

## Procedures in the event of alleged Misconduct in Research

The procedures are designed to apply to current staff and students of the University of Derby. They also apply to consultants who are contracted by the University to work on investigations on behalf of the University. The procedures are only applicable in regard of misconduct, which is alleged to have occurred during the time that they have been employed (as staff) or registered (as students) by the University. The procedures do not apply to persons who are employed by other organisations, even if those individuals were engaged in collaborative research with staff of the University. The University does not have powers to investigate former employees or students who are now employed elsewhere. The University procedures will be applied in response to complaints received in writing from either internal or external persons or organisations.

### 1. Stage One: Preliminary action

An allegation may be received by the Vice-Chancellor, a member of the Corporate Management Team or the Research Office. It is passed to the relevant Dean of the Faculty who decides, after consultation with the Pro Vice-Chancellor (Learning, Teaching and Scholarship) and the Head of Research, whether the allegation falls within the scope of the procedure and whether an assessment is warranted. The Dean informs the individual against whom the allegation is made, the substance of the allegation and invites them to respond. If s/he is not satisfied with the response or believes that the reputations on any of the parties could be at risk if the matter is not taken to the formal investigation stage, s/he will proceed to Stage Two. The Formal Investigation Panel (Stage Two) serves as the formal Disciplinary Hearing as required by the University's disciplinary regulations.

If the Dean decides that a formal investigation is warranted s/he will arrange for all relevant research records and materials to be immediately sequestered and lodged securely in the Research Office. If s/he decides that a formal investigation is not warranted, s/he records the justification for the decision and informs the complainant, the researcher(s), the Pro Vice-Chancellor (LTS) and the Head of Research. If the allegation relates to a perceived risk to health or safety, then the Dean must take action to be sure that any such risk is eliminated.

### 2. Stage Two: The Formal Investigation: a Disciplinary Hearing

The purpose of the formal investigation is to make a thorough evaluation of all the relevant facts to determine whether there has been misconduct. If it is decided that misconduct has been committed, then it is necessary to decide *who* was responsible and the *seriousness* of the incident.

The Dean appoints a **Misconduct Investigation Panel** comprising three appropriately qualified persons. The first member should hold a senior research position within the Faculty and should normally be designated Chair. A second member should have research experience relevant to the case. The third member of the Panel should be external to the school/ department or the University. None of the members of the Investigation Panel should have any conflict of interest with the case. They must have the expertise necessary to interview the witnesses. The Dean notifies the researcher(s) of the composition of the Misconduct Investigation Panel and gives opportunity for a written objection. The Dean must record the reasons for accepting or rejecting any objection raised.

The investigation should normally include examination of all documentation including relevant research data materials, proposals, publications, correspondence, memoranda and notes of telephone calls. The researcher(s) is entitled to be present during the receipt of all evidence from

the complainant and the witnesses. S/he should be in receipt of all written evidence being used as evidence by the Misconduct Investigation Panel and s/he may also ask questions of clarification with regard to this evidence through the Chair. The secretariat should keep a detailed record of the hearing including a verbatim documentation of the spoken evidence. The final report should be completed within **ten weeks** of the written notification to the researcher(s) that the matter is to be considered by a Misconduct Investigation Panel.

The final report should state how the investigation was conducted, how the information was obtained, set out the findings, explain the basis for the findings and include an accurate agreed summary of the views of the researcher(s) alleged to have engaged in misconduct. The researcher(s) will be given an opportunity to comment on the report. The researcher(s) will be given **3 weeks** to prepare a written **response statement** following receipt of the report. This response should be attached as an addendum to the report. If the researcher(s) decides to challenge any part of the report, s/he may request a meeting with the Dean and the Chair of the Misconduct Investigation Panel. The researcher should be quite clear about any statements, which s/he believes are unsubstantiated.

The final decision rests with the Dean of Faculty who may consult the Pro Vice-Chancellor (LTS) and Head of Research. If the Misconduct Investigation Panel finds that misconduct was committed and the researcher(s) were responsible, it will be the responsibility of the Dean to decide on the appropriate action. This should reflect the seriousness of the infringement/offence as advised by the Misconduct Investigation Panel.

### **3. Notification of the final decision**

The Dean will write to the researcher(s), complainant, the Chair of the Misconduct Investigation Panel, the Pro Vice-Chancellor (LTS) and Head of Research to inform them of the final decision. S/he will also recommend any amendment to the aspects of the *Promoting Good Research Practice* document or this *Procedures in the event of alleged Misconduct in Research* which may be appropriate.

### **4. Sanctions**

If the allegations of misconduct in research have been substantiated then the Dean shall determine the appropriate sanctions. These may be one or more of the following:

- Removal from a particular project (staff or student)
- A final written warning (staff or student)
- Special monitoring of work (staff or student)
- Removal of eligibility for pay progression for one year/or loss of increment (staff)
- Loss of funding/access to future funding (staff)

If the Dean decides that the nature of the misconduct is very serious indeed and has brought the school or institution into disrepute, s/he may recommend to the Pro Vice-Chancellor (LTS) that the person concerned should have their employment/registration terminated. If the recommendation is agreed, this is conveyed to the Vice-Chancellor who may dismiss the person without further notice.

In the event of a registered health or social care professional, or scientist regulated by the code of conduct of a professional body, the Dean should notify the appropriate registering/regulatory body of the outcome of any case where the researcher(s) have been found guilty of misconduct. This may trigger a separate disciplinary procedure of the regulatory body with regard to the fitness for practice of the researcher(s) concerned. This is very important. Failure to report might be deemed as placing the public at risk through continued bad practice. If the regulatory body decides to strike off the researcher(s) then the University may be obliged to dismiss or re-deploy

the researcher(s). In the case of a student, the regulatory body may not be willing to register the student or may decide to terminate registration.

## 5. Appeal

If the researcher(s) wish to appeal against the decision of the Dean, then s/he should submit the appeal within two weeks of the final written notification by the Dean. The Appeal procedure, operates in accordance with normal procedures for the consideration of Appeals against the findings of disciplinary hearings (staff or students as appropriate) at the University. The outcome of the Appeal process is final. The Vice-Chancellor will notify the researcher(s) of the final decision.

If at any time the researcher(s) decides to accept the substance of the allegations, it will be for the Dean of the Faculty, in consultation with the Pro Vice Chancellor (LTS) and the Head of Research, to identify an appropriate sanction. This sanction should be mutually satisfactory to the complainant and the researcher(s) concerned. S/he will also need to take into consideration any damage which has been caused to the Faculty/University's reputation and the extent to which the admission and agreement has mitigated such damage. If the researcher(s) is found not guilty of the allegations, the Faculty and University will take all reasonable steps to restore the reputation of the researcher(s) concerned.

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