

Procedure for the Investigation of Allegations of Misconduct in Research

September 2013

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| Karen Musk, Research Manager (Strategy and Policy), Research and Innovation Services | | Dr David Arrell, Pro Vice-Chancellor, Directorate |
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Procedure for the Investigation of Allegations of Misconduct in Research

Summary

What is this Procedure about?

This Procedure sets out a framework for the investigation and resolution of allegations of misconduct in research. It explains what constitutes misconduct in research (as opposed to general misconduct), how concerns about research conduct can be raised, and what procedures will be followed in the event that an allegation of research misconduct is received.

Who is this Procedure for?

This document will be of most interest to staff, research students and all others conducting research under the auspices of the University. It will also be of interest to those organisations that participate in and/or provide funding to support research. It may also be of interest to the wider public.

How does the University check this Procedure is followed?

Details of any investigations of research misconduct will be reported, in confidence, to the University Research and Enterprise and Innovation Committees, which are chaired by the Pro Vice-Chancellor with responsibility for Research. In addition, internal audits of the application of this procedure may be undertaken from time to time.

Who can you contact if you have any queries about this Procedure?

If you have any questions about this Procedure, please contact the Research Manager (REF and Governance) in the University's Research and Innovation Services department at ris@port.ac.uk.

A. Introduction

1. Ensuring and sustaining integrity in all aspects of research is a core aspect of the University's commitment to the advancement of knowledge. Misconduct in research damages the integrity of research, brings both the individual and the institution into disrepute and can, in extreme circumstances, cause harm to those involved in research. This Procedure has been approved by the Board of Governors and Academic Council of the University to provide a procedural framework for investigating allegations of misconduct in research conducted under the auspices of the University.
2. Research misconduct is an extremely serious matter and, therefore, the University has a duty to ensure that such individuals receive appropriate training in the relevant ethical, legal and other conventions. The University seeks to sustain this approach by providing an environment that fosters and supports honesty in research and also discourages unacceptable behaviour by dealing seriously and sensitively with all allegations of misconduct in research.
3. It is a condition of conducting research under the auspices of the University and/or on University premises that practice conforms to the UK Research Integrity Office Code of Practice for Research (2009). Failure by a researcher to comply with the provisions of that Code will be grounds for action to be taken under this Procedure.
4. Staff, research students and all others conducting research under the auspices of the University are required to report misconduct in research where they have good reason to believe it is occurring. The University will investigate allegations or complaints about misconduct in research. Those 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.
5. When an allegation of research misconduct is raised under the University's Whistleblowing Policy, at the point when the allegation is considered (section 6.2 Next steps), the University Secretary (the designated Whistleblowing Officer) will refer the allegation of research misconduct to be dealt with under this Procedure.
6. This Procedure is compatible with the principles of the Universities UK Concordat to support research integrity (2012), the RCUK Policy and Guidelines on the Governance of Good Research Conduct (2013) and the UK Research Integrity Office's Procedure for the Investigation of Misconduct in Research (2008).

B. Scope

7. This Procedure applies to any person conducting research under the auspices of the University, whether solely or in conjunction with others in the University or with other organisations, including, but not limited to:
 - i) a member of staff;
 - ii) a research student;
 - iii) an independent contractor or consultant;
 - iv) a person with visiting or emeritus status; and
 - v) a member of staff on a clinical, honorary or secondment contract.
8. This Procedure recognises that the investigation of allegations of research misconduct can involve complex issues and seeks to discharge the University's responsibilities in a sensitive and fair manner. It outlines the process to be followed when allegations of misconduct in research are brought against a researcher in relation to research conducted under the auspices of the University.
9. The Procedure will be carried out in accordance with the Principles of Fairness, Confidentiality, Integrity and Prevention of Detriment, as set out in Annex 1, and the Standards set out in Annex 2. Those responsible for carrying out this Procedure must ensure they are familiar with the Principles and Standards.
10. This Procedure will normally apply to research students who are registered for an MPhil, MD, PhD or a Professional Doctorate, but not normally to undergraduate or taught postgraduate students. Taught student misconduct is dealt with under the University's Code of Student Behaviour.
11. The University will follow this Procedure even in the event that the individual(s) concerned has left or leaves the jurisdiction of the University, either before the operation of this Procedure is concluded or before the allegation(s) of research misconduct was made.
12. Nothing in this Procedure shall limit the right of the University or a member of staff or a student of the University to exercise their rights under any University policies concerning discipline and grievance.
13. Proven research misconduct may result in action being taken under the University's disciplinary procedures for staff or research students, as appropriate, or other relevant process and may be considered good cause for: dismissal in the case of members of staff; programme termination in the case of registered students; and rescission of award in the case of graduates of the University. Reports generated by this Procedure may be used in evidence by the University's disciplinary procedures and other processes and may be released in reporting the matter to any appropriate external organisation.
14. Alleged misconduct in research relating to a thesis which has been submitted for examination will be investigated under this Procedure.
15. Any allegations of financial fraud or other misuse of research funds or research equipment will be addressed under the University's Procedure for the Investigation of Alleged Financial and other Irregularities instead of under this Procedure.
16. For the avoidance of doubt, misconduct in research includes acts of omission as well as acts of commission. As well as complying with accepted procedures, researchers must comply with all legislation that applies to the conduct of their research; the standards by which allegations of misconduct in research should be judged should be those prevailing at the date that the behaviour under investigation took place. Misconduct in research does not include unintentional error or professional differences in interpretation or judgement of data.

C. Definitions (in alphabetical order)

17. **Accepted procedures** include but are not limited to the following:
 - i) gaining informed consent where required;
 - ii) gaining formal approval from relevant organisations where required;
 - iii) any protocols for research contained in any formal approval that has been given for the research;
 - iv) any protocols for research as defined in contracts or agreements with funding bodies and sponsors;
 - v) any protocols approved by the Medicines and Healthcare Products Regulatory Authority (MHRA) for a trial of medicinal products;
 - vi) any protocols for research set out in the guidelines of the employing institution and other relevant partner organisations;
 - vii) any protocols for research set out in the guidelines of appropriate recognised professional, academic, scientific, governmental, national and international bodies;
 - viii) any procedures, including ethical reviews, that are aimed at avoiding unreasonable risk or harm to humans, animals or the environment;

- ix) good practice for the proper preservation and management of primary data, artefacts and materials;
 - x) any existing guidance on good practice on research.
18. **Code:** the UK Research Integrity Office (2009). Code of Practice for Research: Promoting good practice and preventing misconduct.
 19. **Complainant:** the person making an allegation of misconduct in research, who need not be a member of staff or student of the University.
 20. **Formal Investigation:** an inquiry to review all the relevant evidence and conclude whether an allegation of misconduct in research is upheld in full, upheld in part or not upheld.
 21. **Formal Investigation Panel/the Panel:** the persons appointed under this Procedure to conduct a Formal Investigation. The Panel does not have disciplinary powers, but will make recommendations regarding further action necessary to rectify any misconduct it has found and correct the record of research and to preserve the academic reputation of the University, for consideration by the appropriate University authorities.
 22. **Investigator:** the person(s) appointed under this Procedure to conduct a Preliminary Investigation of an allegation of misconduct in research.
 23. **Misconduct in research/research misconduct:** any breach of the Code or accepted procedures that seriously deviate from those that are commonly expected within the academic and scientific communities for proposing, conducting or reporting research. It specifically encompasses, but is not restricted to:
 - i) Piracy by the exploitation of the ideas of others without permission or acknowledgement, including the piratical use of material that has been provided in a privileged way for review, examination, assessment or appraisal.
 - ii) Plagiarism by the misappropriation of ideas, data or text without adequate acknowledgement or citation.
 - iii) Fraud by the manipulation of data or findings with an intention to deceive, including the fabrication of data and the falsification of data.
 - iv) Collusion by the deliberate participation in the research misconduct of another person, or concealment of such action by others.
 - v) Failures to follow accepted procedures or to exercise due care in carrying out responsibilities for avoiding unreasonable risk or harm to human or animal participants in research and/or to the environment.
 - vi) Failures to follow accepted procedures or to exercise due care in carrying out responsibilities for the proper handling of privileged or private information relating to individuals, and collected during the research.
 - vii) Interference by the intentional damage to, withholding or removal of, the research-related property of another person.
 - viii) Negligence by the culpable serious departure from legal, institutional and ethical practices in research which involves human or animal subjects, including unjustifiable departure from accepted practices, procedures and protocols.
 - ix) Failure to declare or resolve a conflict of personal interest in research.
 - x) Breach of confidentiality required by external research contractors.
 24. **Preliminary Investigation:** an initial assessment of an allegation of misconduct in research to determine whether there is sufficient evidence to warrant a Formal Investigation of the allegation.
 25. **Procedure:** the University's Procedure for the Investigation of Allegations of Misconduct in Research.
 26. **Research:** for the purposes of this Procedure, 'research' is defined as, *inter alia*, original investigation undertaken in order to gain knowledge and understanding, and the application of that knowledge and understanding.
 27. **Researcher:** any person conducting research under the auspices of the University, whether solely or in conjunction with others in the University or with other organisations, including but not limited to: a member of staff; a research student; an independent contractor or consultant; a person with visiting or emeritus status; and a member of staff on a clinical, honorary or secondment contract.
 28. **Research Governance Officer:** the officer of the University (in Research and Innovation Services) designated as having responsibility for administrative support matters related to Research Governance.
 29. **Research student:** for the purposes of this Procedure, 'research student' shall mean those registered for an MPhil, MD, PhD or a Professional Doctorate.
 30. **Respondent:** the person against whom an allegation of misconduct in research is made.
 31. **Screening Panel:** at the discretion of the University Secretary, a Screening Panel may be appointed to conduct a Preliminary Investigation (see paragraph 51 below).
 32. **The University:** the University of Portsmouth.

33. **University Secretary:** the senior representative of the University and 'Designated Whistleblowing Officer', in accordance with the University's Whistleblowing Policy.

D. Receipt of allegations (Annex 4 Procedure flowchart refers)

34. In accordance with the Whistleblowing Policy, all initial allegations of misconduct in research should be made to the University Secretary, irrespective of whether the Complainant is, or is not, a member of the University. The Complainant must provide as detailed a statement as possible in writing in support of the allegation.
35. It is important to report alleged or suspected misconduct in research as it can have wide-ranging and damaging consequences, harming the integrity of research, bringing both the individuals involved and the University into disrepute and, in extreme circumstances, causing harm to those involved in or who make use of the research. Those making an allegation or complaint will not be penalised, provided that they have reasonable grounds for believing there is serious malpractice within the institution.
36. While this Procedure encourages persons with concerns about the conduct of research to raise them with the University Secretary directly, it is recognised that members of staff or students may fear that their own position could be jeopardised if they raise a particular concern. In accordance with the Whistleblowing Policy, a member of staff or a student may, therefore, choose to raise a concern in the first instance with a Head of School or Department or their line manager and ask that person to bring the matter forward on his/her behalf.
37. This Procedure asks persons to put their name to any allegations they make. Allegations which are anonymous or where there is no specific Complainant will only be considered at the discretion of the University Secretary, taking into account: the seriousness of the concerns raised; the credibility of the concerns; and the likelihood of confirming the concerns from alternative and credible sources.
38. If the University Secretary is the Complainant or the Respondent or is personally associated with the work to which the allegation relates or has any other conflict of interest, he/she will instead refer the allegation to the Chairman of the Audit and Quality Committee in writing and notify the Complainant accordingly, also in writing. The Chairman of the Audit and Quality Committee will then take on the role of the University Secretary as regards the conduct of this Procedure and he/she will be responsible for fulfilling all of the duties allocated to that role by this Procedure.
39. The University Secretary will inform the Research Governance Officer, in confidence, that an allegation of misconduct in research has been received.
40. The University Secretary will review the allegations with reference to the definition of misconduct in research described in paragraph 23 and the status of the Respondent as described in paragraph 7. The University Secretary shall be free to seek confidential advice from persons with relevant expertise, both within the University and outside it (see paragraph 139).
41. Where an allegation falls under these definitions, the University Secretary will acknowledge receipt of an allegation by the Complainant in writing, informing him/her that the allegation will be investigated under this Procedure. A copy of the Procedure will be provided to the Complainant.
42. If the University Secretary determines that the allegations fall outside either of the definitions, he/she will inform the Complainant in writing:
- i) the reasons why the allegation cannot be investigated using this Procedure;
 - ii) which process for dealing with complaints might be appropriate for handling the allegation (if any) and/or, if appropriate, which external body; and
 - iii) to whom the allegation should be reported.
43. In cases where an allegation is of a serious nature but does not fall under the definition of research misconduct, the University Secretary may choose to initiate an appropriate University procedure to address the allegation or inform an appropriate external body, such as a statutory regulator or professional body. The latter may be particularly appropriate if concerns relate to Fitness to Practise. It should be made clear that any actions that might be taken by the University Secretary in response to the notification of an allegation of misconduct in research 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 University. Those conducting this Procedure will take steps to make it clear to the Respondent, Complainant and any other involved parties that these actions are necessary to prevent further risk or harm to any persons involved in the research and that the allegations of misconduct in research can be properly investigated and to meet contractual and other obligations of the University.
44. Where an allegation does fall under the definition of research misconduct and where it concerns situations that require immediate action to prevent further risk or harm to staff, participants or other persons, suffering to animals or negative environmental consequences (where this might contravene the law or fall below good practice), then the University Secretary will take immediate appropriate action to ensure that any such potential or actual danger/illegal activity/risk is prevented/eliminated. It may be necessary to notify legal or regulatory authorities or relevant professional bodies. An allegation which does not require notification to legal or regulatory bodies will proceed to the next step of the Procedure.

45. The University Secretary will investigate whether the research project to which the allegation relates includes contractual obligations that require the University to undertake prescribed steps in the event of an allegation of misconduct in research being made and take any actions that may be necessary to meet such obligations. Such obligations might be in:
 - i) a contract/agreement or guidance on research conduct from a funding organisation;
 - ii) a partnership contract/agreement/Memorandum of Understanding; or
 - iii) an agreement to sponsor the research.
46. The Research Governance Officer will ensure that all relevant information and evidence are secured, so that any investigation conducted under this Procedure can have access to them.
47. The actions described in paragraphs 38–46 above should take place as soon as is practicable upon receipt of an allegation, normally within ten working days. The University Secretary may identify suitable administrative and other support to assist him/her in carrying out the above actions.

E. Preliminary Investigation (Annex 4 Procedure flowchart refers)

48. As soon as is practicable upon receipt of an allegation, normally within ten working days, the University Secretary will instruct the Head of the School, Department, or equivalent in which the misconduct is alleged to have occurred to conduct a Preliminary Investigation into the allegation.
49. The Head or alternate(s), as described in paragraphs 50–52 below, ('the Investigator') will confirm to the University Secretary in writing that their participation involves no conflict of interest.
50. If the Head of the School, Department, or equivalent in which the misconduct is alleged to have occurred is the Complainant or the Respondent, is personally associated with the work to which the allegation relates or has any other conflict of interest, the University Secretary will instead refer the allegation to another senior member of staff, including but not limited to the Head of a different School or Department.
51. If an allegation relates to multiple Schools or Departments, then the University Secretary will normally instruct the Head whom he/she considers most appropriate to conduct the Preliminary Investigation, although he/she may instead refer the allegation to another senior member of staff, as described in 50 above, if that is considered more appropriate.
52. At the discretion of the University Secretary, a Screening Panel may be appointed to conduct the Preliminary Investigation. This may be advantageous if an allegation is complex.
 - i) The Screening Panel will normally consist of three persons drawn from senior members of the University's staff.
 - ii) The University Secretary may choose to appoint one or more members of the Screening Panel from outside the University.
 - iii) The University Secretary will select one of the members of the Screening Panel to be its Chair.
 - iv) When appointed, a Screening Panel will take on the role of the Investigator as regards the conduct of the Preliminary Investigation and its members will be responsible for fulfilling all of the duties allocated to that role by this Procedure.
53. The purpose of the Preliminary Investigation is to determine whether there is sufficient evidence of research misconduct to warrant a formal investigation of the allegation.
54. The University Secretary will identify suitable administrative and other support to assist the Investigator. Those selected to provide such support will confirm to the University Secretary in writing that their participation involves no conflict of interest.
55. The Investigator will inform the Respondent in writing that: an allegation of misconduct in research has been made against him/her; it will be investigated under this Procedure; and that the Respondent will be given the opportunity to respond to the allegation and set out his/her case. A written summary of the allegation will be provided to the Respondent together with a copy of this Procedure. As in paragraph 121 below, the identity of the Complainant will normally be kept confidential until a Formal Investigation is launched unless this is incompatible with a fair and thorough investigation and/or there is an overriding reason for disclosure.
56. If an allegation is made against more than one Respondent, the Investigator will inform each individual separately and not divulge the identity of any other Respondent.
57. Similarly, the Investigator will inform the Complainant that he/she is to conduct a Preliminary Investigation into the allegation.
58. When writing to the Respondent and Complainant, the Investigator will inform them that they may raise with the University Secretary in writing any concerns that they may have about the person(s) chosen to conduct the Preliminary Investigation. The University Secretary will decide if any concerns raised by the Respondent and/or the Complainant warrant the exclusion of the person(s) concerned from involvement in the investigation, recording the reasons for the decision in writing. He/she will inform the person(s) concerned and the Respondent and/or the Complainant, as appropriate, of his/her decision in writing.

59. The Investigator will consider the evidence available concerning the allegation, including: the allegation and any supporting evidence from the Complainant; any comment and supporting evidence from the Respondent; and any other documentation and background information relevant to the allegation.
60. The Investigator will also interview the Complainant, the Respondent and any other persons considered appropriate. When the Investigator interviews the Respondent, he/she shall be given the opportunity to formally respond to the allegation made against him/her, set out his/her case and to present evidence. The Complainant and Respondent may be accompanied at meetings as described in paragraphs 111–113 below.
61. If the Investigator considers that there is insufficient information to make a decision on how to proceed or requires additional expertise to carry out the Preliminary Investigation, he/she will be free to seek confidential advice from persons with relevant expertise, both within the University and outside it, as described in paragraph 139 below.
62. The Investigator will normally aim to complete the Preliminary Investigation within 30 working days following instruction from the University Secretary (see paragraph 48 above) provided this does not compromise the Principles and Standards of the Procedure (see Annexes 1 and 2) and the full and fair investigation of the allegation. Any delays to this timescale will be explained to the Complainant, the Respondent and the University Secretary in writing, presenting an estimated revised date of completion.

F. Preliminary Investigation: Findings and subsequent actions

63. At the conclusion of the Preliminary Investigation, the Investigator will determine whether the allegation of misconduct in research:
 - i) is unfounded, because it is mistaken or is frivolous and is otherwise without substance, and will be dismissed; or
 - ii) is unfounded, because it is vexatious and/or malicious and is otherwise without substance, and will be dismissed; or
 - iii) warrants referral directly to: the University's disciplinary procedures; another relevant University process; or to an external organisation, including but not limited to statutory regulators or professional bodies, the latter being particularly relevant where there are concerns relating to Fitness to Practise; or
 - iv) has some substance but due to a lack of intent to deceive or due to its relatively minor nature, will be addressed through education and training or other non-disciplinary approach, such as mediation, rather than through the next stage of the Procedure or other formal processes; or
 - v) is sufficiently serious and has sufficient substance to warrant a Formal Investigation of the complaint.
64. The Investigator will make a confidential written record of his/her investigation, including any response from the Respondent, and the Investigator's conclusions.
65. The Investigator will make the draft report available to the University Secretary, who will then forward it to the Respondent and the Complainant for comment on its factual accuracy. Only when the report includes errors of fact, as indicated by the Respondent and/or the Complainant, will the Investigator amend the report. The Investigator will judge the validity of such comments before making amendments to the report.
66. The Investigator will then forward the final report to the University Secretary, together with any documentation used in the investigation, and to the Complainant and the Respondent. The work of the Investigator is then concluded, although he/she may be: asked by the University Secretary to clarify any points in the final report of the Preliminary Investigation; called as a witness by any subsequent Formal Investigation, including being asked to clarify any points in the final report of the Preliminary Investigation; and/or consulted by the University Secretary regarding any subsequent actions taken under this Procedure or other University processes. The Investigator will not make any comment on the allegation or its investigation unless formally requested by the University or otherwise required to by law. He/she will treat all information concerning the allegation and its investigation as confidential.
67. When allegations are considered mistaken, frivolous, vexatious and/or malicious, and are otherwise without substance, they will be dismissed. The University Secretary will then take such steps, as are appropriate in the light of seriousness of the allegations, to sustain the reputation of the Respondent and the relevant research project(s) and, provided the allegation is considered to have been made in good faith, the Complainant. When a Preliminary Investigation has concluded that an allegation is vexatious and/or malicious, the University Secretary will consider whether disciplinary proceedings should be initiated against the Complainant, if they are a member of staff or a student of the University, or legal action if the Complainant is not a member of the University.
68. In cases where it is concluded that an allegation warrants referral directly to the University's disciplinary procedures or other relevant process or to an external organisation, the University Secretary will initiate the appropriate University procedure(s) or inform the appropriate external organisation(s). Appropriate external organisations may include, but are not limited to, statutory regulators or professional bodies, the latter being particularly relevant where there are concerns relating to Fitness to Practise.
69. In cases where it is concluded that the allegation will be addressed through education and training or other non-disciplinary approach, such as mediation, rather than through the next stage of the Procedure or other formal processes, the University Secretary will work with relevant University staff to establish a programme of training or supervision in conjunction with the Respondent and his/her line manager. This programme will include measures to address the needs of staff and students working with the Respondent. The use of this Procedure will then conclude at this point.

70. When the Preliminary Investigation concludes that an allegation is sufficiently serious and has sufficient substance to warrant a formal investigation of the complaint, the University Secretary will take immediate steps to set up a Formal Investigation.
71. The University Secretary will make available to the Research Governance Officer, in confidence, a copy of the Preliminary Investigation report and also a summary of any actions taken under paragraphs 67–70 above.

G. Formal Investigation (Annex 4 Procedure flowchart refers)

72. The purpose of the Formal Investigation is to review all the relevant evidence and:
- i) conclude whether an allegation of misconduct in research is upheld in full, upheld in part or not upheld (see paragraphs 87 to 89 below, for further details); and
 - ii) make recommendations, for consideration by the appropriate University authorities, regarding any further action the Formal Investigation Panel ('the Panel') deems necessary to: address any misconduct it may have found; correct the record of research, and/or preserve the academic reputation of the University (see paragraph 90 below, for further details).
73. If a Formal Investigation is considered necessary, the University Secretary will inform the Complainant and Respondent that a Formal Investigation of the allegation is to take place and appoint a Formal Investigation Panel. The Panel will normally be appointed within 21 working days of the completion of the Preliminary Investigation stage. Any delays to this timescale will be explained to the Complainant, the Respondent and other relevant parties in writing, presenting an estimated revised date of appointment.
74. Where a regulatory body, including statutory bodies regulating professions, or grant- or contract-awarding body or partner organisation requires to be informed about such a Formal Investigation, the University Secretary will provide the necessary confidential information to that body.
75. The University Secretary will consider whether, without prejudice to the proper conduct of the investigation, any other action should be taken at this stage pending the outcome of the investigation. It should be made clear that any actions that might be taken by the University Secretary in response to the notification of an allegation of misconduct in research 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 University. Those conducting this Procedure will take steps to make it clear to the Respondent, Complainant and any other involved parties that these actions are necessary to prevent further risk or harm to any persons involved in the research and that the allegations of misconduct in research can be properly investigated and to meet contractual and other obligations of the University.
76. The Panel should consist of at least three impartial investigators, of which at least one will be from outside the University. Two members of the Panel will be academic specialists in the discipline(s) in which the misconduct is alleged to have taken place; such persons may include the Panel member(s) from outside the University. Where an allegation involves research being conducted in conjunction with a partner organisation, then it may be advisable for a representative of that organisation to be a member of the panel. Similarly, when an allegation involves a researcher on a clinical, honorary or secondment contract, it may be advisable for a representative of the other employing organisation to be a member of the Panel. Members of the Panel will not have previously been involved in the investigation of the allegation.
77. When the research to which the allegation relates is deemed to be commercially sensitive, it may be appropriate for members of the Panel to sign a Non-Disclosure Agreement. However, the terms of any such Non-Disclosure Agreement must not compromise the ability of the Panel to conduct a full and fair investigation of the allegation, as described in paragraph 72 above, including its ability to seek confidential advice from persons with relevant expertise and make recommendations regarding any further action necessary by the University and/or other bodies to address any misconduct it has found, correct the record of research and to preserve the academic reputation of the University (see paragraphs 85 and 90 below).
78. The University Secretary will select the Chair of the Panel from its members. The Chair will normally be a senior member of the University from outside the discipline in which the misconduct is alleged to have taken place. At the discretion of the University, the Chair may be selected from the member(s) of the Panel from outside the University and this may be advantageous if an allegation is complex. In a case which involves complex legal issues, the University Secretary may appoint an external lawyer or other suitably qualified person to act as adviser to the Panel.
79. Each member of the Panel, including the Chair, will confirm in writing to the University Secretary that their participation involves no conflict of interest (see paragraphs 125–126 below). They should seek advice from the University Secretary if unsure.
80. The University Secretary will give the Respondent and Complainant the opportunity to raise in writing any concerns that they may have about the persons chosen to conduct the Formal Investigation. The University Secretary will decide if any concerns raised by the Respondent and/or the Complainant warrant the exclusion of the person(s) concerned from involvement in the Formal Investigation, recording the reasons for the decision in writing. He/she will inform the person(s) concerned and the Respondent and/or the Complainant, as appropriate, of his/her decision in writing.
81. The Chair of the Panel will be responsible for the conduct of the Panel under this Procedure and will determine its own procedure in the conduct of the investigation. The Panel does not have any disciplinary powers.

82. The University Secretary will identify suitable administrative and other support to assist the Investigator. Those selected to provide such support will confirm to the University Secretary in writing that their participation involves no conflict of interest, seeking advice from the University if unsure.
83. Both the Complainant and the Respondent will have the right to submit evidence to the Panel orally and in writing. In the case of the Respondent, this includes the right to formally respond to the allegation made against him/her and set out his/her case. Both the Complainant and the Respondent will have the right to be accompanied at meetings by another person if they so desire (as described in paragraphs 111–112 below).
84. The Panel shall be free to seek confidential advice from persons with relevant expertise, both within the University and outside it, as described in paragraph 139 below.
85. In carrying out the Formal Investigation the Panel will conduct the Formal Investigation as quickly as possible without compromising the Principles and Standards of the Procedure (see Annexes 1 and 2) and the full and fair investigation of the allegation.
86. The Chair will report the progress made by the Investigation Panel, by reference to criteria agreed by the Panel in advance, to the University Secretary on a monthly basis. The University Secretary will then provide appropriate information on the progress of the investigation, in confidence, to the Complainant and the Respondent, and to other interested parties as appropriate.

H. Formal Investigation: Findings and subsequent actions

87. At the conclusion of the Formal Investigation, the Panel will conclude, giving the reasons for its decision and recording any differing views, whether the allegation of misconduct in research is:
 - i) upheld in full; or
 - ii) upheld in part; or
 - iii) not upheld and will be dismissed.
88. When concluding whether an allegation is upheld in full, upheld in part or not upheld, the standard of proof used by the Panel will be that of 'on the balance of probabilities'.
89. The Panel may determine that an allegation is not upheld because it is mistaken or is frivolous or is otherwise without substance or is vexatious and/or malicious. The Panel may also determine that an allegation is not upheld because of a lack of intent to deceive or due to its relatively minor nature and will therefore be addressed through education and training or other non-disciplinary approach, such as mediation.
90. The Panel may also make recommendations, for consideration by the appropriate University authorities, regarding any further action necessary by the University and/or other bodies to: address any misconduct it has found; correct the record of research; and/or preserve the academic reputation of the University. Such recommendations might include but are not limited to:
 - i) whether the allegation should be referred to the University's relevant disciplinary procedure; and/or
 - ii) whether the allegation should be referred to another relevant University process or the University's Procedure for the Investigation of Alleged Financial and other Irregularities;
 - iii) what external organisations should be informed of the findings of the investigation, with appropriate confidentiality, including but not limited to statutory regulators, relevant funding bodies, partner organisations and professional bodies, the latter being particularly relevant if concerns relate to Fitness to Practise;
 - iv) whether any action will be required to correct the record of research, including but not limited to informing the editors of any journals that have published articles concerning research linked to an upheld allegation of misconduct in research and/or by a person against whom an allegation of misconduct in research has been upheld; and/or
 - v) whether procedural or organisational matters should be addressed by the University or other relevant bodies through a review of the management of research; and/or
 - vi) informing research participants; and/or
 - vii) other matters that should be investigated, including allegations of misconduct in research 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.
91. The Panel will make a confidential written record of its investigation, including any response from the Respondent, and the Panel's conclusions and recommendations.
92. The Panel will make its draft report available to the Respondent and the Complainant, in confidence, for comment on its factual accuracy. The Respondent and the Complainant should submit any concerns about errors of fact to the Panel in writing. The Panel will decide if any concerns raised by the Respondent and/or the Complainant warrant the revision of the draft report and inform the Respondent and/or the Complainant, as appropriate, of its decision in writing.

93. The Chair will then forward the final report to the University Secretary, together with any documentation used in the investigation.
94. The work of the Panel is then concluded and it should be disbanded, although its members may be: asked by the University Secretary to clarify any points in the final report of the Formal Investigation and/or be consulted by the University Secretary regarding any subsequent actions taken under this Procedure or other University processes. Members of a disbanded Panel will not make any comment on the allegation or its investigation unless formally requested by the University or otherwise required to by law. They will treat all information concerning the allegation and its investigation as confidential.
95. The University Secretary will:
- i) notify the Complainant and the Respondent in writing of the outcome of the investigation; and
 - ii) make available to the Research Governance Officer, in confidence, a copy of the final report of the Formal Investigation; and
 - iii) where appropriate, notify the following in writing of the outcome of the investigation: any relevant regulatory or professional bodies, any relevant partner organisations and any other persons or bodies as he/she deems appropriate, including but not limited to the editors of any journals which have published articles concerning research linked to an upheld allegation of misconduct in research and/or by a person against whom an allegation of misconduct in research has been upheld; and
 - iv) take any administrative actions that may be necessary to: meet all legal and ethical requirements; protect the funds and/or other interests of grant- or contract-awarding bodies; and meet all contractual commitments, including any relating to disclosure of the outcome of the Formal Investigation.
96. When an allegation is not upheld, for whatever reason, the University Secretary will then take such steps, as are appropriate in the light of seriousness of the allegation, to sustain the reputation of the Respondent and the relevant research project(s) and, provided the allegation is considered to have been made in good faith, the Complainant. If the case has received any publicity the Respondent shall be offered the possibility of having an official statement released to the media.
- i) When a Formal Investigation has concluded that an allegation is not upheld because it is vexatious and/or malicious, the University Secretary will consider whether disciplinary proceedings should be initiated against the Complainant.
 - ii) When it is concluded that the allegation is not upheld and will be addressed through education and training or other non-disciplinary approach, such as mediation, the University Secretary will work with relevant University staff to establish a programme of training or supervision in conjunction with the Respondent and his/her line manager. This programme will include measures to address the needs of staff and students working with the Respondent. The use of this Procedure will then conclude at this point.
97. When an allegation of misconduct in research is upheld, the University Secretary will decide what action needs to be taken under the University's relevant disciplinary procedure and/or otherwise.
- i) In making this decision, the University Secretary will take into account any recommendations made by the Panel, namely any further action it would consider necessary by the University and/or other bodies to address any misconduct it has found, correct the record of research and preserve the academic reputation of the University.
 - ii) Particular attention will be paid to: any recommendations concerning research participants; and any recommendations concerning allegations of misconduct, whether research misconduct or otherwise, unrelated to the allegation that was the subject of the investigation (see paragraph 90 above).
98. The University Secretary will liaise, as appropriate, with relevant committees and officers of the University and with other bodies to ensure any necessary courses of action are taken.
99. In addition, when an allegation is upheld the University Secretary will take such steps, as are appropriate in the light of seriousness of the allegation, to sustain the reputation of the Complainant. If the case has received any publicity the Complainant shall be offered the possibility of having an official statement released to the media. Care may need to be taken, and appropriate advice sought, regarding the wording of any such statement and the timing of its release, to avoid prejudicing actions being taken by the University and/or other bodies subsequent to the allegation being upheld.
100. The University Secretary will make available to the Research Governance Officer, in confidence, a summary of any actions taken under paragraphs 93–97 above.
101. In carrying out any of the above actions (paragraphs 93–99), the University Secretary will be free to seek confidential advice from persons with relevant expertise, both within the University and outside it, as described in paragraph 139 below.

I. Reporting to the University Research and Enterprise and Innovation Committees

102. Summaries of reports generated by Preliminary and Formal Investigations of allegations addressed under this Procedure will be circulated, in confidence, on an annual basis to the University Research and Enterprise and Innovation Committees, as will summaries of follow-up reports relating to any actions taken following the conclusion of such Investigations. All such summaries will be anonymised and/or have content redacted if deemed appropriate, the decision to be made by the University Secretary in consultation with the Research Governance Officer and any other relevant officers of the University.
103. Records of investigations under this Procedure shall be held by the Research Governance Officer in Research and Innovation Services. In the case that an allegation is dismissed, addressed informally or referred by a Preliminary Investigation or is not upheld after a Formal Investigation, on closure of the investigation, a summary will be prepared and the original records destroyed. The summary will be retained for a period of six years. In the case that an allegation is upheld (in full or in part) after Formal Investigation, original records will be retained for a period of six years from the date of closure of the investigation under this Procedure.

Annex 1

Principles

104. Misconduct in research is a serious matter. Equally, the investigation of allegations of misconduct in research must be conducted in accordance with the highest standards of integrity, accuracy and fairness.
105. 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: for example, it may, in certain circumstances prove to be impracticable to undertake a detailed screening of the allegations without releasing the Complainant's identity to the Respondent.
106. The University Secretary will be responsible for resolving any such conflicts between the Principles, keeping in mind at all times that the primary goal of this Procedure is to determine the truth of the allegation.
107. **Fairness:** the investigation of any allegation of misconduct in research must be carried out objectively and with due sensitivity.
108. Those responsible for carrying out this procedure will do so with knowledge of the statutory obligations of the University and the rights of its employees and students according to current law and any additional rights and obligations as bestowed by the University's Instruments and Articles.
109. The Respondent must be given full details of the complaint in writing. Where an individual is under investigation by a regulatory body for research and/or other appropriate organisation, such as the Police, regarding an offence that may have been committed in the course of or related to his/her employment, and is in breach of the UK Research Integrity Office Code of Practice for Research (2009), and/or the University's disciplinary rules, this Procedure will apply separately to any such investigations. In all such cases, advice will be sought from Human Resources before taking action.
110. When someone is formally investigated for alleged misconduct in research, he/she must be given the opportunity to set out their case and respond to the complaint against them by asking questions, presenting information/evidence in their defence, adducing evidence of witnesses and raising points about any information given by any witness, regardless of who has called the witness in question.
111. The Respondent and Complainant may be accompanied at any meeting convened under this Procedure and will be informed of that right in any correspondence. Further details as to who may accompany the Respondent and Complainant are given in paragraphs 112–113 below. In addition, the Respondent and Complainant can seek advice and assistance from anyone of their choosing but he/she shall only do so in private and in strict confidence and on the basis that that person undertakes not to discuss the case with any other person.
 - i) It may be advisable, particularly in complex cases, for those selected to accompany the Respondent or Complainant to be an academic specialist in the discipline(s) in which the misconduct is alleged to have taken place.
 - ii) If the Respondent/Complainant is disabled, it may be appropriate to allow him/her to be accompanied by a suitable person because of his/her disability, in addition to any chosen companion.
 - iii) If the Respondent's/Complainant's first language is not English, it may be appropriate to allow him/her to be accompanied by someone who can provide support with communication in English, in addition to any chosen companion.
112. As stated in paragraph 110, the Respondent and Complainant has the right to be accompanied at any meeting convened under this Procedure and may be accompanied by a fellow worker or trade union representative. The chosen companion will be allowed to address the meeting in order to put the case of the Respondent or Complainant, sum up his/her case, and respond on behalf of him/her to any view expressed at the meeting.
113. A person may not be both an Investigator (of the Preliminary Investigation) and a member of the Formal Investigation Panel and, if they have been involved in either, they cannot be a member of a Disciplinary Committee or Panel related to the same case.
114. **Confidentiality:** in order to protect the Complainant, the Respondent and others involved in the Procedure, it will be conducted as confidentially as is reasonably practicable. The confidential nature of the proceedings will be maintained provided this does not compromise the full and fair investigation of an allegation of misconduct in research, any requirements of health and safety or any issue related to the safety of participants in research.
115. It is important that in the conduct of an investigation using this Procedure that the principles of confidentiality and fairness are applied with appropriate balance for both the Respondent and the Complainant.
116. The identity of the Complainant or the Respondent will not be made known to any third party unless it has been deemed necessary:
 - i) in order to carry out a full and fair investigation; or
 - ii) as part of any action taken following a preliminary investigation or formal investigation under this Procedure, such as a referral to the relevant University disciplinary procedures or other appropriate processes; or
 - iii) as part of any action taken against a person who has been found to have made malicious, vexatious or frivolous allegations.

117. Any disclosure to a third party of the identity of the Complainant or Respondent, or of any other details of the investigation, will be made on a confidential basis. The third party should understand this, and that he/she must respect the confidentiality of any information received under this process.
118. The University and/or its staff may have contractual/legal obligations to inform third parties, such as statutory bodies, professional bodies, funding bodies or collaborating organisation(s), of allegations of misconduct in research and/or the findings of a Preliminary and/or Formal Investigation. In such cases, those responsible for carrying this Procedure out will ensure that any such obligations are fulfilled at the appropriate time through the correct processes, always keeping in mind the legal rights of those persons involved in the allegations.
119. While the allegations are under investigation using this Procedure and/or any subsequent formal procedure of the University, the Complainant, the Respondent, witnesses or any other persons involved in this Procedure will not make any statements about the allegations to any third parties, unless formally sanctioned by the University or otherwise required to by law.
120. Breaching confidentiality may lead to disciplinary action, unless covered by the Public Interest Disclosure Act (1998) and/or the University's Whistleblowing Policy.
121. The identity of the Complainant will normally be kept confidential until a Formal Investigation is launched unless this is incompatible with a full and fair investigation or unless there is an overriding reason for disclosure. Thereafter the Complainant's identity may be kept confidential, if requested, unless this is incompatible with a full and fair investigation and/or there is an overriding reason for disclosure. The Complainant will be informed in writing if their identity is not to be kept confidential, and the reason(s) for necessary disclosure.
122. **Integrity:** an investigation into an allegation of misconduct in research using the processes of Preliminary or Formal Investigation of the Procedure must be fair and comprehensive. The investigation will be conducted expediently although without compromise to the fairness and thoroughness of the process.
123. Anyone asked to take part in the processes as an Investigator or a Panel member (as detailed in sections E and G) must make sure that the investigation is impartial and extensive enough to reach a reasoned judgement on the matter(s) raised.
124. Similarly, those who give evidence under this Procedure should do so honestly and objectively in accordance with the Principles of the Procedure and will be provided with a copy of the Procedure before giving evidence.
125. All parties involved must inform the University Secretary immediately of any interests that he/she has which might constitute a conflict of interest as regards any aspect of the allegations, the investigation, the area(s) of research in question, or any of the persons concerned.
126. The declaration of an interest by a person does not automatically exclude him/her from participating in the investigation. The University Secretary will decide if an interest declared by the individual warrants exclusion from involvement in the investigation and record the reasons for the decision in writing.
127. 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, such as between the Preliminary Investigation and any Formal Investigation Panel and between the Panel and any subsequent formal University procedures. Those responsible for carrying out the Procedure will 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.
128. **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:
- i) individuals against frivolous, vexatious and/or malicious allegations of misconduct in research;
 - ii) the position and reputation of those suspected of, or alleged to have engaged in, misconduct, when the allegations or suspicions are not confirmed; and
 - iii) the position and reputation of those who make allegations of misconduct in research in good faith, i.e. in the reasonable belief and/or on the basis of supporting evidence that misconduct in research may have occurred.
129. Anyone accused of misconduct in research is entitled to the presumption of innocence.
130. The Preliminary Investigation stage of the Procedure consists of an initial assessment of an allegation of misconduct in research to determine whether there is sufficient evidence to warrant a Formal Investigation of the allegation. The Formal Investigation stage of the Procedure consists of an inquiry to review all the relevant evidence and conclude whether an allegation of misconduct in research is upheld in full, upheld in part or not upheld. The Formal Investigation may also make recommendations regarding any further action necessary to rectify any misconduct it has found and correct the record of research and to preserve the academic reputation of the University, for consideration by the appropriate University authorities. The standard of proof used in the Formal Investigation is that of 'on the balance of probabilities'. A Formal Investigation may conclude that an allegation is not upheld for reasons of being mistaken, frivolous, otherwise without substance or vexatious and/or malicious.

131. 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.
132. It should be made clear that any actions that might be taken by the University Secretary in response to the notification of an allegation of misconduct in research 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 University. Those conducting this Procedure will take steps to make it clear to the Respondent, Complainant and any other involved parties that these actions are necessary to prevent further risk or harm to any persons involved in the research and that the allegations of misconduct in research can be properly investigated and to meet contractual and other obligations of the University.
133. In accordance with the Whistleblowing Policy, no detrimental action of any kind will be taken against a person within the Institution making a complaint of the nature described above, provided that it is done without malice and in good faith, reasonably believing it to be true. In addition, members of staff have statutory protection, provided that they comply with the relevant provisions of the Public Interest Disclosure Act 1998 (see section 8 of the Whistleblowing Policy). A malicious or vexatious complaint, however, could result in disciplinary action.

Annex 2

Standards for the Conduct of this Procedure

134. Those conducting this Procedure will endeavour to do so as to retain the confidence of both the Complainant and the Respondent.
135. Every effort will be made to investigate allegations of research misconduct in the shortest possible timescale necessary to ensure a full and fair investigation. This will vary according to the time required to investigate a specific case.
136. Once initiated the Procedure should progress to the natural end-point irrespective of such developments as:
 - i) the Complainant withdrawing the allegations at any stage;
 - ii) the Respondent admitting, or having admitted, the alleged misconduct, in full or in part; and/or
 - iii) the Respondent or the Complainant resigning, or having already resigned, his/her post or otherwise leaving, or having already left, the University.
137. After an investigation into alleged misconduct by any person who is not a current or former member of staff or student of the University, the University Secretary will determine the nature of any further action to be taken in relation to the misconduct.
138. If at any stage of this Procedure, a Respondent or other person raises a counter-allegation of misconduct in research or an allegation of misconduct in research unrelated to the matter under investigation, such allegations will be addressed under this Procedure as separate matters and will be forwarded to the University Secretary for consideration (see paragraph 34 above). If at any stage of this Procedure, a 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 University Secretary will seek advice to determine an appropriate course of action. Reports generated by an investigation under this Procedure may be used in evidence by subsequent investigations under this Procedure or by other University processes.
139. If required to facilitate a full and fair investigation and/or the operation of any aspect of this Procedure, the University Secretary, those persons conducting Preliminary Investigations and Panels conducting Formal Investigations shall be free to seek confidential advice from persons with relevant expertise, both within the University and outside it. Those seeking advice will, so far as is possible, make no information available which could lead to the identification of the Complainant, Respondent or other individuals involved in the case. Persons who might be consulted include but are not limited to:
 - i) experts in particular disciplines of research; or
 - ii) experts in particular aspects of the conduct of research, such as statisticians or editors of academic journals, and/or in addressing misconduct in research and poor practice; or
 - iii) representatives of University departments such as: Finance; the Health and Safety Office; Human Resources; Information Services; Research and Innovation Services; Office of Governance and Secretariat; or Student Services; or
 - iv) legal advisers.
140. Detailed and confidential records will be maintained on all aspects, and during all stages, of the Procedure, and the Research Governance Officer will take minutes of all formal meetings convened under the Procedure. These minutes will be agreed by all parties.
141. The Research Governance Officer will retain all reports, correspondence, minutes of meetings and other documentation relating to the operation of this Procedure for a period of at least six years after the conclusion of the Procedure.
142. The University Secretary will identify suitable administrative and other support to assist him/her and other persons responsible for the operation of this Procedure. In particular, support from Human Resources may be appropriate. Those selected to provide such support will confirm to the University Secretary in writing that their participation involves no conflict of interest.
143. In addition to the administrative and other support identified by the University Secretary, as in paragraph 140 above, the Research Governance Officer will also assist the University Secretary and other persons responsible for the operation of this Procedure as necessary. The Research Governance Officer will confirm to the University Secretary in writing that his/her participation involves no conflict of interest.

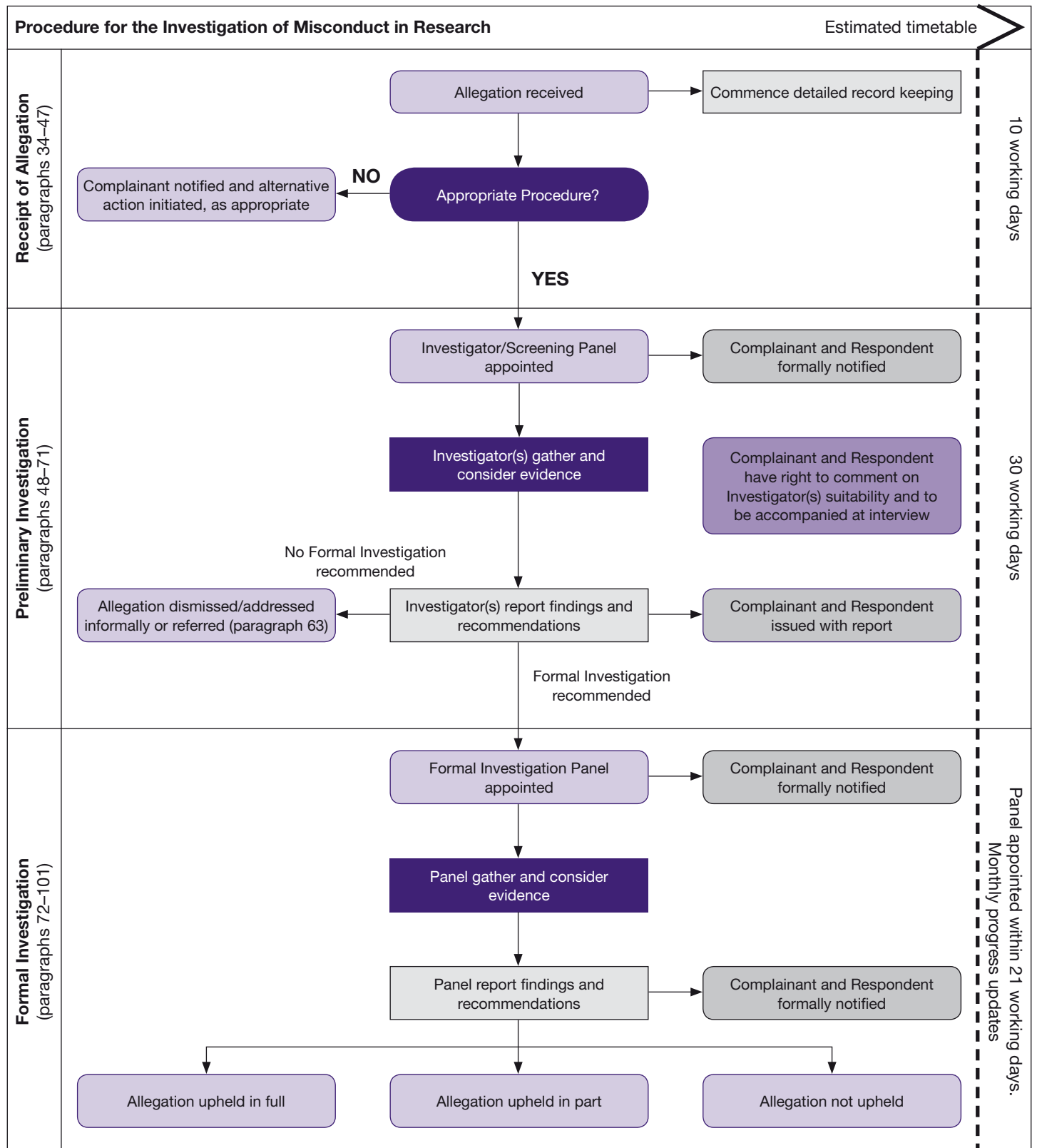
Annex 3

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Annex 4

Procedure flowchart



University of Portsmouth
Research and Innovation Services
Purple Door
28 Guildhall Walk
Portsmouth PO1 2DD
United Kingdom

T: +44 (0)23 9284 6191
F: +44 (0)23 9284 6189
E: ris@port.ac.uk
W: www.port.ac.uk