



UNIVERSITY OF  
LINCOLN

## SECRETARIAT & LEGAL SERVICES

<b>NAME OF ACADEMIC POLICY:</b>	Procedure for the Investigation of Misconduct in Research (UKRIO)
<b>PURPOSE OF POLICY AND TO WHOM IT APPLIES:</b>	The procedure outlines the processes which should be followed when complaints of misconduct in academic research are brought against any postgraduate research student or member of staff whose research is liable to bring the University into disrepute.
<b>RESPONSIBLE BOARD/ COMMITTEE WITH ROUTE OF APPROVAL:</b>	Research Committee
<b>LEAD STAFF MEMBER RESPONSIBLE FOR ITS UPDATE:</b>	Senior Deputy Vice Chancellor – Research, Innovation and Enterprise
<b>PERSONS CONSULTED IN DEVELOPING POLICY:</b>	The Procedure was developed by the UK Research Integrity Office (UKRIO) with the recommendation that universities adopt it as an example of best practice. The policy was reviewed by the Research Ethics Committee, the Research Committee and Academic Board. The procedure has replaced the University's Research Misconduct Policy.
<b>POLICY FINALLY APPROVED BY:</b>	Academic Board – 12 January 2011
<b>DATE OF IMPLEMENTATION:</b>	January 2011
<b>DETAIL OF DISSEMINATION:</b>	The new procedure was circulated to key staff in the University and a copy is available on the Secretariat's Portal site.
<b>PROPOSED DATE OF REVIEW</b>	January 2015
<b>SECRETARIAT OFFICER – MAIN CONTACT:</b>	Officer to Research Committee
<b>DATE:</b>	21 January 2011



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## UKRIO PROCEDURE FOR THE INVESTIGATION OF MISCONDUCT IN RESEARCH

### **Introduction**

Academic Board at its meeting on 12 January 2011 approved that the UKRIO (UK Research Integrity Office) Procedure for the Investigation of Misconduct in Research (see Annex 1) would replace the existing University of Lincoln Code of Practice for Dealing with Allegations of Misconduct in Research.

This paper considers the implications of adopting the UKRIO Procedure and how the procedure interacts with existing University of Lincoln policies and procedures on disciplinary action, appeals hearings, and staff capability (Section 3).

### **Background**

UKRIO was established in 2005 by Universities UK with the remit of providing independent advice and assistance to the academic community on research integrity and misconduct. UKRIO is supported by the four UK departments of health; the four UK HE funding councils; RCUK; the Wellcome Trust; the Royal Society and a range of other prominent organisations with research interests. A Procedure to investigate misconduct in research was released by UKRIO in 2008 with the aim of guiding institutions towards a nationally-recognised standard approach to dealing with these issues.

A sub-group of the University Research Ethics Committee examined the UKRIO Procedure in detail and recommended adoption to the Research Ethics Committee. The group considered the benefits of adopting the UKRIO Procedure in full or in part and came to the conclusion that the best way forward was to replace the existing University of Lincoln Policy on Research Misconduct with the UKRIO Procedure.

### **Contents**

Recommendation Paper

Annex 1 – UKRIO Procedure (appended)

Annex 2 – UL Disciplinary Policy (Available at <https://portal.lincoln.ac.uk/C13/C5/Employment/default.aspx>)

Annex 3 – UL Appeals Procedure (Available at <https://portal.lincoln.ac.uk/C13/C5/Employment/default.aspx>)

Annex 4 – UL Capability Policy (Available at <https://portal.lincoln.ac.uk/C13/C5/Employment/default.aspx>)

# Adoption of the UKRIO Procedure for the Investigation of Misconduct in Research

## 1. Outline of UKRIO Procedure

The UKRIO Procedure for the Investigation of Misconduct in Research (hereafter “UKRIO Procedure”) consists of the following stages:

- i Initial Assessment and Pre-Screening
- ii Screening
- iii Formal Investigation.

The UKRIO Procedure details the key actors and stakeholders involved at each stage and actions to be taken to ensure any allegations of misconduct are handled in a way which concords with the five guiding principles: Fairness, Confidentiality, Integrity, Prevention of Detriment, and Balance (see Annex 1 of the UKRIO Procedure).

The **Initial Assessment and Pre-Screening** stage covers the reporting and initial review of allegations of misconduct. The key stakeholders at this stage are the Named Person (NP), the Complainant and Respondent. The NP is the main point of contact within the institution for receipt of external or internal allegations of research misconduct. The NP acknowledges receipt of allegations to the Complainant, then carries out a review of the allegations and contractual status of the Respondent in order to identify the Respondent’s substantive employer and any grant funding which may place contractual obligations on the Respondent. The NP also informs senior managers within the organisation as well as the Respondent. Finally Pre-Screening involves securing evidence and other records which will be necessary in subsequent stages.

In the **Screening** stage the NP carries out an initial investigation to determine whether allegations are mistaken, frivolous or malicious. If the NP determines that the allegations cannot be discounted then a Screening Panel is convened. The Screening Panel will consist of at least three senior members of staff selected by the NP. The main purpose of the Screening Panel is to determine whether there is prima facie evidence of misconduct. This will involve assessment of the evidence and may involve calling expert witnesses. The NP forwards draft findings of the Screening Panel to both the Respondent and Complainant who have the opportunity to comment on the factual accuracy of the report. The final report incorporating any changes is then forwarded to the NP, Respondent and Complainant.

If the allegations are sufficiently serious and have sufficient substance, the procedure moves to the **Formal Investigation** stage. The NP is responsible for convening the Formal Investigation Panel, which must include at least three senior members of staff and one or more members from outside the University of Lincoln (UL). The NP also informs all stakeholders that this is taking place. During the Formal Investigation, both the Complainant and Respondent must be interviewed, and the Respondent must take part in a Formal Hearing, which may also involve expert witnesses. The report of the Formal Investigation Panel must specify whether the allegations are upheld in full, in part, or not upheld. This must be communicated in writing to both the Complainant and Respondent who have an opportunity to comment on the factual accuracy of the report, as in the Screening stage.

## 2. Summary of Key Differences between previous UL Code and UKRIO Procedure

The following table summarises the key differences between the two procedures:

UL Code of Practice	UKRIO Procedure
3.3 suggests striking a balance between treating the allegation seriously and protecting researchers against malicious allegations.	The Procedure is based on five principles outlined in Annex 1: fairness, confidentiality, integrity, prevention of detriment and balance. UKRIO also emphasise the presumption of innocence before and during any investigation
The Academic Registrar is the main point of contact for internal and external allegations or complaints.	The NP should “ideally have some experience of research” (p9), but can be a suitably senior member of staff.
The process is Faculty-driven, in that the Registrar informs the Dean and they appoint two Evaluators (senior members of academic staff) to assess the claim.	The Procedure is centrally-driven, in that the NP first informs the Heads of relevant departments and carries out a basic check. The screening panel must consist of at least three members of staff, and even at this stage UKRIO stresses the benefits of using external staff on the panel.
The screening stage allows for two outcomes: either the allegation is malicious or there are grounds for a full investigation.	The screening stage allows for multiple outcomes, including feeding directly into internal disciplinary or capability procedures.
The respondent is informed after the screening process.	The respondent is informed before the screening process although any formal response to the allegations must be carried out at the formal hearing in the Investigation stage. However, this earlier notification is fairer, more balanced and allows the respondent time to discuss a response with their representative if relevant.
The process is similar to UKRIO in that the screening stage Evaluators are not eligible to be members of the Investigation Panel, and that panel should have at least one external member.	UKRIO recommends that one member of the Investigation Panel should be a barrister or solicitor.
The process allows the respondent and representative to be present at all times during the presentation of evidence to the Investigation Panel. 5.4 outlines the process by which he/she can respond to evidence as it is presented.	The Procedure requires the respondent, complainant and respective representatives to be present at the formal hearing during the Investigation, but not at all times. The respondent and complainant are given a chance to respond to “errors of fact” in the draft report by the Investigation Panel.
5.3.7 and 5.3.8 go into further details on the University requirements for access to materials and evidence during the investigation.	No equivalent section.
6.2 outlines possible actions to be taken following the investigation, including disciplinary action.	The outline of possible actions is made in full in an Annex.
6.4 outlines linkages with the Academic Affairs Committee.	No equivalent section.
6.5 outlines the process of appeal against the decision.	The appeals and disciplinary processes are kept separate from the Procedure. Given that UL has an appeals procedure, this is preferable, since it keeps these matters separate.

**Table 1: Key Differences**

The two procedures are broadly similar. The UKRIO Procedure is more flexible in that it allows multiple outcomes at the Screening and Pre-Screening stages, including feeding directly from those stages into the disciplinary process. UKRIO's Procedure also clearly describes lines of communication between the main point of contact and relevant senior staff in the institution, whereas UL's is largely faculty-driven following the report to the Academic Registrar.

### **3. Interaction of UKRIO Procedure with UL Policies and Procedures**

#### **i. Disciplinary**

##### **Initial Assessment and Pre-Screening**

*UKRIO Reference:* If the allegations under review include behaviour which appears to contravene the Organisation's Disciplinary Policy, then the NP should take steps to implement that Policy (C6).

*Action:* At this stage the NP should communicate in writing the fact that there has been an apparent contravention of the UL Disciplinary Policy by the Respondent to the direct line manager of the Respondent as per Step B1.1 of UL's Disciplinary Policy. The NP should forward all relevant information and evidence to the HR representative leading the Disciplinary Investigation. The UL Disciplinary procedure should then be undertaken as per the Policy document.

The NP must then decide whether to run the UKRIO Procedure in parallel with the Disciplinary Procedure, or to suspend the UKRIO Procedure until the Disciplinary Procedure reaches an outcome. When a decision is made to suspend the UKRIO Procedure, this must be communicated in writing to the Complainant.

*Notes:* The UKRIO Procedure can proceed regardless of whether or not the Disciplinary Policy is invoked (C6), and if either the Respondent or Complainant resign their post (C13). At this stage, the Complainant is the only stakeholder who has been formally notified of the intention to carry out the UKRIO Procedure (C5). Therefore, only the Complainant needs to be notified in writing if a decision is taken to suspend the Procedure.

##### **Screening**

*UKRIO Reference:* The NP should consider recommending to the appropriate authorities that action be taken under the Organisation's disciplinary process against anyone who is found to have made frivolous, vexatious and/or malicious allegations of misconduct (C17 and C23).

*Action:* If the NP and/or Screening Panel consider that the actions of the Complainant in reporting the allegation of misconduct have contravened the UL Disciplinary Policy, the NP should communicate this in writing to the direct line manager of the Complainant as per Step B1.1 of UL's Disciplinary Policy. The NP should forward all relevant information and evidence to the HR representative leading the Disciplinary Investigation. The UL Disciplinary procedure should then be undertaken as per the Policy document.

*Notes:* At this stage the allegation will have been dismissed and all stakeholders informed of this decision.

*UKRIO Reference:* When there is clear evidence of an infringement that might contravene the Organisation's disciplinary code, the NP should consult the

nominated individual in the Personnel Department on the full and accurate transfer of all case information to the disciplinary process (C24).

*Action:* Where the Screening Panel have found evidence that the Respondent appears to have contravened the UL Disciplinary Policy, the NP should report this in writing to the HR representative and direct line manager of the Respondent, also forwarding the final report of the Screening Panel. The HR representative and line manager should decide whether, on the basis of the Screening Panel report, there is a disciplinary case to consider. At this stage the Respondent will normally be asked to attend an investigatory interview and the UL Disciplinary procedure will continue from Step B1.4 as per the Policy document.

*Notes:* Since the Screening Panel will have already carried out an investigation to establish the nature of the allegations, the initial investigation in the Disciplinary Policy is bypassed. However, the employee will still be able to take part in the investigatory interview to state his/her case, as this is not part of the UKRIO Procedure at the Screening stage. Involvement in the Screening Panel rules out participation in any disciplinary process (UKRIO Annex 4.25).

### **Formal Investigation**

*UKRIO Reference:* If all or any part of the allegations are upheld, the Named Person, the Head of Personnel and at least one other member of senior staff should then decide whether the matter should be referred to the Organisation's disciplinary process (C38).

*Action:* Where the Investigation Panel's report upholds all or part of the allegations, and the misconduct appears to have contravened the UL Disciplinary Policy, the NP should report this in writing to the HR representative and line manager of the Respondent. The HR representative and line manager should decide whether, on the basis of the Investigation Panel report, there is a disciplinary case to consider. At this stage the UL Disciplinary procedure will continue from Step B2.1 as per the Policy document.

*Notes:* The Formal Investigation is intended to provide evidence for the Disciplinary Procedure in the form of the Final Report. Involvement in the Investigation Panel rules out participation in any disciplinary process (UKRIO Annex 5.32).

*UKRIO Reference:* As with the Screening Process, where the Investigation Panel concludes the allegations are frivolous, vexatious and/or malicious, the NP should consider recommending to the appropriate authorities that action be taken under the Organisation's disciplinary process against anyone who is found to have made frivolous, vexatious and/or malicious (C42).

*Action:* If the Investigation Panel consider that the actions of the Complainant in reporting the allegation of misconduct are frivolous, vexatious and/or malicious, the NP should communicate this in writing to the HR representative and direct line manager of the Complainant. The HR representative and line manager should decide whether, on the basis of the Full Investigation Panel report, there is a disciplinary case to consider. At this stage the UL Disciplinary procedure will continue from Step B2.1 as per the Policy document.

*Notes:* As above, the Formal Investigation provides evidence for the Disciplinary procedure in the form of the Final Report. Involvement in the Investigation Panel rules out participation in any disciplinary process (UKRIO Annex 5.32).

## **ii. Appeals**

### **All Stages**

*UKRIO Reference:* Questions relating to the reports of both the Screening and Investigation Panels can only be raised with the Chair of either Panel over matters of fact. The Respondent should not have the option of appealing against the reports of either stage of the Procedure. The Respondent has the statutory right of appeal should the matter be referred to his/her employer's disciplinary process (C44).

*Action:* Both the Respondent or Complainant have the right to appeal against decisions of the Disciplinary Panel arising from the UL Disciplinary Procedure. This does not bear upon the UKRIO Procedure except insofar as the reports and evidence produced by that Procedure form part of the basis for the appeal. The UL Appeals Process detailed in the UL Disciplinary Procedure will be followed in full.

*Notes:* None of the following stakeholders in the UKRIO Procedure are eligible to participate in the Appeals Panel: NP, any member of the Screening Panel, any member of the Formal Investigation Panel.

## **iii. Capability**

### **Screening**

*UKRIO Reference:* When the allegations have some substance, but due to a lack of clear intent to deceive or due to their relatively minor nature, the matter should be addressed through the Organisation's competency, education and training mechanisms, or other non-disciplinary processes (C25).

*Action:* If the Screening Panel reaches the above outcome, the NP should notify the direct line manager of the Respondent in writing, forwarding the findings of the Screening Panel. The line manager, possibly in consultation with an HR representative, should then decide whether it is appropriate to follow the informal or formal Capability Procedure.

*Notes:* None of the following stakeholders in the UKRIO Procedure are eligible to participate in the Review Panel, should the matter progress to that stage: NP or any member of the Screening Panel.