

BRUNEL UNIVERSITY LONDON

Council Ordinance 18

Procedures for Investigation of Research Misconduct

1. Introduction

1.1 Any person engaging in research in the name of Brunel University is expected to observe the highest standards of conduct. The general principles in relation to research are addressed in the University's Good Research Practice policy.

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 under the auspices of Brunel University, on University premises, or using University facilities.

2. Definition of research misconduct

2.1 Research misconduct includes fabrication, falsification, fiscal wrong-doing, plagiarism or deception in proposing, carrying out or reporting results of research, deliberate and dangerous or negligent deviations from accepted practice in conducting research, or conducting research with human participants without first obtaining research ethics approval. It includes failure to follow an agreed protocol if this failure results in unreasonable risk or harm to humans, other vertebrates or the environment, and facilitating misconduct in research by collusion in, or concealment of, such actions by others. Any plan or conspiracy or attempt to do any of these things is also considered to be research misconduct. This also includes failure to follow rules and regulations including those of a third party with a legitimate interest in the research of the University.

3. Reporting allegations of research misconduct

Responsibility

3.1 Everyone has a responsibility to report any incidents of research misconduct, whether witnessed or suspected, using the procedures outlined below.

3.2 However, the University also has a responsibility to protect people from malicious, vexatious or frivolous accusations. Appropriate action will be taken in the event that an allegation is found to be malicious, vexatious or frivolous.

4. Reporting an allegation

4.1 Any allegation of research misconduct should be reported confidentially to the Secretary to Council or, in the event of a potential conflict of interest or absence, his/her nominated representative appointed by the Chair of Council.

4.2 Any allegations of research misconduct will be investigated and the outcome reported as noted in Section 12 (Formal Hearing).

4.3 Any allegations of fiscal malfeasance or irregularity in relation to research activity should be reported confidentially to the Chief Financial Officer.

5. Initial University actions

5.1 In certain circumstances it may be considered appropriate to suspend a person on full pay during the investigation. Suspension in such circumstances will not be regarded as a disciplinary sanction. The decision to suspend will be made in accordance with the University procedures regarding the suspension of staff. Human Resources will normally write detailing the length of the suspension (which will not normally exceed 10 working days) and confirming the contractual rights. Should this action be taken, it will be done in accordance with Statutes (for academic or research staff) or with the Human Resources Disciplinary Procedures for Non-academic Staff, as appropriate.

5.2 In accordance with Senate Regulation 6.45, where the Vice-Chancellor and President, as Chair of Senate, or their nominee, on the basis of evidence made available to him/her, believes there is a potential or actual threat to the safety or security of the University, its students, staff or facilities, or to the reputation of the University that requires immediate action, s/he may, in accordance with Council Ordinance 7 (E), determine one of the following outcomes, pending the completion of the relevant disciplinary process (Academic or Non-Academic) as set out in these regulations:

- a. temporarily suspend the student's registration for a specified period.
- b. temporarily exclude the student from all or specified areas of the University or from using any of its facilities for a specified period.

5.3 The University will co-operate with Officers of the Crown in an investigation of a breach of the law that may involve a student of the University. Where the conduct of a student or a member of staff is under investigation by Officers of the Crown, the University may, if appropriate, commence disciplinary proceedings in parallel to, or following, any court or tribunal proceedings. Where the student or member of staff has been 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 shall be taken into consideration in determining the penalty under this Regulation.

5.4 The University may be under a duty to disclose the outcome of disciplinary processes and/or information about students or members of staff ascertained in the course of disciplinary processes to professional, regulatory or statutory bodies.

6. Custody of research records and evidence

6.1 Upon receiving the allegation of research misconduct, the Secretary to Council or his/her nominated representative, shall take steps to obtain custody of any research records or other evidence associated with the allegation. These shall be kept securely in an appropriate location.

6.2 If the records or evidence are shared by a number of researchers, then copies of the records or evidence shall be provided to the Secretary to Council or his/her nominated representative, and kept securely as noted above.

7. Confidentiality

7.1 In order to protect the reputation of the person(s) against whom an allegation of research misconduct has been made (hereafter known as the respondent), all parties, including the complainant and any witnesses, are under an obligation to maintain the confidentiality of the allegation prior to completion of the investigation process (including any appeal).

7.2 Confidentiality will also extend to the name of the complainant and any witnesses, to the fullest extent possible.

7.3 Please refer to Section 8 (Communication with funding and professional bodies) for exceptions to the confidentiality conditions.

7.4 Failure to maintain confidentiality regarding the allegation will in itself be considered misconduct and may warrant disciplinary action under Senate Regulation 6 (for students) or Statutes 1-5/Human Resources Disciplinary Procedures for Non-academic Staff, as appropriate (for staff).

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 Council. 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. The University may also need to invoke its Fraud Response Plan set out in the Council Ordinance 10: Financial Regulations of the University.

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.

8.3 Professional, statutory or regulatory bodies will be notified of all allegations and the outcome as determined by the Research Misconduct procedure in accordance with their requirements.

9. Investigation procedure

Determination of applicable procedure

9.1 Where the allegation of research misconduct is made against a student who is also employed by the University, the assessor must determine whether the student was engaged in a student research project, or employed on a University research project at the time the misconduct is alleged to have occurred.

9.2 Where there is an apparent overlap between research conducted under a staff contract or research undertaken towards a research degree, the Secretary to Council will determine the most appropriate process for further consideration of the allegation(s).

9.3 Similarly, if an allegation of research misconduct is made against an employee of the University, the applicable procedure will depend on the employee's status at the time the misconduct is alleged to have occurred.

9.4 Should the respondent not be an employee of the University, or a registered student of the University, and it appears there is evidence of misconduct, the Secretary to Council will pass the information to the relevant party(ies).

10. Initial assessment

10.1 The Secretary to Council will appoint a member of staff with appropriate seniority to conduct an initial assessment of the circumstances and to determine if there is a case to answer. This member of staff (hereafter known as the assessor) shall not be a member of

the respondent's College or Research Institute, and should not have had previous managerial or research involvement with the respondent.

10.2 The assessor must determine whether the research project associated with the allegation is externally funded, and notify the Secretary to Council of the identity of the funding body.

10.3 Where there is a case to answer, further action will normally be warranted.

10.4 The assessor may wish to contact the appropriate College Research Ethics Officer, or, if the respondent is a student or member of staff in a Research Institute, the Chair of the University Research Ethics Committee, for information if the allegation concerns a project which involves or involved human participants.

10.5 If the allegation concerns a project which involves the use of live animals, the assessor may wish to contact the Chair of the Animal Research Ethics Sub-Committee.

10.6 The assessor will notify the respondent of the substance of the allegation within 7 working days of receipt, and will invite him/her to comment. The respondent will normally be given 15 working days to respond. On receipt of the response, the assessor will endeavour to determine if a case exists normally within 20 working days. If the response is deemed inadequate and/or unsatisfactory by the assessor, he/she will notify the Secretary of Council.

10.7 The assessor will provide his/her findings to the Secretary to Council in writing upon completion of the investigation. The report should state what evidence was reviewed, summaries of relevant interviews, and the assessor's conclusions. A copy of this report will be provided to the respondent.

10.8 If the Secretary to Council decides further action is unwarranted, he/she will notify the complainant and the respondent(s) giving reasons for the decision.

10.9 Should any party wish to appeal the decision of the Secretary to Council, the appeal will be conducted in accordance with Senate Regulation 6 (for students) or Statutes 1-5/Human Resources Disciplinary Procedures for Non-academic Staff, as appropriate (for staff).

11. Informal disciplinary action

11.1 Should the initial assessment establish that there is a case to answer; the Secretary to Council may with appropriate consultation decide that the gravity of the misconduct is not such that formal disciplinary action is required. In that case, he/she may recommend alternative action(s) to address the misconduct, e.g., providing a formal apology to an injured party; oral reprimand from the Vice-Chancellor and President, etc.

12. Formal hearing

12.1 If the research misconduct is deemed to be of the nature where an informal course of action is inappropriate, a formal disciplinary hearing will be held.

12.2 If the respondent is a Brunel University member of staff, Council will appoint a panel, constituted as defined in section 13.1 below. The panel will normally be appointed within 10 working days of notification by the Secretary to Council or his/her representative.

12.3 If the allegation has been made against a Brunel University student, the Secretary to Council will refer the allegations to the student's Vice-Provost and Dean of College. In the

event of a real or apparent conflict of interest, the Vice-Provost and Dean of College must refer the matter to an appropriate independent party.

12.4 The hearing, and any sanctions or appeals resulting from the decision of the panel, will be conducted in accordance with Senate Regulation 6 (for students) or Statutes 1-5/Human Resources Disciplinary Procedures for Non-academic Staff, as appropriate (for staff).

13. Research misconduct panel

13.1 In most cases involving an employee of the University, the panel appointed by Council shall comprise:

- (a) a Chairman, being a person employed by the University;
- (b) one member of Council, not being a person employed by the University; and
- (c) one member of academic staff nominated by Senate.

13.2 The advice of an independent expert may be sought by the panel 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 may be drawn from either within or outwith the University. Their role will be to advise the panel and not take part in its final decision.

13.3 All student cases will be dealt with in accordance with Senate Regulation 6.

14. Notification of decision

14.1 If disciplinary action, whether formal or informal, is taken the Secretary to Council will notify all relevant parties, including funding and/or professional bodies, of the disposition of the case.

14.2 In the event a formal misconduct hearing is held, the panel will notify all relevant parties of its decision within 5 working days of the hearing.

14.3 If the misconduct involves published research results, the relevant publisher(s) will be notified as appropriate.

14.4 If the allegation of misconduct has been sustained, the University will consider issuing an appropriate public statement.

15. Retention of records

15.1 All records, including evidential records, associated with an allegation and investigation of research misconduct will be retained securely for 7 years after completion of the proceedings.

References

- MRC Policy and Procedure for Inquiring into Allegations of Scientific Misconduct: Medical Research Council, December 1997
(<http://www.mrc.ac.uk/Utilities/Documentrecord/index.htm?d=MRC002454>)
- Brunel University Good Research Practice policy

- Statutes of Brunel University (<http://www.brunel.ac.uk/about/administration/university-rules-and-regulations>)
- Brunel University Senate Regulation 6: Student Misconduct and Professional Suitability (<http://www.brunel.ac.uk/about/administration/university-rules-and-regulations>)
- Brunel University Council Ordinance 10: Financial Procedures (<http://www.brunel.ac.uk/about/administration/university-rules-and-regulations>)
- US Public Health Services Policies on Research Misconduct (42 CFR 93) (http://ori.hhs.gov/sites/default/files/42_cfr_parts_50_and_93_2005.pdf)

Annex 1

Definitions

Assessor: The person conducting the initial investigation of the alleged misconduct

Complainant: The person(s) making the allegation(s) of research misconduct

Respondent: The person against whom the allegation(s) of research misconduct is made