

# SENATE REGULATION 17: RESEARCH MISCONDUCT PROCEDURE

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## Contents

Introduction and scope .....	3
Definition of research misconduct .....	3
Confidentiality .....	4
Reporting allegations .....	4
Suspension .....	5
Alleged breaches of the law .....	5
Custody of research records and evidence .....	5
Communication with funding and professional bodies .....	6
Investigation procedure .....	6
Allegations involving students .....	6
Allegations involving staff .....	7
Former, honorary or emeritus staff and former students .....	8
Stage 1 resolution .....	8
Stage 2 resolution .....	8
Stage 2 Research Misconduct Panel .....	8
Notification of Panel decision .....	9
Appeal Procedure .....	10
Retention of records .....	11

# **Research Misconduct Procedure**

## **1. Introduction and scope**

1.1 Any person engaging in research in the name of, or on behalf of, the University as an affiliated institution or sponsor, is expected to observe the highest standards of conduct. The general principles in relation to research are addressed in the [Brunel University Research Integrity Code](#).

1.2 This document details the procedures to be followed in the event that an allegation of research misconduct (as opposed to general misconduct) is made against any person conducting research in the name of or on behalf of the University, and/or on University premises, and/or using University facilities. Allegations of research misconduct may be investigated under this procedure irrespective of whether the person making the allegation withdraws the allegation at any stage, the person against whom the allegation is made admits the allegation (in full or in part), or the parties are no longer affiliated with the University.

1.3 An allegation of research misconduct is serious and could lead to disciplinary and legal proceedings. This procedure is neither a disciplinary or a legal process, and should not be considered as such.

## **2. Definition of research misconduct**

2.1 Research misconduct includes but is not limited to:

1. 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
2. Falsification: inappropriately manipulating and/or selecting research processes, materials, equipment, data, imagery and/or consents
3. Financial misconduct
4. Plagiarism<sup>1</sup> or deception in proposing, carrying out or reporting results of primary research
5. Deliberate, reckless or negligent deviations from accepted practice in conducting research
6. Conducting research with human participants without first obtaining research ethics approval
7. Failure to follow an agreed protocol, particularly if this failure results in unreasonable risk or harm to humans, other vertebrates or the environment
8. Failure to meet legal, ethical or professional obligations, including
  - not observing legal, ethical and other requirements for human research participants, animal subjects, or human organs or tissue used in research, or for the protection of the environment
  - breach of duty of care for humans involved in research whether deliberately, recklessly or by gross negligence, including failure to obtain appropriate informed consent
  - misuse of personal data, including inappropriate disclosures of the identity of research participants and other breaches of confidentiality
  - improper conduct in peer review of research proposals, results or manuscripts submitted for publication (including failure to disclose conflicts of interest; inadequate disclosure of clearly limited competence; misappropriation of the content of material; and breach of

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<sup>1</sup> Plagiarism is presenting someone else's work or ideas as your own, with or without their consent, by incorporating it into your own work without full acknowledgement.

confidentiality or abuse of material provided in confidence for the purposes of peer review)

9. Misrepresentation of

- data, including suppression of relevant results/data or knowingly, recklessly or by gross negligence presenting a flawed interpretation of data
- involvement, including inappropriate claims to authorship or attribution of work and denial of authorship/attribution to persons who have made an appropriate contribution
- interests, including failure to declare competing interests of researchers or funders of a study
- qualifications, experience and/or credentials
- publication history, through undisclosed duplication of publication, including undisclosed duplicate submission of manuscripts for publication

10. Facilitating misconduct in research by collusion in, or concealment of, such actions by others

11. Failure to maintain a duty of confidence where such confidentiality is expressly required or implied

12. Failure to ensure that any appropriate safeguards to protect human participants are embedded and followed.

2.2 Any plan or conspiracy<sup>2</sup> or attempt to do any of these things is also considered to be research misconduct. This also includes failure to follow rules and regulations pertaining to research, including those of a third party with a legitimate interest in the research of the University.

### 3. Confidentiality

3.1 In order to protect the reputation of the person(s) against whom an allegation of research misconduct has been made (the Respondent) and the person making the complaint (the Complainant), (collectively referred to as the parties), the parties and any witnesses are under an obligation to maintain confidentiality. This means not communicating about the case to anyone by any means other than those involved in the investigation itself.

3.2 Paragraph 8 sets out the exceptions to the maintaining of confidentiality.

3.3 Failure to maintain confidentiality may in itself be considered misconduct and could result in disciplinary action being taken.

### 4. Reporting allegations

4.1 Everyone has a duty to report any incidents of research misconduct, whether witnessed or suspected, using the procedures outlined below. The University will also consider allegations of research misconduct, where appropriate, made by external third parties. However, the University also has a duty to protect people from malicious, vexatious or frivolous accusations. Disciplinary action may be taken in the event that an allegation is found to be malicious, vexatious or frivolous.

4.2 Individuals are encouraged to submit allegations, without withholding their identity. The University may, at its discretion, investigate anonymous allegations where it is possible to take into account credible evidence which can be obtained from

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<sup>2</sup> A conspiracy is when two or more people plan to do any of the things listed in paragraph 2, 1-12 above.

sources other than the Complainant. Normally, however, the University does not encourage individuals to make disclosures anonymously, as this can render thorough investigation difficult and it may not be possible to establish whether the allegation is credible.

- 4.3 Any allegation of fiscal wrongdoing or irregularity in relation to research activity should be reported in confidence to the Chief Financial Officer.

## **5 Suspension**

- 5.1 In certain circumstances it may be considered appropriate to suspend the Respondent during the investigation. Suspension in such circumstances will not be regarded as a disciplinary sanction.
- 5.2 If the Respondent is a member of staff or doctoral researcher of the University, the decision to suspend will be made in accordance with the University procedures.
- 5.3 If the Respondent is a student, then in exceptional circumstances, where the University has reason to believe that there is a potential or actual threat to the safety or security of the University, its students, staff or facilities, or to its reputation, it may:
- a. temporarily suspend the Respondent's registration for a specified period, or
  - b. temporarily exclude the Respondent from all or specified areas of the University or from using any of its facilities for a specified period.

See [Senate Regulation 6 \(Academic Misconduct Procedure\)](#) or the [Student Disciplinary Procedure](#) for further details.

## **6 Alleged breaches of the law**

- 6.1 In all cases (staff or student), the University will co-operate with law enforcement officers or regulators in any related investigation of a criminal or civil offence. Where the conduct of the Respondent is under investigation by law enforcement officers or other statutory authorities, the University may, if appropriate, commence disciplinary proceedings in parallel to, or following, any court or tribunal proceedings. Where the Respondent has been issued with a penalty or sentenced by a court or tribunal in respect of the matter which is the subject of disciplinary proceedings, the penalty of the court or tribunal may be taken into consideration in determining the penalty under this regulation. However, the University will not be bound by the court/tribunal outcome in its decision making.
- 6.2 The University may be under a duty to disclose the outcome of disciplinary processes and/or information about the Respondent that arises in the course of disciplinary processes to professional, regulatory or statutory bodies.

## **7 Custody of research records and evidence**

- 7.1 Upon receiving an allegation of research misconduct relating to research undertaken in the course of employment with the University, the Secretary to Senate<sup>3</sup> or their nominated representative shall obtain custody of any research records or other evidence associated with the allegation. These shall be kept securely in an appropriate location. When records are investigated, the original

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<sup>3</sup> Reference to the Secretary to Senate shall also include their nominated representative, as appropriate.

evidence will be stored securely with access restricted and a duplicate of the evidence will be disseminated for investigation. This is required to ensure that the integrity of the original evidence is maintained and to prevent accidental or deliberate alteration of the evidence in question. A copy of all records collected shall be made available to the Respondent.

- 7.2 If the records or evidence are shared by several researchers, then copies of the records or evidence shall be provided to the Secretary to Senate or their nominated representative, and kept securely as noted above.

## **8 Communication with funding and professional bodies**

- 8.1 If the allegation of research misconduct relates to a project which has external funding, the funding body will be notified of the allegation by the Secretary to Senate. Consideration will be given as to whether any third party with a legitimate interest in the research of the University will need to be informed.
- 8.2 The University will comply with any reporting requirements regarding the allegation, investigation and administrative or other actions related to an allegation of research misconduct as required by funding bodies or regulators. Any reporting requirements will be overseen by the Secretary to Senate, or their nominated representative.
- 8.3 Professional, statutory or regulatory bodies will be notified of all allegations and the outcome as determined by their research misconduct procedure or other statutory, legal or regulatory requirement.

## **9 Investigation procedure**

- 9.1 In order to ensure that the investigative process is fair and proportionate, an initial investigation will be undertaken to determine whether or not there is a case to answer. All investigations are undertaken confidentially to ensure that all parties are protected as far as possible (see paragraph 3 above).
- 9.2 If the Respondent is a member of staff or doctoral researcher of the University, the applicable procedure will depend upon the capacity in which the Respondent was acting in at the time the misconduct is alleged to have occurred.
- 9.3 If the Respondent was acting in the capacity of University employee, then the procedure contained within this Senate Regulation will apply. If the Respondent was acting in the capacity of student, the procedure set out in Senate Regulation 6 (Academic Misconduct Procedure) will be applicable.
- 9.4 Where there is an apparent overlap between research conducted under a staff contract or research undertaken towards a research degree, the Secretary to Senate will determine the most appropriate procedure in consultation with the relevant academic leader within the College or Department.

## **10 Allegations involving students**

- 10.1 Where an allegation is received relating to a student, the matter will normally be dealt with under Senate Regulation 6 (Academic Misconduct Procedure). For students on professional programmes, the procedure to be followed may fall under the fitness to practice procedure.
- 10.2 Allegations of research misconduct involving students should be reported to the

Office of Student Complaints, Conduct and Appeals (OSCCA) ([conduct@brunel.ac.uk](mailto:conduct@brunel.ac.uk)). If the allegation involves a breach of research ethics regulations, the OSCCA will involve the Chair of the University Research Ethics Committee.

- 10.3 The process following investigation, including any formal hearing, penalty or appeal will be conducted in accordance with Senate Regulation 6 (Academic Misconduct Procedure). The University reserves the right to investigate an allegation involving a student (or students) under the process set out in this procedure (paragraph 9.2 and 11 to 15 below) in exceptional cases.

## **11 Allegations involving staff<sup>4</sup>**

- 11.1 Allegations of research misconduct involving staff should be reported to the Secretary to Senate ([res-ethics@brunel.ac.uk](mailto:res-ethics@brunel.ac.uk)).
- 11.2 Upon receipt of an allegation, the Secretary to Senate will appoint a member or members of staff (the Assessor) with appropriate seniority to conduct an initial assessment of the circumstances and to determine if there is a case to answer. The Assessor shall not be a member of the Respondent's College or Research Centre and should not have had previous managerial or research involvement with the Respondent. If deemed appropriate by the Secretary to Senate, a person external to the University can be appointed.
- 11.3 Upon appointment of the Assessor by the Secretary to Senate, the Respondent and the Complainant shall be notified of the appointment and given the opportunity to raise any concerns relating to potential conflicts of interest, although neither shall have the right to veto the appointment. The Secretary to Senate shall have discretion as to whether any concerns raised should result in the appointment of an alternative Assessor.
- 11.4 The Assessor will aim to notify the Respondent of the substance of the allegation within 7 working days, and will invite them to comment. The Respondent will normally be given 15 working days to respond. The Assessor shall be at liberty to speak to both parties and any witnesses independently of each other in order to obtain further information, or seek clarity as they see fit. The Assessor will normally invite the Respondent to a meeting, at which the Respondent may be accompanied by a colleague or trade union representative. If the allegation relates to more than one Respondent, the Assessor shall approach each Respondent separately and not divulge the identity of the other Respondent(s). The Assessor will normally also arrange to interview the Complainant, who may be accompanied by a colleague, trade union representative, or other party as appropriate.
- 11.5 A copy of the Assessor's draft report will be provided to both the Respondent and the Complainant to be checked for errors of fact, before being submitted to the Secretary to Senate.
- 11.6 The Assessor will provide their final written findings on the facts of the case to the Secretary to Senate upon completion of the investigation. The report will state what evidence was reviewed, include summaries of relevant interviews and the Assessor's conclusions. A copy of this report will be provided to the Respondent.
- 11.7 On receipt of the Assessor's report, the Secretary to Senate will determine if

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<sup>4</sup> The term "staff" used here refers to employees, those doctoral researchers who were acting in the capacity as employees and those doctoral researchers determined by the Secretary to Senate to be acting under a staff contract at the time of the alleged misconduct, in accordance with paragraph 9 above.

further action is warranted or not. If the Secretary to Senate decides that further action is unwarranted, they will notify the Complainant and the Respondent giving reasons for the decision.

## **12 Former, honorary or emeritus staff and former students**

12.1 The process to be followed where an allegation relates to a former staff member, a former student or honorary or emeritus staff will be the same as that laid out in this procedure for current staff or students. The University cannot compel individuals who are not affiliated with the institution to engage with the process, however, the procedure will be followed to its natural conclusion in the absence of those individuals, where appropriate.

12.2 In the case of former staff, or where the University is not the Respondent's primary employer (the Respondent having only an honorary or secondary contract with Brunel), the Secretary to Senate may contact the equivalent nominated person for research integrity at the Respondent's primary employer and inform him/her of the allegations.

## **13 Stage 1 resolution**

13.1 Following receipt of the Assessor's report, if the Secretary to Senate determines that further action is warranted, where appropriate and possible<sup>5</sup>, the matter will be referred to the Respondent's Head of Department, with a view to them determining the appropriate outcome and any actions to be taken at a local level<sup>6</sup>. At no time will the Head of Department seek to persuade or influence the parties into accepting their determination.

13.2 In the event that a resolution is reached that is satisfactory to the parties, the Head of Department will record the decision and the resolution arrived at and forward the record to the Secretary to Senate by emailing [res-ethics@brunel.ac.uk](mailto:res-ethics@brunel.ac.uk).

## **14 Stage 2 resolution**

14.1 If either:

- a) the stage 1 resolution determination is not agreed to by either party, or
- b) either party elects stage 2 resolution, or
- c) the Secretary to Senate is of the view that due to the nature, complexity, seriousness or potential reputational impact upon the University, it would be inappropriate for the matter to be dealt with at stage 1 resolution,

the matter will be dealt with through stage 2 resolution - a formal hearing before a Research Misconduct Panel (see paragraph 15 below). In the event of a) or b) above occurring, the Head of Department will notify the Secretary to Senate at: [res-ethics@brunel.ac.uk](mailto:res-ethics@brunel.ac.uk).

## **15 Stage 2 - Research Misconduct Panel**

15.1 Senate will appoint a Research Misconduct Panel (the Panel) to determine the

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<sup>5</sup> This means that the nature and seriousness of the matter is of such that it merits local level determination taking place.

<sup>6</sup> This could include, but is not limited to, the Respondent being required to amend or withdraw their research or funding application, offering an apology to the Complainant, and/or undertaking additional training, counselling or coaching. In some cases, evidence of improvement will be required to be provided to the Secretary to Senate.



case. The Panel will normally be appointed within 10 working days of notification by the Secretary to Senate.

15.2 The Secretary to Senate shall be responsible for nominating members of the Panel. The minimum Panel composition shall comprise of:

- (a) a Chairperson, normally being a person employed by the University<sup>7</sup>;
- (b) one independent person not affiliated with the University; and
- (c) at least one member of the academic staff.

15.3 The Secretary to Senate shall determine whether specialist knowledge or investigative skills are required when nominating members of the Panel. At least two members of the Panel should have experience in the area of research to which the alleged misconduct relates, although they should not be members of the department concerned. The Panel may seek the advice of an independent expert to assist with their deliberations. This person is expected to be qualified in the area of research that is the subject of the research misconduct. The independent expert shall be external to the University. Their role will be to advise the Panel and not take part in its final decision. Nominated members of the Panel must declare any links to the research and/or individuals involved in the allegation, or any other potential conflict of interest. Once convened, the membership of the Panel should not be changed and members unable to continue should not be replaced. In the event that the Chair stands down or the membership falls below three, the formal process should be restarted by the Secretary to Senate.

15.4 The Panel will receive all relevant information and evidence, including that collected by the Assessor, and the Assessor's final report. A date to review the evidence and hear the Respondent and Complainant (where appropriate), and any witnesses called will be arranged as soon as reasonably practicable. Those interviewed may be accompanied by a colleague or trade union representative. The Chair is responsible for keeping an accurate record of proceedings.

15.5 The standard of proof used by the Panel to determine whether research misconduct has taken place is the balance of probabilities, i.e., that it is more likely than not that it occurred.

15.6 The Panel will conclude whether the allegation of research misconduct is:

- upheld in full;
- upheld in part; or
- not upheld.

15.7 The Panel will aim to reach a unanimous decision, failing which a majority decision will be acceptable.

15.8 Should additional evidence come to light to indicate either further, distinct instances of research misconduct by the same Respondent(s), or potential misconduct by another person or persons, the Panel will submit the new allegations (together with all relevant evidence) to the Secretary to Senate in writing, for consideration under this Senate Regulation.

## **16 Notification of Panel decision**

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<sup>7</sup> The Secretary to Senate may determine in exceptional circumstances that the Chairperson should be an independent member of the Panel, with no prior affiliation to the University.

16.1 The Chair of the Panel will provide the Respondent and the Complainant (by separate communications) with a draft report of the Panel's decision no later than 5 working days after the date of the hearing. The Respondent and the Complainant may comment on the factual accuracy of the report before it is submitted to the Secretary to Senate. The Chair of the Panel should judge the validity of any comments received from the Respondent or Complainant on the draft report.

16.2 The Panel will then submit a final report to the Secretary to Senate containing:

- a summary of the conduct of the investigation;
- the conclusion of the Panel as to whether the allegation is upheld in full, or in part, or not upheld;
- recommendations in relation to any disciplinary process to be applied;
- recommendations in relation to any other potential misconduct identified during the investigation;
- any procedural matters the investigation has brought to light that the University must address;
- recommendations as to whether any action is required to be taken to correct the record of research; and
- recommendations as to any actions to be taken to review the management of research to prevent future occurrences.

16.3 If the allegation is upheld or partially upheld, the Secretary to Senate will notify the Complainant that the case has been disposed of, but no further detail is to be released to them, including the outcome and any sanction imposed. This information is confidential and is personal to the Respondent. However, relevant funding organisations and/or professional bodies must be informed.

16.4 Where an allegation is upheld or partially upheld, the University may take the following actions in addition to any disciplinary processes:

- retraction/correction of articles in publications<sup>8</sup>;
- withdrawal/repayment of funding;
- notifying research participants, gatekeepers or any other parties involved in the original research;
- notifying regulatory and/or professional bodies;
- notifying other employing organisations;
- withholding or revoking an award (in the case of students and doctoral researchers);
- adding a record of the outcome to the researcher's file for any future requests for references; and
- reviewing internal management/training/supervision procedures for research.

## **17 Appeal procedure**

17.1 The Complainant or Respondent may appeal against the Panel's decision and or its recommendations to an appeal panel (the Appeal Panel). An appeal shall be made in writing and submitted to the Secretary to Senate within 28 calendar days of the Panel's decision. The written appeal shall set out the grounds of the appeal and be submitted with the evidence in support.

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<sup>8</sup> In so far as this is within the gift of the University to seek or influence.

17.2 The Appeal Panel will only consider an appeal in respect of one or more of the following grounds:

- a) That a material irregularity occurred during the procedure of the investigation or Panel that was such that rendered the investigation or Panel findings unreliable in the circumstances, and or
- b) Fresh evidence has become available which was not, and could not, have been made available to the Panel, and or
- c) The recommendation(s) of the Panel is either excessive or inadequate in relation to the research misconduct upheld.

17.3 The minimum composition of the Appeal Panel shall comprise of the following members:

- a) A Chairperson, who shall not be employed by the University,
- b) Two independent persons appointed by or with the approval of the Chair, at least one of whom shall be independent of the University and at least one of whom shall be an expert in, or have experience of, the disciplinary field in question.

17.4 The Appeal Panel shall be supported by an administrator nominated by the Secretary to Senate.

17.5 The Appeal Panel shall decide whether the notice of appeal complies with the grounds of appeal and notify the Secretary to Senate of its decision within 10 working days of receipt of the notice of appeal. The Secretary to Senate will be responsible for notifying the relevant parties of the decision.

17.6 If Appeal Panel accepts the notice of appeal, the appeal will be arranged as soon as reasonably practicable, but within 12 weeks of the decision to accept the notice.

17.7 The Appeals Panel will be free to determine how to conduct the process of the appeal. It will have access to all of the original investigation and Panel papers and may invite representations from any of the parties and request additional evidence as it sees fit.

17.8 The Appeals Panel in its determination can uphold in full, or in part, or reverse the decision of the Panel. Its decision is final. The decision of the Appeals Panel will be communicated in writing to the parties as soon as is reasonably practicable after its determination.

## **18 Retention of records**

18.1 All records, including evidential records, associated with an allegation and investigation of research misconduct will be retained securely for 10 years after completion of the proceedings.

## **References**

- [Brunel University Senate Regulation 6:](#)
  - [Academic Misconduct Procedure](#)
  - [Student Disciplinary Procedure](#)
  - [Fitness to Practice Procedure](#)

- [Brunel University London Research Integrity Code](#)
- [UK Research Integrity Office](#)