
3. MISCONDUCT IN RESEARCH

Purpose and scope

- 3.1 This section of the Consolidated Academic Policies and Regulations (CAPR) explains what 'misconduct in research' is, how the College will deal with it, and how the College will balance fair treatment for all staff and students with maintaining public confidence in its research.
- 3.2 This policy applies to any investigation into research misconduct of current staff and students, including consultants contracted to work on College investigations on or after 1 June 2016 regardless of the date the research was conducted.
- 3.3 This policy **does not** apply to:
- (a) former employees;
 - (b) past students;
 - (c) allegations of misconduct in research by a student that is solely for work towards their award. These are handled in line with the policy on Academic Misconduct. An exception may be made if the student is participating in wider funded research activity;
 - (d) people who are or were mainly employed by another organisation, even if they are or were engaged in collaborative research with the College's staff or students; or
 - (e) allegations of financial fraud. These are handled in line with the procedures in the College's Fraud Response Plan.

Definitions

- 3.4 In this policy, 'subject' means the person accused of misconduct.
- 3.5 In this policy, 'instigator' means the person or body making the allegation (may include external organisations such as journals).
- 3.6 'Research misconduct' means an attempt to achieve an unpermitted or unfair outcome in a research or scholarship programme or the determination of research or scholarship results including by the following means:
- (a) Fabrication: this includes creating false data or other aspects of research, including documents and participants' consent.
 - (b) Falsification: this includes inappropriately manipulating or selecting data, imagery or consents.
 - (c) Misrepresentation of data: this includes suppressing relevant findings or data, or knowingly, recklessly or by gross negligence, presenting a flawed interpretation of data.
 - (d) Misrepresentation of interests: this includes failing to declare the material interests of the researcher or the funders of the research.
 - (e) Misrepresentation of qualifications or experience: this includes claiming or implying experience or qualifications that are not held.

- (f) Misrepresentation of involvement: this includes inappropriately claiming authorship or attribution of work where there has been no significant contribution, or denying authorship where an author has made a significant contribution.
- (g) Undisclosed duplication of publication: this includes undisclosed duplicate submission of manuscripts for publication.
- (h) Plagiarism: this includes the general misappropriation or use of other people's ideas, intellectual property or work (written or otherwise), without acknowledgement or permission.
- (i) Mismanagement or inadequate preservation of data or primary materials: this includes failing to:
 - keep clear and accurate records of the research procedures followed and the results obtained, including interim results;
 - hold records securely in paper or electronic form;
 - make relevant primary data and research evidence accessible to others for reasonable periods after completion of the research;
 - manage data according to the research funder's data policy and all relevant legislation; and
 - deposit data permanently in a national collection, wherever possible.
- (j) Breach of duty of care: this includes deliberately, recklessly or by gross negligence:
 - improperly disclosing 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 participants or associated individuals – without their prior consent, and without appropriate safeguards even with consent. This includes reputational danger to individuals where it 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 that appropriate informed consent is obtained properly, explicitly and transparently;
 - not observing legal and reasonable ethical requirements or obligations of care for animal subjects, human organs or tissue used in research, or for the protection of the environment; and
 - improper conduct in peer review of research proposals or results (including manuscripts submitted for publication) – this includes the peer reviewer failing to disclose conflicts of interest; inadequately disclosing clearly limited competence; and breach of confidentiality or abuse of material provided in confidence for peer-review purposes.

Introduction

Overview

- 3.7 The UK Research Councils require all Higher Education institutions to demonstrate they have agreed principles and procedures in place to deal with allegations of research misconduct. The College does not currently receive research funding from the councils, but it wishes to ensure the integrity of all its research and scholarship, as this helps to maintain its reputation and that of its academic community.
- 3.8 At any time, an employee may have confidential discussions and consultation about concerns of possible misconduct with a Senior Officer and seek advice about appropriate ways of reporting allegations.
- 3.9 Staff who believe a serious case of research misconduct has occurred are encouraged to use the College's procedure on 'whistleblowing'. Otherwise, they can use the following four-stage procedure. The procedure aims to identify whether research misconduct has occurred and, if so, its seriousness. Any resulting disciplinary action is covered by the Disciplinary procedure.
- 3.10 Alleging misconduct in this context could be defamatory and therefore actionable in law. To protect the subject and the instigator, these procedures must be conducted in strict confidentiality and disclosed only to those identified as having a role in them.
- 3.11 The College presumes innocence until the investigation is complete. The College will protect instigators who have made allegations in good faith, whether or not their allegations prove to be correct.

Procedures

Overview

- 3.12 The process for allegations of research misconduct has four stages:
- (a) Stage 1: Initial screening.
 - (b) Stage 2: Deciding whether there is evidence.
 - (c) Stage 3: Examining evidence and deciding the seriousness of any misconduct.
 - (d) Stage 4: Appeal.

Stage 1: Initial screening

- 3.13 Staff members who suspect misconduct must clarify the nature of the action they suspect of being misconduct in research, identify relevant evidence and complete a brief written report on the action and staff members concerned.
- 3.14 The instigator alleges misconduct, in confidence, by writing to the Dean of the Faculty. (If the Dean is the subject of the allegation, the Provost will substitute.)
- 3.15 The Dean will conduct an initial screening of the allegation. This will assess whether or not the allegation falls within the scope of this policy. The Dean may seek confidential legal or other expert advice.

- 3.16 The Dean must inform the instigator within ten (10) working days that:
- (a) the allegation falls within the policy and warrants initial screening; or
 - (b) the allegation has been dismissed as outwith the scope of the policy or unwarranted.
- 3.17 If the allegation falls within the policy and warrants initial screening, the Dean must do further preliminary investigation by informing the subject of the nature of the allegation and invite a response, while maintaining the instigator's anonymity. The subject must be given ten (10) working days to respond.
- 3.18 Within five (5) working days of the receiving the subject's response, the Dean must inform the instigator and the subject of the decision, which may be that:
- (a) the allegation is dismissed; or
 - (b) the subject's response is not satisfactory and the allegation will be considered under Stage 2.
- 3.19 The Dean will then require all necessary documents and material to be secured and inform the Academic Registrar.
- 3.20 If an allegation relates to research misconduct that may place others at risk, the Dean will notify the Human Resources Department of the issue, who will advise the Provost if there are grounds for suspending the subject or others.
- 3.21 The Provost will ensure removal of the risk or, if necessary, suspend the subject on full pay pending the outcome of the investigation.

Stage 2 – Deciding whether there is evidence

- 3.22 This stage aims to decide whether a preliminary review finds sufficient evidence of misconduct to warrant a hearing.
- 3.23 The Academic Registrar must appoint a panel of three (3) experts + one (1) independent member, including at least one (1) who is familiar with the area of research concerned, to give advice in strict confidence.
- 3.24 The subject must be invited to explain any apparent inconsistencies or irregularities in a written response, which should be provided within twenty (20) working days. This process must maintain the anonymity of the instigator and the subject.
- 3.25 The panel must consider all the evidence within twenty (20) working days of receiving the subject's response. The panel must make a final recommendation to the Director of Research within ten (10) working days of receiving the subject's response. The Director of Research may decide that:
- (a) there is insufficient substance to warrant a formal investigation; or
 - (b) the allegations should be formally investigated under Stage 3.

Stage 3 – Examining the evidence and deciding the seriousness of any misconduct

- 3.26 Stage 3 aims to examine the evidence and decide whether or not research misconduct has been committed and, if so, its seriousness.
- 3.27 This stage is quasi-judicial and has human resources implications. So the College's legal advisers and the Human Resources Department should be informed in confidence.

- 3.28 In serious cases, suspension may need to be considered but this should only arise if the presence of an individual is likely to hinder an investigation or they would have difficulty performing their duties during this stage of the investigation.
- 3.29 An investigation may be about someone funded by or engaged with Research Councils UK (RCUK) (including as a supervisor for an RCUK postgraduate student or engaged with peer-review activities), even if it is about work not connected with a grant from a UK Research Council. If so, the case must be reported to the relevant Council at this stage. Councils reserve the right to take appropriate action, after consulting the College, about any duties being performed for RCUK.
- 3.30 The Director of Research must establish a panel of three (3) members with the necessary expertise to examine the evidence, interview witnesses and conduct the investigation.
- 3.31 Given the importance of having sufficient expertise in the panel, some of the members may have been involved as members of the panel in Stage 2. The members must have no conflict of interest and they should appoint their own Chair.
- 3.32 The Director of Research must notify the subject of the make-up of the panel within five (5) days of establishing it and inform the subject of the right to object in writing to any of the members being included.
- 3.33 The subject must make any objections within five (5) working days or the make-up of the panel will be regarded as acceptable.
- 3.34 If an objection is received within the timescale, the Director of Research may replace the member. No further objection is possible.
- 3.35 Advice should be taken from the College's legal advisers and the Human Resource Department and others, as appropriate.
- 3.36 The panel may then interview witnesses and give both the subject and the instigator an opportunity to meet them in confidence. Individuals have the right to be accompanied by a workplace colleague. The investigators will liaise with the individual and the workplace colleague to agree dates for a meeting within a reasonable time.
- 3.37 The panel should conclude its investigation within sixty (60) working days of being established by producing a final report. There are three (3) possible outcomes:
- (a) No misconduct has occurred and the procedure has been completed.
 - (b) Misconduct has not occurred, but serious scientific or academic errors have been identified.
 - (c) Misconduct is confirmed.
- 3.38 In all cases, the Director of Research should ensure that the subject, the instigator and the Dean of the Faculty concerned get a copy of the report, which must maintain the instigator's anonymity. This should be done within five (5) working days of the panel submitting its report.
- 3.39 If the panel judges that the allegations are malicious, the Director of Research must refer the matter to the Dean for disciplinary action, usually through the formal disciplinary procedure.

- 3.40 If (a) is the outcome, steps should be taken to protect the subject's reputation. A clear statement should be made to any individuals who will have been aware of the allegations and need to know the outcome.
- 3.41 If (b) is the outcome, the Dean should ensure that immediate action is taken to rectify the errors. It may be appropriate to inform the College Ethics Committee. Disciplinary action may be considered, usually through the formal disciplinary procedure.
- 3.42 If (c) is the outcome, the Director of Research and the Dean, with advice from the Human Resources Department, will consider what action to take. This may include giving details of the outcome to any grant-awarding body, the editors of any relevant journals, and relevant statutory or regulatory bodies. If the subject was registered for a research degree, action may be needed to terminate their registration or revoke the qualification. Disciplinary action may be considered, which would usually proceed directly to the disciplinary hearing stage.
- 3.43 Any action will only be taken after the completion of any appeal process.
- 3.44 The outcome of the investigation will be reported to the College Research Committee, maintaining the anonymity of the individuals concerned.

Stage 4 – Appeal

- 3.45 Any appeal about the investigation's findings must be made to the Provost, whose decision is final. The appeal must be in writing within ten (10) working days of the subject being given the panel's report.
- 3.46 The Provost has full discretion on how to conduct the appeal but will have regard to all the principles of fair decision-making in quasi-judicial contexts.

Advice and support

- 3.47 Advice for students on research misconduct is available from the Student Hub or the GSM London Students' Union (gsmsuadvicecentre@gsmlondon.ac.uk). More complex questions may be referred to appropriate individuals, or to the Office of Student Complaints, Appeals and Regulation (oscar@gsmlondon.ac.uk).
- 3.48 Advice for staff on research misconduct is available from their Head of Department or the Director of Research.
- 3.49 Any staff development needs identified may be discussed with members of the Staff and Educational Development or Human Resources Teams.

Fees

- 3.50 No additional fees or charges are associated with this policy.
- 3.51 The College does not pay expenses incurred by staff or students for action under this policy.

Legal and regulatory context

- 3.52 These procedures are expected to conform to the general guidelines issued in 1998 by the Director General of the Research Councils and the Chief Executives of the UK Research Councils.
- 3.53 The procedures have been informed by the recommendations of the EPSRC's Good Practice in Scientific and Engineering Research; the UK Research Integrity Office's

Code of Practice for Research; and RCUK's Policy and Code of Conduct on the Governance of Good Research Conduct.

- 3.54 The College may not be bound by the principles and this policy alone may not provide the procedure to meet all of these principles, some of which may be met by other College policies and procedures.. It uses the principles as guidance only, to help it deal soundly with these matters.

Enforcement, monitoring and review

- 3.55 If any person or body in the College refuses to comply with a request or decision made to enforce this policy, their refusal must be reported to the Provost, who will take such action to enforce this policy as they think necessary.
- 3.56 Each year, the College must receive a report that enables it to monitor, identify and act on any shortfalls in how this policy is interpreted and applied.
- 3.57 The annual report must include statistical data on the number of allegations; the outcomes, departments or research centres from which they originate; the length of the process; and the equality characteristics (including sex, disability and ethnicity) of those against whom allegations are made, and separately those against whom the allegations are upheld.
- 3.58 Every three (3) years, the College must review this policy to ensure that:
- (a) it remains up to date and continues to meet the expectations of the UK Quality Code, applicable legislation or guidance;
 - (b) areas of improvement, or any concerns, raised by students, external examiners, or professional bodies have been addressed; and
 - (c) opportunities to reduce unnecessary bureaucracy have been taken.

Schedule (not part of the policies and regulations):

Responsible Officer: Director of Research
Approved by: Board of Directors and Academic Board
Version: 1.0
Date:
Monitoring and Review Body: Research Committee
Effective From:
Next Scheduled Review: