might require support. The Responsible Person will 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) (see **Annex 6,** Actions and Outcomes).

Where the allegations are found to fall under c) or d), in the interests of transparency the Respondent will be informed that an allegation of Research Misconduct was made against them but that it has not been found to be appropriate for investigation under the Procedure. The Responsible Person will inform the Respondent that allegations of misconduct in research have been made against her/him in a confidential meeting, with a representative of the Human Resources Department and the Research Governance Team (in a secretariat capacity) in attendance. Where the Complainant has been found to have made frivolous, vexatious and/or malicious allegations and the matter has been referred to the

University's Procedure for Investigating Matters of Conduct, the Respondent will be informed of that.

e) The allegations of research misconduct are sufficiently serious and have sufficient substance that they cannot at this stage be discounted. In this case the Responsible Person will continue with the preliminary steps, as set out below.

3.2.4 In the course of the Preliminary Steps of investigating the allegation of research misconduct, clear evidence may emerge of an infringement that might contravene the University's Procedure for Dealing with Matters of Conduct. Under such circumstances, the Responsible Person will discuss the evidence, in confidence, with the Director of Human Resources or nominee, and will decide whether the matter should be referred immediately for investigation under the University's Procedure for Dealing with Matters of Conduct, or continue to the Investigation Stage of this Procedure. This Procedure may continue in parallel with the disciplinary process but may have to be suspended, to be concluded later, or be declared void by the Responsible Person. Where the matter is to be referred to the Procedure for Dealing with Matters of Conduct a full written record will be kept by the Research Governance Manager of the decision. The Research Governance Manager will provide full and accurate case information handover to the disciplinary process under the Conduct Procedure.

3.2.5 The nature of the allegations may mean that it is necessary to notify legal or regulatory authorities, where an 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. The Procedure may continue in parallel but may have to be suspended, to be concluded later, or may have to later be declared void by the Responsible Person.

3.2.6 Where no other process takes precedence, as determined above, the allegation will proceed to the Screening Stage of this Procedure. The Responsible Person will appoint one or two individuals of appropriate seniority and with appropriate expertise to screen the allegation (Screening Stage Investigator(s)). At the discretion of the Responsible Person, the Screening Stage may instead be carried out by a Screening Panel (with the option of one of the members being from outside the University). This may be advantageous when allegations are particularly complex or of a contentious nature. Where appointed, a Screening Panel will take on the role of the Screening Stage Investigator and its Chair and members will be responsible for fulfilling the functions of that role.

3.2.7 The Responsible Person will inform the Respondent that allegations of misconduct in research have been made against her/him. The Respondent

should be informed of this in a confidential meeting, with a representative of the Human Resources Department and the Research Governance Team (in a secretariat capacity) in attendance. Employees will also have the right to be accompanied by a Trades Union representative or a work colleague. The purpose of this meeting is to notify the Respondent formally that allegations of misconduct in research have been made against her/him. The Respondent will be given the opportunity to respond to the allegations and set out her/his case at a later stage. A summary of the allegations in writing will be given to the Respondent at the meeting, together with a copy of the Procedure to be used to investigate the allegations. The Responsible Person will outline the Procedure to be used, the names of the individual(s) appointed to screen the allegation (or the membership of the Panel, if a Panel is to be used in this instance) and the opportunities the Respondent will have to respond. If the allegations are made against more than one Respondent, the Responsible Person will inform each individual separately and not divulge the identity of any other Respondent.

3.2.8 In preparation for the Screening Stage, the Responsible Person, supported by the Research Governance Manager, will investigate 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 being made. Such an undertaking might be in: a contract from a funding organisation; partnership contract/ agreement/ Memorandum of Understanding; or, an agreement to sponsor the research.

Third parties, such as an external Sponsor, funding organisation and/or collaborators might have a valid interest in, or responsibility for, the way that the investigation is conducted. The Responsible Person will confirm whether the University has any contractual/legal obligations towards such organisations concerning any aspects of the investigation to ensure that any such obligations are fulfilled at the appropriate time through the correct mechanisms. The Responsible Person will liaise with the Director of Human Resources, or nominee, to ensure that the rights of the Respondent and Complainant, and the integrity of the investigation, are not compromised by any such actions.

At all times, the Responsible Person will emphasise to all parties that the allegation is to be investigated, is as yet unproven and that the information is confidential.

3.2.9 The Responsible Person will inform the University's Vice-Chancellor and the Deputy Vice Chancellor: Academic and the Director of Human Resources that an allegation of Research Misconduct has been received and will be investigated using the procedure.

3.2.10 The Responsible Person will inform the relevant Dean of Faculty or Head of Professional Service that an allegation of misconduct in research has been received and that it will be investigated using this Procedure. They should be provided, in confidence, with the identity of the Respondent and the identity of the Complainant and other details that the Responsible Person considers appropriate.

3.2.11 The Responsible Person will decide, where the Respondent also has any relevant known employment relationship with another employer, whether the employer needs to be informed of the Allegation at this point, taking into account issues of risk and potential harm, in relation to individuals and research data and records, as well as contractual obligations.

3.2.12 The Responsible Person will ask the Research Governance Manager to establish the following:

- details of all sources of internal and external funding for the research and the researcher;
- details of all internal and external collaborators for the research in question and,
- Information in relation to any Sponsor responsibilities in relation to the Research.

In order to obtain this information, it may be necessary to seek advice from the Director of Finance or the Head of Contracts in relation to any contracts or agreements in place in relation to the research in question, or the researcher's other research. This information will be provided to the Research Governance Manager and checked by the relevant Dean or Head of Professional Service, who may, if appropriate, consult and be assisted by, in confidence, the Associate Dean Research.

It will be stressed that the allegations of misconduct in research that are to be investigated are as yet unproven and that the information is confidential.

3.2.13 The Responsible Person will, supported by the Research Governance Team, ensure that all relevant information and evidence are secured, so that any investigation conducted under this Procedure can have access to them. This may include, but is not limited to:

- securing all relevant records, materials and locations associated with the work;
- liaising with Human Resources and the relevant line manager(s) leading to:
  - the temporary suspension of the Respondent from duties on full pay (as outlined in the Procedure for dealing with matters of Conduct); ;

- the temporary barring of the Respondent from part, or all, of the premises of the University and any of the sites of any partner University(s) and/or,
- a temporary restriction being placed on the Respondent requiring her/him not to have contact with some or all of the staff of the University and those of any partner organisation(s).

The Responsible Person will only take such actions in situations where there is a clear risk to individuals or the environment or that evidence might be destroyed or compromised and only after careful consideration of those risks and consequences. The reason(s) for taking any such actions will be recorded in writing and communicated to all relevant parties. In taking such action the Responsible Person will reassure the Respondent that it is not part of any disciplinary action and does not indicate that the allegations are believed to be true by the University; rather it should be stressed that it is essential to ensuring that the allegations of misconduct can be properly investigated. Steps to suspend or bar a member of staff will take into account her/his responsibilities for supervision, teaching and management and the University will make alternative arrangements to meet these responsibilities. Any suspension or barring of the Respondent will be reviewed throughout the Procedure to ensure that it is not unnecessarily protracted. These steps will generally be taken following the meeting at which the Respondent is informed that an allegation of Research Misconduct has been made against her/him. However, the Responsible Person, advised by the Director of Human Resources where appropriate, will decide upon the timing of these actions in cases of urgency.

3.2.14 In considering the allegations and the information available, the Responsible Person may decide that additional investigations into related but separate issues of misconduct in research need to be instigated, and these will be referred to the Screening Stage Investigator(s).

3.2.15 Once initiated the Procedure will, where feasible, progress to the natural end-point irrespective of:

- the Complainant withdrawing the allegations at any stage;
- the Respondent or the Complainant resigning, or having already resigned, her/his post.

Where a Respondent resigns prior to the conclusion of the Procedure and serious unresolved concerns about misconduct remain, the Respondent should be asked to see the investigation through to conclusion. If they do not agree to this, they should be advised the Procedure may in any case continue, and that the details of the case may (without prejudice) be passed to any future employer or “bona fide” enquirer about their career at the

University, and may also be passed to any appropriate regulatory or professional supervisory body.

3. 2.16 The Preliminary Steps Stage of the Procedure will normally be completed within a maximum of 20 working days from the receipt of the allegations. Any delays will be explained to all parties in writing, and a revised completion date given.

3.2.17 The Responsible Person will ask the Research Governance Team to provide all relevant information gained during the Preliminary Steps to those conducting the Screening Stage.

3.3 Screening Stage

3.3.1 The Screening Stage is intended to determine whether there is prima facie evidence of misconduct in research.

3.3.2 The Operating Procedures for the Screening Stage are at **Annex 3**. The Screening Stage will operate in line with the Principles at **Annex 1.** Screening Stage Investigator(s) will determine whether the allegations of misconduct in research:

- are mistaken, frivolous, vexatious and/or malicious; or
- have some substance but are not considered serious and 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,
- whether the allegations are sufficiently serious and have sufficient substance to justify proceeding to the Screening Stage of this Procedure; or,
- should be referred directly to the University's Procedure for Dealing with Matters of Conduct.

3 3.3 The Screening Stage should normally be completed within 30 working days of the Respondent being informed that the Screening Stage is to be instigated in the formal meeting referred to in the Preliminary Steps, above.

3.3.4 Where the allegations are found by the Screening Stage to be mistaken, frivolous, vexatious and/or malicious they will be dismissed and this decision will be reported in writing by the Responsible Person to the Complainant. The Respondent will be informed of this in a confidential meeting. The Responsible Person will consider recommending to the Director of Human Resources that action be taken under the University's Procedure for Investigating Matters of Conduct against anyone who is found to have made frivolous, vexatious and/or malicious allegations of misconduct in research. The Responsible Person will also consider informing any secondary employer of Complainants on joint contracts that an allegation was made and found to be frivolous, vexatious and/or

malicious. Those who have made allegations in good faith will not be penalised and might require support (see **Annex 6,** Actions and Outcomes). The Responsible Person will 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) (see **Annex 6**, Actions and Outcomes).

3.3.5 In the course of the Screening Stage of investigating the allegation of research misconduct, clear evidence may emerge of an infringement that might contravene the University's Procedure for Dealing with Matters of Conduct. Under such circumstances, the Responsible Person will discuss the evidence, in confidence, with the Director of Human Resources (or nominee), and will decide whether the matter should be referred for investigation under the University's Procedure for Dealing with Matters of Conduct, or continue to the Investigation Stage of the Procedure. As above under the Preliminary Steps Stage, the Procedure may continue in parallel with the disciplinary process but may have to be suspended, to be concluded later, or be declared void by the Responsible Person. Where the matter is to be referred to the Procedure for Dealing with Matters of Conduct a full written record will be kept by the Research Governance Manager of the decision. The Research Governance Manager will provide full and accurate case information to the disciplinary process under that Procedure.

3.3.6 When the allegations are considered to have some substance, but are not considered serious, the matter will normally be addressed through the University's competency, education and training mechanisms, or other non-disciplinary processes, rather than through the Procedure's Formal Investigation Stage. The investigation using the Procedure would then conclude at this point. The Responsible Person will take steps to establish a programme of training or supervision in conjunction with the Respondent and her/his line manager. This programme will include measures to address the needs of staff and students working with the Respondent.

3.3.7 The Responsible Person will in each case inform the Complainant and the Respondent, and relevant others (including the Vice-Chancellor, the Deputy Vice Chancellor: Academic, the Director of Human Resources and the relevant Dean of Faculty or Head of Professional Service), in confidence, of the outcome of the Screening Stage and the consequent intended actions.

3.3.8 When the Screening Stage Investigator(s) considers that the allegations are sufficiently serious and have sufficient substance to warrant recommending a Formal Investigation, the Responsible Person will take immediate steps to set up an Investigation Panel.

3.3.9 It may be the case that during the course of the Screening Stage research misconduct has been found to have taken place, and to which the Respondent(s) admit. In such circumstances, it is unlikely that there would be justification for proceeding to the Investigation Stage, but rather it would be more appropriate to move towards the necessary actions based on the research misconduct that has been agreed to have been committed. The Responsible Person will decide in such cases upon the best way forward.

3.4 Investigation Stage

3.4.1 The Responsible Person will inform the following that a Formal Investigation of the allegations is to take place:

- Respondent (and her/his representative by agreement);
- Complainant (and her/his representative by agreement);
- Vice Chancellor of the University and the Deputy Vice Chancellor: Academic**;**
- Director of Human Resources; and,
- Faculty Dean or Head of Service.

The Responsible Person will also consider whether it is appropriate to inform the Named Person of any organisation with which the Respondent has any relevant known employment relationship.

3.4.2 The Responsible Person will inform the Respondent and the Complainant of the membership of the Investigation Panel, and the Respondent will have five working days to submit, via the Research Governance Manager, a written objection to any of the persons appointed to the Panel. The Responsible Person may decide to replace the challenged person with a qualified substitute, or notify the Respondent in writing of the reasons why not.

3.4.3 Once the membership of the Panel is agreed, the Responsible Person will convene the Panel. The Investigation Panel will be constituted and work in accordance with the Principles outlined at **Annex 1** and the terms of reference, composition and procedures outlined in **Annex 4.** The Investigation Panel will examine the evidence collected during the Preliminary Steps and Screening Stages of this procedure following the original allegations and investigate further as required.

3.4.4 The role of the Investigation Panel is to establish whether research misconduct took place, and the degree of seriousness of any research misconduct. The Investigation Panel will not consider any potential disciplinary action, where appropriate that will be considered following the conclusion of the Investigation Stage by a referral to the Conduct Procedures. The Investigation Panel will review all the relevant evidence and conclude whether the allegations of misconduct in research are:

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

3.4.5 The standard of proof used by the Investigation Panel is that of “on the balance of probabilities”.

3.4.6 Should any evidence of Research Misconduct be brought to light during the course of the 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 Research Governance Manager, in writing, along with all supporting evidence, for consideration under the initial steps of the Procedure.

3.4.7 The Investigation Panel will be appointed within 30 working days of submission of the final Screening Report. In carrying out the investigation the Investigation Panel will not work to a prescribed timetable. The Panel should conduct the investigation as quickly as possible without compromising the Principles of the Procedure or the integrity of the process.

3.4.8 The Chair of the Investigation Panel will report the progress made by the Investigation Panel, by reference to criteria agreed by the Panel in advance, to the Responsible Person on a monthly basis. The Responsible Person will also then provide appropriate information on the progress of the investigation to other interested parties.

3.4.9 The Investigation Panel will produce a final report. The Report will be sent to the Responsible Person via the Research Governance Manager who will record the report.

3.4.10 If all or any part of the allegations are upheld, the Responsible Person, the Director of Human Resources, or nominee, and at least one other member of senior staff will then decide whether the matter should be referred to the University's procedures for Dealing with Matters of Conduct or for other formal action.

3.4.11 The Responsible Person will inform the following of the conclusion of the Investigation:

- The Respondent and the Complainant (and their representatives by agreement);
- The Vice Chancellor of the University, the Deputy Vice Chancellor: Academic, the relevant Faculty Dean or Head of Professional Service, the Director of Human Resources, and where deemed appropriate by the Responsible Person, any other relevant members of staff;
- Where appropriate the Named Person of any organisation with which the Respondent has any relevant known employment relationship and,
- Where appropriate, the Responsible Person or relevant others within any relevant partner organisations, funding bodies and/or regulatory or

professional bodies, including those who may have been informed at an earlier stage that an allegation of research misconduct was being investigated.

3.4.12 Should the allegations proceed to the University's Procedures for Dealing with Matters of Conduct, the report of the Investigation Panel and all of the information collected and brought to light through the Procedure will be made available to Human Resources to form part of the evidence considered under those procedures, where appropriate. Those taking forward the Conduct procedures will receive all information on the case in a meeting with the Chair of the Investigation Panel, the Panel Secretary, the Responsible Person and the Research Governance Manager, to ensure that all relevant material is transferred**.** The Responsible Person may also consider action in addition to referral to the University's Procedure for Dealing with Matters of Conduct, including such issues as those in **Annex 6**.

3.4.13 In the case of a referral to the Conduct Procedures, the Senior Manager, in consultation with the Faculty Dean or Head of Service (or nominee) and the Director of Human Resources (or nominee) will decide to which stage of the Conduct Procedures the referral will be made. Where the research misconduct is not considered to be of sufficient seriousness for it to be appropriate to enter the Conduct Procedures at Stage 3, then it will enter at Stage 2. Stage 2 of the Conduct Procedure will, in such cases, commence with Formal Action (paragraph 4.6.3 of the Conduct Procedures Version April 2006) as a specialist investigation would already have been carried out. Where cases of Research Misconduct are referred to the Stage 3 Conduct Procedures, the Senior Manager leading the Conduct Investigation will normally be advised by a Panel with the necessary specialist knowledge. This will normally include the Research Misconduct Investigation Panel Chair.

3.4.14 Where allegations have not been upheld (in full or in part), the Responsible Person 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) (see **Annex 6**).

3.4.15 Where the Investigation Panel concludes the allegations are frivolous, vexatious and/or malicious, the Responsible Person will consider recommending that action be taken under the University's Procedure for Dealing with Matters of Conduct against anyone who is found to have made frivolous, vexatious and/or malicious allegations of misconduct in research. The Responsible Person will also consider informing any secondary employer of Complainants on joint contracts that an allegation was made and found to be frivolous, vexatious and/or malicious. Those who have made allegations in good faith will not be penalised and might require support.

3.5 Appeal Process

3.5.1 An appeal may only be made under these procedures by the Respondent following the Investigation Stage, where the case does not proceed to be considered by the University's Conduct Procedures. Where a referral is made to the Conduct Procedures, any appeal will need to be made under the auspices of those procedures. The Complainant has no right to appeal. The Respondent may appeal within 14 days of receiving the investigation report. The request must be in writing to Research Governance Manager and state the basis for the appeal. The Responsible Person will consider the Appeal, and if there appear to be sufficient grounds for appeal, may arrange for the Appeal Stage of the Procedure to take place. The Operation of the Appeal Panel is set out at **Annex 5**.

3.5.2 The Responsible Person will inform the following that an Appeal has been made, and after the Panel has concluded its work, of the outcome of the Appeal:

- The Respondent and the Complainant (and their representatives by agreement);
- The Vice Chancellor of the University, the Deputy Vice-Chancellor: Academic, the relevant Faculty Dean or Head of Professional Service, the Director of Human Resources, and any other relevant members of staff;
- If the Respondent and/or the Complainant are employed on joint or honorary contracts, and the Named Person of the other employing organisation has been informed of the allegations at an earlier stage of the process, the Named Person of the other organisation(s) will be informed that an Appeal has been made and,
- Where appropriate, the Responsible Person within any relevant partner organisations, funding bodies and/or regulatory or professional bodies.

3.5.3 The appeal shall be completed within 30 days of its initiation, unless there are documented reasons for delay. The Appeal Panel will provide a final report of its findings to the Responsible Person via the Research Governance Manager, who will record the report.

3.5.4 The Appeal Panel is the final step in the Procedure, and no further appeal will be allowed.

3.5.5 The Responsible Person will take necessary actions, as for the Investigation Stage.

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. Those responsible for carrying out investigations of alleged misconduct in research should act with integrity and sensitivity at all times. The following principles of Fairness, Confidentiality, Integrity, Prevention of Detriment, and Balance as defined below must inform this Procedure for the investigation of allegations of misconduct in research.

Fairness

1. The confidential nature of the proceedings is essential in order to protect the Complainant, the Respondent and others involved in the investigation, and to ensure that the investigation of any allegations of misconduct in research will be carried out fairly and in accordance with the statutory human rights of all parties involved. The principles of confidentiality and fairness will be applied with appropriate balance for both the Respondent and the Complainant.

2. Anyone accused of misconduct in research is entitled to the presumption of innocence.

3. The Formal Investigation will establish, on the balance of probabilities, the truth of any allegations.

4. Those responsible for managing this Procedure will do so with knowledge of the statutory obligations of the University and the rights of employees according to current law and University policies. Where the allegations involve matters which are subject to a covert criminal investigation, the University will take advice from the legal authorities.

5. Where anyone is formally accused of misconduct in research, that person will be given full details of the allegations in writing.

6. When someone is formally investigated for alleged misconduct in research, she/he will be given the opportunity to set out her/his case and respond to the allegations against her/him.

   She/he will also be allowed to:

   - ask questions;
   - present information (evidence) in her/his defence;
   - adduce evidence of witnesses;

- raise points about any information given by any witness (regardless of who has called the witness in question).

7. The Respondent, Complainant and any witnesses involved in Screening Process or the Investigation Panel process may be accompanied by a fellow employee or trades union representative when she/he is required or invited to attend meetings relating to this Procedure.

8. Employees may need additional assistance to comply with this procedure, such as reasonable adjustments in relation to a disability as required by legislation. Employees may also have requirements in relation to the observance of religious practice, or caring responsibilities. Where possible, the University will treat favourably reasonable requests in this regard.

Confidentiality

9. The Procedure will be conducted as confidentially as is reasonably practicable. The confidential nature of the proceedings should be maintained provided this does not compromise either the investigation of the misconduct allegations, any legal or regulatory requirements, health and safety, or any issue related to the safety of participants in research.

10. The identity of the Complainant or the Respondent will 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 where relevant the University's Conduct procedures) 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;
    - it is the stated policy of the University/funder/other national body that the identity of individuals proved through appropriate disciplinary and appeals processes to have committed misconduct in research should be made public.

11. Any steps to reveal the name of the Respondent or Complainant in public, arising from the investigation of allegations of misconduct in research, will be taken only at the conclusion of the University's Conduct procedures and where there is a requirement and/or provision to do so.

12. Any non-public disclosure to a third party of the identity of the Complainant or Respondent, or of any other details of the investigation, will be made on a

confidential basis. The third party should understand this, and that she/he must respect the confidentiality of any information received.

13. 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 will 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.

14. While the allegations are under investigation using this Procedure (and/or the University's Conduct 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.

15. Breaching confidentiality may lead to disciplinary action, unless covered by the Public Interest Disclosure Act and/or the University's own whistle-blowing procedures.

Integrity

16. An investigation into allegations of misconduct in research using the processes of the Procedure must be fair and comprehensive. The investigation should be conducted expediently although without compromise to the fairness and thoroughness of the process.

17. Anyone asked to take part in the processes as a Panel Member must make best efforts to ensure 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. The declaration of an interest by an individual does not automatically exclude her/him from participating in the investigation. The Responsible Person should decide if an interest declared by the individual warrants exclusion from involvement in the investigation and record the reasons for the decision.

18. All parties involved must immediately inform the Responsible Person, via the Research Governance Manager, of any interests that they have which might constitute a conflict of interest as regards any aspect of the allegations, the investigation, the area(s) of research in question, or any of the persons concerned. Where the Responsible Person has any interest which might constitute a conflict, she/he will declare any such conflicts and refer the investigation to the Deputy Vice Chancellor: Academic, who should decide if

she/he should be excluded from involvement in the investigation, recording the reasons for the decision.

19. In the interests of openness and transparency, inviting members from outside the University to join Panels will be considered where appropriate.

20. Detailed and confidential records will be maintained on all aspects, and during all stages, of the Procedure. The Research Governance Manager will see that such records are maintained and made available at all stages for any use in the University's Procedure for Investigating Matters of Conduct, and all participants in the process must make information available for inclusion in the formal record. The Research Governance Manager will liaise closely with the Responsible Person and the Chairs of the Panels to ensure that a proper record is maintained throughout the Procedure.

21. At the conclusion of the proceedings, all records will be retained by the University (Research Governance Team in RBI), for as long as the University's policy for maintaining such records requires. In the case of these Procedures, information will be held for no less than six years.

22. To preserve the integrity of this Procedure, great care will be taken to ensure that all relevant information is transferred to those involved in the various stages of the Procedure such as between the Investigation Panel and any Disciplinary Process.

23. The standards of good practice on the keeping, transfer and storage of records which will be applied to this procedure can be found in **Annex 7**.

Prevention of Detriment

24. In using this Procedure, and in any action taken as a result of using the Procedure, care will 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; and
- 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.

25. It is acknowledged that allegations may be made for what appear to be malicious reasons. The Procedure should still be used where the Complainant makes a

formal allegation, to establish whether the allegations are of sufficient substance to warrant investigation.

26. Any formal steps taken to discipline or otherwise reprimand the Respondent, or take steps which might undermine her/his good name or reputation (or that of any other party), must be taken through the University's disciplinary process. Only when allegations have been upheld through the University's Procedure for Investigating Matters of Conduct, may it be appropriate to apply any sanctions to the Respondent.

27. 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.

Balance

28. In the course of the procedure, there may be a conflict between the principles of this procedure. For example, there may be a balance to be struck between protecting confidentiality and conducting a full and fair investigation. The Responsible Person will be 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 Responsible Person can seek legal advice. In addition, the Responsible Person will be responsible for ensuring the integrity of this Procedure and any actions taken as a consequence of it. The Responsible Person will decide the course of action to be taken in cases of doubt.

Annex 2

Definitions

1. Definitions of Research Misconduct

For the purposes of this procedure, research misconduct includes the following:

- **Fabrication,** including:
  - deliberately making up research results/data, including documentation and participant consent, and presenting them as if they were real.
- **Falsification,** including:
  - manipulating research processes or changing or omitting data, imagery or consents without good cause, such that the research is not appropriately represented in the research record;
- **Plagiarism,** including:
  - the deliberate presentation of using other people's ideas, intellectual property or other material (written or otherwise) without giving proper credit or acknowledgement.
- **Misrepresentation,** including:
  - misrepresentation of data;
  - deliberately, recklessly or negligently presenting a flawed interpretation of data; undisclosed duplication of publication;
  - misrepresentation of interests, including failure to declare material interests either of the researcher or of the funders 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;
  - intentional deception in research proposals;
  - intentional misquotation or misrepresentation of other authors.
- **Failure to meet ethical, legal and professional obligations**, **including**:
  - failure to obtain, keep clear and accurate records of, and comply with the terms of, appropriate permissions to conduct research, including ethical approval;

- failure to comply with legal and regulatory requirements;
- misuse of personal data;
- failure to follow accepted research procedures where appropriate to do so;
- failure to follow established protocols without good reason, and appropriate permissions, if this failure results in unreasonable risk or harm to research participants, animals or the environment;
- attempting, planning or conspiring to be involved in research misconduct or inciting others to be involved in research misconduct.

- **Mismanagement or inadequate preservation of data and/or primary materials, including failure to:**
  - Adequately and appropriately maintain the security of research data;
  - keep clear and accurate records of the research procedures followed and results obtained including interim results;
  - hold records securely in paper or electronic form in line with the University's policies and guidance;
  - make relevant primary data and research evidence appropriately accessible to others for reasonable periods after the completion of the research. Data should be managed according to the University's and the research funder's data policy, for periods as dictated by the University, or by legal, regulatory or professional standards;
  - deposit data in line with the University's open access to research data policy.
- **Breach of duty of care,** whether deliberately, recklessly or by gross negligence, including:
  - breach of confidentiality, including 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, animal by-products, 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;
- facilitating of research misconduct by collusion in, or concealment of, such actions by others;
- intentional, unauthorised use, disclosure or removal of, or damage to, research-related property of another, including apparatus, materials, writings, data, hardware or software or any other substances or devices used in or produced by the conduct of research.

- **Fraud**
  - Fraud in this context includes misuse of research funds or research equipment.
- **Improper dealing by those in positions of responsibility with allegations of misconduct including**:
  - failing to address possible infringements such as attempts to cover up misconduct and reprisals against whistle-blowers;
  - failing to deal appropriately with malicious allegations which should be handled formally as breaches of good conduct;
  - failing to report suspected research misconduct through the proper channels.

This list is not intended to be exhaustive. Honest errors and differences in, for example, research methodology and interpretations are not examples of research misconduct. Misconduct can include failure to act/omissions as well as (deliberate) actions.

2. Definitions of other terms used in these procedures:

Allegation

An allegation is a claim or assertion that someone has done something illegal or wrong.

Complainant

The Complainant is a person making allegations of misconduct of research against one or more Respondents (see below).

Procedure for Dealing with Matters of Conduct

This procedure is the University's disciplinary procedure for staff.

Employer

The Employer is defined in this Procedure as the person or organisation who has retained the person (e.g. the Respondent (see below)) to carry out work, usually, but not always, through a contract of employment.

Honorary Contracts

Honorary contracts are used in a variety of circumstances. Examples of arrangements that commonly involve the issue of an honorary contract are:

- for a clinical academic working in both a university and an NHS organisation, in which case the NHS organisation would issue the honorary contract;
- for an NHS consultant with an arrangement to undertake teaching and/or research in a university, in which case the university would issue the honorary contract;
- for a researcher employed by a university and undertaking a research project in an NHS organisation, in which case the NHS organisation would issue the honorary contract.

Where UWE is not the sole employer, the University will in each case determine which organisation constitutes the employer in relation to the research in question, and agree with the other organisation(s) under which organisation's procedures the alleged misconduct will be investigated. The University may seek legal advice before any investigation commences and will seek to liaise closely with partner organisations.

The Procedure

The Procedure refers to the content of this publication, the Procedure for the Investigation of Research Misconduct.

Regulatory Authority

A Regulatory Authority is an organisation with statutory powers to regulate and oversee an area of activity.

Research and Scholarship

Research is defined using the 'Frascati definition':

'The term R&D covers three activities: basic research, applied research and experimental development; …. ***Basic research*** is experimental or theoretical work undertaken primarily to acquire new knowledge of the underlying foundation of phenomena and observable facts, without any particular application or use in view. ***Applied research*** is also original investigation undertaken in order to acquire new knowledge. It is, however, directed primarily towards a specific practical aim or objective. ***Experimental development*** is systematic work, drawing on existing

knowledge gained from research and/or practical experience, which is directed to producing new materials, products or devices, to installing new processes, systems and services, or to improving substantially those already produced or installed. R&D covers both formal R&D in R&D units and informal or occasional R&D in other units.'[4]

The Research Governance Manager and Research Governance Team

The Research Governance Team, led by the Research Governance Manager, is based within Research Administration in RBI. For the purposes of this Procedure, other members of the Research Governance Team may deputise for the Research Governance Manager.

Respondent

The Respondent is the person against whom allegations of misconduct in research have been made. S/he must normally be a present or past employee of the University**.** Exceptions to this may include situations where a Respondent is not employed by UWE but has been working at or under the auspices of UWE, for example a visiting scholar, consultant or contractor.

Note: Should the policies or practices of the University be the subject of allegations of misconduct the Vice Chancellor will serve as the Respondent in the Procedure.

Responsible Person

The Responsible Person is defined in the Procedure as the individual at senior level nominated by the University to have responsibility for receiving any allegations of misconduct in research; initiating and supervising the Procedure for investigating allegations of misconduct in research; ensuring the record of information is maintained during the investigation and subsequently reporting on the investigation to internal contacts and external organisations; and, taking decisions at key stages of the Procedure. For UWE this is currently the Pro-Vice Chancellor Research and Business Engagement. The Responsible Person will have a nominated alternate who will carry out the role in his/her absence or in the case of any potential or actual conflict of interest. For UWE this is currently the Deputy Vice Chancellor: Academic. The Named Person and the nominated alternate will not be the Vice Chancellor, a Faculty Dean or Head of Human Resources.

Screening Stage Investigator

This is the person or persons appointed by the Responsible Person to conduct the Screening Stage of an Investigation. This stage may, exceptionally, be conducted by a Screening Panel.

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[4] http://www.oecd.org/sti/inno/frascatimanualproposedstandardpracticeforsurveysonresearchandexperimentaldevelopment6thedition.htm

Sponsor

The Sponsor is a term which only relates to research which involves the NHS. The Department of Health (DH) Research Governance Framework (Department of Health 2005, p. 22) defines a Sponsor as the following:

‘Individual, organisation or group taking on responsibility for securing the arrangements to initiate, manage and finance a study. A group of individuals and/or organisations may take on sponsorship responsibilities and distribute them by agreement among the members of the group, provided that, collectively, they make arrangements to allocate all the responsibilities in this research governance framework that are relevant to the study.’

The University

The University is the University of the West of England, Bristol (UWE Bristol).

Annex 3

Operation of the Screening Stage

SS1 The Screening Stage

The Screening Stage of the Procedure is intended to determine whether there is prima facie evidence of misconduct in research. The Screening Stage Investigator(s) will be appointed to investigate allegations of misconduct in research, which have passed through initial review at the Preliminary Steps Stage by the Responsible Person, and are therefore considered as appropriate to be considered under these Procedures:

SS2 Terms of Reference for the Screening Stage Investigator(s)

SS2.1 The Terms of Reference will apply to the Screening Stage Investigator or Investigators, including those occasions where such Investigators are constituted as a Panel at the discretion of the Responsible Person. The Screening Stage Investigator(s) will:

- Investigate the allegation(s) of misconduct, reviewing all necessary evidence and form a view as to whether misconduct has taken place;
- Provide an opportunity for the Respondent to reply to the allegations;
- Ensure, via the Panel Secretary, that complete records of evidence and proceedings are kept, and that this remains confidential;
- Produce a draft report and final report;
- Make recommendations to the Responsible Person about the appropriate next steps;
- Other terms of reference added by the University on a case by case basis to address specific aspects of the investigation; and,
- Call upon the services of expert witnesses if necessary.

Screening Stage Investigators will:

- adhere to the Principles of the Procedure (see **Annex 1**);
- abide by the Procedure as it affects the work of the Screening Panel;
- work within the Terms of Reference for the Screening Panel (see below);
- declare any links to the research and/or the individuals involved in the allegations or any interests which might conflict with the Principles of the Procedure;
- maintain the confidentiality of the proceedings throughout the Screening and afterwards, unless formally sanctioned by the Organisation or

otherwise required to by law and,

- undertake the Screening within the timetable of 30 working days from being convened. Exceptionally, where this is infeasible, the Responsible Person will agree an alternative timetable with the Chair of the Panel, in which case both Respondent and Complainant will be informed.

SS2.2 Screening Stage Investigators will be selected by the Responsible Person and will be of an appropriate seniority for the case and have appropriate expertise, including disciplinary/domain expertise. Where more than one Investigator, or a Panel, is appointed, this may include Investigators from outside the University. Allegations that involve senior staff and/or that are judged to be especially serious, complex or controversial may particularly benefit from the presence of someone external to the University. There would be advantage in the review of allegations that involve staff on joint contracts with another organisation, including joint clinical/honorary contracts, for one of the Investigators to be an appropriate member of staff from the other employing Organisation(s).The Screening Stage Investigator(s) will not normally necessarily need to be someone from outside the Respondent's Department, although in such instances it will often be appropriate to also appoint a second Investigator from outside the Department, and this may be an appropriately senior and skilled member of staff from elsewhere in the University, or from outside.

SS2.3 In selecting the Screening Stage Investigators, the Responsible Person will consider:

- the subject matter of the allegations, including whether it would be advantageous for of the investigators to possess any specialised knowledge or investigative skill;
- any conflicts of interest that might arise;
- any links with any of the persons involved (Respondents or Complainants);
- any personal connections with the subject matter of the allegations; and
- any connections with the work through, for example, any of the University's groups which review proposals for research or ethics committees (this does not mean that investigators with such connections cannot be appointed, but the nature of their involvement must first be considered) and,
- whether any Screening Stage Investigator from outside of the Department or UWE should be appointed.

SS2.4 The Responsible Person will not be a Screening Stage Investigator nor seek to influence their work.

SS2.5 Both Respondent and Complainant may raise with the Responsible Person concerns that they may have about those chosen to serve as Screening Stage Investigators but neither has a right of veto over those chosen**.**

SS3. Operational procedures of the Screening Stage

SS3.1 The Screening Process will be supported by a Screening Stage Officer drawn from the Research Governance Team. Where a Screening Panel is constituted, the Screening Stage Officer will act as a Panel Secretary.

SS3.2 The Screening Stage Investigators will**:**

- maintain a record of evidence sought and received, and conclusions reached and this will be the responsibility of the Screening Stage Officer. All contributions to the process of screening will be recorded and maintained for subsequent use. The Screening Stage Officer will ensure that records are transferred to the Research Governance Team for confidential filing. No records will be held elsewhere after the Screening Stage is complete, and investigators must ensure that this requirement is complied with. Where Investigators are external to the University, appropriate information security arrangements must be set in place to assure the security of the confidential information during the Screening Stage.

- conduct an assessment of the evidence including:
  - interviewing the Respondent and Complainant and other individuals who might provide relevant information to the Panel where appropriate, including individuals external to the University, such as staff within collaborating organisations, whom the Investigator(s) consider relevant to the investigation. N.B those interviewed by the Investigator(s) may be accompanied by a fellow employee or a trade union representative or other representative as governed by contract or law;
  - provide an opportunity for the Respondent to respond to the allegations, set out her/his case, and to present evidence and,
  - review any background information relevant to the allegations.

- provide, via the Screening Stage Officer, a draft report to the Responsible Person, who will forward it to the Respondent and the Complainant (and their representatives by agreement) for comment on the factual accuracy of the report. Only where the report includes errors of fact as indicated by the Respondent and/or the Complainant should the Screening Stage Investigator(s) consider modifying the report. The Screening Stage Investigator(s) will determine the truth of the comments made and seek the agreement of the Investigator(s) before

making amendments of substance to the Panel's report.

- produce a final report which considers the allegations of misconduct in research and reaches one of the conclusions below; and

SS3.3 In concluding the Screening Stage, the Investigator(s) will make a recommendation, in relation to each allegation of research misconduct, whether the allegations of misconduct in research:

- should be referred directly to the University's Procedure for Investigating Matters of Conduct or other internal or external process;
- are sufficiently serious and have sufficient substance to justify a Formal Investigation;
- have some substance but are not considered serious and 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;
- are mistaken, frivolous, vexatious and/or malicious.

SS3.4 The Screening Stage Officer will send the final report, via the Research Governance Manager, to the Responsible Person, who will then consider what action should be taken in the light of the Screening Stage Investigator's recommendations.

SS3.5 Once the Screening Stage Investigator(s) has completed the report and reached a conclusion, the Screening Stage is complete and Investigators should make no comment on the investigation, unless formally sanctioned by the University or otherwise required to by law. They should also remember that all information concerning the case was given to them in confidence, and information held during the course of the investigation should be returned to the Screening Stage Officer or securely destroyed.

SS3.6 Any queries or request for comment should be referred to the Responsible Person via the Research Governance Manager who will record the queries.

IP1 The Investigation Panel

The Investigation Panel should be convened to investigate allegations of misconduct in research which have passed through the Preliminary Steps and Screening Stages, and are therefore considered to be sufficiently serious and of sufficient substance to justify a Formal Investigation. The primary purpose of the Investigation Panel is to establish whether research misconduct took place, and the seriousness of any research misconduct that is found to have occurred.

IP2 Terms of Reference of the Investigation Panel

The Terms of Reference for the Panel are as follows:

The Panel will:

- Investigate the allegation(s) of misconduct, reviewing all necessary evidence including evidence from the Preliminary Steps and Screening Stages and evidence from witnesses as appropriate and requested by the Panel;
- Discuss the allegations with the Respondent to hear the Respondent's response to the allegations;
- Where appropriate, discuss the allegations with the Complainant
- Form a view as to whether research misconduct has taken place;
- Ensure, via the Panel Secretary, that complete records of evidence and proceedings are kept, and that these remain confidential;
- Produce a draft report and final report;
- Make recommendations to the Responsible Person about whether the allegations are found to be true or not, and in the context of the findings provide the Panel's advice about the appropriate next steps;
- Set a date by which it will complete its work.
- Other terms of reference added by the University on a case by case basis to address specific aspects of the investigation; and,
- Call upon the services of expert witnesses if necessary.

IP3 Composition of the Investigation Panel

IP3.1 The Investigation Panel will consist of at least three, and always an uneven number of, senior members of staff selected by the Pro Vice-Chancellor Research and Business Engagement from those with relevant skills and experience to serve on such a Panel.

IP3.2 In selecting members of the Investigation Panel, the Pro Vice-Chancellor Research and Business Engagement will consider:

- the subject matter of the allegations, including whether it would be advantageous for members of the Panel to possess any specialised knowledge or investigative skill;
- any potential conflicts of interest;
- any potential links with any of the persons involved (Respondents or Complainants), or personal connections with the subject matter of the allegations;
- any connections with the work through, for example, the University's groups involved in review of proposals for research or its ethics committee(s) (this does not mean that members with such connections cannot be appointed, but the nature of their involvement must first be considered).

IP3.3 The Investigation Panel will always include at least one member from outside the Respondent's Faculty or Professional service. This may be a senior member of staff from elsewhere in the University or from outside the University. Allegations that involve senior staff and/or that are judged to be especially serious, complex or controversial may benefit particularly from a member who is not associated with the University. In the review of allegations that involve staff on joint contracts with another organisation, there will ideally be on the Investigation Panel an appropriate member of staff from the other Employing Organisation(s).

IP3.4 Where allegations concern specialised areas of research the Investigation Panel will have at least one member with specialised knowledge of the field, if necessary an external member.

IP3.5 The Responsible Person will not be a member nor seek to influence the work of the Investigation Panel**.**

IP3.6 The Responsible Person will nominate members of the Investigation Panel for approval by the Vice Chancellor or a nominated deputy. The Vice Chancellor, or her/his deputy, may veto nominations for the Investigation Panel, recording the reason for the veto in writing, to be recorded by the Research Governance Manager, who will communicate it to all parties.

IP3.7 Both the Respondent and the Complainant may raise with the Responsible Person any concerns that they may have about those chosen to serve on the Investigation Panel, but do not have a right of veto over those selected. Such concerns must be raised in writing with the responsible person within 5 working days of the Respondent and the Complainant being formally notified by the Responsible Person of the intended Members. The Responsible

Person will consider the objections, and either replace the member who was objected to, or write to the objector explaining why not. The Panel will then be convened.

IP3.8 Once convened, the membership of the Investigation Panel will not normally be changed. Members unable to continue will not normally be replaced. Exceptions might include where it becomes clear that a member with additional expertise is needed. In the event that the Chair stands down or the membership falls below three, the Responsible Person will take steps to recruit additional members or re-start the Investigation process.

IP3.9 Members appointed to the Investigation Panel will make a declaration that they:

- will adhere to the Principles of the Procedure (see **Annex 1**);
- will work within the Terms of Reference for the Investigation Panel;
- will abide by the Procedure as it affects the work of the Investigation Panel;
- have declared any links to the research and/or the individuals involved in the allegations or any interests which might conflict with the Principles of the Procedure; and,
- will respect the confidentiality of the proceedings throughout the work of the Panel and afterwards, unless formally sanctioned by the University or otherwise required to by law;

IP3.10 The Panel will be supported by the Research Governance Team.

IP 4 Operational procedures of the Investigation Panel

IP 4.1 The Investigation Panel will:

- receive all relevant information from the Preliminary Steps and Screening Stages as background for the investigation, including the submission(s) and supporting evidence provided by the Complainant and evidence from any interviews conducted as part of the Preliminary Steps and Screening Stages,
- invite the Complainant and other witnesses to provide evidence when members of the Panel consider that it may have relevance to the investigation including where appropriate any witness involved in the Preliminary Steps and Screening Stages;
- Consider the response(s) and supporting evidence from the Respondent who should be given the opportunity to respond to the allegations made and to present evidence;
- set a date for the completion of the investigation - although not working to a prescribed timetable, the Panel should set a date for the completion of the investigation, which should be as soon as is practical without

compromising the Principles of the Procedure (**Annex 1**);

- maintain a record of evidence sought and received, and conclusions reached and this will be the responsibility of the Investigation Panel Secretary. All contributions to the investigation process will be recorded and maintained for subsequent use. The Panel Secretary will ensure that records are transferred to the Research Governance Team for confidential filing. No records will be held elsewhere after the Investigation Stage is complete, and investigators must ensure that this requirement is complied with. Where Investigators are external to the University, appropriate information security arrangements must be set in place to assure the security of the confidential information during the Investigation.
- conduct an assessment of the evidence;
- hear the Complainant and such other individuals as the Panel consider relevant to the investigation. This may include individuals outside the University, for example in collaborating institutions. Those interviewed may be accompanied by a Trades Union Representative or a work colleague;
- consider the allegations of misconduct in research and reach a conclusion on the allegations with the standard of proof used to reach that decision being “on the balance of probabilities”;
- ensure, via the Panel Secretary, that a full and confidential record is kept of the evidence received, including notes of interviews, and of the proceedings;
- provide a draft report to the Pro Vice-Chancellor Research and Business Engagement, who will forward it to the Respondent and the Complainant (and their representatives by agreement) for comment on the factual accuracy of the report;
- only when the report includes errors of fact, as indicated by the Respondent and/or the Complainant, will the Investigation Panel consider modifying the report. The Chair will judge the validity of such comments and seek the agreement of the Panel before making amendments to the Panel’s report;
- report any further, distinct, instances of misconduct in research by the Respondent which may be disclosed, unconnected to the allegations under investigation and/or misconduct in research by another person or persons, to the Responsible Person in writing, along with supporting evidence; and,
- aim to reach a unanimous decision, failing which a majority decision will be acceptable.

IP4.2 The Investigation Panel may call expert witnesses to give advice, if necessary, and as appropriate. Such witnesses do not become members of the Investigation Panel. The Investigation Panel may also request from the Responsible Person that legal or regulatory advice be obtained.

IP4.3. The Chair of the Investigation Panel will, via the Panel Secretary, report progress in writing, by reference to the plans agreed by the Panel, to the Responsible Person during investigations. If it is believed that the investigation should take more than one calendar month, reports will be made on a monthly basis. If it is believed that the investigation will last for one calendar month or less, reports will usually be made on a bi-weekly basis.

IP4.4 Once the Investigation Panel has reached a conclusion it will produce a draft final report that:

- summarises the conduct of the investigation;
- states whether the allegations of misconduct in research have been upheld in whole, in part, or not upheld, giving the reasons for its decision and recording any differing views;
- makes recommendations to resolve any issues relating to any misconduct it has found;
- makes recommendations in relation to any matters relating to any other misconduct identified during the investigation; and addresses any procedural matters that the investigation has brought to light within the University and relevant partner organisations and/or funding bodies.

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

a) whether the allegations should be referred to the University's Procedure for Dealing with Matters of Conduct;
b) whether action will be required to correct the record of research;
c) whether University matters should be addressed by the University through a review of the management of research, and to address any procedural matters which the investigation has brought to light within the University and relevant partner organisations and/or funding bodies; and,
d) other matters that should be investigated.

IP4.5 The Investigation Panel's draft report will be made available to the Respondent and the Complainant (and their representatives by agreement) for comment on its factual accuracy. Only when the report includes error of fact as indicated by either Respondent and/or Complainant will the Investigation Panel consider modifying the report. The Chair will determine the truth of such comments and seek the agreement of the majority of the Panel, before making amendments of substance to the Panel's report.

IP4.6 The Investigation Panel will then produce a final report which will be sent by the Panel Secretary to the Responsible Person.

IP4.7 The work of the Investigation Panel is then concluded and the Panel will be disbanded. As the matter may then give rise to disciplinary or other action, members of the disbanded Investigation Panel should not make any comment on the matter in question, unless formally sanctioned by the University or otherwise required to by law. They should also remember that all information concerning the case was given to them in confidence and should be returned to the Panel Secretary or securely destroyed.

IP4.8 Any queries or requests for comment addressed to members of the Investigation Panel should be referred to Responsible Person via the Research Governance Manager.

IP4.9 The Panel Secretary will ensure that records are transferred to the Research Governance Manager for confidential filing. No records will be held elsewhere after the Panel has completed its work, and members must ensure that this requirement is complied with.

Annex 5

Operation of the Appeal Panel

AP1 Operation of the Appeal Panel

A formal appeal must be made in writing within 14 days of the receipt of the Investigation Panel's final report. An Appeal may only be made by the Respondent not the Complainant, and may not be made when the matter has been referred to the Conduct Procedures, in which case any appeal will be handled under those procedures. When an Appeal is received, the Appeal Panel will be convened to investigate whether the conclusions of the Investigation Panel in relation to misconduct in research has been committed are upheld.

The Panel will:

- Investigate the appeal against the allegation(s) of misconduct;
- Review evidence from the Investigation Panel, including hearing evidence from the Investigation Panel Chair or members if the Appeal Panel Chair considers it appropriate;
- Review any other evidence the Panel considers necessary;
- Hold a formal meeting and provide an opportunity for the Respondent to provide evidence in support of the appeal;
- Call upon the services of expert witnesses if necessary;
- Ensure, via the Panel Secretary, that complete records of evidence and proceedings are kept, and that this remains confidential;
- Produce a draft report and final report;
- Make recommendations to the Responsible Person about whether the appeal is upheld or rejected and whether research misconduct has taken place;
- In the context of its findings, make recommendations about the appropriate next steps; and,
- Normally complete its work within 30 days of the initiation of the Panel.

AP2. Composition of the Appeal Panel

AP2.1 The Appeal Panel will consist of at least three, and always an uneven number of, senior (normally Dean, Associate Dean or Professorial level) members of staff selected by the Responsible Person from those with relevant skills and experience to serve on such a Panel. The Chair will be at Deputy or Pro-Vice Chancellor level, normally the Pro-Vice Chancellor: Resources. The Responsible Person will not be a member nor seek to influence the work of the Appeal Panel. At least one member of the Panel will have experience in the area of research in which the alleged misconduct has taken place although they will not be members of the Department concerned. Where allegations concern highly specialised areas of research the Appeal Panel will

have at least one member with specialised knowledge of the field or will seek specialist advice where necessary for the consideration of the Appeal. The Appeal Panel will not include any member who has been a member of the Investigation Panel.

AP2.2 The Responsible Person will nominate members of the Appeal Panel for approval by the Vice Chancellor or a nominated deputy. The Vice Chancellor or her/his deputy, may veto nominations for the Appeal Panel, recording the reason for the veto in writing and communicating it to all parties.

AP2.3 The Panel will be supported by the Research Governance Team.

AP2.4 Both the Respondent and the Complainant will be informed of the membership of the Appeal Panel, and may raise with the Responsible Person any concerns that they may have about those chosen to serve on the Appeal Panel, but do not have a right of veto over those selected.

AP3 Operational Procedures of the Appeal Panel

AP3.1 The Appeal Panel will:

- receive all relevant information from the Investigation Panel as background for the investigation;
- ensure that an accurate record of evidence sought and received, and the proceedings, is maintained, via the Secretary, and conclusions reached;
- conduct an assessment of the evidence;
- where necessary and appropriate for considering the Appeal, hear evidence from witnesses including the Complainant and expert witnesses;
- hold a Formal meeting, to hear the Respondent's evidence to support the Appeal;
- consider the allegations of misconduct in research and reach a conclusion on whether to uphold the Investigation Panel's decision in relation to the allegations, in whole or in part, with the standard of proof used to reach that decision being "on the balance of probabilities";
- provide a draft report, via the Research Governance Manager, to the Responsible Person who will forward it to the Respondent and the Complainant (and their representatives by agreement) for comment on the factual accuracy of the report;
- only when the report includes errors of fact, as indicated by the Respondent and/or the Complainant, will the Appeal Panel consider modifying the Appeal Panel's report. The Chair will judge the validity of such comments and seek the agreement of the Panel before making amendments to the Panel's report; and,
- aim to reach a unanimous decision, failing which a majority decision will be acceptable.

AP3.2 Once the Appeal Panel has reached a conclusion it will produce a final report that:

- summarises the conduct of the Appeal;
- states whether the allegations of misconduct in research have been upheld in whole, in part, or not upheld, giving the reasons for its decision and recording any differing views; and,
- makes recommendations arising from its findings.

AP3.3 The work of the Appeal Panel is then concluded and the Panel will be disbanded. As the matter may then give rise to disciplinary or other action, members of the disbanded Appeal Panel should not make any comment on the matter in question, unless formally sanctioned by the University or otherwise required to by law. They should also remember that all information concerning the case was given to them in confidence and should be returned to the Panel Secretary or securely destroyed.

AP3.4 The Responsible Person will consider the Report of the Appeal Panel and agree appropriate actions, as for the Investigation Panel.

AP 3.5 Any queries or requests for comment addressed to members of the Investigation Panel should be referred to the Responsible Person via the Research Governance Manager.

AP3.6 The Panel Secretary will ensure that records are transferred to the Research Governance Manager for confidential filing. No records will be held elsewhere after the Panel has completed its work, and members must ensure that this requirement is complied with.

Annex 6

Actions and outcomes

The conclusion of the Procedure for the investigation of allegations of misconduct in research, and consequent actions taken either through the University's Procedure for Investigating Matters of Conduct or through other steps to respond to the conclusions reached by the Investigation Panel, will take account of the Principles of the Procedure and the matters listed below:

1 **Specialised research**

It is recognised that the allegations may in certain cases relate to specialist research which requires specialised advice as to how to resolve or correct matters arising from the misconduct in research; the recommendations and experience of the Investigation Panel may prove particularly useful if this is the case, or further specialist advice may be needed.

2 **Support provided to the Complainant**

Where allegations have been upheld (in full or in part), or found to be mistaken but not frivolous, vexatious and/or malicious, then appropriate support, guidance and acknowledgment will be given to the Complainant. The Responsible Person will take whatever steps she/he considers necessary to support the reputation of the Complainant.

3 **Support provided to the Respondent**

Where allegations have not been upheld (in full or in part), the Responsible Person 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). Appropriate support and guidance will be given to the Respondent.

4 **Handling wrongful allegations**

If it has been found that the Complainant's allegations were frivolous, vexatious and/or malicious, the Responsible Person may consider recommending that action be taken against the Complainant, under the University's Procedure for Investigating Matters of Conduct. Those who have made allegations in good faith will not be penalised.

5 **Other actions that may be required or be considered appropriate**

Following the conclusion of the Procedure, the Investigation Panel may need to recommend additional measures in addition to those that may be taken by way of the University's Procedure for Investigating Matters of Conduct

Examples of potential actions that the University may consider include:

- retraction/correction of articles in journals;
- withdrawal/repayment of funding;
- notifying participants where appropriate, for example patients/patients' doctors of any potential medical issues that may arise.
- notification of misconduct to regulatory bodies or legal authorities;
- 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; and/or
- review of internal management and/or training and/or supervisory procedures for research

Annex 7

Communications and record-keeping

General

1. In accordance with the principle of integrity, appropriate confidential records will be held by the Research Governance Manager on behalf of the Responsible Person at all stages of any proceedings under this Procedure.

2. The Screening Stage Officer, and the Panel Secretaries of the Investigation and Appeal Panels (and Screening Panel, where established) will assume responsibility for keeping accurate records of the activities, deliberation and reporting of their respective Panels and pass these records to the Research Governance Manager for inclusion in the confidential archive of the case upon the completion of their Panel's work. During the investigation, the records will be held within the Research Governance Team confidential records system, and will only be available to the Responsible Person and her/his nominated alternate, the Secretary, members of the Research Governance Team, the Panel Chair and, where appropriate, Panel Members.

3. At the conclusion of the proceedings, the Research Governance Manager will retain all such records for a period that accords with the University's policy. Access to this archive will be limited to members of the Research Governance Team, Responsible Person and her/his nominated alternate.

4. Depending on the outcome of the Procedure, the Responsible Person, assisted by the Research Governance Manager, will liaise with any relevant parties taking forward any disciplinary, legal or regulatory process, and where appropriate this communication will be added to the confidential case archive or information will be forwarded as necessary and appropriate to others managing those processes.

Communication with involved parties

8. The Investigation Panel (and any Appeal Panel) will be supported by a Secretary who is a member of the Pro Vice-Chancellor Research and Business Engagement's staff, normally from the Research Governance Team.

9. No direct communication in relation to the Case, either written or oral, should take place between the members of the Investigation and Appeals Panels and either the Respondent, Complainant or any other member(s) of staff concerned outside the formal process, for the duration of the Procedure and any subsequent disciplinary process.

10. Communication, either written or oral, by any party (to include Respondent, Complainant or any other member(s) of staff, student(s), or other involved parties inside or outside the University) directly with members of any Panel will not normally be admitted as part of the documentation relating to the case except when it takes place at the request of the Panel, or at formal meetings called by the Chair of the Investigation Panel. Where any of the above wish to make formal, written representation which has not been requested by the Panel, and/or where the individuals concerned will not be present at a formal meeting, this should be presented to the Secretary, and the Chair will consider whether such documentation should be admitted. The decision of the Chair will be final.

Research Misconduct Procedures Flow Diagram

Within 20 days

Formal Complaint made to Research Governance Manager, Allegation referred to the Responsible Person for Preliminary Steps Stage.

Preliminary Steps Responsible Person decides whether the allegation is within the remit of the Procedure.

No → Complainant informed that the Procedure does not apply.

Yes

Preliminary Steps Responsible person takes any necessary urgent steps to prevent risk or harm. Responsible Person determines whether legal or regulatory authorities or others such as funders or secondary employers need to be informed.

Preliminary Steps Responsible Person agrees with HR whether disciplinary or other processes take precedence.

Yes → Decision taken about whether to suspend the Procedure.

Yes → Suspend Process pending legal or regulatory action, or referral to UWE disciplinary procedures Complainant and respondent informed where appropriate.

No

Preliminary Steps Responsible Person appoints Screening Stage Investigators and informs respondent an allegation has been made and of Screening Process.

Preliminary Steps Responsible Person: confidentially informs key people and gathers initial information from them; takes necessary security actions.

30 days

Screening Stage Screening Stage Investigator(s) conducts initial investigation, and if deemed necessary Responsible Person establishes an Investigation Panel Screening Panel.

Yes

ASAP

Investigation Stage Investigation Panel appointed.

Yes

Investigation Stage Investigation Panel determines if evidence of research misconduct and submits report.

No → Responsible Person informs Complainant and Respondent and necessary others; takes any necessary action.

Yes

Responsible Person informs Complainant and Respondent and necessary others and decision taken about necessary actions and actions taken.

Referral to Conduct Procedure appropriate?

Yes → Disciplinary action taken forward under Conduct Procedures.

No

Where no referral to Conduct Procedures Opportunity for Appeal to be Made.

End of Research Misconduct Procedure

References

1 These procedures draw heavily upon the model proposed by UKRIO: http://ukrio.org/publications/misconduct-investigation-procedure/

2 RCUK Policy and Guidelines on Governance of Good Research Conduct, February 2013: http://www.rcuk.ac.uk/RCUK-prod/assets/documents/reviews/grc/RCUKPolicyandGuidelinesonGovernanceofGoodResearchPracticeFebruary2013.pdf

3 Research Council Investigating Allegations Of Misconduct In Research Policy, November 2014: http://www.rcuk.ac.uk/RCUK-prod/assets/documents/terms/InvestigatingAllegationsofMisconductinResearchPolicy.pdf

4 NIH Grants and Funding Research Integrity Web page: http://grants.nih.gov/grants/research_integrity/research_misconduct.htm

5 UOB Regulations on Research Misconduct: http://www.bristol.ac.uk/secretary/studentrulesregs/researchmisc.html

6 Sheffield Hallam University –The Principles of integrity in research & Procedures for Dealing with Allegations of Research Misconduct, Oct 2013 (NB this document was revised in 2015).

7 Oxford Brookes University - Code of Practice for Academic Integrity, including Procedures for Investigating Allegations of Misconduct in Research. Updated October 2012. https://www.brookes.ac.uk/research/policies-and-codes-of-practice/

8 http://www.soas.ac.uk/researchoffice/ethics/file50160.pdf

9 http://ori.hhs.gov/education/products/ucla/chapter8/default.htm

10 http://www.oecd.org/sti/inno/frascatimanualproposedstandardpracticeforsurveysonresearchandexperimentaldevelopment6thedition.htm

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