

APPROVED APPEALS PROCEDURE (PROCEDURE FOR MANAGING ALLEGATIONS OF RESEARCH MISCONDUCT – STAFF)

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| Author: | Research Ethics and Integrity Officer |
| Reviewer: | Chair, Research Committee |
| Approver: | Research and Knowledge Exchange Steering Committee |
| Related Procedure: | Must be used in conjunction with the <i>Procedure for Managing Allegations of Research Misconduct – Staff</i> . |

Appeals stage

1. **PURPOSE:** The purpose of an appeals stage is to permit the Initiator/s and/or the Respondent/s to appeal in certain circumstances against the findings of an assessment and/or investigation carried out under *the Procedure for Managing Allegations of Research Misconduct - Staff*, by the requirements of *The Concordat to Support Research Integrity*.
2. **CONDUCTED BY:** The appeals process will be managed by an individual other than the Named Person as they could be implicated in the substance of any appeal. An alternative designated individual who has not been involved in the matter previously will establish an **Appeals Panel**, whose appointment is discussed under 'Process' below. At least one member of the Appeals Panel must be from outside (external to) the University.
3. **POSSIBLE OUTCOMES:** The Appeals Panel has the power to uphold, reverse or modify the following outcomes of the Procedure, including the decisions and/or recommendations associated with them. The following outcomes are available:
 - a. A conclusion of an Initial Assessment (stage 2) or a Formal Investigation (stage 3) that an allegation does not have prima facie evidence of potential research misconduct or is unfounded, because it is mistaken or is frivolous or is otherwise without substance, and will be dismissed; or
 - b. A conclusion of an Initial Assessment or a Formal Investigation that an allegation does not have prima facie evidence of potential research misconduct or is unfounded, because it is vexatious and/or malicious, and will be dismissed; or
 - c. A conclusion of an Initial Assessment or of a Formal Investigation that an allegation has some substance but due to its relatively minor nature or because it relates to poor practice rather than to misconduct, will be addressed through education and training or other non-disciplinary

approaches, such as mediation, rather than through the next stage of the *Procedure* or other formal processes; or

- d. A conclusion of a Formal Investigation that an allegation is upheld in full; or
 - e. A conclusion of a Formal Investigation that an allegation is upheld in part.
4. **TIMESCALE:** Any appeal should normally be heard within three months of the outcome of the *Procedure*. Any delays to this timescale will be explained to the Initiator and the Respondent in writing, presenting an estimated revised date of completion.
5. **PROCESS:** Appeals may be permitted on any or all of the following grounds:
- a. Procedural irregularity in the conduct of the assessment and/or investigation up to and before the Appeal Panel that could have had a material impact on the outcome.
 - b. Fresh evidence becoming available which was not available to the Initial Assessment Panel Chair or Investigator and/or the Formal Investigation Panel.
 - c. There was evidence of bias or unfairness in the process or decisions taken by the Named Person, Initial Assessment Panel Chair and/or the Initial Assessment Panel, or the Investigator and/or the Full Investigation Panel.
 - d. The recommendations made as part of an outcome of the *Procedure*/ subsequent actions taken are either excessive or inadequate concerning the misconduct found by the investigation.
6. The Initiator and/or the Respondent may appeal against the outcomes of the *Procedure*, including the decisions and/or recommendations associated with them.
7. Any appeal shall be made in writing to the **Alternative Named Person** within 20 working days of being notified of the outcome of the *Procedure*. The written notice of appeal shall set out the grounds of appeal, and be accompanied, wherever possible, by supporting documentation.
8. The Alternative Named Person will then assess the appeal to determine whether it falls within one or more of the grounds for appeal set out above, seeking clarification from the person(s) submitting the appeal as necessary.
- a. If the appeal does not fall within one or more of the grounds for appeal set out above, then the appeal is dismissed and this decision should be communicated to the person who submitted the appeal. The Appeals stage now ends.
 - b. If the appeal does fall within one or more of the grounds for appeal, the Alternative Named Person shall then, as soon as is practicable, appoint an Appeals Panel to undertake the appeals process.

9. The Appeals Panel will normally consist of three persons. Depending on the circumstances of the investigation and at the discretion of the Alternative Named Person, the Appeals Panel may consist of a greater number of persons, for example, to ensure that it contains sufficient expertise or diverse perspectives to reach a thorough and fair conclusion on the appeal. No individual involved in the Appeals Panel will have been involved at any stage previously (including the Named Person, the Initial Assessment Panel [Chair or member] or the Formal Investigation Panel [Chair or member]).
 - a. One member of the Appeals Panel shall be from outside (external to) the University. At the discretion of the Appeals ('Alternative') Named Person, the Appeals Panel may include more than one external member. This may be advantageous where the appeal involves multiple disciplines and/or is especially complex, and can help reassure involved parties that the process will be transparent, rigorous and fair.
 - b. One member of the Appeals Panel shall be an academic specialist in the general area within which the misconduct is alleged to have taken place (where allegations concern highly specialised areas of research they should instead have specialised knowledge of the field). Such a specialist can be drawn from within the University or from the Appeals Panel's external member(s), bearing in mind the conflict of interest requirements below (see Table 1 below). When allegations involve multiple disciplines of research, it may be necessary to increase the membership of the Appeals Panel so it contains sufficient expertise.
 - c. For matters that involve staff on joint employment contracts it may be helpful to include representation from the other employing Organisation. In these circumstances, they are not classified as the external member of the panel.
 - d. Once convened, the membership of the Appeals Panel should not normally be changed. If the membership falls below its initial number, the Alternative Named Person will determine whether to recruit additional members and continue the investigation from its current point or restart the investigation.
10. The Alternative Named Person will select one of the members of the Appeals Panel to act as its Chair. In the event of the Chair becoming unable to participate in the Appeals Stage once it is underway, the Alternative Named Person will select a new Chair from the members of the Appeals Panel and then consider the overall membership of the Appeals Panel. At the discretion of the Alternative Named Person, the Chair may be selected from the Appeal Panel's external members; this can help reassure involved parties that the investigation process will be transparent, thorough and fair.
11. All persons appointed to carry out the Appeals stage, and all persons allowed to observe it, will confirm to the Alternative Named Person that:

- a. Their participation involves no conflict of interest, seeking advice from the Named Person if unsure (see Table 1 below);
 - b. They will abide by the *Procedure* as it affects the work of the Appeals stage;
 - c. They will respect the confidentiality of the proceedings; and
 - d. They will adhere to the principles and standards of the *Procedure*.
12. Both the Respondent and Initiator may raise with the Alternative Named Person concerns that they may have about those chosen to carry out the Appeals stage but neither has a right of veto over those nominated. The Alternative Named Person will consider any concerns raised and whether new persons should be selected to carry out the Appeals Stage.
13. The Chair is responsible for keeping a full record of the work of the Appeals Panel and should be supported in this by the administrative and other support identified by the Alternative Named Person to assist the Panel.
14. When making any decisions about the conduct or conclusion of the Appeals Stage, the Appeals Panel will do so by reaching a consensus.
15. The Appeals Panel will then review the conduct of the investigation and any evidence submitted in support of the appeals(s) in question, rather than carry out a re-investigation of the allegation(s) in question.
16. **CONCLUSION OF THIS STAGE AND NEXT STEPS:** The Appeals Panel will decide whether it upholds, reverses or modifies the outcome in question by the *Procedure*, including the decisions and/or recommendations associated with it. The decision of the Appeals Panel is final.
17. The Appeals Panel shall write a report setting out its conclusions, giving the reasons for its decision and recording any differing views.
18. A summary of the conclusions will be sent to the Initiator and the Respondent for comment on matters of factual accuracy. The Appeals Panel will consider the responses received and if they consider that the report includes errors of fact, will modify the report as necessary.
19. The Appeals Panel will then submit their final report to the Alternative Named Person. The Chair and Appeals Panel will also hand over to the Alternative Named Person or their nominated representative all records/ material relating to the Full Investigation.
20. The Alternative Named Person shall convey the substance of the Appeals Panel's findings and recommendations to the Initiator, the Respondent and such other persons or bodies as they deem appropriate.
21. The Alternative Named Person will then undertake the actions necessary to implement the conclusions of the Appeals Panel, following relevant provisions of

the *Procedure* relating to the outcome, recording, communications and reporting, and liaising with the Research Integrity Officer and others, within and/or external to the University, as necessary.

22. The work of the Appeals Panel is then concluded and the Appeals Panel should be disbanded. As the matter may then give rise to disciplinary or other action, the Chair and members of the disbanded Appeals Panel should not make any comment on the matter in question, unless formally permitted by the University or otherwise required to by law. They should also remember that all information concerning the case was given to them in confidence.
23. Any queries or requests for comment addressed to the Chair or members of the Appeals Panel should be referred to the Alternative Named Person.
24. Those who have contributed to the disbanded Appeals Panel should have no further involvement in the *Procedure* unless formally asked to clarify a point in their written report at a subsequent stage or as part of any subsequent action or process.
25. A role as Chair or member of the Appeals Panel rules out participation in any subsequent disciplinary or other processes.
26. The Appeals stage now ends.

| Table 1. Conflicts of Interest: Appeals Stage |
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| <p>All parties involved must inform the Alternative Named Person immediately of any interests that they have which might constitute a conflict of interest as regards any aspects of the allegations, the assessment, the investigation, the area(s) of research in question, or any of the persons concerned. Where the Alternative Named Person has any interest which might constitute a conflict, they should declare any such conflicts and refer the investigation to their nominated alternate, who should decide if they should be excluded from the involvement in the investigation, recording the reasons for the decision.</p> <p>No persons involved earlier in the assessment or investigation would be included as panel members. The earlier Named Person will not be involved. If the Research Integrity Officer earlier declared a conflict of interest and their alternate deemed they should not be involved in the <i>Procedure</i>, then they will also not be able to be involved in the Appeals Stage, and their alternate (if appropriate) would manage and advise the Alternate Named Person or Appeals Panel instead.</p> |