

MRC
Ethics
Series

MRC
POLICY AND
PROCEDURE FOR
INQUIRING INTO
ALLEGATIONS
OF SCIENTIFIC
MISCONDUCT

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Medical Research Council

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STATEMENT BY THE MEDICAL RESEARCH COUNCIL

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1. INTRODUCTION

1.1 GENERAL POLICY

The Medical Research Council expects the highest standards of integrity to be observed in the pursuit of the research it supports. To facilitate this, it has published statements on the conduct of research within its teams and establishments¹ and requires individual establishments to draw up their own guidelines in order to take account of particular local working contexts and to ensure that these incorporate the standards defined by Council. These guidelines provide the framework within which individual scientists carry responsibility for the conduct of their research.

Allegations of scientific misconduct are, fortunately, rare but the Council takes them very seriously and is resolved that, as part of its responsibility to Parliament, the public and the scientific community, they will be investigated fully and the outcome of the investigation will be reported. The Council is also committed to protecting its staff from malicious accusations and will take action against any individual(s) responsible for such allegations.

These procedures are designed to reflect the need for expert knowledge to resolve complaints of scientific misconduct and have been agreed with the National Staff Side. Where timescales are indicated it is anticipated that these will be regarded as maximum limits and that all parties will work to ensure prompt progression of the procedure.

This policy will be subject to joint review two years after its introduction.

1.2 SCOPE

This policy and associated procedures apply to all employees, students, visiting researchers and fellows working at the time the misconduct is alleged to have occurred within Council establishments and teams. Where allegations of misconduct are made by an individual or body external to the MRC, that individual or body will be made aware of the Council's procedure and of the Council's expectation that they will comply with its requirements.

1.3 PRINCIPLES AND DEFINITIONS

These are provided in the Annex to this procedure.

1. MRC Ethics Series, particularly "Guidance on the Assessment and Conduct of Research and on Publicising Results"

2. STAGE 1: PRELIMINARY ACTION

The first step after determining that an allegation falls within the Council's definition of scientific misconduct (see Annex) is for the Director (or, if he/she is unavailable, his/her nominated scientific deputy) to consider immediately the allegation to determine whether it falls within the scope of the procedure, and whether an assessment is warranted.

He/she should inform the individual(s) against whom the allegation is made of the substance of the allegation and give them the opportunity to respond. If he/she is not satisfied with the response or believes that reputations of any of the parties (including the MRC) will remain in jeopardy if the matter is not subject to independent assessment, he/she will proceed to the next stage of the procedure.

If the Director decides that an assessment is warranted he/she will arrange to sequester all relevant research records and materials (including computer discs, etc.) The Director must ensure *immediate* securing of all relevant materials and will copy these to the respondent.

If the Director decides that an assessment is not warranted he/she will record his/her justification for that decision and inform the complainant and respondent(s) of this outcome.

In circumstances where an allegation relates to scientific misconduct which may be placing at risk other employees, or research subjects, a Director will ensure removal of the risk, if necessary taking the decision to suspend the respondent on full pay pending the outcome of the assessment/investigation.

3. STAGE 2: ASSESSMENT

3.1 PURPOSE

The purpose of the assessment is to determine whether there is *prima facie* evidence of scientific misconduct **not** to reach a final conclusion as to whether misconduct occurred or who was responsible.

3.2 NOTIFICATION REQUIREMENTS

If the Director decides that an assessment will be conducted he/she will notify both the respondent in writing, and the complainant where relevant, and remind them of their obligation to co-operate in the assessment and to observe the confidentiality requirements. Where a decision is taken to conduct an assessment, the Director will inform the Headquarters Office Director of Research Management immediately.

3.3 APPOINTMENT OF ASSESSMENT COMMITTEE

If the Director decides that an assessment should be conducted, he/she will appoint an Assessment Committee consisting of two individuals who do not have conflicts of interest in the case and have appropriate expertise to evaluate the scientific issues. The Assessment Committee will identify which member is to take the Chair.

The Director will notify the respondent of the proposed Committee membership. If the respondent submits a written objection to any of the persons appointed to the Assessment Committee, the Director may replace the challenged person with a qualified substitute. If the Director does not replace the challenged person, the reasons for the objection and its over-ruling should be part of the assessment record.

3.4 ASSESSMENT COMMITTEE TERMS OF REFERENCE

The Assessment Committee should specifically limit its scope to that of evaluating the facts only to determine whether there is sufficient evidence of scientific misconduct to warrant an investigation.

3.5 ASSESSMENT PROCESS

Assessments normally will involve the Committee interviewing the complainant, the respondent, and key witnesses, and examining relevant research records and materials.

3.6 TIME LIMIT FOR COMPLETING ASSESSMENT REPORT

The Assessment Committee will complete the assessment and submit its report in writing no more than 60 calendar days following its initiation, with the initiation being defined as the date the committee is appointed. If the Director approves an extension of this time limit, the reason for the extension will be entered into the records of the inquiry and the report. The respondent and complainant also will be notified of the extension.

3.7 ASSESSMENT REPORT CONTENTS

A written report shall be prepared that states what evidence was reviewed, summarises relevant interviews, and includes the conclusion of the assessment as to whether an investigation is warranted.

3.8 COMMENTS BY RESPONDENTS

The individual(s) against whom the allegation was made will be given a copy of the report and evidence considered by the Assessment Committee

Any comments that the respondent submits must be received by the Director within 20 days of receipt of the report and will be attached as an addendum to the assessment record.

3.9 DECISION BY DIRECTOR

After receiving both the report and the written comments of the respondent, if any are made, the Director shall determine whether to conduct an investigation, drop the matter, or to take some other appropriate action. The Headquarters Director of Research Management shall be informed of the outcome, and shall receive a copy of the assessment report and any comments submitted by the respondent within five working days.

The complainant and respondent will be informed in writing of the outcome of the assessment.

4. STAGE 3: FORMAL INVESTIGATION

4.1. PURPOSE

The purpose of the investigation is to examine and evaluate all relevant facts to determine whether scientific misconduct has been committed, and if so, the responsible person(s) and the seriousness of the misconduct.

4.2 NOTIFICATION REQUIREMENTS

If the Director decides that an investigation will be conducted, he/she will notify both the respondent and the complainant in writing, and remind them that they are expected to co-operate in the investigation.

4.3 CHARGE TO COMMITTEE

The Director will define the subject matter of the investigation in a written charge to the Investigation committee and will attach a copy of the assessment report.

4.4 APPOINTMENT OF INVESTIGATION COMMITTEE

After the respondent has been notified that an investigation will be conducted, the Director will appoint an Investigation Committee consisting of at least three persons, some of whom may have served on the Assessment Committee. The Investigation Committee will appoint one of their number as Chair. These individuals should not have any conflicts of interest with the respondent or the case in question, and they must have the necessary expertise to examine the evidence, interview the witnesses, and conduct the investigation.

The Director will notify the respondent of the proposed committee membership. If the respondent submits a written objection to any of the persons appointed to the Investigation Committee, the Director may decide to replace the challenged person with a qualified substitute. If the Director does not replace the challenged person, the reasons for the objection and its over-ruling should be part of the investigation report.

4.5 INVESTIGATION PROCESS

The Investigation Committee will be appointed and the process normally

initiated within 30 days of the completion of the assessment (see Section 4.6), if findings from that assessment provide sufficient basis for conducting an investigation.

The investigation normally will include examination of all documentation including, but not necessarily limited to, relevant research data materials, proposals, publications, correspondence, memoranda, and notes of telephone calls. The respondent will have the opportunity to be interviewed. Whenever possible, interviews should be conducted of all individuals involved in making the allegation, and other individuals who might have information regarding key aspects of the allegations. A verbatim record of these interviews should be prepared by the secretariat (see Annex 1.3), provided to the interviewed party to ensure factual accuracy, and included as part of the investigation report.

4.6 TIME LIMIT FOR COMPLETING INVESTIGATION REPORT

An investigation should normally be completed within 90 calendar days of its initiation, with the initiation being defined as the appointment of the Investigation Committee. This includes conducting the investigation, preparing the report of findings, making the report available for comment by the respondent, and submitting the report to the Director.

4.7 INVESTIGATION REPORT CONTENTS

The final report must state how the investigation was conducted, describe how and from whom information was obtained relevant to the investigation, state the findings, and explain the basis for the findings, and an accurate agreed summary of the views of any individual(s) alleged to have engaged in misconduct (including the full verbatim report of interviews).

4.8 COMMENTS BY RESPONDENTS

The individuals against whom the allegation was made will be given a copy of the report and evidence considered by the Investigation Committee and an opportunity to comment on the report. Comments from the respondent must be submitted to the Director within 20 days of receipt of the report and shall then be attached as an addendum to the report.

If the respondent requests it, a meeting will be convened at which the Chairman and at least one other member of the Investigation Committee and respondent (and his/her representative) will be present. The purpose of this meeting will be

to allow the respondent to challenge statements which he/she believes to be unsubstantiated. A record of this meeting shall form part of the investigation report and will be provided to the Director.

4.9 ACTION BY DIRECTOR

The Director will send a copy of the investigation report to the Headquarters Office Director of Research Management within five working days and (see 5 below) decide what sanctions or administrative actions are to be implemented.

The Director will also write to the respondent within five working days to notify him/her of the final decision in the light of all the evidence, including the reason for any sanction(s) (including, where appropriate, how long they will last), the likely consequences of further scientific misconduct and the right of appeal.

5. SANCTIONS

5.1 If the Director determines that the alleged misconduct is substantiated by the findings, he/she will determine appropriate sanction(s) and impose this/these on the respondent(s). Actions which may be implemented by a Director may comprise one or more of:

- ◆ removal from the particular project
- ◆ final written warning
- ◆ special monitoring of future work
- ◆ removal of eligibility for pay progression for one year
- ◆ withdrawal of funding for programme
- ◆ down-banding of appointment

Where a Director determines that the nature of the scientific misconduct is such that a lesser penalty will not suffice he/she will recommend termination of employment in writing to the Headquarters Office Director of Research Management.

5.2 TERMINATION OF EMPLOYMENT

Where an allegation of scientific misconduct has been substantiated, the respondent(s) will be informed (under 4.9) that a recommendation has been made to Headquarters Office that they are to be dismissed without notice. The respondent(s) has the right to request a formal meeting and/or submit written evidence on his/her behalf to the Director of Research Management before a decision is taken. This must be done within five working days of receipt of the written notification from the Director under section 4.9.

If the Director of Research Management accepts the recommendation for dismissal, he/she will inform the respondent(s) in writing of the reason for dismissal, the date on which employment will terminate without notice and the respondent(s) right to appeal (including arrangements for such an appeal).

6. STAGE 4: APPEAL

6.1 APPEAL

The purpose of an Appeal Board is to respond to an appeal submitted by the respondent against the decision and/or sanctions resulting from completion of the investigation into an allegation of Scientific Misconduct. The complainant has no right of appeal against the decision and/or sanctions.

6.2 INITIATION

An employee against whom an allegation of misconduct has been substantiated may appeal against the decision and/or resulting sanction by writing to the Executive Director of Council within five working days of receiving notification of the outcome of the investigation. The letter should include a written statement stating clearly the basis for appeal.

6.3 APPOINTMENT OF THE APPEAL BOARD

The Executive Director will convene an Appeal Board consisting of two or more persons.

The Executive Director will notify the respondent(s) of the proposed Appeal Board membership.

6.4 APPEAL PROCESS

The Appeal Board will be appointed and the process normally initiated within 20 calendar days of the receipt of an appeal by the respondent. The Appeal normally will include examination of all documentation called into question by the respondent. In addition, the respondent will be invited to attend to give oral evidence. The respondent may submit any relevant additional supplementary material in support of his/her appeal.

6.5 TIME LIMIT FOR COMPLETING APPEAL

An Appeal should normally be completed within 90 calendar days of its initiation, with the initiation being defined as the appointment of the Appeal Board. This includes conducting the investigation, preparing the report of findings by the secretariat, making the report available for comment by subjects of the Appeal, and submitting the report to the Chief Executive of Council.

6.6 APPEAL REPORT CONTENTS

The Appeal report must state how the Appeal was conducted, describe how and from whom further information was obtained relevant to the Appeal, state the findings, and explain the basis for the findings.

6.7 DECISION BY CHIEF EXECUTIVE OF COUNCIL

The Chief Executive of Council will decide, on the basis of the Appeal Report, whether to endorse, amend or overturn the conclusions of the investigation and/or resultant sanctions imposed on the respondent.

The Chief Executive of Council will notify the respondent in writing of the outcome of the Appeal Board and will provide a copy of the Appeal report and evidence considered by the Appeal Board.

The decision of the Chief Executive of Council shall be final.

7. NOTIFICATION AND REPORTING REQUIREMENTS

Where there has been no appeal

When a final decision (i.e. on completion of the Investigation where no appeal is lodged subsequently) has been reached on the case, the Director will notify both the respondent and complainant in writing within 20 working days. In addition he/she will recommend to the Headquarters' Director of Research Management whether professional societies, editors of journals in which falsified reports may have been published, collaborators of the respondent in the work, or other concerned parties, should be notified of the outcome of the case. The Headquarters' Director of Research Management is responsible for ensuring compliance with any notification requirements of funding or sponsoring agencies and informing Council of the outcome of the investigation.

Where an appeal has been heard

The Chief Executive of Council will recommend additional action to be taken (in the event that an earlier decision is amended or overturned) to report and implement the final decision and will report the outcome to Council.

8. RESTORATION OF REPUTATIONS

The MRC will take all reasonable action to restore the reputation of the respondent if the respondent is not found guilty of scientific misconduct and will consult the respondent to ensure that appropriate publicity is given to this outcome.

In consultation with Headquarters Office Director of Research Management, the Director will ensure that all reference to the matter is expunged from the respondent's personal file. All persons who have been interviewed or otherwise informed of the charge will be notified in writing that the charges have been found to be without foundation. Respondents will be consulted regarding other actions that might be taken on their behalf to restore their reputations. Where investigation of any allegation has significantly disrupted an MRC research programme this will be taken into account at the subsequent review of that work.

9. OTHER CONSIDERATIONS

9.1 RESIGNATION OR TERMINATION OF MRC EMPLOYMENT OR ATTACHMENT PRIOR TO COMPLETION OF ASSESSMENT OR INVESTIGATION

The termination of Council employment of the respondent, by resignation or otherwise, before or after an allegation of possible scientific misconduct has been reported, will not preclude or terminate the misconduct procedures.

If the respondent, without admitting to the misconduct elects to resign his or her position prior to the initiation of an inquiry, but after an allegation has been reported, or during an assessment or investigation, the inquiry will proceed.

9.2 MALICIOUS ACCUSATIONS

Where the outcome of a preliminary action, assessment, investigation or appeal stage indicates that an allegation has not been made in good faith, the Council will pursue disciplinary action against the complainant where he/she is employed by the MRC, and action as appropriate against an external complainant.

ANNEX**1. PRINCIPLES****1.1 GENERAL RESPONSIBILITY TO REPORT MISCONDUCT**

All employees or individuals working within MRC establishments are required to report observed, suspected or apparent scientific misconduct to the Director in accordance with the Definitions (see 2 below).

If an individual is unsure whether a suspected incident of misconduct falls within the definition, he or she may discuss this with the Director informally. If the Director decides that circumstances described by the individual *do not* meet the definition of scientific misconduct, he/she will advise the individual as appropriate. If the Director decides that circumstances described by the individual *do* meet the definition of scientific misconduct, he/she will request submission of the allegation formally in accordance with paragraph 2.1 of the Definitions (see Section 2 of the Annex).

1.2 COMPLAINANTS/WITNESSES

The complainant is responsible for making allegations in good faith, maintaining confidentiality, and co-operating with an assessment or investigation. Complainants must accept that they may be called upon to establish their allegations within the framework and safeguards of this procedure. The particular difficulties that respondents face in defending themselves against anonymous allegations will be considered very carefully at the preliminary action stage before proceeding to the formal assessment.

At any time, an employee may have confidential discussions and consultation about concerns of possible misconduct with the Director and seek advice about appropriate procedures to report allegations. The complainant shall have an opportunity to present evidence before the assessment and investigation committees, to be informed of the results of the assessment and investigation, and to be protected from victimisation.

The complainant and/or witnesses, if members of MRC staff, will be instructed in writing by the Director not to make statements about the respondent outside of the inquiry/investigation process while this is proceeding. If the complainant and/or witnesses are not employed by the MRC, they will be advised by the Director in writing against making such statements, including the possibility of

legal consequences should they publicise their allegations before the outcome of the assessment/investigation appeal process is known.

The Director will monitor the treatment of individuals who bring allegations of misconduct or who co-operate in assessments or investigations. If the complainant requests anonymity, the Director will make an effort to support this request subject to the requirements of the first paragraph above. Directors will make diligent efforts to protect the positions and reputations of those persons who, in good faith, make allegations. The Director will ensure that those making an allegation in good faith or co-operating in an assessment or investigation into an allegation of misconduct will not be retaliated against in their employment. The MRC will take action against individuals who victimise complainants.

1.3 DIRECTOR

The Director will have primary responsibility for adherence to the procedures in this document. He/she will appoint Assessment and Investigation Committees, a secretariat for each committee and all other involved persons to comply with these procedures. The secretariat will be responsible for maintaining a record of all documents and evidence, and for the confidentiality and security of the record and documentary evidence. The Executive Director of Council, (or nominated Headquarters Group Director) will be responsible for receiving allegations that cannot be handled by Directors or where a Director may not be perceived to be impartial. He/she will also be responsible for arranging the investigation of any complaints against Directors or members of their personal research teams, or against members of the External Scientific Staff, undertaking Preliminary Action on the basis of confidential scientific advice.

Details of the agreed procedure will be drawn to the attention of the complainant and respondent by the Director at the commencement of proceedings and each party will have drawn to his/her attention their rights and responsibilities under the procedure.

1.4 RESPONDENT

The respondent(s) will be provided with a copy of this procedure and will be informed in writing of the detail of the allegation following sequestering of relevant material, receive copies of or have access to all material relevant to the allegation and its consideration at assessment, investigation and appeal stages and be notified in writing of the final decisions and resulting actions. The

respondent(s) shall also have the opportunity to provide documentation in support of their defence (including witness statements), to be interviewed by and present evidence to the Assessment, Investigation and Appeal Committees, to review the assessment and investigation reports and to be represented.

Assessments and investigations will be conducted in a manner that will ensure fair treatment to the subject(s) of the assessment or investigation and confidentiality to the extent possible consistent with protecting employee and public health and safety and with carrying out the assessment or investigation.

Employees who are accused of scientific misconduct have the right to representation by a medical defence organisation, trade union representative or MRC colleague during interviews or meetings under the procedure.

The respondent(s) is/are responsible for maintaining confidentiality and co-operating with the conduct of an assessment or investigation.

1.5 CO-OPERATION WITH ASSESSMENTS AND INVESTIGATIONS

Individuals employed and/or working – or previously employed and/or working – within MRC Establishments/ESS teams and external complainants shall co-operate in the review of allegations and the conduct of assessments and investigations and have an obligation to provide relevant evidence to the Director.

ANNEX

2. DEFINITIONS

2.1 ALLEGATION means a written statement or other documented account providing evidence of possible scientific misconduct.

2.2 APPEAL means any formal response by the respondent to the upholding of an allegation of scientific misconduct by an Investigation Committee and/or the resulting imposition of sanctions.

2.3 ASSESSMENT means information gathering and initial fact-finding to determine whether an allegation or apparent instance of scientific misconduct warrants an investigation.

2.4 COMPLAINANT means a person who makes an allegation of scientific misconduct. This may be an employee of the MRC, a visitor to an MRC team or an individual or body external to the MRC.

2.5 CONFLICT OF INTEREST means the real or apparent interference of one person's interest with another, where potential bias may occur due to prior or existing personal or professional relationships.

2.6 DIRECTOR Normally it is the Director of the MRC establishment in which the subject of the complainant works or such other person who, in the Director's absence, who is designated to receive and enquire on the Council's behalf into allegations of scientific misconduct. The title Director is therefore used throughout the procedure to indicate this role.

2.7 GOOD FAITH ALLEGATION means an allegation of scientific misconduct made by a complainant who honestly believes that scientific misconduct may have occurred. A complainant who recklessly disregards evidence that disproves an allegation has not made the allegation in good faith.

2.8 INVESTIGATION means the formal examination and evaluation of all relevant facts to determine if misconduct has occurred, and, if so, the responsible person and the seriousness of the misconduct.

2.9 PRELIMINARY ACTION means the immediate evaluation by the Director of an allegation of scientific misconduct to determine whether the allegation falls within the scope of the definition of misconduct (see 2.11) and whether there is sufficient evidence to warrant an assessment.

2.10 RESPONDENT means the person against whom an allegation of scientific misconduct is directed, or the person who is the subject of the inquiry or investigation. There can be more than one respondent in any inquiry or investigation.

2.11 SCIENTIFIC MISCONDUCT OR MISCONDUCT means fabrication, falsification, plagiarism or deception in proposing, carrying out or reporting results of research and deliberate, dangerous or negligent deviations from accepted practice in carrying out research. It includes failure to follow established protocols if this failure results in unreasonable risk or harm to humans, other vertebrates or the environment and facilitating of misconduct in research by collusion in, or concealment of, such actions by other.

It does not include honest error or honest differences in the design, execution, interpretation or judgement in evaluating research methods or results or misconduct (including gross misconduct) unrelated to the research process.

2.12 VICTIMISATION means any response that adversely affects the employment or other status of a complainant who, in good faith, has made an allegation of scientific misconduct or who has co-operated in good faith with an investigation of such allegation.