

# ROYAL COLLEGE OF ART

## Research Misconduct Procedure

**Policy owner:** Pro Vice-Chancellor, Research & Innovation

**Approval route:** Ethics Committee, Research & Innovation Committee, Senate

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### Related guidelines and procedures

- Staff Disciplinary Policy
- Anti-harassment and Bullying Policy
- Academic Misconduct Policy
- Financial Regulations
- Counter-Fraud Policy
- Anti-Bribery Policy
- Anti-Money Laundering Policy and Procedures
- Public Interest Disclosure (Whistleblowing) Policy
- Research Ethics Policy
- Academic Regulations

## Summary of the Research Misconduct Procedure

- 1) Receipt of Allegations Stage (Section 3): The Complainant should make an allegation of research misconduct in writing to the Named Person (College Secretary). The Named Person will determine whether the allegation:
  - a. Falls under the definition of research misconduct and the scope of this Procedure; or
  - b. falls within the scope of another formal College process and warrants referral directly to it; or
  - c. warrants referral directly to an external organisation; or
  - d. presents as being related to potential poor practice rather than to misconduct; or
  - e. should be dismissed because it does not fall under the remit of this Procedure and does not need to be referred elsewhere.

If 1a, then:

- 2) Initial Investigation Stage (Section 4): An Investigator is appointed to determine whether there is sufficient evidence of research misconduct to warrant a Full Investigation. The Investigator will determine whether the allegation:
  - a. Is sufficiently serious and has sufficient substance to warrant a Full Investigation; or
  - b. has some substance but due to its relatively minor nature or because it relates to poor practice rather than to misconduct, will be addressed through informal measures; or
  - c. warrants referral directly to another formal College process; or
  - d. warrants referral directly to an external organisation; or
  - e. is unfounded, because it is mistaken or is frivolous or is otherwise without substance, and will be dismissed; or
  - f. is unfounded, because it is vexatious and/or malicious, and will be dismissed.

If 2a, then:

3. Full Investigation Stage (Section 5): A Full Investigation Panel of at least 3 persons is appointed to review all the relevant evidence and conclude:
  - a. Is upheld in full; or
  - b. Is upheld in part; or
  - c. Has some substance but due to its relatively minor nature or because it relates to poor practice rather than to misconduct, will be addressed through informal measures; or
  - d. Warrants referral directly to another formal College process; or
  - e. Warrants referral directly to an external organisation; or
  - f. Is unfounded, because it is mistaken or is frivolous or is otherwise without substance and will be dismissed; or
  - g. Is unfounded, because it is vexatious and/or malicious, and will be dismissed.

For all other outcomes above:

4. Outcomes and Reporting Stage (Section 6): The Named Person will ensure that all necessary actions are taken at the conclusion of this Procedure, including actions that arise as part of the Initial or Full Investigation.
5. Appeals Stage (Section 7): The Complainant and/or the Respondent can appeal in certain circumstances against the findings of an investigation under this Procedure. Appeals may be permitted on the following grounds:
  - a. Procedural irregularity in the conduct of the investigation.
  - b. Fresh evidence becoming available.

- c. Evidence of bias or unfairness in the process or decisions taken.
- d. Recommendations made as part of the outcome and subsequent actions taken are either excessive or inadequate.

# RCA Research Misconduct Procedure

## 1. Introduction

The College is committed to the highest standards of integrity, probity and accountability in the conduct of research, in accordance with the principles of the *Concordat to Support Research Integrity* (2019). The College takes seriously any allegation of research misconduct, and this Procedure is intended to address such allegations in line with the *Concordat* and the UK Research Integrity Office's (UKRIO) *Procedure for the Investigation of Misconduct in Research (2<sup>nd</sup> edition)*. This Procedure sets out the College's expectations and requirements for staff and research students regarding good practice in research to ensure that research conducted at the College is of the highest standards of integrity. This Procedure also outlines the actions to be taken when concerns are raised about the conduct of research undertaken under the auspices of the College, set out in Section 2 below.

This procedure is intended to fulfil requirements that funders and other organisations place on institutions to have robust procedures for the investigation of research misconduct.

It is the responsibility of researchers to be aware of their commitments and the expectations placed on them. All staff and students have a responsibility to report, in confidence, any suspected incident of research misconduct, whether this has been witnessed or for which there are reasonable grounds for suspicion. Non-reporting of misconduct in research can harm the integrity of research resulting in wide ranging and damaging consequences. An act of concealment could also be deemed as an act of misconduct.

## 2. Purpose and Scope

### Purpose

This Procedure recognises that the investigation of research misconduct allegations can involve complex issues and seeks to discharge the College's responsibilities sensitively and fairly. It outlines the process to be followed when research misconduct allegations are brought against a researcher about research conducted under the auspices of the College.

The definition of research misconduct used throughout this document has been taken from the *Concordat to Support Research Integrity*:

*'research misconduct is characterised as behaviours or actions that fall short of the standards of ethics, research and scholarship required to ensure that the integrity of research is upheld. It can cause harm to people and the environment, wastes resources, undermines the research record and damages the credibility of research. The Concordat recognises that academic freedom is fundamental to the production of excellent research. This means that responsibility for ensuring that no misconduct occurs rests primarily with individual researchers.'*

(Annex 1 includes an expanded definition of research misconduct.)

College Statute(s) take precedence over anything set out in this Procedure. Notwithstanding the arrangements which follow, the Vice Chancellor or their nominee has the right to suspend a member of staff and the right to suspend a student in accordance with the relevant College Statute(s).

The Procedure will be carried out in accordance with the Standards and Principles set out in Annex 2.

Nothing in this Procedure shall limit the right of the College or a member of staff of the College or a student of the College to exercise their rights under any Statutes and Ordinances concerning discipline and grievance.

When allegations of research misconduct are upheld, in full or in part, this may result in action being taken under the College's disciplinary procedures as appropriate, or under another relevant process.

Reports generated by this Procedure may be used in evidence by the College's disciplinary procedures, by subsequent investigations under this Procedure and by other College processes. In addition, subject to data protection considerations, they may be released, in full or in part or summary form, in reporting the matter to any appropriate external organisation (such as a funding body).

### **Scope**

The Procedure is applicable to any person engaged in research under the auspices of the College, either solely or in conjunction with others in the College or in other organisations or agencies. For the purposes of this Procedure, research is defined as 'a process of investigation leading to new insights, effectively shared.' It is important to note that this definition includes all forms of research, including practice research (also known as practice-based, practice-led, or practice as research).

This Procedure applies to all individuals carrying out research under the auspices of the College, including but not limited to:

- a. A member of staff or former member of staff;
- b. A research student (including visiting students registered elsewhere who are conducting research at the College) registered for an MPhil, DPhil or Professional Doctorate;
- c. An independent contractor or consultant; and
- d. A person with visiting or emeritus status.

This Procedure does **not** apply to students registered for Masters degrees (including MRes). Any matters raised in relation to Masters students will be considered under the Academic Misconduct Policy.

Alleged research misconduct relating specifically to the assessed element of a research degree, i.e., to a thesis which has been submitted for examination, may be investigated under the College's Academic Misconduct Policy, instead of under this Procedure. Allegations of research misconduct related to the conduct of the research will be dealt with under this Procedure. If the student has an employer relationship with the College, then any allegations of research misconduct will be dealt with under this Procedure.

When research misconduct allegations are raised that include/relate to allegations of bullying/harassment, the College will determine whether those allegations are investigated under this Procedure and/or another College process, for example, the Anti-Harassment and Bullying Policy or the Staff Disciplinary Procedure.

Financial fraud or other misuses of research funds or research equipment may be addressed under the College's Counter-Fraud Policy or related policies and procedures, instead of under this Procedure.

The College will follow this Procedure through to its natural end point as far as possible even in the event that:

- a. Any individual(s) concerned leave or has left the College, either before the operation of this Procedure is concluded or before the allegation(s) of research misconduct was made; or
- b. The Complainant(s) withdrawing the allegation at any stage; or
- c. The Respondent(s) admitting, or having admitted, the allegation in full or in part; or
- d. The Respondent(s) admitting, or having admitted, other forms of misconduct, whether research misconduct or otherwise; and/or
- e. The Complainant(s) and/or the Respondent(s) withdrawing from the Procedure.

After an investigation into alleged misconduct when a Respondent is not a current member of staff/student of the College (see above), the Named Person will determine the nature of any further action to be taken in relation to the investigation and its outcome.

### **The Named Person**

The College Secretary is the designated Named Person for the Procedure and has overall responsibility for ensuring the integrity of any proceedings under this Procedure. They may, however, nominate an alternate (another senior officer) to undertake some or all of the Named Person's responsibilities, particularly in the case of potential or actual conflict of interest. The Named Person may at any stage seek legal or other specialist advice on any aspect of the proceedings.

The Named Person may also seek independent advice to assist with the decision as to the course of action to be followed in any case. This advice may be sought from senior officers, senior members of academic staff, and other members of the College, and may include external advice, where judged necessary by the Named Person.

The Named Person will ensure that appropriate support and information on the process and its operation is provided in an impartial way to the Complainant and Respondent.

The Named Person shall, at any stage of the process, either on their own initiative or in response to a request from members of an Initial or Full Investigation panel, have the power to impound, seize or request the surrender of any files, papers, notebooks or records (whether in electronic or hard copy format) or any laptop or equipment which may contain evidence which is essential to the proper functioning of this Procedure. The Named Person will only take such actions, after careful consideration of the risks and consequences, in situations where there is a clear risk to individuals, animals or the environment. The reason(s) for taking any such actions will be recorded in writing and communicated to all relevant parties. The Named Person shall be responsible for the safe-keeping of such records or equipment during the course of the procedure and shall make them available to those involved in the Procedure, the Complainant or Respondent or their respective representatives.

The Governance Officer will support the Named Person in carrying out any investigations under this Procedure.

### **3. Receipt of Allegations Stage**

**Purpose:** The purpose of the Receipt of Allegations Stage is to determine the most appropriate process to investigate or otherwise address an allegation of research misconduct received by the College. The primary aim is to determine whether the matter falls under Research Misconduct Procedure. Its aim is NOT to investigate the substance of the matter raised.

**Conducted by:** The Named Person will carry out this stage of the Procedure, supported by the Governance Officer. The Named Person may identify suitable professional, administrative, and other support to assist them in carrying out this stage. The Named Person can seek confidential advice from relevant experts, from within the College and outside it.

**Possible Outcomes:** At the conclusion of the Receipt of Allegations stage, the Named Person will determine whether the research misconduct allegation:

- a. Falls under the definition of research misconduct and the scope of this Procedure and should advance to the Initial Investigation Stage; or
- b. falls within the scope of another formal College process and warrants referral directly to it (e.g., Staff Disciplinary Policy; Counter-Fraud Policy; Academic Regulations, etc.); or
- c. warrants referral directly to an external organisation (e.g., the research organisation(s) under whose auspices the research in question took place; statutory regulators; or professional bodies); or
- d. presents as being related to potential poor practice rather than to misconduct (therefore to be addressed via informal measures as covered in Annex 3); or
- e. should be dismissed because it does not fall under the remit of this Procedure and does not need to be referred elsewhere. In this outcome, an appropriate explanation of the reasoning behind this decision will be provided to the Complainant.

**Timescale:** This stage of the Procedure should be completed within ten working days of receipt of the allegation, provided this does not compromise the Procedure's Standards and Principles (see Annex 2) and the full and fair assessment of the allegation. The Named Person will explain any delays to the Complainant in writing, presenting an estimated revised date of completion.

**Process:** Initial allegations of research misconduct should be made via email to the College Secretary. The Complainant should provide as detailed a statement as possible in writing in support of the allegation. A person making an allegation or complaint will not be penalised, provided that it is done without malice and in good faith, reasonably believing it to be true.

When raising concerns, Complainants should provide a summary of the allegation along with any other information and enclose any evidence to support their concerns.

- a. It is helpful if allegations are made in a single submission on a single occasion, as this facilitates a thorough assessment of the Complainant's concerns.
- b. The priority should be a thorough and fair assessment of the Complainant's concerns, and the timescale of this stage of the Procedure can be extended if necessary to gather more information from the Complainant.

The Named Person will inform the Head of Research Development in confidence that an allegation of research misconduct has been received and, where appropriate, will seek advice from other departments.

The Named Person will write to the Complainant to acknowledge receipt of the allegation and will provide a copy of the Procedure to the Complainant.

The Named Person will assess the allegation(s) to determine whether they fall within the College's responsibility to address and, if so, what would be the most appropriate process to investigate or otherwise address them, concerning the following criteria:

- a. Whether the Respondent(s) is/was conducting research under the auspices of the College, whether solely or in conjunction with others in the College or externally;

- b. Whether the research project(s) to which the allegation relates are being or were conducted under the auspices of the College, whether solely or in conjunction with other bodies; and
- c. Whether the allegation(s) potentially fall within the definition of research misconduct described in Annex 1.

Please note: Where concerns relating to potential research misconduct are raised under the College's Public Interest Disclosure (Whistleblowing) Policy, the matter will be referred to this Procedure at the Initial Investigation Stage (see Section 4 below).

#### **4. Initial Investigation Stage**

**Purpose:** The purpose of the Initial Investigation Stage is to determine whether there is sufficient evidence of research misconduct to warrant a Full Investigation of the allegation or whether alternative action(s) should be taken.

**Conducted by:** This stage will normally be conducted by an Investigator appointed by the Named Contact. The Named Contact may decide that the Initial Investigation should instead be conducted by an Initial Investigation Panel consisting of two to three persons, depending on the complexity of the allegation.

The Named Person will identify suitable administrative and other support to assist the Investigator(s). The Investigator(s) will be free to seek confidential advice from persons with relevant expertise, both within the College and outside it.

**Possible Outcomes:** After the Initial Investigation Stage, the Investigator(s) will determine whether the allegation of research misconduct:

- a. Is sufficiently serious and has sufficient substance to warrant a Full Investigation of the complaint; or
- b. has some substance but due to its relatively minor nature or because it relates to poor practice rather than to misconduct, will be addressed through informal measures (see Annex 3), rather than through the next stage of the Procedure or other formal processes; or
- c. warrants referral directly to another formal College process; or
- d. warrants referral directly to an external organisation (e.g., statutory regulators or professional bodies); or
- e. is unfounded, because it is mistaken or is frivolous or is otherwise without substance (e.g. difference of opinion on methodology), and will be dismissed; or
- f. is unfounded, because it is vexatious and/or malicious, and will be dismissed.

**Timescale:** The Investigator(s) will normally aim to complete the initial investigation Stage within 30 working days following instruction from the Named Person, provided this does not compromise the Standards and Principles (see Annex 2) of this Procedure and the full and fair investigation of the allegation. Any delays to this timescale will be explained to the Complainant, the Respondent and the Named Person in writing, presenting an estimated revised date of completion.

**Process:** The Named Person will appoint an individual ('the Investigator') to undertake an Initial Investigation into the allegation(s). The Investigator will normally be an experienced member of academic staff from within the College and may be from within or outside the department concerned, depending on the circumstances of the investigation and at the discretion of the Named Person.

All persons appointed to carry out the Initial Investigation will confirm to the Named Person in writing that:

- a. Their participation involves no conflict of interest, seeking advice if unsure;
- b. They will abide by the Procedure;
- c. They will respect the confidentiality of the proceedings; and
- d. They will adhere to the Principles and Standards of the Procedure.

The Respondent and Complainant may raise with the Named Person concerns that they may have about the Investigator chosen to carry out the Initial Investigation but neither has a right of veto over those nominated. The Named Person will consider any concerns raised and whether new persons should be selected to carry out the Initial Investigation Stage.

The Named Person will provide the Investigator with all relevant information including any correspondence and information already provided in support of the allegation(s). The Investigator will keep a full record of the evidence received and of the proceedings and should be supported in this by the administrative and other support identified.

The Investigator will contact the Complainant and the Respondent to gather information in support of their investigation. The Investigator shall assess the information obtained and any additional information they require. The work of the Investigator will include the determination of whether the allegation is made in good faith; a confidential review and assessment of the evidence provided; and reaching a conclusion on the allegation(s) in line with the possible outcomes set out above.

- a. As part of the process, in the interests of fairness and impartiality and to help ensure confidence in the process, both parties should have the opportunity to provide input into the investigation whether in writing or by interview.
- b. Complainants and Respondents can be accompanied to interviews by a colleague, trade union or student union representative.
- c. When interviewed, the Respondent will be allowed to respond to the allegations made against them.

The Investigator may also contact relevant witnesses suggested by the Complainant or Respondent.

**Conclusion of Initial Investigation Stage and Next Steps:** The Investigator will write a report of the outcome as set out in *Possible Outcomes* above.

The standard of proof used by the Initial Investigation is that of “*on the balance of probabilities*”. This means that the activity was more likely than not to have occurred.

A summary of the findings will be sent to the Complainant and the Respondent by the Named Person for comment on matters of factual accuracy. The Investigator will consider the responses received and if they consider that the report includes errors of fact, will modify the report as necessary.

The Investigator will then submit their final report and records/material relating to the investigation to the Named Person, setting out the conclusions of the Initial Investigation stage and any other matters they wish to draw to the attention of the College.

The Named Person will convey the substance of the Investigator’s findings to the Complainant, the Respondent and such other persons or bodies as they deem appropriate.

The Named Person will then undertake the following actions depending on the conclusions of the Initial Investigation stage:

- a. If it is concluded that the allegation(s) is sufficiently serious and has sufficient substance to warrant a Full Investigation of the complaint, then the investigation moves to the Full Investigation stage (see below).
- b. For all other outcomes, the investigation moves to the Outcomes and Reporting stage (see Section 6 below).

The work of the Investigator is then concluded and they play no further role in the Procedure or any subsequent disciplinary procedure, apart from clarifying any points in their report. As the matter may then give rise to disciplinary or other action, a former investigator should not make any comment on the matter in question, unless formally permitted by the College or otherwise required by law.

Any queries or requests for comment addressed to the Investigator should be referred to the Named Person.

## 5. Full Investigation Stage

**Purpose:** The purpose of the Full Investigation is to review all the relevant evidence and:

- a. Conclude whether an allegation of misconduct in research is upheld in full, upheld in part or not upheld; **and**
- b. Make recommendations for consideration by the appropriate College authorities, regarding any further action the Full Investigation Panel (“the Panel”) deems necessary to address any misconduct it may have found, correct the record of research, and/or address other matters uncovered during its work.

**Conducted By:** The Named Person will establish a Full Investigation Panel, with at least one member of the Panel from outside the College. The Named Person will identify suitable administrative and other support to assist the Panel. The Panel shall be free to seek confidential advice from relevant experts, both within the College and outside it.

**Possible Outcomes:** The Panel will reach a conclusion on the allegation(s) under investigation and may also make recommendations on subsequent actions which should be taken by the College and/or other bodies.

After the Full Investigation, the Panel will conclude, giving the reasons for its decision and recording any differing views, whether the allegation of research misconduct:

- h. Is upheld in full; **or**
- i. Is upheld in part; **or**
- j. Has some substance but due to its relatively minor nature or because it relates to poor practice rather than to misconduct, will be addressed through informal measures (see Annex 3), rather than through the next stage of the Procedure or other formal processes; **or**
- k. Warrants referral directly to another formal College process (e.g., Staff Disciplinary Procedure; Academic Misconduct procedure, etc.); **or**
- l. Warrants referral directly to an external organisation (e.g., the current employer, statutory regulators or professional bodies); **or**
- m. Is unfounded, because it is mistaken or is frivolous or is otherwise without substance and will be dismissed; **or**
- n. Is unfounded, because it is vexatious and/or malicious, and will be dismissed.

The Panel may also make recommendations regarding any further action(s) which should be taken by the College and/or other bodies to address any misconduct the Full Investigation may have found, correct the record of research, and/or address other matters uncovered. Such recommendations might include, but are not limited to:

- a. Whether the matter should be referred to the College's relevant disciplinary procedure; **and/or**
- b. Whether the matter should be referred to another relevant College process, such as academic regulations, academic misconduct process, or financial fraud investigation process; **and/or**
- c. what external organisations should be informed of the findings of the investigation, with appropriate confidentiality, including statutory regulators, relevant funding bodies, partner organisations and professional bodies; **and/or**
- d. whether any action will be required to correct the record of research, including informing the publishers and editors of any journals that have published articles concerning research linked to an upheld allegation of research misconduct or to correct honest errors; **and/or**
- e. whether procedural or organisational matters should be addressed by the College or other relevant bodies through a review of the management of research; **and/or**
- f. informing research participants; **and/or**
- g. other matters that should be investigated, including allegations of research misconduct which are either unrelated to the allegation in question or alleged to have been committed by persons other than the Respondent and/or other forms of alleged misconduct.

**Timescale:** The Panel will normally reach its conclusions within three months of being established, provided this does not compromise the Standards and Principles (see Annex 2) of this Procedure and the full and fair investigation of the allegation. The aim throughout will be a thorough and fair investigation of the allegation(s) in question, conducted in a timely and transparent manner, and with appropriate confidentiality. Any delays to this timescale will be explained to the Complainant and Respondent in writing, presenting an estimated revised date of completion.

**Process:** The Named Person shall, as soon as practicable, appoint a Full Investigation Panel ("the Panel") to undertake a Full Investigation into the allegation(s).

- a. The Panel will normally consist of three persons. Depending on the circumstances, the Panel may consist of a greater number of persons to ensure that it contains sufficient expertise or diverse perspectives to reach a thorough and fair conclusion.
- b. At least one member of the Panel will be from outside the College, as required by *The Concordat to Support Research Integrity*.
- c. At least two members of the Panel will be academic specialists in the general area within which the misconduct is alleged to have taken place, and where allegations concern highly specialised areas of research the Panel should have at least one member with specialised knowledge of the field. Such specialists can be drawn from within the College, bearing in mind the conflict of interest requirements below.

One of the members of the Panel will act as its Chair. At the discretion of the Named Person, the Chair may be selected from the Panel's external members; this can help reassure involved parties that the investigation process will be transparent, thorough and fair.

All persons appointed to carry out the Full Investigation will confirm to the Named Person that:

- a. Their participation involves no conflict of interest, seeking advice from the Named Person if unsure;
- b. They will abide by the Procedure;

- c. They will respect the confidentiality of the proceedings and data protection requirements; and
- d. They will adhere to the Principles and Standards of the Procedure.

The Respondent and Complainant may raise with the Named Person concerns that they may have about those chosen to carry out the Full Investigation but neither has a right of veto over those nominated. The Named Person will consider any concerns raised and whether new persons should be selected to carry out the Full Investigation stage.

The Chair will keep a full record of the evidence received and of the proceedings and should be supported in this by the administrative and other support identified by the Named Person to assist the Panel.

The Chair and each member of the Panel will be provided with:

- a. A copy of this Procedure;
- b. Details of the allegation(s) which will be considered under the Full Investigation stage;
- c. A copy of the Named Person's note of the Receipt of Allegations stage;
- d. A copy of the Initial Investigation report;
- e. Other records from the Initial Investigation stage as deemed relevant by the Named Person;
- f. Names and contact details of the Complainant(s) and Respondent(s);
- g. A summary of correspondence with the Complainant(s) and the Respondent(s) to date; and
- h. A summary of any evidence secured by the Named Person during the Receipt of Allegations stage or by the Investigator during the Initial Investigation stage.

The Named Person will inform the Complainant and the Respondent, formally and in writing, that the Procedure has moved to the Full investigation stage and that they will be interviewed as part of the process, and allowed to provide evidence. They will also be informed that they may be accompanied to any meetings by a colleague or Trade Union representative.

Respondents will normally be informed of the name of any Complainant(s) who have made the allegation(s) concerning them at the discretion of the Named Person, and the Complainant(s) will be informed that their identity is being disclosed to the Respondent(s). In exceptional circumstances the identity of the Complainant(s) may remain confidential. Any such decision should be made after seeking advice (e.g., from Human Resources, Student Services or the College's retained legal firm), taking into account the College's Whistleblowing Policy and the impact on the Respondent(s) ability to respond to the allegation(s). Any decision made should be in line with the Principles and Standards of this Procedure and with the thorough and fair investigation of the allegation(s) in question.

The Panel Chair will be responsible for the conduct of the proceedings during the Full Investigation. The Panel shall decide what information it needs and whom it wishes to interview/ take statements from in addition to the Complainant and the Respondent, who must be interviewed.

When making any decisions about the conduct or conclusion of the Full Investigation, the Panel will attempt to reach a consensus by discussion.

The Panel shall assess the evidence provided and any additional information they require. The work of the Panel will include:

- a. determination of whether the allegation is made in good faith;
- b. a confidential review and assessment of the evidence provided;
- c. reaching a conclusion on the allegation(s) in line with the possible outcomes set out above;

- d. it may choose to make recommendations on further actions which might be necessary to address what the Full Investigation discovers in line with the possible outcomes set out above.

The Panel will interview each Complainant and the Respondent separately.

- a. Complainants and Respondents have the right to be accompanied to interviews by a colleague, trade union or student union representative.
- b. When interviewed, the Respondent will be allowed to respond to the allegations made against them, set out their case and submit their evidence for consideration by the Panel, before interview. They can also suggest witnesses for the Panel to interview.

If the Complainant or Respondent does not wish to be interviewed, they can provide written answers to questions posed by the Panel or respond through other appropriate means.

The Panel should also interview relevant witnesses; these can include witnesses suggested by the Complainant or Respondent.

**Conclusion of the Full Investigation Stage and Next Steps:** The Panel will reach a conclusion on the allegation(s) under investigation. The Panel will write a report setting out their conclusions, giving the reasons for its decision and recording any differing views. The standard of proof used by the Full Investigation is that "*on the balance of probabilities.*" This means that the activity was more likely than not to have occurred. The potential outcomes are set out above.

In its report, the Panel may make recommendations regarding any further action(s) which should be taken by the College and/or other bodies to address any misconduct the Full Investigation may have found; correct the record of research; and/or address other matters uncovered during the course of the Full Investigation.

The outcome of the investigation will be sent to the Complainant and the Respondent for comment on matters of factual accuracy. The Panel will consider the responses received and if they consider that the report includes errors of fact, will modify the report as necessary.

The Panel will submit their final report to the Named Person, setting out the conclusions of the Full Investigation stage on the allegation(s) under investigation, their recommendations regarding further actions to be taken and any other matters they wish to draw to the attention of the College. The Chair and Panel will also hand over to the Named Person all records/ material relating to the Full Investigation.

The Named Person shall convey the substance of the Panel's findings and recommendations to the Complainant, the Respondent and such other persons or bodies as they deem appropriate.

The work of the Panel is then concluded and the Panel disbanded. Those who have contributed to the disbanded Panel should have no further involvement in the Procedure unless formally asked to clarify a point in their written report at a subsequent stage, action or process. A role as Chair or member of the Panel rules out participation in any subsequent disciplinary or other processes. They should also remember that all information concerning the case was given to them in confidence.

The Full Investigation stage is complete and the Procedure moves to the relevant section of the Outcomes and Reporting stage.

The Full Investigation stage now ends.

## 6. Outcomes and Reporting Stage

**Purpose:** The purpose of the Outcomes and Reporting stage is to ensure that all necessary actions are taken at the conclusion of this procedure, including but not limited to: actions arising following any Initial or Full Investigation that may have taken place; and ensuring that the research record is correct.

**Conducted By:** The Named Person is responsible for ensuring that the actions described under this stage are carried out. Some actions may require the involvement of other departments within the College and/or external organisations.

**Possible Outcomes:** The Named Person is responsible for ensuring that any necessary actions are carried out after the investigation is completed. In general terms, these actions may include:

- a. Actions relating to the operation and conclusion (subject to any subsequent appeal) of this Procedure, including appropriate transfers of information to any subsequent College processes or informal measures (see Annex 3), and/or to any relevant processes of external organisations.
- b. Reporting the outcomes to relevant College colleagues or bodies, e.g., line managers, Human Resources/Student Services, etc.
- c. Making necessary disclosures on the outcomes to external organisations and other parties.
- d. Duty of care to Complainants, Respondents and other involved parties, such as research participants.
- e. Ensuring that appropriate efforts are made to correct the research record.
- f. Addressing procedural or organisational matters uncovered during the investigation.

**Timescale:** The Named Person will aim to ensure any actions are completed within three months of completion of the Investigation, although some actions may require longer to complete. Any delays to this timescale will be explained to the Complainant, the Respondent and other involved parties in writing, presenting an estimated revised date of completion.

**Process:** The required steps of this list fall into two categories: *Required Actions* which relate to any use of the Procedure; and *Actions Required Following [OUTCOME]*, which relate solely to that particular outcome.

**Required Actions:** The Named Person, working with others as necessary, should take any further action(s) necessary to: address any misconduct the Investigation may have found; correct the record of research; and/or address other matters uncovered during the course of the Investigation. Such recommendations might include but are not limited to:

- a. referring the matter to the College's relevant disciplinary procedure; and/or
- b. referring the matter to another relevant College process (e.g., Academic Regulations, Counter-Fraud Policy); and/or
- c. notifying individuals or departments of the findings of the investigation (e.g., line managers, Human Resources/Student Services, Research & Knowledge Exchange Office); and/or
- d. informing external organisations of the findings of the investigation, with appropriate confidentiality (e.g., statutory regulators, relevant funding bodies, partner); and/or
- e. informing research participants and other involved parties; and/or
- f. correcting the record of research, including informing the editors of any journals that have published articles concerning research linked to an upheld research misconduct allegation

and/or by a person against whom an allegation of research misconduct has been upheld;  
and/or

- g. reviewing the management of research to identify whether procedural or organisational matters should be addressed by the College or other relevant bodies; and/or
- h. identifying other matters that should be investigated, including unrelated allegations of research misconduct.

The Named Person, working with the Research & Knowledge Exchange Office, will include anonymised summary data on uses of this Procedure in the College's Annual Statement on Research Integrity required under *The Concordat to Support Research Integrity*. Summary data may also be included in reports to relevant central College committees (e.g., Research Ethics Committee, Research & Innovation Committee), and dissemination of anonymised learning points within the College as appropriate.

***Actions Required following the conclusion that the allegation(s) is unfounded because it is mistaken or is frivolous or is otherwise without substance:***

- a. The Named Person shall take appropriate steps to preserve the good reputation of the Respondent.
- b. Those who have raised concerns/made allegations in good faith will not be penalised and the Named Person shall take appropriate steps to preserve the good reputation of the Complainant.
- c. Appropriate communications on the outcome and the reasons for it will be important to ensure a good understanding of the process and outcome.

***Actions Required following the conclusion that the allegation(s) is unfounded because it is vexatious and/or malicious:***

- a. The Named Person may consider recommending to the appropriate authorities that action be taken against anyone where there is clear evidence that a complaint was vexatious and/or malicious. This may include disciplinary action where the individual is internal to the College.
- b. The Named Person shall take appropriate steps to preserve the good reputation of the Respondent.

***Actions Required following the conclusion that the allegation(s) warrants referral directly to another formal College process:*** The Named Person will inform the Complainant in writing of:

- a. The reasons why the allegation cannot be investigated using this Procedure;
- b. Which process for dealing with complaints is appropriate for handling the allegation; and
- c. That the allegation will be referred to the relevant department/process.

The Named Person will then refer the matter to the relevant department/process.

***Actions required following the conclusion that the allegation(s) warrants referral directly to an external organisation:*** If the allegation does not relate to researchers or research under the auspices of the College, the Named Person will inform the Complainant, in writing, of:

- a. The reasons why the College is not the appropriate body to investigate the allegation;
- b. Which external organisation(s) might be an appropriate body to investigate the allegation;  
and
- c. Relevant information relating to contacting the external organisation(s).

If the allegation does relate to researchers or research under the auspices of the College, but the Named Person determines that the allegation warrants referral directly to an external organisation, the Named Person will:

- a. Contact the relevant external organisation(s), in writing, to inform them of the allegation and ask them to investigate or otherwise address it. The Named Person will also explain why the College has concluded that the allegation warrants referral directly to the external organisation.
- b. Inform the Complainant, in writing, that the allegation is being referred directly to the external organisation(s) and provide the Complainant with relevant information so that they can contact the external organisation(s) if they wish.

***Actions required following the conclusion that the allegation(s) has some substance but due to its relatively minor nature or because it relates to poor practice rather than to misconduct, will be addressed through informal approaches:*** The Named Person shall ensure that the relevant education and training or other informal measures are provided either directly or by referring the matter to the relevant department. (Further information on informal measures is set out in Annex 3.)

***Actions required following the conclusion that the allegation(s) is upheld in full or in part:*** The Named Person in conjunction with relevant colleagues will decide whether the matter should be referred to the College's disciplinary process or for other formal actions.

- a. Should the allegations proceed to the College's disciplinary process, the Full Investigation Panel's report will form the basis of the evidence that the disciplinary panel receives.
- b. Relevant information collected and brought to light through the Procedure will be transferred to the disciplinary process.

The Named Person will take such steps as are appropriate, given the seriousness of the allegations, to support the reputation of the Complainant and, if the allegation has been upheld in part rather than in full, the Respondent as appropriate, and any relevant research project(s).

Following the conclusion of the Procedure, the Named Person, in consultation with relevant colleagues, may need to recommend further measures including, but not limited to, the following:

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

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

**Conclusion and Next Steps:** The Complainant and Respondent will be informed of:

- a. The actions arising from this stage of the Procedure and any relevant actions arising from earlier stages and, where relevant, the contact points for any follow-up communications regarding those actions.
- b. The options for appeal open to them (see Section 7).
- c. They should also be informed that, unless an appeal is raised, the investigation and this Procedure have now concluded.

The Outcomes and Reporting stage of the Procedure is then concluded, with the Named Person and others as appropriate involved in follow-up actions, or receiving reports on them.

A role as the Named Person rules out participation in any subsequent disciplinary process.

The Outcomes and Reporting stage now ends and the Procedure moves to the Appeals stage.

## 7. Appeals Stage

**Purpose:** The purpose of the Appeals stage is to permit the Complainant and/or the Respondent to appeal in certain circumstances against the findings of an investigation carried out under this Procedure, as required by *The Concordat to Support Research Integrity*. The Appeals Stage of the Research Misconduct Procedure differs from the College's Appeals Policy in that it applies to all Respondents and Complainants, whereas the College's Appeals Policy applies to employees of the College only.

**Conducted By:** An alternative designated individual (Alternative Named Person, the Pro Vice-Chancellor, Research & Innovation) who has not been involved in the matter previously will establish an Appeals Panel.

**Possible Outcomes:** The Appeals Panel has the power to uphold, reverse or modify the following outcomes of the Procedure, including the decisions and/or recommendations associated with them:

- a. A conclusion of an Initial or Full Investigation that an allegation is unfounded, because it is mistaken or is frivolous or is otherwise without substance, and will be dismissed; or
- b. A conclusion of an Initial or Full Investigation that an allegation is unfounded, because it is vexatious and/or malicious, and will be dismissed; or
- c. A conclusion of an Initial or Full Investigation that an allegation has some substance but due to its relatively minor nature or because it relates to poor practice rather than to misconduct, will be addressed through informal measures; or
- d. A conclusion of a Full Investigation that an allegation is upheld in full; or
- e. A conclusion of a Full Investigation that an allegation is upheld in part.

**Timescale:** Any appeal must be made in writing to the Alternative Named Person within 10 working days of being notified of the outcome of the Procedure. The written appeal must set out the grounds of appeal, and be accompanied, wherever possible, by supporting documentation.

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

**Process:** Appeals may be permitted on any or all of the following grounds:

- a. Procedural irregularity in the conduct of the investigation up to and before the Appeal Panel that could have had a material impact on the outcome.
- b. Fresh evidence becoming available which was not available to the Investigator and/or the Full Investigation Panel.
- c. There was evidence of bias or unfairness in the process or decisions taken by the Named Person, Investigator and/or the Full Investigation Panel.
- d. The recommendations made as part of an outcome of the Procedure/ subsequent actions taken are either excessive or inadequate concerning the misconduct found by the investigation.

The Alternative Named Person will assess the appeal to determine whether it falls within one or more of the grounds for appeal set out above, seeking clarification from the person(s) submitting the appeal as necessary.

- a. If the appeal does not fall within one or more of the grounds for appeal set out above, then the appeal is dismissed and this decision should be communicated to the person who submitted the appeal. The Appeals stage now ends.
- b. If the appeal does fall within one or more of the grounds for appeal, the Alternative Named Person will appoint an Appeals Panel to undertake the appeals process.

The Appeals Panel will normally consist of a minimum of three persons. No individual involved in any previous stage (as an Investigator, Full Investigation panel member or the Named Person) will be involved in the Appeals Panel.

- a. At least one member of the Appeals Panel must be external to the College.
- b. One member of the Appeals Panel must be an academic specialist in the general area within which the research misconduct is alleged to have taken place, or in allegations concerning highly specialised research, they should have specialised knowledge of the field. Such a specialist can come from within the College, bearing in mind any conflicts of interest (see Annex 2).

The Alternative Named Person will select one member of the Appeals Panel to act as its Chair.

All persons appointed to carry out the Appeals stage, and all persons allowed to observe it, will confirm to the Alternative Named Person that:

- a. Their participation involves no conflict of interest, seeking advice from the Alternative Named Person if unsure;
- b. They will abide by the Procedure as it affects the work of the Appeals stage;
- c. They will respect the confidentiality of the proceedings; and
- d. They will adhere to the Principles and Standards of the Procedure.

Both the Respondent and Complainant may raise concerns with the Alternative Named Person that they may have about those chosen to carry out the Appeals stage but neither has a right of veto. The Alternative Named Person will consider any concerns raised and whether new persons should be selected to carry out the Appeals Stage.

The Chair is responsible for keeping a full record of the work of the Appeals Panel and should be supported in this by administrative and other support identified by the Alternative Named Person to assist the Panel.

The Appeals Panel will review the conduct of the investigation and any evidence submitted in support of the appeal(s) in question, rather than carry out a re-investigation of the allegation(s) in

question. When making decisions about the conduct or conclusions of the Appeals Stage, the Appeals Panel will do so by reaching a consensus.

**Conclusion of This Stage and Next Steps:** The Appeals Panel will decide whether it upholds, reverses or modifies the outcome in question, including the decisions and/or recommendations associated with it. The decision of the Appeals Panel is final.

The Appeals Panel will write a report setting out its conclusions, giving the reasons for its decision and recording any differing views.

A summary of the conclusions will be sent to the Complainant and the Respondent for comment on matters of factual accuracy. The Appeals Panel will consider the responses received and if they consider the report includes errors of fact, will modify the report as necessary.

The Appeals Panel will then submit their final report to the Alternative Named Person. The Chair and Appeals Panel will also hand over all records/ material relating to the Appeal.

The Alternative Named Person shall convey the substance of the Appeals Panel's findings and recommendations to the Complainant, the Respondent and such other persons or bodies as they deem appropriate.

The Alternative Named Person will then undertake the actions necessary to implement the conclusions of the Appeals Panel, following relevant provisions of the Outcomes and Reporting stage and liaising with the Research & Knowledge Exchange Office and others, internally or externally, as necessary.

The work of the Appeals Panel is then concluded and the Appeals Panel disbanded. As the matter may then give rise to disciplinary or other action, the Chair and members of the disbanded Appeals Panel should not make any comment on the matter in question, unless formally permitted by the College or otherwise required to by law. They should also remember that all information concerning the case was given to them in confidence.

Any queries or requests for comment addressed to the Chair or members of the Appeals Panel should be referred to the Alternative Named Person.

Those who have contributed to the disbanded Appeals Panel should have no further involvement in the Procedure unless formally asked to clarify a point in their written report or as part of any subsequent action or process.

A role as Chair or member of the Appeals Panel rules out participation in any subsequent disciplinary or other processes.

The Appeals Stage now ends.

## Annex 1: Definitions

**Accepted Procedures (for Research):** Accepted procedures include but are not limited to the following:

- a) gaining informed consent where required;
- b) gaining formal approval from relevant organisations where required;
- c) any protocols for research contained in any formal approval that has been given for the research, including submitting research for ethical review when required or appropriate and abiding by the terms of all ethical approvals for research;
- d) any protocols for research as defined in contracts and agreements with funding bodies and sponsors;
- e) any protocols set out by and/or approved by a regulatory authority such as the Medicines and Healthcare Products Regulatory Authority (MHRA) for a trial of medical products;
- f) any protocols for research set out in the guidelines of the College and other relevant partner organisations, such as a Code of Practice for Research;
- g) any protocols for research set out in the guidelines of appropriate recognised professional, academic, scientific, governmental, national and international bodies;
- h) any procedures that are aimed at avoiding unreasonable risk or harm to humans, animals or the environment;
- i) good practice for the proper preservation and management of data, artefacts and materials; and/or
- j) any existing guidance on good practice in research.

Accepted procedures do not include:

- a) un-consented to/unapproved variations of the above; and/or
- b) any procedures that would encourage, or would lead to, breaches in the law.

Although allegations of research misconduct are often raised as departures from accepted procedures in the conduct of research, investigations should aim to establish intentional and/or reckless behaviour as set out in the definition of misconduct in research.

**Complainant:** The Complainant is a person making allegations of misconduct of research against one or more Respondents. They need not be a member of the Royal College of Art.

**Disciplinary Process:** The Disciplinary Process refers to the College's mechanism for resolving disciplinary issues amongst its staff or students.

**Employer:** The Employer is defined in this Procedure as the person or organisation who has retained the person (e.g. the Respondent) to carry out work at the time that the matter in question took place, usually, but not always, through a contract of employment.

**Full Investigation:** The Full Investigation is that part of the Procedure the purpose of which is to:

- a) conclude whether an allegation of misconduct in research is upheld in full, upheld in part or not upheld; and
- b) make recommendations, for consideration by the appropriate College authorities, regarding any further action the Full Investigation Panel ("the Panel") deems necessary to: address any misconduct it may have found; correct the record of research, and/or address other matters uncovered during the course of its work.

**Initial Investigation:** The Initial Investigation stage is that part of the Procedure the purpose of which is to determine whether there is sufficient evidence of research misconduct to warrant a Full Investigation of the allegation or whether alternative action(s) should be taken.

**Misconduct in Research:** *The Concordat to Support Research Integrity* (2019), Commitment 4, pages 12-13: Research misconduct 'is characterised as behaviours or actions that fall short of the standards of ethics, research and scholarship required to ensure that the integrity of research is upheld. It can cause harm to people and the environment, wastes resources, undermines the research record and damages the credibility of research. The Concordat recognises that academic freedom is fundamental to the production of excellent research. This means that responsibility for ensuring that no misconduct occurs rests primarily with individual researchers. Research misconduct can take many forms, including but not limited to:

- a) fabrication: making up results, other outputs (for example, artefacts) or aspects of research, including documentation and participant consent, and presenting and/or recording them as if they were real
- b) falsification: inappropriately manipulating and/or selecting research processes, materials, equipment, data, imagery and/or consents
- c) plagiarism: using other people's ideas, intellectual property or work (written or otherwise) without acknowledgement or permission
- d) failure to meet: legal, ethical and professional obligations, for example:
  - i. not observing legal, ethical and other requirements for human research participants, animal subjects, or human organs or tissue used in research, or for the protection of the environment
  - ii. breach of duty of care for humans involved in research whether deliberately, recklessly or by gross negligence, including failure to obtain appropriate informed consent
  - iii. misuse of personal data, including inappropriate disclosures of the identity of research participants and other breaches of confidentiality
  - iv. improper conduct in peer review of research proposals, results or manuscripts submitted for publication. This includes failure to disclose conflicts of interest; inadequate disclosure of clearly limited competence; misappropriation of the content of material; and breach of confidentiality or abuse of material provided in confidence for the purposes of peer review
- e) misrepresentation of:
  - i. data, including suppression of relevant results/data or knowingly, recklessly or by gross negligence presenting a flawed interpretation of data
  - ii. involvement, including inappropriate claims to authorship or attribution of work and denial of authorship/attribution to persons who have made an appropriate contribution
  - iii. interests, including failure to declare competing interests of researchers or funders of a study
  - iv. qualifications, experience and/or credentials
  - v. publication history, through undisclosed duplication of publication, including undisclosed duplicate submission of manuscripts for publication
- f) improper dealing with allegations of misconduct: failing to address possible infringements, such as attempts to cover up misconduct and reprisals against whistle-blowers, or failing to adhere appropriately to agreed procedures in the investigation of alleged research misconduct accepted as a condition of funding. Improper dealing with allegations of misconduct includes the inappropriate censoring of parties through the use of legal instruments, such as non-disclosure agreements.

Honest errors and differences in, for example, research methodology or interpretations do not constitute research misconduct.'

For the avoidance of doubt, research misconduct includes acts of omission as well as acts of commission.

**Named Person:** The Named Person is defined in the Procedure as the individual nominated by the Organisation to have responsibility for receiving any allegations of research misconduct; initiating and supervising the Procedure for investigating allegations of research misconduct; maintaining the record of information during the investigation and subsequently reporting on the investigation to internal contacts and external organisations; and taking decisions at key stages of the Procedure. The Named Person will have a nominated alternate who will carry out the role in their absence or in the case of any potential or actual conflict of interest.

**Poor Research Practice:** This is research conduct that departs from Accepted Procedures (for Research) but the cause is not considered either intentional or reckless behaviour.

**The Procedure:** The Procedure refers to this document.

**Professional Body:** A professional body is an organisation with statutory powers to regulate and oversee a particular profession.

**Regulatory Authority:** A regulatory authority is an organisation with statutory powers to regulate and oversee an area of activity, such as health and safety.

**Research:** The Research Excellence Framework (Research Excellence Framework 2021, Assessment framework and guidance on submissions, Annex C) defines research as the following [please note that paragraph numbers have been added: ... 'research is defined as a process of investigation leading to new insights, effectively shared.'

It includes work of direct relevance to the needs of commerce, industry, culture, society, and to the public and voluntary sectors; scholarship; the invention and generation of ideas, images, performances, artefacts including design, where these lead to new or substantially improved insights; and the use of existing knowledge in experimental development to produce new or substantially improved materials, devices, products and processes, including design and construction. It excludes routine testing and routine analysis of materials, components and processes such as for the maintenance of national standards, as distinct from the development of new analytical techniques. It also excludes the development of teaching materials that do not embody original research.

It includes research that is published, disseminated or made publicly available in the form of assessable research outputs, and confidential reports.

**Respondent:** The Respondent is the person against whom allegations of research misconduct have been made. They will be a present or past employee/research student of the College, or an individual visiting the College to undertake research.

## **Annex 2: Standards and General Principles**

Research misconduct is a serious matter. The investigation of allegations of research misconduct must be conducted by the highest standards of integrity, accuracy and fairness.

Those responsible for carrying out investigations of alleged research misconduct should always act with integrity and sensitivity.

### **Standards**

The Procedure will be carried out by the following Standards. Those responsible for the operation of this Procedure must ensure that they are familiar with these Standards and will refer to them with respect of all decisions and interpretations.

Those conducting this Procedure will endeavour to do so in a way that retains the confidence of both the Complainant(s) and the Respondent(s). Every effort will be made to investigate allegations of research misconduct in the shortest possible timescale necessary to ensure a full and fair investigation.

If at any stage of this Procedure, a Respondent or anyone else whether involved in the matter or not raises a counter-allegation of misconduct in research or an allegation of misconduct in research unrelated to the matter under investigation, these allegations will be addressed under this Procedure as separate matters and will be forwarded to the Named Person for consideration.

If at any stage of this Procedure, a Complainant, Respondent or other person raises a complaint about the use or operation of this Procedure or any decision or action proposed or taken under this Procedure, or raises any other grievance, then the Named Person will seek advice from the relevant College department(s), in confidence, to determine an appropriate course of action.

Where a Complainant, Respondent or other person involved in the investigation has difficulties at any stage of the procedure due to a disability, they should discuss this with the Named Person as soon as possible and reasonable adjustments will be made to ensure they are able to fully participate in the procedure.

However well managed, research misconduct matters can be difficult for all parties involved, including the Complainant, Respondent and those managing and running investigations. The College will consider how best to support all parties in terms of their health and well-being at all stages of the procedure.

Reports generated by an investigation under this Procedure may be used in evidence by subsequent investigations under this Procedure, where a related matter is raised, or by other College processes (such as a disciplinary process).

If required to facilitate a full and fair investigation and/or the operation of any aspect of this Procedure, the Named Person and those persons and panels conducting and supporting Initial Investigations and Full Investigations shall be free to seek confidential advice from persons with relevant expertise, both within the College and outside it. To address technical aspects raised by a matter, they may also employ relevant expertise and use of tools or computer software for assessing different forms of misconduct such as plagiarism, data manipulation and fabrication. Those seeking advice will, so far as is possible, anonymise the information provided to make no information available which could lead to the identification of the Complainant, Respondent or other individuals

involved in the case. Persons consulted will be subject to the same requirements on confidentiality as others involved in the process. Persons who might be consulted include but are not limited to:

- a. Experts in particular disciplines of research; or
- b. Experts in particular aspects of the conduct of research, such as members of research ethics committees, statisticians, editors of academic journals or equivalent persons from relevant areas of research dissemination; and/or experts in addressing research misconduct and poor practice; or
- c. Representatives of College departments such as Human Resources, Student Services, Finance, Research & Knowledge Exchange Office, etc.; or
- d. The Advisory Service of the UK Research Integrity Office; or
- e. Legal advisers.

Confidential records will be maintained on all aspects, and during all stages, of the Procedure and notes will be made of all meetings convened under the Procedure.

The Named Person will retain all reports, correspondence, transcripts of meetings and other documentation relating to the operation of this Procedure for 6 years following the last action on the case. After the retention period, the College will retain anonymised summary information of investigations (i.e., of the sort which is reported in annual statements required by *The Concordat to Support Research Integrity*).

Records must only be retained beyond the normal retention period if:

- a. Their retention can be justified for statutory, regulatory, or legal reasons; and/or
- b. The research project to which the records relate is still ongoing; and/or
- c. The retention period of the research project to which the records relate is longer.

### **Principles**

The following principles of Data Protection, Fairness, Confidentiality, Integrity, Prevention of Detriment, and Balance as defined below must inform the use of this Procedure for the investigation of allegations of research misconduct.

Those responsible for carrying out this Procedure must be aware that there may be occasions when a balance has to be struck in the application of the Principles.

### **Data Protection**

The use of this Procedure to investigate or otherwise respond to any allegation will constitute the processing of the personal data of living individuals. Such processing is regulated by the Data Protection Act 2018 and the UK General Data Protection Regulation ("Data Protection Legislation"). Any investigation or use of this Procedure will be carried out in accordance with Data Protection Legislation.

The College recognises that it may process special category data while carrying out the Procedure, and it will do so in accordance with Data Protection Legislation.

### **Fairness**

The investigation of any allegations of research misconduct must be carried out fairly and in accordance with the statutory human rights of all parties involved.

Matters should be dealt with promptly – without unreasonable delay of meetings, decisions or outcomes.

Respondents should be dealt with consistently – dealing with similar cases in different ways or by delivering very different outcomes creates a risk of unfair outcomes, claims and reputational damage for the College.

Those responsible for carrying out this Procedure should do with knowledge of:

- a) the statutory obligations of the College and the rights of employees according to current law; and
- b) any additional rights and obligations particular to the College and/or its employees and/or its students (e.g., those bestowed by College statutes and ordinances).

Those responsible for carrying out this Procedure should be mindful of equality, diversity and inclusion, and also ensure that all related obligations are met. Where the allegations concern any equality, diversity or inclusion issues, those carrying out the Procedure will be appropriately trained or have relevant experience in dealing with equality, diversity and inclusion matters.

Where anyone is formally accused of research misconduct, that person must be given full details of the allegations in writing at the appropriate stage.

When someone is investigated for alleged research misconduct under this Procedure, they must be given a reasonable opportunity to set out their case and respond to the allegations against them.

They must also be allowed to:

- a) ask questions;
- b) submit evidence in their defence;
- c) suggest witnesses for the Investigator and/or Full Investigation Panel to interview; the Investigator and/or Full Investigation Panel may then choose to invite the suggested witnesses to interview; and
- d) raise points with the Investigator and/or Full Investigation Panel, as appropriate, about any information given by any witness (regardless of who has called the witness in question).

The Respondent, Complainant and any witnesses involved in the Initial or Full Investigation stage may:

- a) If they are staff or students of the College, be accompanied to interviews by a colleague, trade union or student union representative, or whoever else is specified in any additional contractual rights (such as by university statutes and ordinances) when they are required or invited to attend interviews or meetings relating to this Procedure;
- b) If they are external to the College, they will be offered the right to be accompanied by a friend or representative; and/or
- c) seek advice and assistance from anyone of their choosing.

### **Confidentiality**

The Procedure should 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 requirements of health and safety or any issue related to the safety of research participants.

The confidential nature of the proceedings is essential to protect the Complainant, the Respondent and others involved in the Procedure.

Nothing in this Procedure prevents anyone from making a disclosure under whistleblowing law (the Public Interest Disclosure Act).

It is important that the principles of confidentiality and fairness are applied with appropriate balance for both the Respondent and the Complainant.

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

- a) it has been deemed necessary (by those conducting the investigation) to carry out the investigation and/or to carry out required/ necessary actions or disclosures following the outcome of the investigation;
- b) it is necessary as part of the action taken against the Respondent if the allegations have been upheld;
- c) it is necessary as part of the action taken against a person who has been found to have made malicious, vexatious or frivolous allegations;
- d) it is the stated policy of the employer/ funder/ other national body that the identity of individuals proved through appropriate disciplinary and appeals processes to have committed research misconduct should be made public;
- e) any party to the Procedure is seeking legal advice or other advice from another third party who owes them a duty of confidentiality;
- f) it is already in the public domain; and/or
- g) it is required by law or by the College's regulator.

Any disclosure to a third party of the identity of the Complainant or Respondent, or of any other details of the investigation, should be made on a confidential basis. The third-party should understand this, and that they must respect the confidentiality of any information received.

The College and/or its staff may have contractual/legal obligations to inform third parties, such as funding bodies or collaborating organisation(s), of allegations of misconduct in research. In such cases, those responsible for carrying this Procedure out should ensure that any such obligations are fulfilled at the appropriate time through the correct mechanisms, always keeping in mind the legal rights of the employees, students and others involved in the allegations.

While the allegations are under investigation using this Procedure (and/or the College's disciplinary process), 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 College or otherwise required to by law.

Breaching confidentiality may lead to disciplinary action unless covered by the Public Interest Disclosure Act and/or the College's Grievance or Whistleblowing procedures.

In the event of any conflict between the principle of confidentiality and any of the other principles of this Procedure, those conducting the Procedure should consider the principle of Balance (see below), and use their judgement to choose the appropriate solution.

### **Integrity**

An investigation into allegations of research misconduct using the processes of Initial or Full Investigation of the Procedure must be fair and comprehensive. The investigation should be conducted expeditiously although without compromising the fairness and thoroughness of the process.

Anyone asked to take part in the processes as an Investigator or a member of a Panel must make sure that the investigation is impartial and extensive enough to reach a reasoned judgement on the matter(s) raised.

Similarly, those who give evidence to the investigation should do so honestly and objectively following the Principles of the Procedure and should be provided with relevant sections of the Procedure before giving evidence.

All parties involved must inform the Named Person immediately of any possible conflicts 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 Named Person has any interest which might constitute a conflict, they should refer the investigation to their nominated alternate, who should decide if they should be excluded from involvement in the investigation, recording the reasons for the decision.

In the interests of openness and transparency, inviting at least one member from outside the College to join the Full Investigation Panel is required. When allegations are deemed to be particularly complex or contentious, the College will consider inviting multiple external members to join Full Investigation Panels and to use Initial Investigation Panels to undertake the Initial Investigation stage (as opposed to appointing a single Initial Investigator).

Confidential records should be maintained on all aspects and during all stages of the Procedure. It is the responsibility of the Named Person to see that such records are maintained and made available at all stages for any use of the College's Disciplinary Policy or any other proceedings or actions which might follow the conclusion of the Procedure.

After the proceedings, all records will be retained by the College.

To preserve the integrity of this Procedure, great care must be taken to ensure that all relevant information is transferred to those involved in the various stages of the Procedure, and any Disciplinary Processes or any other proceedings or actions which might follow the conclusion of the Procedure.

Those responsible for carrying out the Procedure should recognise that failure to transfer information could lead to the process being unfair to the Respondent and/or the Complainant. It could also lead to an appeal being made on the grounds of a failure to observe the Procedure or to the collapse of the investigation. It could also be considered as improper dealing with an allegation, and so another instance of research misconduct.

### **Prevention of Detriment**

In using this Procedure, and in any action taken as a result of using the Procedure, care must be taken to protect:

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

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

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

A Full Investigation should establish, on the balance of probabilities, the truth of any allegations.

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

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

Involvement of the Respondent in the Procedure should not prevent the Respondent from being considered:

- a) for promotion; or
- b) for the completion of probation; or
- c) for other steps related to their professional development.

The College may choose to suspend the implementation of any promotion, completion of probation or any similar step, for the period that allegations are investigated using the Procedure, rather than delay the actual consideration of such matters.

If the allegations are upheld at the end of the Procedure, subject to the College's disciplinary process and/or appeals process, the College's normal approach to professional development will apply.

It should be made clear that any actions that might be taken by the Named Person in response to the notification of research misconduct allegations are not to be regarded as a disciplinary action and do not in themselves indicate that the allegations are believed to be true by the College. The Named Person and any Investigators and members of Full Investigation Panels should take steps to make it clear to the Respondent, Complainant and any other involved parties that these actions are necessary to ensure that the research misconduct allegations can be properly investigated.

Appropriate action should be taken against:

- a) Respondents where the allegations of misconduct in research have been upheld, in full or in part, under this Procedure; and
- b) anyone who is found to have made frivolous, vexatious and/or malicious allegations of research misconduct.

### **Balance**

Those responsible for carrying out this Procedure must be aware that there may be occasions when a balance has to be struck in the application of the Principles and/or its Standards. For example, it may, in certain circumstances prove to be impracticable to undertake a thorough and fair Initial Investigation of the allegations without releasing the Complainant's identity to the Respondent.

The Named Person should be responsible for resolving any such conflicts between the Principles, between the Standards, and/or between the Principles and the Standards, keeping in mind at all

times that the primary goal of this Procedure is to determine the truth of the allegations via a thorough and fair investigation, conducted in a timely and transparent manner, and with appropriate confidentiality. The Named Person can seek guidance from UKRIO and other bodies, as well as seeking legal advice.

In addition, the Named Person should be responsible for ensuring the integrity of this Procedure and any actions taken. The Named Person should decide the course of action to be taken in cases of doubt.

The Named Person should keep a written record of all decisions taken throughout all the steps of the Procedure. The Named Person should liaise closely with the Investigator and the Chair of the Full Investigation panel to ensure that a proper record is maintained throughout the Procedure.

### Annex 3: Resolution Using Informal Measures

One potential outcome of the use of this Procedure is a conclusion that the allegation(s) under investigation has some substance but, due to its relatively minor nature or because it relates to poor practice rather than to misconduct, will be addressed through informal, non-disciplinary measures. This annex provides general guidance on the implementation of this type of outcome, to be used after the Initial Investigation or Full Investigation Stage.

Resolution through such measures - called 'informal' as opposed to resolution through a formal College process - can be challenging. There are many types of informal measures which can be applied to many potential situations. Those operating this Procedure will need to determine what informal measures follow the outcome of a particular investigation.

- a. The Named Person may need to seek advice from colleagues to determine the best course of action and can also contact the UK Research Integrity Office.
- b. Decisions made concerning the implementation of informal measures, and the reasoning behind those decisions, should be recorded in a brief format, in case they need to be referred to at a later date.

Informal measures can take many forms. This list is not exhaustive, and other informal measures can be devised and implemented as needed for the situation in question.

- a. Education, training and other development activities.
- b. Enhanced supervision/ oversight of research activities.
- c. Restriction of research activities.
- d. Mentoring.
- e. Mediation between involved parties.
- f. Awareness-raising of relevant issues of good research practice.
- g. Pastoral care and support.
- h. Revision of relevant research practices, systems and/or policies relating to the allegation(s) in question. This may be limited to a particular team or have a wider scope, and should be supported by appropriate training and awareness-raising.

The audience of the informal measures can also vary - Respondents, Complainants, other involved parties, other researchers and/or professional services staff or even the College as a whole. Different informal measures may well be needed for different people. The implementation of some informal measures may require involvement from other organisations and/or making disclosures to them.

**Implementing Resolution Using Informal Means:** There are six key features of an effective system of resolution using informal measures:

- a. The nature and scope of the informal measures should be clearly *defined*.
- b. A *designated person* should be responsible for carrying out the agreed measures.
- c. Their *duration* should be clearly set out.
- d. The designated person, working with the Research & Knowledge Exchange Office and others, should ensure that the informal measures are *delivered*.
- e. Appropriate *documentation* should record the delivery and outcomes of the informal measures, and any next steps.
- f. Once completed, there should be *discussion* about any learning points for the College.

The person designated to carry out the informal measures can also request implementation of formal measures instead, and this should be considered by the Named Person as above.

**Defined:** The nature and scope of the informal measures should be defined in writing. This should be communicated by the Named Person to the persons involved, including those who will be responsible for carrying out the informal measures. If communications with external persons or organisations are required, this would normally be carried out by the Research & Knowledge Exchange Office on behalf of the College.

**Designated Person:** The College should determine who will carry out and/or oversee the informal resolution, what resources will be made available to support them, and to whom they will give updates on the progress of the informal resolution. For some informal measures, support may be needed from outside the College and the RKE Office will assist the Designated Person as necessary.

**Duration:** The duration of informal measures should be set out at the onset, including a proposed start date, and communicated to all involved parties. The Designated Person should make the Named Person aware via the RKE Office if there is a significant delay in starting or completing the informal measures.

**Delivery:** Given their nature, informal measures can be vulnerable to delays and/or a lack of engagement from involved persons, whether an individual (e.g., Complainant and/or Respondent) or groups (e.g., a research team or a department). The aim is the delivery of the informal measures as defined and progress should be measured, in a light-touch way, against their agreed nature and scope. Care must be taken to ensure that agreed actions are delivered by the College and the Designated Person must be given support by the Named Person, the RKE Office and/or others, as needed.

**Documentation:** The informal nature of these measures does not mean that no records should be kept. Brief notes should be kept on: the nature and scope of the informal measures; who has responsibility for their delivery; the proposed and actual duration of the measures; and their delivery and associated outcome(s).

When informal measures are concluded, involved parties (e.g., Complainant and/or Respondent; Named Person and/or Research & Knowledge Exchange Office; line managers/ supervisors; Human Resources or Student Services) should be informed in writing, summarising the delivery and outcome(s) of the informal measures and any next steps.

If communications with external persons or organisations are required, this would normally be carried out by the RKE Office on behalf of the College.

Records should be retained in line with the provisions given earlier in this Procedure, normally by the RKE Office. The College should determine if records should also be retained by others within the College (e.g. line managers; Human Resources; Student Services, etc.).

**Discussion:** The conclusion of informal measures is an opportunity for review and learning, whether in relation to the persons involved; wider groups of researchers and/or professional services staff; or for the systems and practices as a whole. The RKE Office, working with others as necessary, can generate learning points for dissemination to appropriate members of the College, supported by anonymised summary information, to safeguard and enhance good research practice within the institution.