

Procedure for reporting and investigating research misconduct

Research at Birkbeck

- 1 Birkbeck, University of London is a research-intensive university. Central to our mission is the aim of maintaining and developing excellence in research and providing the highest quality research training in all our subject areas, and also of making available the results of research and the expertise acquired, through teaching, publication, partnerships with other organisations and the promotion of civic and public debate. It is embedded in the culture of Birkbeck that we should carry out excellent research across the entire range of disciplines represented in the College's Schools; that this research should range across 'blue skies' scientific work, cutting edge scholarship in the arts, humanities and social sciences, and highly applicable interventions in technology, social policy and artistic work; and that we seek to offer research-led and research-informed teaching at all levels.
- 2 Birkbeck's *Research Integrity Code of Practice* defines and promotes a culture of good practice in research, demonstrating the College's commitment to a culture and environment where high standards of personal and professional conduct are encouraged and expected.

The term "Research" refers to all aspects of the research process including developing research questions, preparing applications for research grants and contracts, literature review, research project design, recruiting research participants, generating data, data recording and analysis, writing-up and publishing and other forms of disseminating results.

Principles of good research

- 3 Birkbeck expects all members of the College, including anyone conducting research on College premises or using College facilities, to observe the highest standards of professionalism, integrity, independent thought and application of ethical principles in the conduct of their research.
- 4 To foster and maintain its research culture, Birkbeck expects all researchers to understand and observe these principles:
 - Maintaining open and honest professional standards
 - Exercising accountability in research
 - Ensuring leadership in their personal research and cooperation in research groupings
 - Taking special account of the needs of inexperienced researchers
 - Ensuring training and supervision for researchers
 - Planning and conducting research in accordance with the requirements of funders and all relevant College and external codes of practice, legislation and regulatory bodies
 - Following best current ethical practice
 - Exercising care and respect for participants in research projects
 - Ensuring data is stored, shared, preserved and disposed of in an appropriate and responsible manner
 - Documenting and making available research data
 - Ensuring the results of research are openly accessible

- Acknowledging the contribution of others
- Taking appropriate measures to protect intellectual property
- Managing conflicts of interest in line with the Colleges policies
- Taking action if research misconduct is suspected.

The College undertakes to provide the necessary training to all researchers to enable them to understand and observe these principles.

Research misconduct

5 Research misconduct potentially includes but is not limited to:

- Fabrication – creating false data, research or consent
- Falsification – inappropriate manipulation of data, images or consent
- Fraud – deliberate deception
- Plagiarism – misappropriation of others’ ideas or intellectual property
- Misrepresentation (whether deliberately, recklessly or by gross negligence) – including suppression of relevant findings and/or data; presenting a flawed interpretation of the data, findings and outcomes; inappropriate declaration of interests or funding; misrepresentation of qualifications or experience; and inappropriate claims of authorship; Undisclosed duplication of publication, including undisclosed duplicate submission of manuscripts for publication
- Mismanagement or inadequate preservation of data or materials – including interim results
- Breach of duty or care (whether deliberately, recklessly or by gross negligence) including - Disclosing improperly the identity of individuals or groups involved in research without their consent, or other breach of confidentiality; unacceptable risk to or treatment of participants including placing any of those involved in research in danger, whether as subjects, participants or associated individuals, without their prior consent, and without appropriate safeguards even with consent; reputational danger where that can be anticipated; Not taking all reasonable care to ensure that the risks and dangers, the broad objectives and the sponsors of the research are known to participants or their legal representatives, to ensure appropriate informed consent is obtained properly, explicitly and transparently ; Not observing legal and reasonable ethical requirements or obligations of care for animal subjects, human organs or tissue used in research, or for the protection of the environment; Improper conduct in peer review of research proposals or results (including manuscripts submitted for publication); this includes failure to disclose conflicts of interest; inadequate disclosure of clearly limited competence; misappropriation of the content of material; and breach of confidentiality or abuse of material provided in confidence for peer review purposes
- Departure from legal and ethical requirements or requirements for confidentiality

For the avoidance of doubt, misconduct in research includes acts of omission as well as acts of commission.

6 Research misconduct does not include:

- Honest errors in research design, methodology or the interpretation of results

- Consideration of unpopular or controversial ideas or methods
- Challenging received understanding or consensus
- Poor quality research, unless it involves the intention to mislead or deceive

The basis for reaching a conclusion that research misconduct has occurred relies on a judgement that there was an intention to commit misconduct and/or recklessness in the conduct of a piece of research.

- 7 The College will take seriously any allegation of research misconduct. At the same time the College is committed to protecting its staff from vexatious and/or malicious accusations. Plagiarism, deception or the fabrication or falsification of results is regarded as a serious disciplinary offence.

All members of the College are expected to report cases of suspected misconduct or malpractice and to do so in a responsible and appropriate manner in accordance with this procedure.

Anyone outside the institution wishing to report a case of research misconduct should also follow the information provided in this procedure. Further informal advice is available as described in paragraph 9 below.

This procedure applies to all researchers in the College (including employees, undergraduate and postgraduate students undertaking research projects, and visiting staff) and to anyone conducting research on the College premises or using College facilities.

8. Any investigation of research misconduct undertaken by the College will itself maintain the highest standards of integrity, accuracy and fairness; any investigations will be undertaken with sensitivity and confidentiality and with the presumption of innocence.
- 9 Anyone who suspects that research misconduct is taking place or has taken place should raise it as soon as possible. Normally, staff should first discuss their concerns with their line manager and students with their supervisor. However, the College recognises that misconduct in research is a serious matter and it may be difficult to discuss this with a line manager/supervisor and that a suspicion of research misconduct may originate outside the College. Informal advice can be sought in confidence at any time from the Head of Research Strategy Support. The Head of Research Strategy Support can provide advice on whether or not the suspicious event or activity constitutes (or may constitute) research misconduct, other possible avenues for mediation and resolution (if/where appropriate) including informal discussion, arbitration or dispute resolution, advice about other mechanisms which could be used (e.g. to investigate the behaviour of research students) and/or the details of the process of making a formal allegation of research misconduct.
- 10 There is no time limit on how long an individual can seek confidential advice from the Head of Research Strategy Support before deciding whether or not to formally raise an allegation of research misconduct, and the College recognises it may take some time to consider all the issues and that both the individual raising the query and the Head of Research Strategy Support may need to seek additional advice elsewhere before a decision can be made about raising a formal complaint. However, it is also recognised that the Head of Research Strategy Support has a duty of care to ensure that this process is not needlessly drawn out and that the individual is in a position to move to the next phase as quickly as is practical.

- 11 If an individual has raised concerns of research misconduct with their line manager or supervisor, then the line manager or supervisor can also seek informal advice from the Head of Research Strategy Support as defined in points 9 and 10 above. Other intermediaries (such as Executive Dean, Associate Dean for Research /Postgraduate Research, Head of School, Trade Union representative, Officer of the students Union or any other appropriate third party) may also follow this process. In this case, advice can also be sought about whether the intermediary is an appropriate person to raise a formal complaint and what other support mechanisms can be put in place if this is not appropriate.
- 12 Formal complaints about research misconduct should be raised with the Chair of the College Ethics Committee. If the Chair of the College Ethics Committee has a conflict of interest in relation to the matter, the complaints should be raised with the Deputy Secretary (Governance). The person making the allegation should put it in writing or email and include supporting evidence where possible. At this stage, the identity of the person making the allegation should be kept confidential and will only be known to the Chair of the College Ethics Committee (or the Deputy Secretary (Governance)).
13. Under certain circumstances the College may choose to initiate an investigation into research misconduct in the absence of a specific complaint from an individual; however, the process described in this procedure will still be followed, with an officer from the College (who is fully briefed and understands why the College has chosen to follow this route) taking on the role of the complainant.
- 14 The Chair of the College Ethics Committee (or the Deputy Secretary (Governance)) will formally acknowledge receipt of the allegation as soon as they receive it, and notify the respondent that the allegation has been received with an explanation of the initial next steps in the process (emphasising that the initial stage is merely to assess whether or not the allegation constitutes research misconduct).
- 15 The Chair of the College Ethics Committee will convene a screening panel to determine whether the allegations constitute evidence of research misconduct within the definition of research misconduct detailed above. The panel will comprise the PVM (Research) or their nominated representative, a suitable representative from HR and a senior researcher from an appropriate discipline (from within or outside the College). This panel will solely consider whether or not the allegation constitutes research misconduct, and the information they consider (about both the respondent and the complainant) will be anonymised unless this is not possible for a specific allegation. The panel should operate under the principles of fairness, confidentiality, transparency, thoroughness, prevention of detriment and balance.
- 16 The screening panel does not determine whether misconduct occurred or who might be responsible; its role is to determine whether or not there is evidence that research misconduct has or may have occurred.
17. The screening panel should produce a full set of confidential minutes of their deliberations plus a summary which includes both their decisions and the reasons behind them for wider use in the process. This summary should provide enough information to allow for a transparent process but reflect the need for confidentiality and anonymity.
18. If the screening panel decides the allegations do not constitute evidence of research misconduct, the allegations will be dismissed at this stage.

This result is communicated to both the complainant and the respondent. If the complainant believes that their allegation has been misunderstood or that key evidence has been overlooked then they should seek advice from the Head of Research Strategy Support about the best way to proceed (as described in paragraphs 9 and 10).

However, in some cases the screening panel may still have some outstanding concerns that it feels should be investigated in order to make a recommendation to the College about other action that may need to be taken, for example that a correction needs to be made to the research record, or that training in a specific area should be strengthened.

In these cases the Screening panel will be asked to produce advice for the College under the terms defined in paragraph 17 of this procedure (and the screening panel will be required to produce a written report of their recommendations within 30 days of the completion of the screening panel part of the process).

As part of this process the respondent will be offered the right to respond to the allegation and the opportunity to work with the panel to decide on the appropriate resolution strategy, either through face to face meetings (if the respondent is willing to waive their anonymity) or in writing.

It should be emphasised to all parties that this investigation is not an investigation into research misconduct and that evidence of research misconduct has not been presented in the context of this process.

Likely outcomes from this process may include recommendations for mentoring, remedial training and/or a correction to the research record.

It should be noted that, in more complex cases, the panel may also need to enter into correspondence with the respondent or more than one meeting may be required. It should also be noted that in questions relating to more complex cases there may be circumstances where the screening panel feel it is necessary to ask the original complainant for some additional information.

19. If the screening panel decides there is a case to answer, then they should also provide advice to the College about how to ensure a fair and accurate investigative process. It should be noted that in making these recommendations the panel is not being asked to make any judgements about the likely outcome of the formal inquiry, merely for advice about the conduct of the formal inquiry. For example, if there is a risk to individuals or that evidence might be destroyed, the panel may recommend that the College takes action to secure relevant records and material, request the temporary suspension of an experiment or the respondent on full pay, or temporary barring of the respondent from part or all of the College premises and/or temporary restriction of contact with other staff at the College or partner organisations. The respondent should be reassured that these measures are not part of any disciplinary action but are essential to ensure the allegations of misconduct can be properly investigated. The respondent should be given copies of any records or material that are secured.
20. If, having reviewed the allegation, the screening panel considers there is a risk of harm to staff, participants or other persons, suffering to animals or negative environmental consequences, they should take immediate action to eliminate this risk. If necessary, appropriate legal or regulatory authorities should be notified, in consultation with the College Secretary.

21. The Chair of the College Ethics Committee will communicate the conclusion of the screening panel (in writing or by email) to the complainant. Normally, no more than 10 working days should have elapsed between the Chair of the College Ethics Committee acknowledging receipt of the allegation and this communication to the person making the allegation.

The Chair of the College Ethics Committee should emphasise to all parties that the information is confidential and that the allegation has either been reviewed by the screening panel and dismissed or is to be investigated, but is as yet unproven and that the presumption of innocence stands. In this case, the complainant should be given a summary of the allegations in writing and the synopsis of the screening panels considerations and its conclusions and, if a formal investigation is to be instigated, a copy of this procedure, a list of the names of individuals only referred to by job titles in this document, and an initial timetable for the next phase of the investigation. Alternatively, this communication may set out the reason why the allegation cannot be investigated using this procedure and what, if any, process might be appropriate for addressing the concerns raised.

22. If the allegation is deemed to provide evidence of research misconduct, within the definition of research misconduct above, the Chair of the College Ethics Committee will inform, in confidence, the following that a substantiated allegation of research misconduct has taken place, including the date of the allegation, the identity of the complainant and the respondent and details of sources of funding and collaborators for the research in question:

- Master
- Director of HR
- Pro Vice Master for Research
- Director of Finance
- Head of Research Grants and Contracts

If Birkbeck is not the primary employer of the respondent, or if the allegation involves work undertaken as part of a collaboration, the Chair of the College Ethics Committee will normally contact the respondent's primary employer and/or the primary employer of the project collaborators to inform them of the allegation. This may lead to a discussion about the most appropriate way to investigate the allegation, and in some cases this may lead to the allegation being handed to a different institution to investigate or to a collaborative investigation across more than one institution. The Chair of the College Ethics Committee will seek approval from the Master, Director of HR, Pro Vice Master for Research, Director of Finance and Head of Research Grants and Contracts before this alternative investigation route is approved by the College

23. If there are contractual obligations linked to the research project that require prescribed steps to be taken in the event of allegations of research misconduct, the Chair of the College Ethics Committee will work with the Head of Research Grants and Contracts to ensure these are fulfilled, also liaising with HR to ensure that the rights of the complainant and respondent and the integrity of the investigation are not compromised. If the respondent is funded by, or is known to act as a reviewer for, one of the UK Research Councils, the Head of the Research Grants and Contracts Office will notify the relevant Research Council at this point.

24. The Chair of the College Ethics Committee should inform the respondent about the allegations in a confidential meeting. A representative of HR should be present at the

meeting. The respondent may be accompanied by a colleague or trade union representative. If there is more than one respondent, the Chair of the College Ethics Committee should inform each person separately and not divulge the identity of the other respondents. The identity of the complainant should normally be kept confidential.

The Chair of the College Ethics Committee should emphasise to all parties that the information is confidential and that the allegation has either been reviewed by the screening panel and dismissed or is to be investigated, but is as yet unproven and that the presumption of innocence stands. The respondent should be given a summary of the allegations in writing and the synopsis of the screening panels considerations and its conclusions and, if a formal investigation is to be instigated, a copy of this procedure, a list of the names of individuals only referred to by job titles in this document, and an initial timetable for the next phase of the investigation.

- 25 This meeting should be convened as soon as possible once the Chair of the College Ethics Committee has received feedback from the screening panel. If there is more than one respondent then all the meetings must take place on the same day.
- 26 If there is a case to answer, an investigating panel should be convened comprising an Executive Dean from a School which is not the School of the respondent or complainant, a suitable member of the Colleges professoriate (who are not a member of the School of the respondent or complainant), a senior representative from HR and two senior researchers from the discipline who are not members of the College. None of these people should have been involved in the screening panel who made the initial assessment of the allegation and the panel composition should be approved by a PVM of the College who was not involved in the screening panel. The panel should operate under the principles of fairness, transparency, thoroughness, confidentiality, prevention of detriment and balance and should reflect equality and diversity considerations as much as is practical.
- 27 Both the respondent and the complainant may raise any concerns with the composition of the investigating panel to the PVM who is overseeing the panel composition. These concerns should be taken seriously; however, neither the respondent nor the complainant has the right of veto.
- 28 The investigating panel may wish to contact the UK Research Integrity Office for advice and guidance on investigating allegations of research misconduct.
- 29 The investigating panel has the right to call witnesses and review whatever evidence they deem appropriate. In addition, they should review the original complaint, a written response to it from the respondent (plus any supporting evidence provided with either statement); any relevant background information; and the confidential minutes of the screening panel phase.
- 30 The investigating panel must hold a formal hearing in which the both the respondent and the claimant have the opportunity to set out and discuss their case. They will be asked to present any other evidence and call or question any witnesses and raise points about any information or evidence from any other witnesses. This process should be anonymised as much as is feasible.
31. The investigating panel should also consider whether to recommend action is taken under the College's disciplinary procedures against anyone who they feel has made frivolous,

vexatious and/or malicious allegations of misconduct in research. Those who have made allegations in good faith should not be penalised.

- 32 All parties will be mindful that the panel operates under the presumption of innocence, and that there is a need for discretion and confidentiality to protect all parties and as such will only call those witnesses who are deemed to be absolutely necessary to the case, and will only disclose as much information to these witnesses as is necessary to conduct a full and fair investigation. However, the need to conduct a full and fair investigation outweighs all other considerations.
- 33 The investigating panel should endeavour to complete its investigation within 30 working days of being formally convened, and all parties should be notified as early as possible if the process is expected to take longer than this. If an investigation does take longer than 30 working days to conclude then the College should receive an interim report from the panel at this stage and then every 30 days thereafter. These reports should be sent to the Chair of the College Ethics Committee.
- 34 Once the investigating panel has completed its investigation and delivered their final report, the outcome will be disseminated to the respondent and complainant as described above for the screening panel part of the process. The Chair of the College Ethics Committee will also notify everyone called as a witness that the proceedings have been completed.
- 35 If the investigating panel have found that there is no case to answer then the case is dismissed.
- 36 If the investigating panel have found that either the case against the respondent has been proven or that the complainant made allegations which were frivolous, vexatious and/or malicious then the Chair of the College Ethics Committee, in liaison with HR and line managers, will initiate remedial training, mentoring and monitoring, or refer the matter to the appropriate College disciplinary procedure, normally directly to the formal stage, according to the recommendations of the investigating panel.
- 37 The investigating panel may also instruct the college to undertake other activities to ensure the research misconduct is resolved effectively, for example suggesting changes to the Colleges ethical approvals to ensure participant safety (or suggesting other procedural or operational issues which should be reviewed), correcting the research record, making a report (with relevant confidentiality) to external bodies such as regulators, initiating further investigations into other possible misconduct etc.
38. The disciplinary procedures (including the appeals procedures) for academic staff, the Master and the Clerk to the Governors, are set out in the College Statutes on the College website <http://www.bbk.ac.uk/committees/governors> .
39. The disciplinary procedures (including appeals procedures) for professional and support, research, technical and teaching and scholarship staff are available on the College website www.bbk.ac.uk/hr/policies_services/policies_az/disciplinaryanddismissalprocedure2014/procedure
40. The disciplinary procedures (including appeals procedures) for students are available on the College website <http://www.bbk.ac.uk/mybirkbeck/services/rules/discipline.pdf>

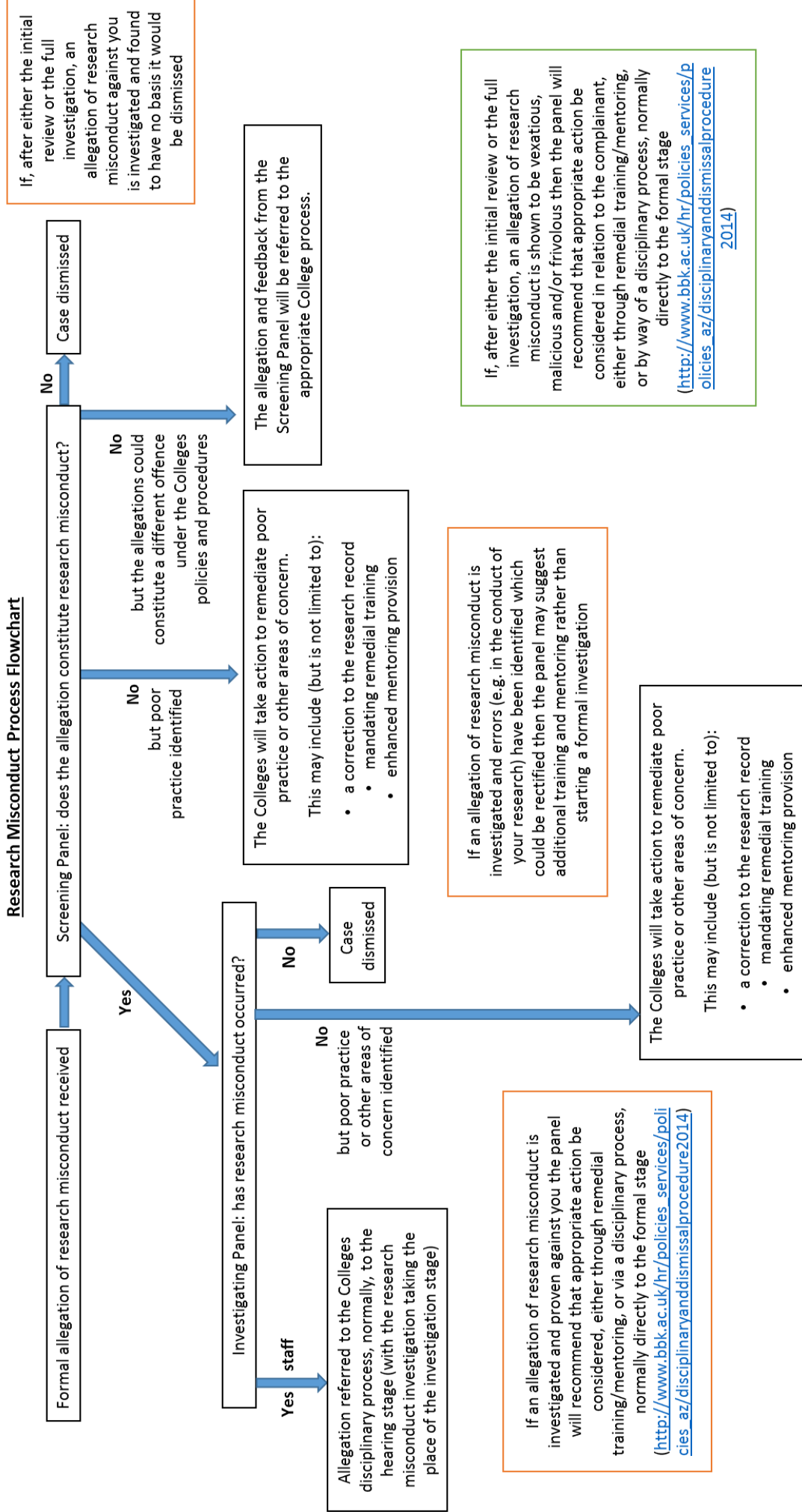
- 41 The officers and panels involved in reviewing and hearing disciplinary cases under these procedures should consider the following potential outcomes when considering cases involving allegations of research misconduct:
- The allegations are mistaken, frivolous, vexatious and/or malicious
 - There has been misconduct which is serious enough to merit disciplinary action
 - The allegations have some substance but due to a lack of intent to deceive or due to their relatively minor nature should be addressed through education, training or other non-disciplinary approach
42. Normally, the officers and panels involved in the formal disciplinary procedure should not have been a member of either the screening or the investigating panel.

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Next review due November 2019

Appendix: How the Research Misconduct Procedure operates with other College policies:

- The Research Integrity Code of Practice sets out the Colleges expectations about how you conduct your research :
<http://www.bbk.ac.uk/committees/research-integrity/CEC%202015%2023%20Revised%20Research%20Integrity%20Code%20of%20Practice%20-%20updated%202016.pdf>
- The Responsibility and Principles of Ethical Review sets out the Colleges expectations for you to behave ethically in your College life
<http://www.bbk.ac.uk/committees/research-integrity/CEC%202015%2027%20Revised%20Responsibilities%20and%20Procedures%20for%20Ethical%20Review%20-%20updated.pdf>
 - This document also defines the process you should go through to obtain ethical approval for you individual research projects *and other activities*.
- One element of Research Integrity is that you should declare conflicts of interest. The Colleges **Code of Conduct for Managing Conflicts of Interest** gives you advice about this http://www.bbk.ac.uk/hr/policies_services/policies_az/conflicts_of_interest
- Deliberate failure to observe the principles set out in the **Colleges Data Protection Policy and Code of Practice** which pertain to research would normally constitute research misconduct **Error! Hyperlink reference not valid.**www.bbk.ac.uk/hr/policies_services/policies_az/data_protection_appendicies/dppolicy_coppdf
- **Bullying, harassment or victimisation** *do not* constitute Research Misconduct. If you are being bullied, harassed or victimised you should refer to the **Birkbeck Principles of Dignity at Work and Study**:
http://www.bbk.ac.uk/hr/policies_services/Dignity_at_work_and_study
 - The Colleges external **Staff Counselling Service** may also be helpful
http://www.bbk.ac.uk/hr/policies_services/counselling
- The **Colleges Whistle Blowing Policy** sets out what you should do if you suspect research misconduct which relates to the inappropriate use of public funds (or other allegations of research misconduct which are in the public interest)
http://www.bbk.ac.uk/hr/policies_services/policies_az/whistleblowing.pdf
- If an individual/body from outside the College is encouraging you to act in a way that you believe represents research misconduct (e.g. encouraging you to suppress findings) then you should seek advice: it might be appropriate to address this through either the Colleges Whistle Blowing procedure
http://www.bbk.ac.uk/hr/policies_services/policies_az/whistleblowing.pdf or through the research misconduct processes at the institution of the external party.
 - Informal advice can be sought from the College as described in the Research Misconduct Procedure
- Ethics considers questions from the perspective of minimising harm; as such ethical review and the risk assessment of an activity are often closely linked. **A full list of our health and safety policies and procedures** can be accessed via this link which provides additional information about possible health and safety considerations: <http://www.bbk.ac.uk/so/policies/>

Research Misconduct Process Flowchart



If, after either the initial review or the full investigation, an allegation of research misconduct against you is investigated and found to have no basis it would be dismissed

The allegation and feedback from the Screening Panel will be referred to the appropriate College process.

The Colleges will take action to remediate poor practice or other areas of concern. This may include (but is not limited to):

- a correction to the research record
- mandating remedial training
- enhanced mentoring provision

If an allegation of research misconduct is investigated and errors (e.g. in the conduct of your research) have been identified which could be rectified then the panel may suggest additional training and mentoring rather than starting a formal investigation

The Colleges will take action to remediate poor practice or other areas of concern. This may include (but is not limited to):

- a correction to the research record
- mandating remedial training
- enhanced mentoring provision

If, after either the initial review or the full investigation, an allegation of research misconduct is shown to be vexatious, malicious and/or frivolous then the panel will recommend that appropriate action be considered in relation to the complainant, either through remedial training/mentoring, or by way of a disciplinary process, normally directly to the formal stage (http://www.bbk.ac.uk/hr/policies_services/policies_az/disciplinaryanddismissalprocedure2014)

If an allegation of research misconduct is investigated and proven against you the panel will recommend that appropriate action be considered, either through remedial training/mentoring, or via a disciplinary process, normally directly to the formal stage (http://www.bbk.ac.uk/hr/policies_services/policies_az/disciplinaryanddismissalprocedure2014)

Allegation referred to the Colleges disciplinary process, normally, to the hearing stage (with the research misconduct investigation taking the place of the investigation stage)