

MANCHESTER UNIVERSITY POLICY AND PROCEDURE FOR DEALING WITH MISCONDUCT IN RESEARCH AND SCHOLARSHIP

Scope

Manchester University values **integrity**, because honesty and trust are the foundations of teaching and learning, enriching, enduring relationships, and strong communities. It is Manchester's policy that all scholarship and research be characterized by the highest standards of integrity. This document details Manchester's policy and procedures with respect to allegations of Misconduct in Scholarship and Research and meets Manchester's responsibilities under federal regulations [the Public Health Service (PHS) Policies on Research Misconduct, 42 CFR § 93]. This policy applies to all Manchester University employees, faculty, staff, and students conducting research under the auspices of the university. This policy applies equally to all research activity, whether carried out solely with university resources, sponsored or non-sponsored, or with or without assistance of outside funds, with the exception of National Science Foundation (NSF)-funded research. See MU's Policy and Procedures for Misconduct in National Science Foundation (NSF)-Funded Research below for details.

Definitions

Complainant – A person who in good faith makes an allegation of research and/or scholarly misconduct.

Deciding Official (DO) - The Chief Academic Officer makes final determinations on allegations of research misconduct and any institutional administrative actions. The DO will not be the same individual as the Research Integrity Officer and should have no direct prior involvement in the institution's inquiry, investigation, or allegation assessment. (A DO's appointment of an individual to assess allegations of research misconduct, or to serve on an Inquiry or Investigation committee, is not considered to be direct prior involvement.)

Inquiry Committee – A group consisting of at least three tenured faculty members with no conflict of interest with either the Complainant or Respondent and with expertise for evaluating information relevant to the allegation(s).

Investigation Committee – A group consisting of the Dean (or his or her designee) of the area of the Respondent and at least three other faculty members with no conflict of interest with either the Complainant or Respondent and with expertise for evaluating information relevant to the allegation(s). No members of the Inquiry Committee may serve on the Investigation Committee.

Misconduct in Research or Scholarship – Behavior that includes:

- 1) fabrication, falsification, plagiarism, or other practices that seriously deviate from those that are commonly accepted within the academic community in proposing, conducting, or reviewing research or reporting results from research, scholarly programs or projects; or
- 2) retaliation of any kind against a person who has made an allegation of misconduct or otherwise cooperated in a misconduct proceeding in good faith.

Misconduct can only be found where there has been a significant departure from accepted practices of the relevant research or scholarly community, that the misconduct had to be committed intentionally, knowingly, or recklessly, and it has to be proven by a preponderance of the evidence.

The definition of Misconduct does not include honest error or honest differences in opinion, interpretations, or judgments of the results of scholarly activity.

Office of Research Integrity - The Office of Research Integrity (ORI) oversees and directs PHS research integrity activities on behalf of the Secretary of Health and Human Services (HHS) with the exception of the regulatory research integrity activities of the Food and Drug Administration.

Research Integrity Officer (RIO): The Vice President for Institutional Effectiveness is responsible for:

- 1) assessing allegations of research and/or academic misconduct to determine if an inquiry is justified; and
- 2) overseeing inquiries and investigations.

Respondent – the party that is the subject of a misconduct allegation(s).

Confidentiality

All parties involved in a report, inquiry, and/or investigation of misconduct are responsible for maintaining confidentiality and cooperating with the conduct of an inquiry and investigation. In addition, the RIO shall, as required by 42 CFR § 93.108: (1) limit disclosure of the identity of Respondent(s) and Complainant(s) to those who need to know in order to carry out a thorough, competent, objective and fair misconduct proceeding; and (2) except as otherwise prescribed by law, limit the disclosure of any records or evidence from which research subjects might be identified to those who need to know in order to carry out a research misconduct proceeding.

Manchester Misconduct Procedure

- 1) **Report of Misconduct:** The Complainant reports the alleged misconduct to the RIO.
- 2) **Assessment:** The RIO evaluates the allegation(s) to determine whether it is sufficiently credible and specific so that potential evidence of research misconduct may be identified, requiring an inquiry. This assessment should be completed within one week. The RIO will notify the Respondent of the allegation(s) and on or before that date in writing, obtain custody of all research records and evidence, inventory them, and sequester all relevant records and evidence needed to conduct the misconduct proceeding. The RIO will instruct both the Complainant and Respondent that confidentiality must be maintained for any records or evidence from which research subjects might be identified. Additionally, pending a final disposition, the Complainant, Respondent and all other individuals involved in a misconduct proceeding will be instructed not to discuss the allegations other than as necessary as a participant in the misconduct proceeding.

- 3) **Inquiry:** All available evidence is initially reviewed by the Inquiry Committee. The RIO will review the allegations with the Inquiry Committee and be present and available throughout the inquiry to advise the Inquiry Committee.

The Inquiry Committee will produce a Final Inquiry Report within 60 days of the initiation of inquiry and the Respondent will be notified whether the Inquiry Committee found an investigation to be warranted or not. The Respondent will be provided with a draft of the Final Inquiry Report for comment. The 60 day deadline includes the period of time required to transmit a copy of the report to the Respondent and the time required for their response to be received. This 60 day period will not be extended unless the RIO determines that circumstances clearly warrant a longer period and accordingly approves an extension. The Final Inquiry Report will contain: (1) the name and position of the respondent; (2) a description of the allegations of research misconduct; (3) where applicable, the PHS support, including, for example, grant numbers, grant applications, contracts and publications listing PHS support; (4) the basis for recommending or not recommending that the allegations warrant an investigation; (5) any comments on the draft report by the respondent or complainant.

The RIO will transmit the Final Inquiry Report with any comments attached to the DO who will determine in writing whether an investigation is warranted. Where applicable, ORI will be notified within 30 calendar days of the DO's decision to investigate.

- 4) **No Formal Inquiry Decision:** If the DO decides that an Investigation is not warranted, the RIO shall secure and maintain for seven years after the termination of the inquiry sufficiently detailed documentation of the inquiry to permit a later assessment by ORI, when applicable, of the reasons why an investigation was not conducted. These documents must be provided to ORI or other authorized HHS personnel upon request.
- 5) **Investigation:** If the DO finds sufficient basis, an investigation will proceed. The investigation must initiate within 30 days of completion of the DO's decision and must be completed within 120 days. If unable to complete the investigation in 120 days, Manchester will request of ORI, when applicable, an extension in writing (and file periodic progress reports if requested to do so). The Investigation Committee will carry out an impartial and unbiased investigation to the extent practicable, make use of appropriate scientific or academic expertise (from individuals who do not have unresolved personal, professional, or financial conflicts of interest with those involved with the inquiry or investigation), interview the Complainant, Respondent, and any other available person who has been identified as having information regarding any relevant aspects of the investigation, and produce a written report stating their findings on each allegation.

The Investigation Report must:

- describe the nature of the allegation of research or scholarly misconduct, including identification of the respondent;

- where applicable, describe and document the PHS support, including, for example, the numbers of any grants that are involved, grant applications, contracts, and publications listing PHS support;
- include the institutional policies and procedures under which the investigation was conducted, unless those policies and procedures were provided to ORI previously (when applicable)
- identify and summarize the records and evidence reviewed and identify any evidence taken into custody but not reviewed; and
- include a statement of findings for each allegation of misconduct identified during the investigation. Each statement of findings must: (1) identify whether the misconduct was falsification, fabrication, or plagiarism, and whether it was committed intentionally, knowingly, or recklessly; (2) summarize the facts and the analysis that support the conclusion and consider the merits of any reasonable explanation by the respondent, including any effort by respondent to establish by a preponderance of the evidence that he or she did not engage in misconduct because of honest error or a difference of opinion; (3) identify the specific PHS support (where applicable); (4) identify whether any publications need correction or retraction; (5) identify the person(s) responsible for the misconduct; and (6) list any current support or known applications or proposals for support that the respondent has pending with non-PHS federal agencies (where applicable).

The RIO will provide the Respondent with a copy of the report and supervised access to the evidence upon which it is based, and the Respondent will be allowed 30 days from the date of receipt of the report to submit comments. The RIO will transmit the Final Investigation Report with attached comments to the DO. The DO will determine in writing: (1) whether the institution accepts the Investigation Report, its findings, and the recommended institutional actions; and (2) the appropriate institutional actions in response to the accepted findings of research misconduct.

6) **Sanctions:** When an investigation confirms that misconduct has occurred, the Chief Academic Officer will impose appropriate administrative actions or sanctions (see below). In the cases, where the Chief Academic Officer is the Complainant, Respondent, or member of the Inquiry or Investigation Committee, the President will impose sanctions.

7) **Appeal:** Respondents may appeal the decision of the DO. Such an appeal must be completed with 120 days of its filing, unless ORI finds good cause for an extension (when applicable), based on the institution's written request for an extension.

Notice to ORI of Institutional Findings and Actions (when applicable)

Unless an extension has been granted, the RIO must, within the 120-day period for completing the investigation, submit the following to ORI:

1. a copy of the Final Investigation Report with all attachments, and any appeals;
2. a statement of whether the institution accepts the findings of the Investigation Report;

3. a statement of whether the institution found misconduct and, if so, who committed the misconduct; and
4. a description of any pending or completed administrative actions against the respondent.

The RIO must notify ORI in advance if there are plans to close a case at the inquiry, investigation, or appeal stage on the basis that respondent has admitted guilt, a settlement with the respondent has been reached, or for any other reason, except:

- 1) closing of a case at the inquiry stage on the basis that an investigation is not warranted;
or
- 2) a finding of no misconduct at the investigation stage, which must be reported to ORI, as prescribed in this policy and 42 CFR § 93.315.

Institutional Administrative Actions

Administrative actions or sanctions that may be taken include in response to a finding of Misconduct include:

- letter of reprimand;
- probation;
- suspension;
- salary reduction;
- initiation of steps leading to possible rank reduction or termination of employment;
- special monitoring of future work;
- removal of the responsible person from the particular project;
- withdrawal or correction of all pending or published abstracts and papers emanating from the scholarship/research where misconduct was found;
- restitution of funds to the grantor agency as appropriate; and/or
- other action appropriate to the research misconduct.

Record Maintenance

The RIO must maintain and provide to ORI upon request, when applicable, “records of research misconduct proceedings” as that term is defined by 42 CFR § 93.317. Unless custody has been transferred to HHS or ORI has advised in writing that the records no longer need to be retained, records of research misconduct proceedings must be maintained in a secure manner for seven years after completion of the proceeding or the completion of any PHS proceeding involving the research misconduct allegation. The RIO is also responsible for providing any information, documentation, research records, evidence or clarification requested by ORI (when applicable) to carry out its review of an allegation of research misconduct or of the institution’s handling of such an allegation.

Protection

The RIO must undertake all reasonable and practical efforts to protect the position and reputation of, or to counter potential or actual retaliation against, any complainant who made allegations of research

misconduct in good faith, and of any witnesses and committee members who cooperate in good faith with the research misconduct proceeding. The DO will determine, after consulting with the RIO, and with the complainant, witnesses, or committee members, respectively, what steps, if any, are needed to restore their respective positions or reputations or to counter potential or actual retaliation against them.

**POLICY AND PROCEDURES FOR
MISCONDUCT IN NATIONAL SCIENCE FOUNDATION (NSF)-FUNDED RESEARCH**
(http://www.nsf.gov/pubs/policydocs/pappguide/nsf11001/aag_7.jsp)

This policy applies to NSF-funded research activity. Manchester accepts and complies with all NSF definitions and policies with respect to misconduct in NSF-funded research. The NSF defines “research misconduct” as fabrication, falsification, or plagiarism in proposing or performing research funded by NSF, reviewing research proposals submitted to NSF, or in reporting research results funded by NSF (45 CFR § 689).

NSF Policies and Responsibilities

The NSF will take appropriate action against individuals or organizations upon a determination that misconduct has occurred. It may also take interim action during an investigation. Possible actions include:

- sending a letter of reprimand to the individual or organization;
- requiring prior NSF approval of particular activities by an individual or organization;
- requiring special assurances of compliance with particular policies;
- restricting designated activities or expenditures under particular grants;
- suspending or terminating grants; and/or
- debarring or suspending an individual or organization and prohibiting participation by an individual as an NSF reviewer, advisor, or consultant.

NSF will find misconduct only after careful inquiry and investigation by a grantee organization (as described above), by another Federal agency, or by NSF. Before NSF makes any final finding of misconduct or takes any final action on such a finding, NSF will normally afford the accused individual or organization notice, a chance to provide comments and rebuttal, and a chance to appeal. In structuring procedures in individual cases, NSF may take into account procedures already followed by other entities investigating or adjudicating the same allegation of misconduct. Debarment or suspension for misconduct will be imposed only after further procedures described in applicable debarment and suspension regulations (2 CFR §180 and 2 CFR §25).

After receiving an investigation report, the subject’s rebuttal and recommendations of the Office of Inspector General (OIG), the NSF Deputy Director may initiate further investigation or hearings or order interim or final actions. A written disposition specifying actions to be taken will be sent to affected individuals or organizations and will include instructions on how to pursue an appeal to the Director of the Foundation.

Role of Grantees

Grantees bear primary responsibility for prevention and detection of misconduct. In most instances, NSF will rely on grantees to promptly: initiate an inquiry into any suspected or alleged misconduct; conduct a subsequent investigation, if the inquiry finds substance; take action necessary to ensure the

integrity of research, the rights and interests of research subjects and the public and the observance of legal requirements or responsibilities; and provide appropriate safeguards for subjects of allegations as well as informants.

If a grantee wishes NSF to defer independent inquiry or investigation, it should:

- 1) inform NSF immediately if an initial inquiry finds substance;
- 2) keep NSF informed during such an investigation;
- 3) notify NSF even before deciding to initiate an investigation or as required during an investigation:
 - a) if there is reasonable indication of possible violations of civil or criminal law;
 - b) if public health or safety are at risk;
 - c) if NSF's resources, reputation, or other interests need protecting;
 - d) if Federal action may be needed to protect the interests of a subject of the investigation or of others potentially affected;
 - e) if the research community or the public should be informed; or
 - f) if research activities should be suspended.
- 4) provide NSF with the final report from any investigation.

If a grantee wishes NSF to defer independent inquiry or investigation, it should complete any inquiry and decide whether an investigation is warranted within 90 days. It should similarly complete any investigation and reach a disposition within 180 days. If completion of an inquiry or investigation is delayed, but the grantee wishes the NSF deferral to continue, NSF may require submission of periodic status reports.

Reporting Possible Misconduct

Possible misconduct in activities funded by NSF will be reported to the Office of Inspector General, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 292-7100 or (800) 428-2189 or via e-mail at oig@nsf.gov.