

# **IMPERIAL COLLEGE LONDON**

## **ORDINANCE D17**

### **THE INVESTIGATION OF ALLEGATIONS OF RESEARCH MISCONDUCT**

#### **PREAMBLE**

1. This Regulation constitutes the College's policy on, and procedures for the investigation of, allegations of research misconduct. It is intended to satisfy the requirement of the Research Councils and Charities who fund research at Imperial that the College has proper mechanisms for the management of complaints of research fraud or misconduct. It also meets the College's commitments under the UK Concordat to support research integrity, and is consistent with the procedures for the investigation of misconduct in research set out by the UK Research Integrity Office.

2. The College is a signatory to the UK Concordat to support research integrity and is committed to maintaining the highest standards of rigour and integrity in all aspects of research. Its policy on appropriate research conduct is set out in the policy document entitled "Research Governance Framework".

#### **POLICY ON RESEARCH MISCONDUCT**

3. The College considers any allegation of research misconduct to be a matter of great concern and will investigate any such allegation fully. Given its international reputation and status, the College has a responsibility to the research community and to the public at large and therefore, where appropriate, will make public the outcome of any such investigation.

#### **DEFINITIONS**

4. The College has adopted the definitions of research misconduct set out in the UK Research Integrity Office model procedures. The following definitions give indicative descriptions of the types of activity covered by this Regulation. These descriptions are neither exclusive nor exhaustive. Interpretation of the terms will involve judgements, which should be guided by previous experience and decisions made on matters of misconduct in research.

- a. Fabrication;
- b. Falsification;
- c. Misrepresentation of data and/or interests and or involvement;
- d. Plagiarism; and

e. Failures to follow accepted procedures or to exercise due care in carrying out responsibilities for avoiding unreasonable risk or harm to: humans; animals used in research; the environment; and the proper handling of privileged or private information on individuals collected during the research.

5. For the avoidance of doubt, research misconduct also includes Gift Authorship, which is the practice of arranging to credit someone with authorship or co-authorship in such a way that deliberately exaggerates or gives a misleading impression of their actual contribution. It also includes acts of omission in authorship as well as acts of commission. In addition, the standards by which allegations of misconduct in research will be judged will be those prevailing in the country in question and at the date that the behaviour under investigation took place.

6. The basis for reaching a conclusion that an individual is responsible for research misconduct relies on a judgement that there was an intention to commit the misconduct and/or recklessness in the conduct of any aspect of a research project. Where allegations concern an intentional and/or reckless departure from accepted procedures in the conduct of research that may not fall directly within the terms detailed above, a judgement will be made as to whether the matter should be investigated using this Procedure.

7. In addition to research misconduct, these procedures will also apply to cases of scientific negligence or conflicts of interest where these lead to research misconduct.

## **PROCEDURES FOR THE INVESTIGATION OF ALLEGATIONS OF RESEARCH MISCONDUCT**

### **GENERAL PRINCIPLES**

8. Allegations of research misconduct may be brought to the attention of the College internally or externally by an individual or by an organisation. Whatever the source of the allegation, the College will endeavour to ensure that justice is done, and also is seen to be done, to both the complaining and the accused parties. Bona fide complaints are to be pursued with integrity and confidentiality and every attempt is to be made to ensure that the investigation proceeds without detriment to the complainant or the accused. Staff and students are entitled to expect that their research work will be regarded as being honest, until shown to be otherwise, and that they will be protected against ill-founded, frivolous, mischievous or malicious complaints; this principle will guide the College's procedures.

9. The College will ensure that, as far as possible, the proceedings of any investigation are treated as confidential. However, where there is a conflict between the need for confidentiality and the need to seek the truth, the latter must prevail.

10. Investigations are to be carried out as expeditiously as possible, where this is consonant with the utmost degree of thoroughness.

11. Where an individual against whom a complaint has been made resigns from, or otherwise leaves, the College, the complaint is nevertheless to be investigated, as far as possible, according to the procedures laid down below.

12. The College's mission is to maintain the highest standards of research integrity and adherence to this is an implied condition of service or enrolment for its staff and students; consequently, appropriate action must be taken against staff and students who are found guilty of research misconduct as the result of a full investigation. Research misconduct committed by staff members is a disciplinary offence and disciplinary sanctions can range from a formal warning to dismissal. For students, penalties may include resubmission of work, suspension from the College for a period of time, withdrawal of degree or withdrawal from the College.
13. Frivolous, mischievous or malicious accusations of misconduct by members of the College's staff and/or students will also constitute a disciplinary offence.
14. Where an allegation is dismissed, the College will take reasonable steps to ensure that the reputation of the researcher involved is preserved. Where an allegation has received publicity, the College will offer to release to the media an official statement which has been agreed with the researcher concerned.
15. Similarly, where a complaint which has been dismissed was made in good faith, the College will take all necessary steps to protect the position of the complainant.
16. The College may at any stage seek legal or other professional advice on any aspect of the proceedings.
17. A record of all documentation relating to an allegation of research misconduct, whether substantiated or frivolous, is to be kept by the College Secretary. Such records are to be stored separately from an employee's personnel file or a student's record; a note will be placed on the relevant file or record stating that the College Secretary should be contacted for further details about the case.
18. Apart from exceptional circumstances, this Procedure is to be used in conjunction with the College's existing Disciplinary Procedures and will apply to all categories of staff and students.

### **PRE-SCREENING STAGE**

19. However an allegation is made, formal notification of an allegation must be made in strict confidence to the Chair of the Research Misconduct Response Group (RMRG), who will acknowledge receipt. It is the responsibility of any employee or student of the College, who receives or is informed of any allegation of research misconduct by another member of staff or a student, to ensure that the complaint is made formally in this manner.
20. For the purposes of this Procedure the RMRG consists of the following individuals, using properly appointed deputies where necessary, and may be augmented by other members as appropriate: the College Secretary, who acts as the Group's Chair; and the Vice Provost (Research). Where a perspective from the Research Office would be useful, the Director of the Research Office should join the RMRG. For allegations involving staff members the Director of Human Resources should join; for allegations involving students the Vice Provost (Education) should join.
21. The Chair of the RMRG should, as soon as possible (and with the aim of acting within two working days), convene a meeting of the RMRG, or correspond with members, to decide on the initial response. Should the incident concern or implicate any other member of the RMRG, the College

Secretary will appoint a suitable substitute. If the incident concerns or implicates the College Secretary, the Provost shall appoint an appropriate substitute to act as Chair.

22. Members of the RMRG will review the allegation to determine whether it falls within the definition of research misconduct given in paragraphs 4 – 7 above, and if so, whether it should be investigated under the terms of the procedure for the Investigation of Allegations of Research Misconduct. The RMRG will consider if allegations made against students are of equivalent seriousness and if they should be investigated under the terms of the procedure for the Investigation of Allegations of Research Misconduct.

23. Where the allegations do not fall under the terms of the procedure the Chair of the RMRG shall notify the complainant of this, the reasons why, which processes might be appropriate for dealing with the allegation and how the complainant may wish to proceed.

24. It is expected that allegations or concerns should be raised with the College as soon as possible after the complainant becomes aware of the substantive incident which has given rise to the complaint. However, the College reserves the right not to investigate an allegation that is submitted more than a year after the complainant became aware of the substantive incident(s) to which it relates, unless there are good reasons for the delay in reporting the incident to the RMRG. Exceptions to this will be allowed by the RMRG where there is an overriding public interest in investigating the allegations despite the delay in reporting them (for example, where the issues raised in the allegation are too serious to ignore because they concern health and safety, or there is a need to correct the public research record).

25. Where an allegation is made in respect of a student's conduct which would constitute an examination offence as defined in Paragraph 14.7 of the College's Academic Regulations and the Plagiarism and Examination Offences Policy and Procedures in the College's Examination Regulations, the Vice Provost (Education) and the Chair of the RMRG are to decide if it is appropriate to refer the case to the Academic Registrar forthwith for consideration in accordance with the procedures described in the aforementioned Plagiarism and Examination Offences Policy and Procedures in the College's Examination Regulations.

26. The RMRG will consider whether the nature of the allegations is such that immediate preventative action is necessary, normally (but not exclusively) to prevent any harm to individuals, animals or property as well as potential contraventions of the law or safety requirements. In such cases the Chair of the RMRG will ensure appropriate action is taken.

27. Where the allegations are within the definition of research misconduct the RMRG will decide on the action to be taken. This will normally involve progressing the matter to a Screening Investigation. The Chair of the RMRG will confidentially inform the Provost and whichever other senior members of staff as appropriate of the identities of the respondent and complainant, details of funding sources, research collaborators and any other appropriate details.

28. The RMRG will also consider whether the nature of the allegations necessitates the notification of any external organisations, such as legal or regulatory authorities, at this stage. The Chair of the RMRG will then action any such notifications and be responsible for any further liaison required.

29. The RMRG will work with Research Office staff to investigate potential contractual issues around the Respondent's work, including any obligations on Imperial's part to notify a Sponsor, funding organisation, collaborator or similar of the allegations.

30. When notifying anyone of the allegations or investigation the Chair of the RMRG shall be mindful of the respondent's and complainant's rights and the integrity of the investigation, and shall always emphasise that the allegation is unproved and yet to be investigated.

### **SCREENING INVESTIGATION**

31. Where the allegation is to be progressed to screening investigation stage the Chair of the RMRG will bring the allegation to the attention of the appropriate Head of Faculty/ Department/ Centre or other unit who will be responsible for arranging a screening investigation of the matter. The Head will inform the accused that an allegation has been made and will instruct the individual not to alter or delete any relevant records for the duration of the investigation.

32. The Head will have the option of investigating the allegation themselves, or may otherwise appoint an independent and appropriately qualified nominee, taking into account the interests of both the complainant and the accused.

33. If the complainant does not wish to bring the matter to the Head of Faculty/ Department/ Centre or other unit for any reason, then the Chair of the RMRG will consult with the Vice Provost (Research) within the RMRG to determine who should investigate the allegation during the screening stage.

34. Similarly, if the Chair of the RMRG feels it is not appropriate to bring the matter to the attention of the Head for any reason then they will consult with the Vice Provost (Research) to determine who should investigate the allegation during the screening stage.

35. Where an allegation of research misconduct is made against a Head of Faculty/ Department/ Centre or other unit, the Chair of the RMRG will report the matter directly to the Provost. If a complaint is made against the Provost, the complaint is to be referred to the President. If the complaint is made against the President, the complaint is to be referred to the Chair of the Council.

36. All parties must inform the Chair of the RMRG immediately of anything that might constitute a conflict of interest concerning any aspect of the allegations, the investigation, the people involved or the research area itself.

37. The screening investigation should normally be completed within three months of the initial complaint. Otherwise, all the members of the RMRG are to be advised of the delay in completing this stage of the investigation.

38. Following the investigation the Head (where they have been the Investigator) will decide whether evidence of a prima facie case has been established. If so consideration will be given to informal resolution or full investigation. Where the Head has nominated an investigator they will discuss their findings with the Head to consider whether the allegations warrant dismissal of the complaint, informal resolution or full investigation.

39. The Head of Faculty/ Department/ Centre or other unit acting as the Screening Stage Investigator will maintain a record of all evidence and conduct an assessment of this evidence, including interviews with the Respondent, Complainant, and other relevant members of staff. They will provide a draft Report and recommendations to the RMRG for consideration before they are shared with the

complainant and the respondent. The RMRG will review the recommendations, and may propose such revisions to the recommendations as it sees fit in the interests of ensuring that similar cases and offences are treated with a degree of consistency across the College. Following the RMRG's consideration the draft report will be forwarded to the Respondent and Complainant, and they will be invited to comments on the factual accuracy of the Report. Any suggested factual amendments will be assessed by the Investigator and incorporated accordingly. The final version of the report should be produced within 3 months, wherever practical.

### **PRIMA FACIE CASE NOT ESTABLISHED**

40. Where the Report finds that the allegation of research misconduct has not been established, it is the responsibility of the Chair of the RMRG to inform the complainant and the accused of this finding.

41. Where the finding is that the allegation should be dismissed but additional misconduct has been established, appropriate action will be taken. If the allegation involves a member of staff and contravenes the Discipline Code, the Director of HR will ensure that HR manages the case under the relevant disciplinary proceedings. If the allegation involves a student and contravenes the Discipline Code, the Vice Provost (Education) will ensure that the case is managed under the relevant student disciplinary proceedings. Otherwise this should be considered only at the end of the Research Misconduct procedure.

### **INFORMAL RESOLUTION**

42. Where the Head or their nominee has found some substance to the allegations but judged that they are minor or there is lack of intention to deceive then the allegation may be dealt with through informal resolution. This may involve mediation, with the consent of both complainant and respondent. The matter may also be resolved by ensuring appropriate training and supervision for the respondent, devised by the Head and agreed by the respondent's line manager or supervisor. It is recognised that genuine mistakes in the preparation, presentation or interpretation of data can be made and these cases should be distinguished from serious or intentional misconduct.

### **FULL INVESTIGATION**

43. If the Head of Faculty/ Department/ Centre or other unit finds that there is a prima facie case for further investigation, the Chair of the RMRG will bring the complaint to the attention of the Provost. The Head of Faculty/ Department/ Centre or other unit is not required to determine whether research misconduct has actually occurred.

44. The Provost will first consider whether primary responsibility for resolving the allegation rests with the College or with another institution. For example, if the allegation involves patient care, the matter will be referred to the Chief Executive of the relevant NHS Trust for investigation. If a member of staff or student has collaborated with members of staff or students from another institution on the matter in question, the Provost will inform the head of that other institution of the College's investigation and, later, its findings. Similarly the Provost will consider whether any regulatory bodies should be informed at this stage.

45. Where the allegation is to be investigated by the College, the Provost will convene an Investigation Panel. Panel members will be familiar with the Panel's Terms of Reference, the Misconduct Procedure, and have appropriate experience/ expertise and declare any conflicts of interest. They must not sit on any Disciplinary Panel or similar charged with dealing with matters arising from the investigation. The Panel's duties will include:

- a. Taking evidence and explanations, in an independent manner, from all parties necessary to ensure a reasonable investigation. Both parties will be expected to produce such evidence as they have, in whatever form it might exist. Where certain evidence or witness information proves impossible to obtain it is expected that the Investigation Panel will consider whether the existing materials remain sufficient to continue a reasonable investigation.
- b. Extending the scope of its enquiries as far as appears necessary or desirable; this might include the commissioning of further experimental or clinical work;
- c. Examining any witnesses who are considered necessary to the investigation;
- d. Making an assessment of the veracity of each piece of evidence; and
- e. Forming conclusions on the substance of the allegation, putting these to the complainant and respondent with supporting evidence and then considering such further evidence or explanations as may be forthcoming.

46. The Investigation Panel will be convened to meet as soon as is practicable following the decision that a full investigation should be conducted.

47. The deliberations of the Panel will reach a conclusion on whether the allegations are founded, based on the balance of probabilities. Where an accused individual admits research misconduct, the investigation process may, at the discretion of the Panel, be discontinued or modified. The Panel should aim to reach a unanimous decision, failing which a majority decision will be acceptable.

48. At the completion of the investigation and deliberations the Panel will provide a draft Report and recommendations to the RMRG for consideration before they are shared with the complainant and the respondent. The RMRG will review the recommendations, and may propose such revisions to the recommendations as it sees fit in the interests of ensuring that similar cases and offences are treated with a degree of consistency across the College. Following the RMRG's consideration the draft report will be forwarded to the Respondent and Complainant, and they will be invited to comments on the factual accuracy of the Report. The validity of any suggested factual amendments will be assessed and incorporated accordingly. Any further incidents of research misconduct encountered which might warrant separate investigation should also be reported at this stage.

49. The Panel will then produce a final report, summarising the conduct of the investigation, whether the allegations are upheld or upheld in part), any findings related to any other matters for investigation and any issues it considers the College (and/ or partners) should address. The Chair of the RMRG shall forward the final report to the Complainant, the Respondent and their representatives.

50. Where an allegation against a staff member is found to be proven, the case should be reported to the Council.

51. Where an allegation against a staff member is found to be proven and all investigations have been exhausted, in addition to any normal disciplinary consequences, the Provost, supported by the RMRG, may recommend further action including:

- a. Informing the editors of all journals in which the respondent has published articles, the status of such articles depending on the outcome of the investigation and, where appropriate, providing notices of retraction or confirmation;
- b. Where appropriate, in the case of a clinically-qualified individual, informing the General Medical Council or other interested bodies;
- c. Where the member of staff is supported by outside funds, informing the sponsoring organisation.

52. Where an allegation against a student is found to be proven, the Vice-Provost (Education), the Director of Student Support and the Academic Registrar will determine an appropriate penalty, in consultation with the student's Head of Faculty if relevant. The College will then issue the student with a Completion of Procedures Letter. If the student is dissatisfied, the student may direct their complaint to the Office of the Independent Adjudicator within three months of the date on which the Completion of Procedures Letter was issued. Information on the complaints covered by the Office of the Independent Adjudicator and the review procedures is available at: <http://www.oiahe.org.uk/making-a-complaint-to-the-oia.aspx>.

53. The Provost, supported by the RMRG, may also recommend further action including:

- a. Informing the editors of all journals in which the respondent has published articles, the status of such articles depending on the outcome of the investigation and, where appropriate, providing notices of retraction or confirmation;
- b. Where appropriate, in the case of a clinically-qualified individual, informing the General Medical Council or other interested bodies;
- c. Where the student is supported by outside funds, informing the sponsoring organisation.

54. Where the Panel finds that the allegation is not proven and is of a frivolous, mischievous or malicious nature, its findings are to be reported to the Director of HR or to the Vice Provost (Education) for action under the normal disciplinary procedures.

55. Consideration of cases raised on the basis of genuine concern about the legitimacy of research will not result in disciplinary action against the Complainant.

56. On the conclusion of the investigation, a closure meeting should be held by the RMRG to document lessons learned.

57. The RMRG will provide an annual report on research misconduct for the Provost's Board, summarising the cases considered during the year, including any lessons learned. Cases which have been found to be proven should also be reported to the Council.

**RECORDING ALLEGATIONS OF RESEARCH MISCONDUCT**

58. The Chair of the RMRG will maintain a register of all Research Misconduct cases. The Register is to include the following information:

- a. The file reference number;
- b. The type of allegation made;
- c. The CID number, grade [or status] and Department of the Respondent;
- d. The name of any Funder
- e. The outcome of the Investigation.

Approved by the Council 23 March 2007

Effective from 8 July 2007

Revisions approved by the Council: 9 July 2010

Revisions approved by the Council: 23 November 2012

Revisions approved by the Council: 7 February 2014

Revisions approved by the Council: 25 November 2016

**Appendix 1****A. TERMS OF REFERENCE FOR THE SCREENING STAGE INVESTIGATOR**

1. The Screening Stage Investigator will determine whether there is prima facie evidence of research misconduct. They will have considered that the allegations:

- Constitute research activity where the College has primary responsibility
- Involve a Respondent where the College is the primary employer or for whom it has primary responsibility
- Do not encompass breaches of the law or under those areas in the domain of the relevant regulatory authority
- Do not encompass breaches of the organisation's Regulations which should be dealt with under the Disciplinary Procedure
- Are not mistaken, frivolous, vexatious or malicious

2. The Screening Stage Investigator will be either the Head of Faculty/ Department/ Centre or other unit or an independent and appropriately qualified nominee. In certain circumstances it will be more appropriate for the Chair of the RMRG to consult with the Vice Provost (Research) to determine who should investigate the allegation.

3. The Screening Stage Investigator shall normally:

- Maintain a record of evidence sought and received, and conclusions reached
- Conduct an assessment of the evidence including interviewing the Respondent and Complainant and other staff considered relevant to the investigation
- Utilise guidance from the UKRIO where needed
- Provide a draft report to the RMRG, who's Chair will forward it to the Respondent and Complainant for comment limited to the accuracy of facts within the Report.
- The Investigator shall assess the validity of any suggested factual amendments and amend accordingly
- Produce a final report within 3 months wherever possible.

**B. TERMS OF REFERENCE FOR THE FULL INVESTIGATION PANEL**

4. The Investigation Panel shall be convened by the Provost to investigate allegations of research misconduct which the Screening Investigator has deemed to have sufficient substance to warrant a full investigation.

5. The Panel shall be appointed by the Provost and/ or President and shall consist of a College Consul of the relevant Faculty, two other members of academic staff from the College, and a member of academic staff from another university.

6. The Panel shall:

- Receive all relevant information from the Screening Panel as background for the investigation,
- Set a date for the investigation, which shall be conducted as reasonably expeditiously as possible,
- Maintain a record of evidence sought and received, and conclusions reached,
- Conduct an assessment of the evidence,
- Hear the Complainant and such other individuals as the Panel consider relevant to the investigation,
- Hold a Formal hearing, to hear the Respondent's response to the allegations made.
- Consider the allegations of misconduct in research and reach a conclusion on the allegations with the standard of proof used to reach that decision being 'on the balance of probabilities',
- Provide a draft report to the RMRG, who's Chair should forward it to the Respondent and the Complainant (and their representatives by agreement) for comment only on the factual accuracy of the Report,
- Shall assess the validity of any suggested factual amendments and amend accordingly,
- Report any further or distinct incidents of Research Misconduct encountered, which warrant separate investigation,
- Aim to reach a unanimous decision, failing which a majority decision will be acceptable.

7. The Investigation Panel should then produce a final report that:

- Summarises the conduct of the investigation,
- States whether the allegation of misconduct in research have been upheld in whole or in part, giving the reasons for its decision and recording any different views;
- Makes recommendations in relation to any matters relating to any other misconduct identified during the investigation;
- Addresses any procedural matters that the investigation has brought to light within the College and relevant partner organisations or funding bodies.