Procedure for the Investigation of Misconduct in Research

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Referenced Policies and documents

Code of Practice
Procedure for whistleblowing
Concordat to Support Research Integrity

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Introduction

Lancaster University expects the highest standard of research integrity from university researchers, irrespective of the source(s) of funding, area of research or research group. The Code of Practice sets out our commitment to research integrity and our expectations from our researchers. The University is committed to upholding University UK's Concordat to Support Research Integrity.
The University operates a Safeguarding in Research Framework designed to promote good practice and protect those with whom we interact. Those operating under this policy are required to be aware of its contents and to implement these in the fulfilment of the University's work. Advice and guidance on how this framework operates in relation to this policy is available from the Head of Research Quality and Policy in RES.

Purpose

This procedure has been developed using the UK Research Integrity Office (UKRIO) model for the investigation of allegations of misconduct in research. Such allegations might be brought to Lancaster University as the employer of the individual against whom the allegations are made, or in another capacity, such as the host or sponsor of the research. Where a situation is clearly of a very serious nature, the appropriate authority or regulatory body will be notified at the earliest practicable opportunity.

The University's procedure for whistleblowing should be referenced when members of staff of the University believe that other malpractice may be taking place, whether financial or procedural, or that the requirements of good governance are not being followed.

It is not intended that the procedure should be used as part of any disciplinary or regulatory process. Information gathered in the course of an investigation may become relevant to, and disclosed in, any such disciplinary or regulatory process. This document provides a blueprint for how the stages of the investigation should be conducted. The objectives of the Procedure are to:

- ensure that an investigation is thorough, transparent and fair;
- demonstrate that, by using an agreed standard process, there should be fewer errors in the conduct of investigations; and

- reassure those who are under investigation that the process of investigation will follow a standard procedure adopted nationally by other research universities.

By adopting and following the Procedure it should be possible to:

- establish the ethos and mechanisms by which misconduct in research may be addressed appropriately, investigated effectively and handled fairly;
- enable an expert panel to establish whether the allegations have substance and constitute misconduct in research;
- enable an expert panel to establish whether, on the balance of probabilities, the evidence upholds the allegations of misconduct in research (either intentional or reckless in nature); and
- produce a report on the basis of which the University may initiate appropriate action.

The Procedure should only be used in conjunction with the principles laid out in Annex 1. Investigations of misconduct in research should maintain the highest standards of integrity, accuracy and fairness. All proceedings must be conducted under the presumption of innocence and carried out with sensitivity and confidentiality.

The steps of the Procedure should be followed as closely as is practicable.

Part A - Scope

A1 This Procedure has been developed to assist Lancaster University to undertake full and fair investigations of allegations of misconduct in research brought to their attention by internal or external sources against any current member of University staff or post-graduate research student.

A2 The Procedure is intended to be used in accordance with the Principles attached at Annex 1. Those responsible for implementing the Procedure should be guided by the Principles at all times to ensure that the Procedure is carried out in a comprehensive, fair, and timely manner, and with integrity, sensitivity and confidentiality.

A3 The Procedure is a mechanism to investigate allegations of misconduct in research. As such it is designed to provide a means to facilitate full exploration of potentially complex matters in research that can arise in situations where misconduct may have taken place.

A4 The Procedure is designed to be used in its entirety prior to any use of Lancaster University's standard disciplinary process. It is intended to allow the full and fair investigation of research-related issues, using an expert panel to investigate the matters raised, and to reach a conclusion on any allegations prior to considering any disciplinary or other non-disciplinary steps that might be required or recommended.

A5 In addition, the individuals responsible for using this Procedure should do so with a good working knowledge of Lancaster University's statutory obligations and the rights of employees according to employment law and other relevant legislation, such as the Public Interest Disclosure Act. Further, they should have knowledge of any additional rights and obligations that might be particular to the University and/or its employees.

A6 Those using this Procedure will take advantage of advice and guidance available from Research Services, UKRIO, and other relevant bodies, and should seek legal advice where appropriate and necessary.

In situations where the allegations are of a serious nature, formal steps should be implemented immediately (see Parts C 5 and C 6).

A7 In research, situations arise that might present as misconduct but are the result of either a misunderstanding or a dispute between individuals. It may be possible to mediate or resolve such differences at the individual or local level and this route should be considered and explored where appropriate, before the formal steps in Part B of this Procedure are initiated. Where appropriate, opportunities to resolve matters through mediation should be considered. Options for internal and/or external arbitration and/or dispute resolution might also be explored. In such situations, Part B of the Procedure should only be taken forward if the informal route is considered to be inappropriate, due to the serious nature of the allegations, or where mediation and/or arbitration has been refused or proved unsuccessful.

Note that allegations can be investigated under this Procedure irrespective of such developments as:
- the Complainant withdrawing the allegation at any stage;
- the Respondent admitting, or having admitted, the alleged misconduct, in full or in part;
- the Respondent or the Complainant resigning, or having already resigned, their post.

A8 Those entitled to bring complaints about research are not restricted to being a member of staff (present or past) of Lancaster University.

A9 If the Respondent is a Postgraduate Research Student[1] registered at Lancaster University, and the alleged misconduct is within the research process (including, but not limited to, ethics approvals, data management and dissemination), even if identified through a formal assessment process, the complaint WILL fall under the scope of this Procedure.

A10 Complaints raised against a Postgraduate Research Students, outside of the research process will fall either under Academic Malpractice Regulations and Procedures (MARP 2020-21)[2] or The Student Discipline Regulations[3]

A11 Complaints raised where the Respondent is an Undergraduate or Taught Postgraduate Student registered at Lancaster University, are NOT in the scope of this Procedure and fall under the Academic Malpractice Regulations and Procedures (MARP 2020-21) or the Student Discipline Regulations.

Part B - Preparatory Steps

B1 The Named Person and senior officer responsible for dealing with cases of misconduct is the Pro Vice-Chancellor for Research and Enterprise. In their absence, or where there is a conflict of interest, the Deputy Chief Executive (Operations) is nominated alternate. The first point of contact for queries regarding research misconduct is the Head of Research Quality and Policy who will liaise with the Named Person to investigate allegations of misconduct in research.

B2 The Named Person has responsibility for:

- receiving any allegations of misconduct in research;
- initiating and supervising the Procedure for investigating allegations of misconduct in research;
- maintaining the information record during the investigation and subsequently reporting on the investigation with internal contacts and external universities;
- taking decisions at key stages of the Procedure.

B3 In support of the Procedure, the Named Person should secure the agreement from experienced members of the permanent academic staff to contribute to the work of the Panels (see Annexes 4 and 5).

B4 The Procedure is designed specifically for the investigation of allegations of misconduct in research as defined in Annex 2. Allegations of misconduct in research are often raised as departures from accepted procedures in the conduct of research (see definition). The Procedure should only be used for investigating the intentional and/or reckless behaviour set out in the definition of misconduct in research (see definition). Allegations relating to other forms of misconduct should be investigated using the appropriate procedure(s).

For the investigation of allegations in which the respondent is a student on a taught course (Undergraduate and Masters or equivalent) rather than an employee or Postgraduate research student (PhD or equivalent), the University should follow the relevant student variant of this Procedure.

B5 The Procedure defined here is designed to provide a report that might require action using Lancaster University's disciplinary process or through other non-disciplinary processes.

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[1] Postgraduate-Research-Code-of-Practice.pdf (lancaster.ac.uk)
[2] MARP Academic Malpractice Regulations (lancaster.ac.uk)
[3] Student-Discipline-Regulations.pdf (lancaster.ac.uk)

B6 The Procedure is designed to operate in conformity with the Principles outlined in Annex 1. Those using the Procedure should refer to the Principles with respect to all decisions or interpretations. Where they are unable to resolve matters by reference to the Principles, users of the Procedure should seek appropriate guidance from a source such as UKRIO.

Part C - The Procedure

C1 The Procedure allows allegations of misconduct in research to be investigated once submitted to the Named Person formally in writing (where possible). Situations that are not considered to be serious in nature might be resolved by informal discussion and/or arbitration and/or dispute resolution, without the requirement for a formal investigation, should be reviewed through other means at the appropriate level (Part A 7). The Named Person can seek advice from UKRIO regarding whether such informal mechanisms might be appropriate for a particular allegation.

The Named Person receives formal allegations from Complainants, from both within and outside Lancaster University via the Head of Research Quality and Policy. The allegations should be submitted in writing (where possible) and be accompanied by any supporting evidence that is available to the Complainant.

C2 An initial approach to the Named Person might be anonymous but to take forward allegations the Complainant should make a formal written submission, in confidence if it is so desired, to the Named Person.

C3 Allegations which are in any way linked to the Named Person or which raises the potential for a conflict of interest for the Named Person – including links with any persons involved (Respondent or Complainant) or where the Named Person is in some way personally concerned with the subject matter of the allegations – should immediately be referred to the Named Person's alternate who should then implement the Procedure. The Named Person should declare any such conflicts.

The Complainant and Respondent may raise concerns that they might have that the Named Person may have interests which conflict with the fair handling of the allegations with the Vice Chancellor. The Vice Chancellor will act on information passed on, or known about, with respect to any conflict of interest and invite the Named Person to refer the investigation to their alternate.

C4 Concerns about the fair handling of the procedure should be directed to the Named Person in the first instance or with the Vice Chancellor if the concerns involved the Named Person. In the instance that concerns are upheld the Named Person or Vice Chancellor may wish to restart this Procedure at an appropriate stage with the alternate Named Person and/or new panel members.

Preliminary Steps

C5 Upon receipt of allegations of misconduct in research, the Named Person should formally acknowledge receipt of the allegations by letter to the Complainant (and their representative by agreement), in which they should also advise them of the Procedure that will be followed.

C6 The Named Person should review the nature of the allegations and, where they concern 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 Named Person should take immediate appropriate action to ensure that any such potential or actual danger/illegal activity/risk is prevented/eliminated. In taking such actions it should be made clear to all parties that the actions taken are not to be regarded as disciplinary action and do not in themselves indicate that the allegation is considered to be true by Lancaster University.

(a) The nature of the allegations may mean that it is necessary to notify legal or regulatory authorities, such as in situations as detailed above, where an activity is potentially or actually illegal and/or a danger to persons, animals and/or the environment. As a consequence of such notification, Lancaster University may be required to comply with an investigation led

by a legal or regulatory body, which will ordinarily take precedence over this Procedure. The Procedure may continue in parallel but may have to be suspended, to be concluded later, or may have to be declared void by the Named Person.

(b) Where allegations include behaviour subject to defined sanctions in Lancaster University's disciplinary process, then the Named Person should take steps to implement that disciplinary process. As above, the Procedure may continue in parallel with the disciplinary process but may have to be suspended, to be concluded later, or be declared void by the Named Person.

(c) The Named Person should review the nature of the allegations by referring to the definition of misconduct in research detailed in Annex 2. If the allegations are judged to fall within the definition, the Procedure should continue to the next stage. Where the allegations are outside the definition, the Named Person should communicate to the Complainant in writing:
- the reasons why the allegations cannot be investigated using this Procedure;
- which process for dealing with complaints might be appropriate for handling the allegations (if any); and
- to whom the allegations should be reported.

(d) Allegations of misconduct in research that do not require notification to legal or regulatory bodies or immediate referral to the University's disciplinary process should proceed to the next stage in the Procedure.

(e) [4]For those cases involving harm within research and innovation activities, the following additional sanctions are available:
- Removing the individual from all or some aspects of research and innovation activity;
- Restricting applications for specific grant types, for example, doctoral training programmes, overseas based research until a remedial action plan is agreed and implemented;
- Suspending access to grant funding for a limited period until a remedial action plan is agreed and implemented.

C7 Where the allegations are within the definition of misconduct in research, the Named Person should inform the (i) Vice Chancellor, (ii) Director of Human Resources & Organisational Development, (iii) Director of Research, Enterprise & Innovation and (iv) Director of Finance that allegations of misconduct in research have been received on a particular date and that it will be investigated using this Procedure. They should be provided in confidence with the following information:
- the identity of the Respondent;
- the identity of the Complainant;
- details of all sources of internal and external funding;
- details of all internal and external collaborators for the research in question; and
- other details that the Named Person considers appropriate.

It should be stressed that the allegations of misconduct in research that are to be investigated are as yet unproven and that the information is confidential.

[4] Taken from the University's Safeguarding in Research Framework

The Vice Chancellor should not take charge of the investigation or otherwise become involved in the Procedure at this stage, as they may later need to take a role in the management of the investigation. Should it be clear that the Named Person is not handling the investigation effectively the Vice Chancellor should take steps to remedy the situation.

C8 The Named Person should then, in conjunction with the Head of Research Quality and Policy, investigate the contractual/postgraduate research student status of the Respondent and the contractual details specific to the research project(s) related to the allegations.

If Lancaster University is not the Respondent's primary employer, the Respondent having only an honorary or secondary contract with them, the Named Person should contact the Named Person of the Respondent's primary employer and inform them of the allegations.

The Named Person should investigate whether the research project which the allegations relate to includes contractual obligations that require Lancaster University to undertake prescribed steps in the event of allegations of misconduct in research being made. Such an undertaking might be in (i) a contract from a funding University; (ii) a partnership contract/agreement/Memorandum of Understanding; or (iii) an agreement to sponsor the research.

An external Sponsor, funding University and/or collaborators might have a valid interest in, or responsibility for, the way that the investigation is conducted. The Named Person should confirm whether Lancaster University has any contractual/legal obligations towards such universities concerning any aspects of the investigation to ensure that any such obligations are fulfilled at the appropriate time through the correct mechanisms. The Named Person should liaise with Human Resources to ensure that the rights of the Respondent and Complainant, and the integrity of the investigation are not compromised by any such actions.

At all times, the Named Person should emphasise to all parties that the allegation is to be investigated, is as yet unproven and that the information is confidential.

C9 Subject to processes that may override the Procedure as defined at Parts C 6 (a) and (b) (legal or regulatory procedures) or C 8 above (the Procedure to be managed by the Respondent's primary employer), the Named Person should inform the Respondent that allegations of misconduct in research have been made which involve them. The Respondent should be informed of this in a confidential meeting, with a representative of the Human Resources in attendance. The purpose of this meeting is to notify the Respondent formally that allegations of misconduct in research have been made against them. The Respondent will be given the opportunity to respond to the allegations and set out their case at a later stage.

The Respondent may be accompanied to this meeting by a colleague or trade union representative or whoever else is specified in any additional contractual rights (such as by university statutes and ordinances). If the allegations are made against more than one Respondent, the Named Person should inform each individual separately and not divulge the identity of any other Respondent(s). A summary of the allegations in writing should be given to the Respondent (and their representative by agreement) at the meeting, together with a copy of the Procedure to be used to investigate the allegations. The Named Person should outline the Procedure to be used and the opportunities the Respondent will have to respond. The Named Person should also offer a timetable for the Procedure relating to the Screening stage. If it is not possible to meeting in person with the Respondent they should be informed in writing ensuring that the above information is provided.

The Named Person should ensure that, in using any part of the Procedure for the investigation of the allegation of misconduct in research, any required actions are carried out to protect the interests of staff and students of Lancaster University and colleagues and students of the Respondent and/or the Complainant.

Pre-Screening

C10 The Named Person should ensure that all relevant information and evidence are secured, so that any investigation conducted under this Procedure can have access to them. This may include, but is not limited to:

- securing all relevant records, materials and locations associated with the work;
- liaising with the Human Resources and the relevant line manager(s) to:
    - request the temporary suspension of the Respondent from duties on full pay;
    - request the temporary barring of the Respondent from part, or all, of the premises of Lancaster University and any of the sites of any partner University(s); and/or
    - request a temporary restriction be placed on the Respondent requiring them not to have contact with some or all of Lancaster University staff and those of any partner University(s).

The Named Person should only take such actions in situations where there is a clear risk to individuals or that evidence might be destroyed and only after careful consideration of those risks and consequences. The reason(s) for taking any such actions should be recorded in writing and communicated to all relevant parties. In taking such action the Named Person should reassure the Respondent that it is not part of any disciplinary action and does not indicate that the allegations are believed to be true by Lancaster University; rather it should be stressed that it is essential to ensuring that the allegations of misconduct can be properly investigated. Steps to suspend or bar a member of staff should take into account their responsibilities for supervision, teaching and management and make alternative arrangements to meet these responsibilities. Any suspension or barring of the Respondent should be reviewed throughout the Procedure to ensure that it is not unnecessarily protracted.

It should be noted that securing all relevant records, materials and locations associated with the research in question is likely to be essential in order to carry out a full and fair investigation. The Respondent is to be provided with copies of any records and materials that are secured.

C11 In considering the allegations and the information available, the Named Person may decide that additional investigations into related but separate issues of misconduct in research need to be instigated.

C12 The Named Person may wish to consult UKRIO regarding allegations of misconduct in research which have been received. Information provided to UKRIO is held in confidence.

C13 Once initiated the Procedure should progress to the natural end-point irrespective of:

- the Complainant withdrawing the allegations at any stage;
- the Respondent admitting, or having admitted, the alleged misconduct, in full or in part;
- the Respondent or the Complainant resigning, or having already resigned, their post.

C14 The Preliminary and Pre-Screening stages of the Procedure should normally be completed within a maximum of 10 working days from the receipt of the allegations. Any delays should be explained to all parties in writing, and a revised completion date given.

Screening

C15 The Named Person should carry out an initial investigation of the allegations to determine whether they are mistaken, frivolous, vexatious and/or malicious. This should be completed within 10 working days.

In circumstances where it is acknowledged that problems exist between individuals, it may still be appropriate to conduct an initial investigation to establish whether the allegation may have sufficient substance to warrant a Formal Investigation of misconduct in research.

C16 If the Named Person decides that the allegations are mistaken, frivolous, vexatious and/or malicious, the allegations will then be dismissed. This decision should be reported in writing to the Respondent and the Complainant (and their representatives by agreement) and all the parties who had been informed initially.

C17 The Named Person should consider recommending to the appropriate authorities that action be taken under Lancaster University's disciplinary process against anyone who is found to have made frivolous, vexatious and/or malicious allegations of misconduct in research. Those who have made allegations in good faith should not be penalised and might require support (see Annex 5).

The Named Person should also take steps as required and appropriate to the seriousness of the dismissed allegations, to support the reputation of the Respondent and the research project(s) (see Annex 5).

C18 If the allegations cannot be entirely discounted at this point, the Named Person should convene a Screening Panel, as detailed in paragraph C 19 below.

C19 The Screening Stage is intended to determine whether there is prima facie evidence of misconduct in research. The Screening Panel should be constituted and work in accordance with the Principles outlined at Annex 1 and the process outlined in Annex 3.

C20 The Screening Panel should determine whether the allegations of misconduct in research:

- are mistaken, frivolous, vexatious and/or malicious
- should be referred directly to Lancaster University's disciplinary process or other internal process
- have some substance but due to a lack of intent to deceive or due to their relatively minor nature, should be addressed through education and training or other non-disciplinary approach rather than through the next stage of the Procedure or other Formal Proceedings
- are sufficiently serious and have sufficient substance to justify a Formal Investigation

The Named Person should take great care to ensure that all information on the case is fully and accurately transferred to the Screening Panel.

C21 The Screening Panel should normally aim to complete its work within 30 working days of being convened. The Chair of the Screening Panel should make the draft findings available to the Named Person, who will forward them to the Respondent and the Complainant (and their representatives by agreement) for comment on the factual accuracy of the report.

Only when the report includes errors of fact, as indicated by the Respondent and/or the Complainant, should the Screening Panel modify the report. The Chair should judge the validity of such comments and seek the agreement of the Panel before making amendments to the Panel's report.

C22 The Chair should then forward the final version of the Screening Panel's report to the Named Person, the Respondent and the Complainant (and their representatives by agreement).

C23 When the allegations are considered mistaken, frivolous, vexatious and/or malicious, they will be dismissed. The Named Person should 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) (see Annex 5).

In addition, the Named Person should consider recommending to the appropriate authorities that action be taken under the University's disciplinary process against anyone who is found to have made frivolous, vexatious and/or malicious allegations of misconduct in research. Those who have made allegations in good faith should not be penalised and might require support (see Annex 5).

C24 When there is clear evidence of an infringement that might contravene Lancaster University's disciplinary code, the Named Person should consult the Director of Human Resources & Organisational Development on the full and accurate transfer of all case information to the disciplinary process. A full written record should be kept of the decision to transfer to the disciplinary process.

C25 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 Lancaster University's competency, education and training mechanisms, or other non-disciplinary processes, rather than through the Procedure's Formal Investigation stage. The investigation using the Procedure would then conclude at this point. The Named Person should take steps to establish a programme of training or supervision in conjunction with the Respondent and their line manager. This programme should include measures to address the needs of staff and students working with the Respondent.

C26 When the Screening Panel considers that the allegations are sufficiently serious and have sufficient substance to warrant recommending a Formal Investigation, the Named Person should take immediate steps to set up a Formal Investigation.

Formal Investigation

The Formal Investigation is designed to ensure the full and fair exploration of the allegations in the context of research and is not intended to replace or subsume any existing Disciplinary Process. The outcome of the Formal Investigation might be to recommend a transfer to Lancaster University's Disciplinary Process

C27 Where the Screening Panel recommends that the Procedure should progress to the Formal Investigation stage, the Named Person should take immediate steps to set up the Investigation Panel.

C28 The Named Person should inform the following that a Formal Investigation of the allegations is to take place:

- Respondent (and their representative by agreement)
- Complainant (and their representative by agreement)
- the Vice Chancellor
- Director of Human Resources & Organisational Development
- Director of Research, Enterprise & Innovation
- Named Person of any Partner University with which either the Respondent and/or Complainant has an honorary contract, and through them the Heads of University,

At this stage, the Named Person may wish to consult UKRIO for advice and guidance (see paragraph C 12, above), particularly regarding the nomination of members from outside the University to the Formal Investigation Panel (see C 29 and Composition of the Investigation Panel in Annex 4).

C29 The Named Person should then convene the Formal Investigation Panel. The Investigation Panel should be constituted and work in accordance with the Principles outlined at Annex 1 and the process outlined in Annex 4. The Investigation Panel should examine the evidence collected during the Screening Panel's investigation following the original allegations and investigate further as required.

C30 During the Formal Investigation, the Investigation Panel must interview the Respondent and Complainant (see Annex 4). The role of the Investigation Panel is to review all the relevant evidence and conclude whether the allegations of misconduct in research are:

- upheld in full
- upheld in part
- not upheld

C31 The standard of proof used by the Investigation Panel is that of "on the balance of probabilities".

C32 The Investigation Panel may conclude that allegations are not upheld for reasons of being mistaken, frivolous, vexatious and/or malicious.

C33 Should any evidence of misconduct be brought to light during the course of the Formal Investigation that suggests:

- further, distinct instances of misconduct in research by the Respondent, unconnected to the allegations under investigation, or
- misconduct in research by another person or persons

then the Investigation Panel should submit these new allegations of misconduct in research to the Named Person in writing, along with all supporting evidence, for consideration under the initial steps of the Procedure.

C34 The Investigation Panel must be appointed within 30 working days of the submission of the Screening Panel's report recommending a Formal Investigation. In carrying out the Formal Investigation the Investigation Panel will not work to a prescribed timetable. The Panel should conduct the investigation as quickly as possible without compromising the Principles of the Procedure.

C35 The Chair of the Investigation Panel should report the progress made by the Investigation Panel, by reference to criteria agreed by the Panel in advance, to the Named Person on a monthly basis. The Named Person should also then provide appropriate information on the progress of the investigation to other interested parties, which may include sending details of progress to UKRIO.

C36 The Investigation Panel should provide a draft report of its findings to the Named Person, who should forward it to the Respondent and the Complainant (and their representatives by agreement) for comment on the factual accuracy of the report. Only when the report contains errors of fact and matters that have bearing on the facts as indicated by the Respondent and/or the Complainant, and accepted by the Investigation Panel, should the Chair modify the report. The Chair should judge the

validity of such comments and seek the agreement of the Panel before making amendments to the Panel's report.

C37 The Investigation Panel should then produce a final report that:

- summarises the conduct of the investigation
- states whether the allegations of misconduct in research have been upheld in whole or in part, giving the reasons for its decision and recording any differing views
- makes recommendations in relation to any matters relating to any other misconduct identified during the investigation
- addresses any procedural matters that the investigation has brought to light within Lancaster University and relevant partner universities and/or funding bodies

In addition to reaching a conclusion over the nature of the allegations, the Investigation Panel may make recommendations with respect to:

- whether the allegations should be referred to the relevant disciplinary process
- whether any action will be required to correct the record of research
- whether University matters should be addressed by Lancaster University through a review of the management of research
- other matters that should be investigated

The Report should be sent to the Named Person.

C38 If all or any part of the allegations are upheld, the Named Person, the Director of Human Resources & Organisational Development and at least one other member of senior staff should then decide whether the matter should be referred to Lancaster University's disciplinary process or for other formal actions.

C39 The Named Person should inform the following of the conclusion of the Formal Investigation:

- The Respondent and the Complainant (and their representatives by agreement)
- The Vice Chancellor, the Director of Research, Enterprise & Innovation, the Director of Human Resources & Organisational Development, the Head(s) of the relevant Department(s) and any other relevant members of staff;
  If the Respondent and/or the Complainant are employed on joint clinical/honorary contracts, the Named Person, the Head of Personnel and the Head of Research of the other University(s)
- Where appropriate, the responsible person within any relevant partner universities, funding bodies and/or regulatory or professional bodies
- Additionally, the Named Person may wish to inform UKRIO of the conclusion of the Formal Investigation

C40 Should the allegations proceed to the University's disciplinary process, the report of the Investigation Panel should form the basis of the evidence that the Disciplinary Panel receives. All the information collected and brought to light through the Procedure should be transferred to the disciplinary process.

The Disciplinary Panel will receive all information on the case in a meeting with the Chair of the Investigation Panel and the Named Person, to ensure that all relevant material is transferred.

C41 Where allegations have not been upheld (in full or in part), the Named Person should take such steps as are appropriate, given the seriousness of the allegations, to support the reputation of the Respondent and any relevant research project(s) (see Annex 5).

C42 As with the Screening Process, where the Investigation Panel concludes the allegations are frivolous, vexatious and/or malicious, the Named Person should consider recommending to the appropriate authorities that action be taken under the University's disciplinary process against anyone who is found to have made frivolous, vexatious and/or malicious allegations of misconduct in research.

C43 It is not intended that the Procedure should be used as part of any disciplinary or regulatory process. Information gathered in the course of an investigation may become relevant to, and disclosed in, any such disciplinary or regulatory process.

C44 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 (Annexes 3 and 4). 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 their employer's disciplinary process.

Those who have made allegations in good faith should not be penalised and might require support (see Annex 5).

C45 Where the Investigation Panel concludes that the allegations are upheld in full or part, there may be a requirement to consider action in addition to any that might be recommended through the University's Disciplinary process. This includes such issues as those that addressed in Annex 5. The Named Person should consider the use of the recommendations set out in any case where misconduct in research has been investigated.

Part D - Annexes

Annex 1 – Principles

1 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.

2 Those responsible for carrying out investigations of alleged misconduct in research should act with integrity and sensitivity at all times.

3 The following principles of Fairness, Confidentiality, Integrity, Prevention of Detriment, and Balance as defined below must inform the carrying out of this Procedure (Parts A, B and C) for the investigation of allegations of misconduct in research

Fairness

4 The investigation of any allegations of misconduct in research must be carried out fairly and in accordance with the statutory human rights of all parties involved.

5 Those responsible for carrying out this Procedure should do so with knowledge of:

- the statutory obligations of the University and the rights of employees according to current law;
- any additional rights and obligations particular to the institution and/or its employees for example those bestowed by university statutes and ordinances.

6 Where anyone is formally accused of misconduct in research, that person must be given full details of the allegations in writing. Note the only exception to this Principle might be in circumstances where the allegations involve matters which are subject to a covert criminal investigation.

7 When someone is formally investigated for alleged misconduct in research, they must be given the opportunity to set out their case and respond to the allegations against them.

8 They must also be allowed to:

- ask questions;
- present information (evidence) in their defence;
- adduce evidence of witnesses;
- raise points about any information given by any witness (regardless of who has called the witness in question).

9 The Respondent, Complainant and any witnesses involved in the Screening Process or the process before the Investigation Panel may:

- be accompanied by a fellow employee or trade union representative when they is required or invited to attend meetings relating to this Procedure;
- seek advice and assistance from anyone of their choosing.

In the case of the Respondent(s), this is a statutory right under employment law. Some Respondents may have additional contractual rights (such as through university statutes and ordinances) to be accompanied by persons other than those listed above, for example a partner, spouse or legal representative.

10 To ensure a fair investigation, an individual may not be a member of both the Screening Panel and the Investigation Panel and, if they has been involved in either, they should not be part of the University's Disciplinary Process.

Confidentiality

11 The Procedure should be conducted as confidentially as is reasonably practicable. The confidential nature of the proceedings should be maintained provided this does not compromise either the investigation of the misconduct allegations, any requirements of health and safety or any issue related to the safety of participants in research.

12 The confidential nature of the proceedings is essential in order to protect the Complainant, the Respondent and others involved in the Procedure.

13 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, (see points 40 to 43 inclusive below).

14 The identity of the Complainant or the Respondent should not be made known to any third party unless:

- it has been deemed necessary (by those conducting the investigation) in order to carry out the investigation;
- it is necessary as part of action taken against the Respondent when (at the end of the Procedure and the University's disciplinary/appeals processes) the allegations have been upheld;
- it is necessary as part of action taken against a person who has been found to have made malicious, vexatious or frivolous allegations;
- it is the stated policy of the employer/funder/other national body that the identity of individuals proved through appropriate disciplinary and appeals processes to have committed misconduct in research should be made public.

Any steps to reveal the name of the Respondent or Complainant in public, arising from the investigation of allegations of misconduct in research, should be taken only at the conclusion of the University's disciplinary and appeals processes and where there is a requirement and/or provision to do so.

15 Any disclosure to a third party of the identity of the Complainant or Respondent, or of any other details of the investigation, should be made on a confidential basis. The third party should understand this, and that they must respect the confidentiality of any information received.

16 The University and/or its staff may have contractual/legal obligations to inform third parties, such as funding bodies or collaborating University(s), of allegations of misconduct in research. In such cases, those responsible for carrying this Procedure out should ensure that any such obligations are fulfilled at the appropriate time through the correct mechanisms, always keeping in mind the legal rights of the employees involved in the allegations.

17 While the allegations are under investigation using this Procedure (and/or the University's disciplinary process), the Complainant, the Respondent, witnesses or any other persons involved in this Procedure should not make any statements about the allegations to any third parties, unless formally sanctioned by the University or otherwise required to by law.

18 Breaching confidentiality may lead to disciplinary action, unless covered by the Public Interest Disclosure Act and/or the University's own grievance or whistle-blowing procedures.

19 In the event of any conflict between the principle of confidentiality and any of the other principles of this Procedure, those conducting the Procedure should consider the principle of Balance (see points 40 to 43 inclusive below).

Integrity

20 An investigation into allegations of misconduct in research using the processes of Screening or Formal Investigation of the Procedure must be fair and comprehensive. The investigation should be conducted expediently although without compromise to the fairness and thoroughness of the process.

21 Anyone asked to take part in the processes as a Panel member (as detailed at Annexes 4 and 5) must make sure that the investigation is impartial and extensive enough to reach a reasoned judgement on the matter(s) raised.

22 Similarly, those who give evidence to the investigation should do so honestly and objectively in accordance with the Principles of the Procedure and should be provided with relevant sections of the Procedure before giving evidence.

23 All parties involved must inform the Named Person immediately of any interests that they have 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. Where the 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 involvement in the investigation, recording the reasons for the decision (see C 4, above).

Note: The declaration of an interest by an individual does not automatically exclude them from participating in the investigation. The Named Person should decide if an interest declared by the individual warrants exclusion from involvement in the investigation and record the reasons for the decision.

24 In the interests of openness and transparency, inviting members from outside the University to join both the Screening and Formal Investigation Panels of the Procedure is recommended.

25 Detailed and confidential records should be maintained on all aspects, and during all stages, of the Procedure. It is the responsibility of the Named Person to see that such records are maintained and made available at all stages for any use of the University's Disciplinary Processes.

26 At the conclusion of the proceedings, all records should be retained by the University (Personnel Department), for as long as the University's policy for maintaining such records requires. It is recommended that this should not be shorter than six years.

27 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 Screening Panel and any Investigation Panel and between the Investigation Panel and any Disciplinary Process.

28 Those responsible for carrying out the Procedure should 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.

29 Suggested good practice on the keeping, transfer and storage of records can be found in Annex 7.

Prevention of Detriment

30 In using this Procedure, and in any action taken as a result of using the Procedure, care must be taken to protect:

- individuals against frivolous, vexatious and/or malicious allegations of misconduct in research;
- the position and reputation of those suspected of, or alleged to have engaged in, misconduct, when the allegations or suspicions are not confirmed; and
- 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.

31 The Pre-Screening and Screening stages of the Procedure are intended to determine whether allegations are mistaken, frivolous, vexatious and/or malicious. Only allegations that are judged to be sufficiently serious and of sufficient substance will proceed to a Formal Investigation.

32 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.

33 Anyone accused of misconduct in research is entitled to the presumption of innocence.

34 Formal Investigation should establish, on the balance of probabilities, the truth of any allegations.

35 Any formal steps taken to discipline or otherwise reprimand the Respondent, or take steps which might undermine their good name or reputation (or that of any other party), must be taken through the University's disciplinary process which provides the Respondent with the right of appeal. Only when allegations have been upheld through the University's disciplinary process and, where called upon, the appeals process, may it be appropriate to apply any sanctions to the Respondent.

36 The University must take all reasonable steps to ensure that the Respondent (or any other party) does not suffer because of unconfirmed or unproven allegations.

37 Involvement of the Respondent in the Procedure should not prevent the Respondent from being considered:

- for promotion;
- or the completion of probation;
- or other steps related to their professional development.

The University may choose to suspend the implementation of any promotion, completion of probation or any similar step, for the period that allegations are investigated using the Procedure, rather than delay the actual consideration of such matters. If the allegations are upheld at the end of the Procedure, subject to the University's disciplinary process and/or appeals process, the

University's normal rules with respect to steps related to professional development, such as those detailed above, should apply.

38 It should be made clear that any actions that might be taken by the Named Person in response to the notification of allegations 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. The Named Person and members of any Screening and Formal Investigation Panels should take steps to make it clear to the Respondent, Complainant and any other involved parties that these actions are necessary to ensure that the allegations of misconduct in research can be properly investigated.

39 Appropriate action should be taken against:

- Respondents where the allegations of misconduct in research have been upheld in accordance with this Procedure; and
- anyone who is found to have made frivolous, vexatious and/or malicious allegations of misconduct in research.

40 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.

41 The Named Person should 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 allegations. The Named Person can seek guidance from UKRIO and other bodies, as well as seeking legal advice.

42 In addition, the Named Person should be responsible for ensuring the integrity of this Procedure and any actions taken as a consequence of it. The Named Person should decide the course of action to be taken in cases of doubt.

43 The Named Person should keep a written record of all decisions taken throughout all the steps of the Procedure. The Named Person should liaise closely with the Chairs of the Screening and Formal Investigation Panels to ensure that a proper record is maintained throughout the Procedure.

Annex 2 Definitions of Research Misconduct[5]

1. Accepted Procedures (for research)

Accepted procedures include but are not limited to the following.

- gaining informed consent where required;
- gaining formal approval from relevant organisations where required;
- any protocols for research contained in any formal approval that has been given for the research;
- any protocols for research as defined in contracts or agreements with funding bodies and sponsors;
- any protocols approved by the Medicines and Healthcare products Regulatory Authority (MHRA) for a trial of medicinal products;
- any protocols for research set out in the guidelines of the employing institution and other relevant partner organisations;
- any protocols for research set out in the guidelines of appropriate recognised professional, academic, scientific, governmental, national and international bodies
- any procedures that are aimed at avoiding unreasonable risk or harm to humans, animals or the environment;
- good practice for the proper preservation and management of primary data, artefacts and materials.
- any existing guidance on good practice on research.

Accepted procedures do **not** include:

- un-consented to/ unapproved variations of the above;
- any procedures that would encourage, or would lead to, breaches in the law.

Although allegations of misconduct in research are often raised as departures from accepted procedures in the conduct of research, investigations should aim to establish intentional and/or reckless behaviour as set out in the definition of misconduct in research (below).

2. Complainant

The Complainant is a person making allegations of misconduct of research against one or more Respondents (see below).

3. Disciplinary Process

The Disciplinary Process refers to an Organisation's mechanism for resolving disciplinary issues amongst its staff.

4. Employer

The Employer is defined in this Procedure as the person or organisation who has retained the person (e.g. the Respondent (see below)) to carry out work, usually, but not always, through a contract of employment.

5. Formal Investigation

The Formal Investigation is that part of the Procedure which is intended to examine the allegations of misconduct in research, hear and review the evidence and determine whether the alleged misconduct occurred, take a view on who was responsible, and which may make recommendations

[5] Adapted from UKRIO's Procedure for the Investigation of Misconduct in Research

as to any response that the Organisation might make. The Formal Investigation will be preceded by the Screening Stage (see below).

6. Honorary Contract

Honorary contracts are used in a variety of circumstances. As a result, it is not possible to provide blanket guidance as to which organisation should lead an investigation into allegations of misconduct in research against someone holding such a contract. Examples of arrangements that commonly involve the issue of an honorary contract are:

- for a clinical academic working in both a university and an NHS organisation, in which case the NHS organisation would issue the honorary contract;
- for an NHS consultant with an arrangement to undertake teaching and/or research in a university, in which case the university would issue the honorary contract;
- for a researcher employed by a university and undertaking a research project in an NHS organisation, in which case the NHS organisation would issue the honorary contract.

There are significant differences in the responsibilities that an Organisation might have for an individual according to the type of honorary contract used. For example, in the case of clinical academics with honorary contracts with an NHS organisation and NHS consultants with honorary contracts with a university, it is generally held that the honorary contract is a contract of employment in law and, therefore, depending on the circumstances of the case, the university or the NHS organisation might take the lead in an investigation of allegations of misconduct in research.
In the case of a researcher employed by a university and undertaking research in an NHS organisation, however, the honorary contract issued by the NHS organisation is not generally considered to be a contract of employment in law (though, in the case of a dispute, whether it is or not would be for a court to decide) and, in these circumstances, only the university, as the employer, could take the lead in an investigation of allegations of misconduct in research.
In either case, however, the outcome of any investigation by one party might affect the contractual relationship of the individual investigated with the other party. These are complex issues and it is therefore recommended that legal advice is sought before any investigation commences and that partner organisations liaise closely.

7. Misconduct in research

In discussing misconduct in research, which could be investigated using the Procedure, the following may serve as useful terms by way of guidance. Interpretation of the terms will involve judgements, which should be guided by previous experience and decisions made on matters of misconduct in research.

- Fabrication;
- Falsification;
- Misrepresentation of data and/or interests and or involvement;
- Plagiarism; and
- Failures to follow accepted procedures or to exercise due care in carrying out responsibilities for:
    - avoiding unreasonable risk or harm to:
        - humans;
        - animals used in research; and
        - the environment;
- Proper handling of privileged or private information on individuals collected during the research.

For the avoidance of doubt, misconduct in research includes acts of omission as well as acts of commission. In addition, where the research in question has been undertaken outside of the UK, the standards by which allegations of misconduct in research are to be judged, should be those of the UK, not the country in which the research has taken place
The basis for reaching a conclusion that an individual is responsible for misconduct in research relies on a judgement that there was an intention to commit the misconduct and/or recklessness in the conduct of any aspect of a research project. Where allegations concern an intentional and/or reckless departure from accepted procedures in the conduct of research that may not fall directly within the terms detailed above, a judgement should be made as to whether the matter should be investigated using the Procedure.

8. Named Person

The Named Person is defined in the Procedure as the individual nominated by the Organisation (see below) to have responsibility for receiving any allegations of misconduct in research; initiating and supervising the Procedure for investigating allegations of misconduct in research; maintaining the record of information during the investigation and subsequently reporting on the investigation to internal contacts and external organisations; and
taking decisions at key stages of the Procedure. The Named Person should have a nominated alternate who should carry out the role in his/her absence or in the case of any potential or actual conflict of interest. The Named Person and the nominated alternate should not be the Organisation's Head, Head of Research or Head of Personnel.

9. Organisation

The establishment that employs the Respondent, the Named Person and, on occasions, other parties involved in the proceedings and is the host and (most likely) the Sponsor for the research to which allegations of misconduct refer.

10. The Procedure

The Procedure refers to this publication, the procedure for the investigation of misconduct in research.

11. Professional Body

A professional body is an organisation with statutory powers to regulate and oversee a particular profession, such as doctors or solicitors. Examples relevant to this Procedure include the General Medical Council, the Nursing and Midwifery Council and the Health Professions Council.

12. Regulatory Authority

A regulatory authority is an organisation with statutory powers to regulate and oversee an area of activity, such as health and safety, or medicines to be used on humans. Examples relevant to this Procedure include the MHRA, the Healthcare Commission, the Health and Safety Executive, the Mental Health Act Commission and the Council for Healthcare Regulatory Excellence.

13. Research and Scholarship

The Research Excellence Framework (REF)[6] defines research as 'a process of investigation leading to new insights, effectively shared.

[6] https://www.ref.ac.uk/media/1092/ref-2019_01-guidance-on-submissions.pdf

It includes:

- work of direct relevance to the needs of commerce, industry, culture, society, and to the public and voluntary sectors; scholarship
- the invention and generation of ideas, images, performances, artefacts including design, where these lead to new or substantially improved insights;
- the use of existing knowledge in experimental development to produce new or substantially improved materials, devices, products and processes, including design and construction.
- research that is published, disseminated or made publicly available in the form of assessable research outputs, and confidential reports

It excludes:

- routine testing and routine analysis of materials, components and processes such as for the maintenance of national standards, as distinct from the development of new analytical techniques.
- the development of teaching materials that do not embody original research.

14. Respondent

The Respondent is the person against whom allegations of misconduct in research have been made. He/she must be a present or past employee of the Organisation that is investigating the allegations using the Procedure.

15. Screening Stage

The Screening Stage is intended to determine whether there is prima facie evidence of misconduct in research. The Screening Stage does not determine whether misconduct occurred or who might be responsible.

16. Sponsor

The Health Research Authority (HRA)[7] defines Sponsor as 'an individual, company, institution, organisation or group of organisations that takes on responsibility for initiation, management and financing (or arranging the financing) of the research. A sponsor can delegate specific responsibilities to any other individual or organisation that is willing and able to accept them. Any delegation of responsibilities to another party should be formally agreed and documented by the sponsor.'

[7] https://www.hra.nhs.uk/planning-and-improving-research/research-planning/roles-and-responsibilities/

Annex 3 – Screening Panel Guidance

1. The Screening Stage of the Procedure is intended to determine whether there is prima facie evidence of misconduct in research.

The Screening Panel should be convened to investigate allegations of misconduct in research, which have passed through initial review by the Named Person and are therefore considered as:

- not encompassing breaches of the law or areas within the domain of the relevant regulatory authority;
- not encompassing breaches of the Organisation's regulations such as might require the implementation of the disciplinary process;
- constituting research activity for which the Organisation is the Sponsor or for which the Organisation has primary responsibility;
- involving a Respondent where the Organisation is the primary employer or where it has primary responsibility, agreed with other employing organisations; and
- having substance, in that it is not considered at this stage, to be mistaken, frivolous, vexatious and/or malicious.

Terms of Reference

2. **Members appointed to the Screening Panel should elect a Chair and make a declaration that they will:**
   - adhere to the Principles of the Procedure (see Annex 1);
   - abide by the Procedure as it affects the work of the Screening Panel;
   - work within the Terms of Reference for the Screening Panel;
   - have declared any links to the research and/or the individuals involved in the allegations or any interests which might conflict with the Principles of the Procedure; and
   - maintain the confidentiality of the proceedings throughout the work of the Panel and afterwards, unless formally sanctioned by the Organisation or otherwise required to by law.

3. **The Screening Panel should:**
   - maintain a record of evidence sought and received, and conclusions reached;
   - conduct an assessment of the evidence including interviewing the Respondent and Complainant and other staff whom the Panel consider relevant to the investigation;
   - provide a draft report to the Organisation's Named Person, who will forward it to the Respondent and the Complainant (and their representatives by agreement) for comment on the factual accuracy of the report;
   - Only when the report includes errors of fact, as indicated by the Respondent and/or the Complainant, should the Screening Panel modify the report. The Chair should judge the validity of such comments and seek the agreement of the Panel before making amendments to the Panel's report.
   - produce a final report which considers the allegations of misconduct in research and reaches one of the conclusions below; and
   - aim to complete its work within 30 working days.

4. **In concluding its work, the Panel should make a recommendation that the allegations of misconduct in research:**
    - should be referred directly to the Organisation's disciplinary process or other internal process;
    - are sufficiently serious and has sufficient substance to justify a Formal Investigation;
    - have some substance but due to a lack of intent to deceive or due to their relatively minor nature, should be addressed through education and training or other non- disciplinary approach rather than through the next stage of the Procedure or other Formal Proceedings; or
    - are mistaken, frivolous, vexatious and/or malicious.

5. The Report should be sent to the Named Person.

6. Once it has completed the report and reached a conclusion, the work of the Screening Panel is complete and it should be disbanded and members should take no part in any further investigation of the matter or make any comment on the continuing investigation, unless formally sanctioned by the Organisation or otherwise required to by law. They should also remember that all information concerning the case was given to them in confidence.

Composition of the Screening Panel

7. The Screening Panel should consist of at least three senior members of staff selected by the Named Person from those (within the Organisation), who have previously indicated their willingness to serve on such a Panel.

8. In selecting the Panel members, the Named Person should consider:
    - the subject matter of the allegations, including whether it would be advantageous for members of the Panel to possess any specialised knowledge or investigative skill;
    - any conflicts of interest that might arise;
    - any links with any of the persons involved (Respondents or Complainants);
    - any personal connections with the subject matter of the allegations; and
    - any connections with the work through, for example, the Organisation's groups established to review proposals for research or ethics committees.

9. Members of the Screening Panel should sign a declaration confirming that they will;
    - abide by the conditions and provisions of the Procedure as it affects the work of the Screening Panel;
    - work within the Terms of Reference for the Screening Panel (detailed above);
    - respect the confidentiality of the proceedings;
    - adhere to the Principles of the Procedure (see Annex 1); and
    - undertake the work of the Panel within the timetable of 30 working days from being convened.

10. The Named Person must not be a member nor seek to influence the work, of the Screening Panel.

11. It is desirable, but not essential, that one or more members of the Screening Panel be selected from outside the Organisation, rather than members drawn from within the Organisation. Allegations that involve senior staff and/or that are judged to be especially serious, complex or controversial may particularly benefit from the presence of someone external to the

Organisation on the Screening Panel. There would be advantage in the review of allegations that involve staff on joint clinical/honorary contracts for there to be on the Screening Panel an appropriate member of staff from the other employing Organisation(s).

12. Both Respondent and Complainant may raise with the Named Person concerns that they may have about those chosen to serve on the Screening Panel but neither has a right of veto over those nominated.

13. The Named Person may choose to consult UKRIO so as to nominate member(s) from their Register of Advisers to sit as member(s) of the Screening Panel.

14. Once convened, the membership of the Screening Panel should not be added to. Members unable to continue should not be replaced. In the event that the Chair stands down or the membership falls below three, the Named Person should take steps to recruit additional members or re-start the Screening process.

15. The Screening Panel may call expert witnesses to give advice if necessary and as appropriate but such witnesses do not become members of the Screening Panel. The Screening Panel may also seek guidance from UKRIO and its Advisers.

16. All contributions to the process of screening should be recorded and maintained for subsequent use.

17. The Chair has the responsibility to ensure maintenance of a record of all proceedings.

18. To perform its function the Screening Panel should:
    - review the submission and supporting evidence provided by the Complainant;
    - review the evidence and supporting documentation from the Respondent who should be given the opportunity to respond to the allegations, set out his/her case and to present evidence;
    - review any background information relevant to the allegations; and
    - interview the Respondent, the Complainant and other individuals who might provide relevant information to assist the Panel.

19. The Screening Panel should consider the evidence and determine whether the allegations:
    - should be referred directly to the Organisation's disciplinary process or other internal process; or,
    - are sufficiently serious and has sufficient substance to justify a Formal Investigation; or,
    - have some substance but due to a lack of intent to deceive or due to their relatively minor nature, should be addressed through education and training or other non- disciplinary approach rather than through the next stage of the Procedure or other Formal Proceedings; or
    - are mistaken, frivolous, vexatious and/or malicious.

20. The Screening Panel's draft report will be made available to the Respondent and the Complainant for them to comment on the factual accuracy of the report. Only where the report includes errors of fact as indicated by the Respondent and/or the Complainant should the Screening Panel modify the report. The Chair should determine the truth of the comments made and seek the agreement of the majority of Panel members before making amendments of substance to the Panel's report.

21. The Panel should then inform all relevant parties of its conclusion (including representatives of the Respondent and the Complainant by agreement) and the reasons for reaching that conclusion in a final report (see Terms of Reference, above).

22. The work of the Screening Panel is then concluded and the Panel is disbanded. Members of the disbanded Screening Panel should not make any comment on the continuing investigation, unless formally sanctioned by the Organisation 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 request for comment should be referred to the Named Person.

24. Those who have contributed to the disbanded Screening Panel should have no further involvement in the Procedure, unless formally asked to clarify a point in their written report, at a subsequent part of the investigation.

25. Involvement in either the Screening or the Investigation Panel rules out participation in any disciplinary process.

Annex 4 –Investigation Panel Guidance

1. The Investigation Panel should be convened to investigate allegations of misconduct in research which have passed through the screening stage and are therefore considered to be sufficiently serious and of sufficient substance to justify a Formal Investigation.

Terms of Reference

Members appointed to the Investigation Panel should elect a Chair - ***It is desirable, but not essential, for the Panel to include a member who either holds or has held judicial office or to be a barrister or solicitor of at least ten year's standing,*** and declare that they will:

- adhere to the Principles of the Procedure (see Annex 1);
- abide by the Procedure as it affects the work of the Investigation Panel;
- work within the Terms of Reference for the Investigation Panel;
- have declared any links to the research and/or the individuals involved in the allegations or any interests which might conflict with the Principles of the Procedure; and
- respect the confidentiality of the proceedings throughout the work of the Panel and afterwards, unless formally sanctioned by the Organisation or otherwise required to by law.

2. The Investigation Panel should:
    - receive all relevant information from the Screening Panel as background for the investigation;
    - set a date for the investigation, which should be conducted as quickly as possible without compromising the stated Principles of the Procedure;
    - maintain a record of evidence sought and received, and conclusions reached;
    - conduct an assessment of the evidence;
    - hear the Complainant and such other individuals as the Panel consider relevant to the investigation;
    - hold a Formal Hearing, to hear the Respondent's response to the allegations made;
    - consider the allegations of misconduct in research and reach a conclusion on the allegations with the standard of proof used to reach that decision being "on the balance of probabilities";
    - provide a draft report to the Organisation's Named Person, who should forward it to the

3. Respondent and the Complainant (and their representatives by agreement) for comment on the factual accuracy of the report;
    - Only when the report includes errors of fact, as indicated by the Respondent and/or the Complainant, should the Investigation Panel modify the report. The Chair should judge the validity of such comments and seek the agreement of the Panel before making amendments to the Panel's report.
    - report any further, distinct, instances of misconduct in research by the Respondent which may be disclosed, unconnected to the allegations under investigation and/or misconduct in research by another person or persons, to the Named Person in writing, along with supporting evidence; and

- aim to reach a unanimous decision, failing which a majority decision will be acceptable.

4. The Investigation Panel should then produce a final report that:
    - summarises the conduct of the investigation;
    - states whether the allegations of misconduct in research have been upheld in whole or in part, giving the reasons for its decision and recording any differing views;
    - makes recommendations in relation to any matters relating to any other misconduct identified during the investigation; and
    - addresses any procedural matters that the investigation has brought to light within the Organisation and relevant partner organisations and/or funding bodies.

5. The Report should be sent to the Named Person.

6. Once it has completed the report and reached a conclusion, the work of the Investigation Panel is complete and it should be disbanded and members take no part in any further investigation of the matter, unless formally asked to clarify a point in their written report at a subsequent investigation. As the matter may then give rise to disciplinary or other action, members of the disbanded Investigation Panel should not make any comment on the matter in question, unless formally sanctioned by the Organisation or otherwise required to by law. They should also remember that all information concerning the case was given to them in confidence.

Composition of the Investigation Panel

7. The Investigation Panel should consist of at least three, and always an uneven number of, senior members of staff selected by the Named Person from those with relevant skills and experience to serve on such a Panel.

8. In selecting members of the Investigation Panel, the Named Person should consider:
    - the subject matter of the allegations, including whether it would be advantageous for members of the Panel to possess any specialised knowledge or investigative skill;
    - any potential conflicts of interest
    - any potential links with any of the persons involved (Respondents or Complainants), or personal connections with the subject matter of the allegations;
    - whether a nominee was involved in the Screening Panel, as this excludes such a person from serving on the Investigation Panel; and
    - any connections with the work through, for example, the Organisation's groups established to review proposals for research or its ethics committee(s).

9. It is a requirement that one or more members of the Investigation Panel be selected from outside the Organisation. Such external members replace internal members of the Investigation Panel rather than being in addition to them. Allegations that involve senior staff and/or that are judged to be especially serious, complex or controversial may benefit particularly from a member who is not associated with the Organisation. There would also be advantage in the review of allegations that involve staff on joint clinical/honorary

contracts for there to be on the Investigation Panel an appropriate member of staff from the other employing organisation(s).

10. The Named Person may choose to consult UKRIO to nominate member(s) from the Register of Advisers to sit as member(s) of the Investigation Panel.

11. At least two members of the Panel should have experience in the area of research in which the alleged misconduct has taken place, although they should not be members of the Department concerned. Where allegations concern highly specialised areas of research the Investigation Panel should have at least one member with specialised knowledge of the field.

12. The Named Person must not be a member nor seek to influence the work of the Investigation Panel

13. The Named Person should nominate members of the Investigation Panel for approval by the Head of the Organisation or a nominated deputy. The Head of the Organisation, or his/her deputy, may veto nominations for the Investigation Panel, recording the reason for the veto in writing and communicating it to all parties.

14. Both the Respondent and the Complainant may raise with the Named Person any concerns that they may have about those chosen to serve on the Investigation Panel, but do not have a right of veto over those selected.

15. The members of the Investigation Panel should sign a declaration confirming that they will:
    - abide by the Procedure as it affects the work of the Investigation Panel;
    - work within the Terms of Reference for the Investigation Panel (detailed above);
    - respect the confidentiality of the proceedings; and
    - adhere to the Principles of the Procedure (Annex 1 of the Procedure).

16. Once convened, the membership of the Investigation Panel should not be changed or added to. Members who are not able to continue should not be replaced. In the event that the Chair stands down or the membership falls below three, the Named Person should take steps to recruit additional members or re-start the Formal Investigation process.

The Work of the Investigating Panel

17. The Investigation Panel may call expert witnesses to give advice, if necessary and as appropriate. Such witnesses do not become members of the Investigation Panel. The Investigation Panel may also seek guidance from UKRIO and its Advisers.

18. The Chair is responsible for keeping a full record of the evidence received and of the proceedings.

19. To perform its task the Investigation Panel should review:
    - the submission(s) and supporting evidence provided by the Complainant;
    - the response(s) and supporting evidence from the Respondent who should be given the opportunity to respond to the allegations made and to present evidence;
    - background information relevant to the allegations; and

- any interviews conducted with the Respondent, the Complainant, and other staff who may provide relevant information to assist the Investigation Panel.

20. The Panel must hold a Formal Hearing during which:
    - the Respondent must be given the opportunity to set out his/her case and respond to the allegations made against him/her. He/she will also be allowed to ask questions, to present evidence, call witnesses and raise points about any information given by any witness (including the Complainant), regardless of who has called the witness in question; and
    - the Complainant and other staff may be invited to provide evidence when members of the Panel consider that it may have relevance to the investigation.

21. Although not working to a prescribed timetable, the Panel should set a date for the completion of the investigation, which should be as soon as is practical without compromising the Principles of the Procedure (Annex 1).

22. The Chair of the Investigation Panel should report progress in writing, by reference to the plans agreed by the Panel, to the Named Person during investigations. If it is believed that the investigation should take more than one calendar month, reports should be made on a monthly basis. If it is believed that the investigation will last for one calendar month or less, reports should be made on a bi-weekly basis.

23. The Investigation Panel's draft report should be made available to the Respondent and the Complainant (and their representatives by agreement) for comment on its factual accuracy. Only when the report includes error of fact as indicated by either Respondent and/or Complainant should the Investigation Panel modify the report. The Chair should determine the truth of such comments and seek the agreement of the majority of the Panel, before making amendments of substance to the Panel's report.

24. The role of the Investigation Panel is to consider the allegations of misconduct in research and reach a conclusion about those allegations. The standard of proof used by the Investigation Panel is that of "on the balance of probabilities".

25. A majority decision is acceptable, though a unanimous decision is desirable.

26. It is acceptable for the Investigation Panel to conclude that allegations are upheld in part rather than in full.

27. Once the Investigation Panel has reached a conclusion it should produce a final report that:
    - summarises the investigation;
    - states whether the allegations of misconduct have been upheld in full or in part, giving the reasons for its decision and recording any differing views;
    - makes informal recommendations to resolve any issues relating to any misconduct it has found and to address any procedural matters which the investigation has brought to light within the Organisation and relevant partner organisations and/or funding bodies; and
    - reports other matters that should be investigated.

28. The report should be sent to the Named Person. The Named Person should inform the following of the conclusion of the Formal Investigation:
    - the Respondent and the Complainant (and their representatives by agreement);

- the Head of the Organisation, the Head of Research, the Head of Personnel, the Head(s) of the relevant Department(s) and any other relevant members of staff;
- If the Respondent and/or the Complainant are employed on joint clinical/honorary contracts, the Named Person, the Head of Personnel and the Head of Research of the other employing organisation(s);
- where appropriate, the Named Person should notify any relevant partner organisations, funding bodies and/or regulatory or professional bodies; and
- Additionally, the Named Person may wish to inform UKRIO of the conclusion of the Formal Investigation, using the forms at Annex 3.

29. The work of the Investigation Panel is then concluded and the Panel should be disbanded. As the matter may then give rise to disciplinary or other action, members of the disbanded Investigation Panel should not make any comment on the matter in question, unless formally sanctioned by the Organisation or otherwise required to by law. They should also remember that all information concerning the case was given to them in confidence.

30. Any queries or requests for comment addressed to members of the Investigation Panel should be referred to the Named Person.

31. Those who have contributed to the disbanded Investigation Panel should have no further involvement in the Procedure, unless formally asked to clarify a point in their written report at a subsequent investigation.

32. Involvement in either the Screening or the Investigation Panel rules out participation in any disciplinary process.

Annex 5 – Actions and Outcomes

The conclusion of the Procedure for the investigation of allegations of misconduct in research and actions taken either through the Organisation's disciplinary process or through other steps to respond to the conclusions reached by the Investigation Panel should take account of the Principles of the Procedure and the matters listed in (1) to (5) below:

1. **Specialised research**
   It is recognised that the subject area of certain cases may be so specialised as to require equally specialised advice as to how to resolve or correct matters arising from the misconduct in research; the recommendations and experience of the Investigation Panel may prove particularly useful if this is the case.

2. **Support provided to the Complainant**
   Where allegations have been upheld (in full or in part), or found to be mistaken but not frivolous, vexatious and/or malicious, then appropriate support, guidance and acknowledgment should be given to the Complainant, given that his/her role in the process will most likely have been stressful and may well have caused friction with colleagues. The Named Person should take whatever steps he/she considers necessary to support the reputation of the Complainant.

   For example - the Complainant should be offered the opportunity to have an official statement released for internal and/or external purposes, in the event that the investigation receives external publicity.

3. **Support provided to the Respondent**
   Where allegations have not been upheld (in full or in part), the Named Person should take such steps as are appropriate, given the seriousness of the allegations, to support the reputation of the Respondent and any relevant research project(s). Appropriate support and guidance should be given to the Respondent, given that his/her role in the process will most likely have been stressful and may well have caused friction with colleagues

   For example - the Respondent should be offered the opportunity to have an official statement released for internal and/or external purposes, in the event that the investigation receives external publicity.

4. **Handling wrongful allegations**
   If the Screening Panel and/or Investigation Panel has found that the Complainant's allegations were frivolous, vexatious and/or malicious, the Named Person may consider recommending that action be taken against the Complainant, under the Organisation's disciplinary process.

   *Those who have made allegations in good faith should **not** be penalised.*

5. **Other actions that may be required or be considered appropriate**
   Following the conclusion of the Procedure, the Investigation Panel may need to recommend additional measures in addition to those that may be taken by way of the Organisation's disciplinary process.
   Examples of potential actions that an organisation may consider include:
   - retraction/correction of articles in journals;
   - withdrawal/repayment of funding;

- notifying patients/patients' doctors of any potential medical issues that may arise;
- notification of misconduct to regulatory bodies (such as the MHRA, the Healthcare Commission, the Home Office [for research involving animals], professional bodies, etc.);
- notifying other employing organisations;
- notifying other organisations involved in the research;
- adding a note of the outcome of the investigation to a researcher's file for any future requests for references; and/or
- review internal management and/or training and/or supervisory procedures for research.

Annex 6 – Communications and Record Keeping

1. Confidential records should be maintained by the Named Person of all stages of any proceedings under this Procedure.

2. The Chairs of the Screening and Investigation Panels should assume responsibility for keeping accurate records of the activities, deliberation and reporting of their respective Panels and pass these records to the Named Person for inclusion in the archive of the case upon the completion of their Panel's work.

3. At the conclusion of the proceedings, the Director of Human Resources and Organisational Development should retain all such records for a period that accords with the University's policy. It is recommended that this period should not be less than six years. Access to this archive should be limited to appropriate members of, the Named Person and his/her nominated alternate.

4. The Named Person is responsible for ensuring the accurate, timely and confidential transfer of information between all parties involved in any of the stages of the Procedure.

5. Upon the conclusion of the Procedure, at whatever stage, the Named Person is responsible for the accurate, timely and confidential transfer of information to any relevant parties, such as the University's HR Division.

6. If the University's disciplinary procedure[8] is to be invoked as a result of the outcome of this Procedure, the report of the Investigation Panel should form the basis of evidence that the Disciplinary Panel receives. In such a case, all of the information relating to the Procedure should be transferred to the Disciplinary Panel.

7. Depending on the outcome of the Procedure, the Named Person should liaise with the Director of Human Resources and Organisational Development to obtain any further relevant information from any relevant parties, such as the University's Disciplinary Panel or Human Resources Division, and add it to the confidential case archive.

8. The Screening and Investigation Panels should be supported by a member of the Named Person's staff or a member of staff from the Human Resources Division, through whom all documentation and all other communication should be passed.

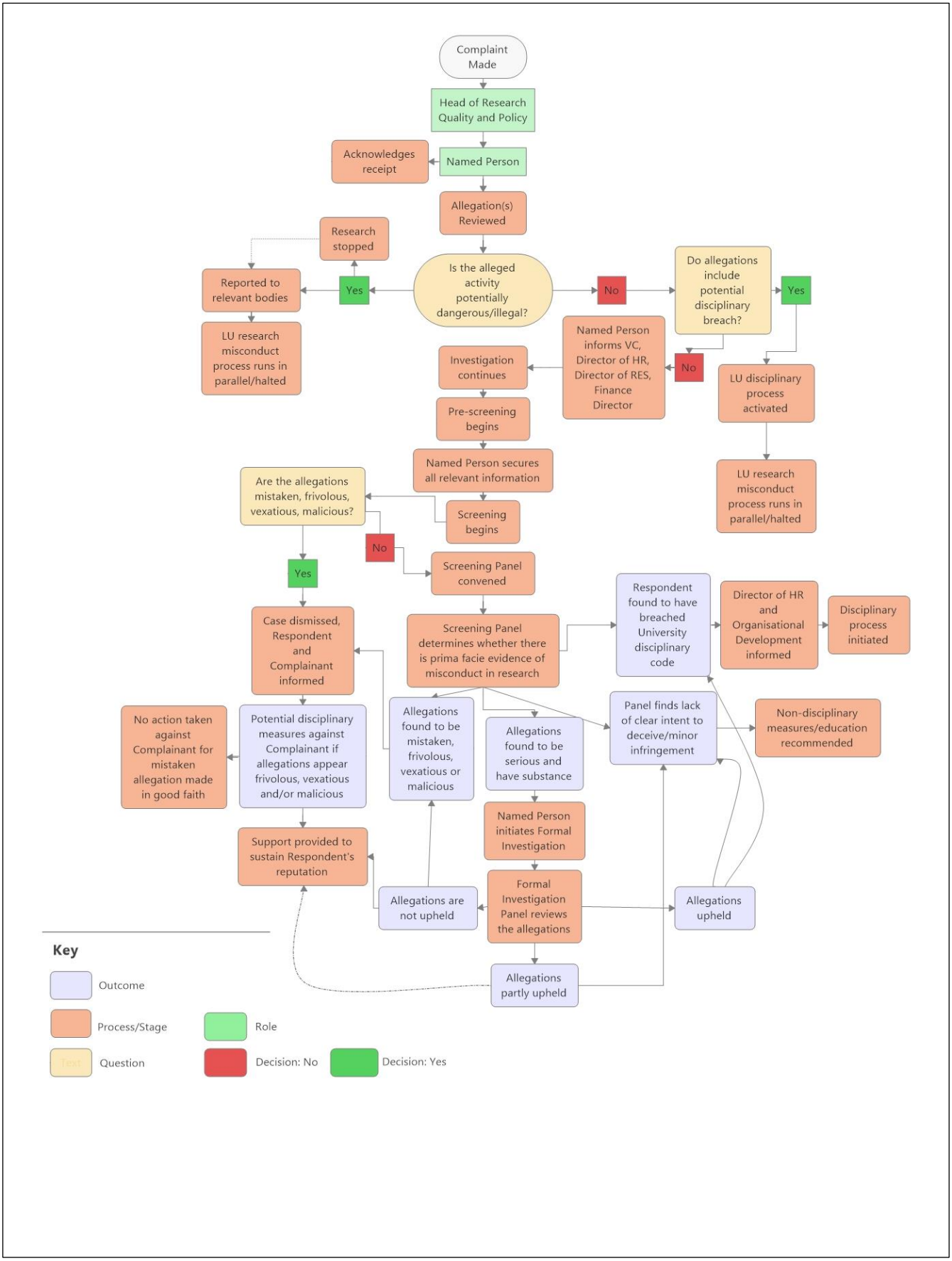
9. No direct communication, either written or oral, should take place between the members and support staff of the Screening and Investigation Panels and either the Respondent,

10. Complainant or any other member(s) of staff concerned outside the formal process, for the duration of the Procedure and any subsequent disciplinary process.

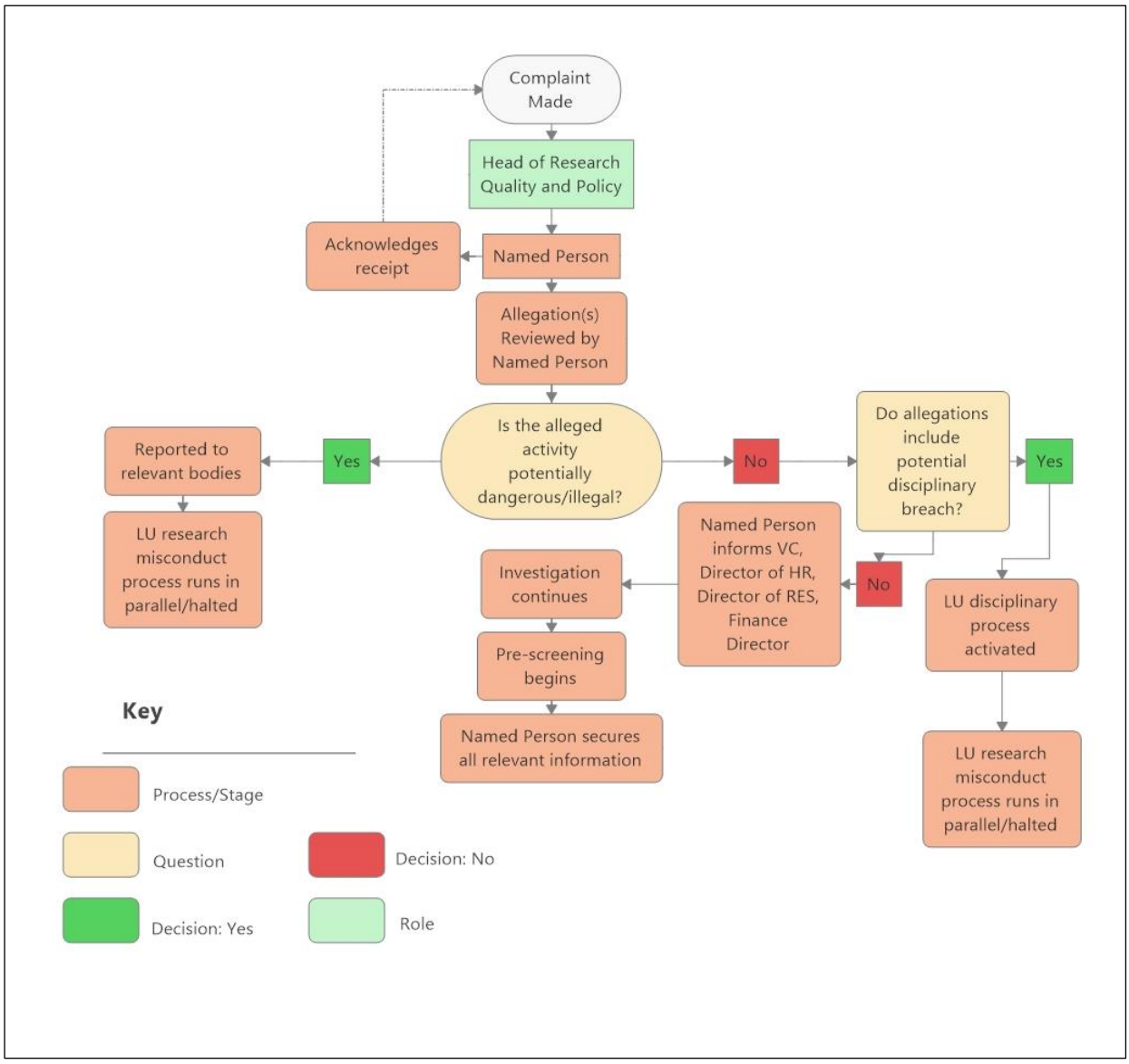
11. Communication, either written or oral, by any party (to include Respondent, Complainant or any other member(s) of staff) directly with members of the either Panel should not be admitted as part of the documentation relating to the case except when it takes place at the request of the Panel, or at formal meetings called by the Chair of either the Screening or Investigation Panel.

[8] https://www.lancaster.ac.uk/media/lancaster-university/content-assets/documents/hr/pay-recognition-and-reward/DisciplinaryProcedure.pdf

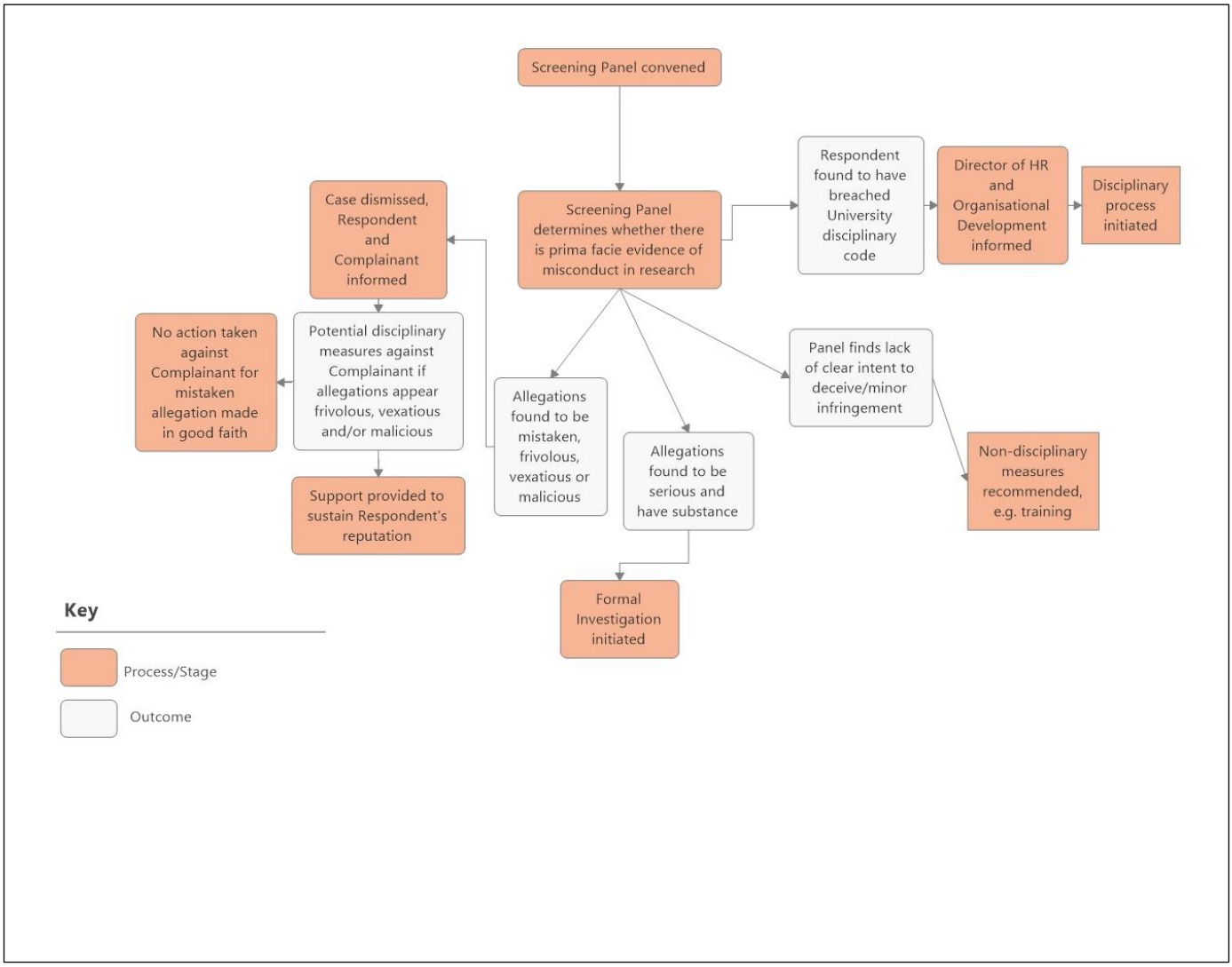
Annex 7 – Flowchart of Overall Process



Annex 8 – Flowchart of Pre-Screening Process



Annex 9 – Flowchart of Screening Process



Annex 10 – Flowchart of Formal Investigation