

## **Code of Practice for Responding to Complaints by Research Participants about the Ethical Conduct of Research**

### **INTRODUCTION**

1. This Code of Practice covers the treatment of complaints about the ethical conduct of researchers at the Institute of Education by participants in that research or their carers. The Institute takes seriously allegations of ethical misconduct by its staff. It will ensure that allegations are investigated fully and the outcome of the investigations reported. In general, the procedure is the same as that for the treatment of scientific misconduct. However, because the participants in research at the Institute are often children, members of vulnerable groups, or located outside of the country, there are a number of particular issues which may need to be addressed in order to support them (or their primary carers) in making a complaint.
2. This procedure treats ethical misconduct in research as scientific misconduct for the purposes of Institute procedure. This means that a finding that a study was conducted unethically could result in a range of sanctions being applied to the researcher(s) involved, including disciplinary action and those sanctions listed in the *Code of Practice for Enquiring into Allegations of Misconduct in relation to Academic, Research and Scientific Activities*.
3. It is expected that this Code of Practice will be used very rarely. It will be subject to review every three years, and after each occasion upon which it is used.

### **SCOPE OF THE CODE OF PRACTICE**

4. All researchers and staff at the Institute are responsible for the probity of their research and research methodology. In the case of a research project, primary responsibility for the ethics of the research lies with the project leader. This Code of Practice applies to all employees and registered students of the Institute of Education, University of London (whether working at the Institute, or elsewhere), together with visiting researchers and fellows, research associates and any other individuals engaged in research at the Institute, or in connection with it. This Code applies if any of those referred to above are working away from the Institute either individually or as part of collaborative arrangements. It does not apply to examination or assessment offences (including plagiarism) in relation to taught programmes of study for which there are separate regulations.
5. Deans of Faculty, Heads of Department, Principal Investigators and other senior staff should ensure that all those new to research at the Institute are made aware of the Institute's Research Governance and Ethics Policy and ethics review process and register the ethical

guidelines which they will work to. Where no guidelines are registered, the BERA guidelines will apply.

## **PRINCIPLES**

6. In accordance with the Research Governance and Ethics Policy, research at the Institute must be conducted according to the following concerns:
  - i) To respect the autonomy of individual
  - ii) To avoid causing harm
  - iii) To treat people fairly
  - iv) To act with integrity
  - v) To use resources as beneficially as possible

The consequences of these principles for the practice of research are elaborated in the various codes of conduct to which members of staff are required to adhere. This means that, for the purposes of this document, a researcher will be held to have acted unethically when he or she has failed to follow the code of conduct selected for the research project in question. In the case of opportunistic or private research, or where a project director has not specified a code of conduct for a research project, a researcher will be held to have acted unethically where he or she fails to follow the code of conduct which he or she has previously registered with the Institute.

7. Research raises many difficult ethical issues where there may be legitimate disagreement about what is permissible. It is expected that where these issues are reasonably foreseeable, and there is time, they will be referred to one of the Institute's Faculty Research Ethics Committees (FREC). Where a researcher is found to be acting in accordance with the recommendations of a FREC he or she will not be subject to disciplinary action. Following an allegation of ethical misconduct the FREC will make a report to the Research Ethics and Governance Committee on the case so that Institute policy can be reviewed.
8. Ethical issues may arise which are unforeseen and where it is not reasonably possible to refer them to a FREC. In these circumstances, it is not intended that Institute researchers will be subject to disciplinary action on the basis of legitimate differences of opinion about the permissibility of their actions. Where this is found to be the case, the complaint will be referred to the RGEC so that Institute policy may be reviewed in the light of it.
9. Allegations of unethical conduct will be judged on their individual merits, but, in accordance with the Institute's equal opportunities policy, all allegations will be treated equally.

10. Investigations into alleged unethical conduct, using these procedures and other appropriate regulations, should, as far as practicable, be conducted in a similar manner, wherever they occur in the Institute.
11. All investigations will be dealt with in confidence unless this is not compatible with a thorough investigation. In particular, it will be made clear to any complainants that their evidence will be needed as part of the investigation process. The principles of natural justice will be followed in a manner which is appropriate to the individual circumstances of all allegations.
12. The aim should always be to resolve potential formal complaints informally through negotiation between those individuals who are immediately concerned with the issue. Where this is not practicable for any reason or the complainant feels unable to approach the person most directly concerned, a formal complaint may be made using the procedures set out in paragraphs 15 to 23 below. If, having pursued the matter informally, the complainant believes that her/his complaint has not been appropriately, fairly or reasonably addressed, s/he may then follow the formal procedures set out in paragraphs 15 to 23 below.
13. Anonymous allegations will not normally be investigated. The Assistant Director for Research, Consultancy and Knowledge Transfer will decide how to proceed, having consulted as s/he feels appropriate, if s(he) believes that the circumstances of an anonymous allegation justify an investigation.
14. In this Code of Practice a person who has made an allegation of misconduct is described as the complainant; any person against whom an allegation is made is described as the respondent.

## **PROCEDURES**

15. As part of the consent process in a research study, participants must be informed that the Institute has a complaints process, and given understandable instructions about how to make a complaint.
16. It is important that people from outside the Institute who make a complaint have one point of contact who will keep them informed about the progress of the complaint. The key point of contact for a complainant will be the Research Ethics Coordinator.
17. If a complaint is initially made to someone other than the Research Ethics Coordinator, the person receiving the complaint should inform the Research Ethics Coordinator of its receipt. If a complaint is initially made to the Research Ethics Coordinator, s(he) will ascertain whether an attempt has already been made to resolve the complaint informally and, if not, whether informal negotiation is an appropriate course of action.

18. When a formal complaint is received, the Research Ethics Coordinator will make a written record of the complaint. Details of the complaint will be passed on to the Assistant Director for Research, Consultancy and Knowledge Transfer, who will determine whether or not it will be necessary to appoint an advocate for the complainant.
19. An advocate can be appointed by the Assistant Director for Research, Consultancy and Knowledge Transfer and will be a member of academic staff at the Institute who is unconnected with the research being complained about. His or her role will be to represent the interests of the complainant and to ensure that proper procedures are applied to the complaint. The complainant may, of course, decline an advocate if he or she wishes. In some circumstances the complainant may already have sought help from someone outside the Institute in making a complaint. Where this is the case, the Institute will make every effort to accommodate this decision.
20. All complaints should be made in writing. If the initial report is made orally, the complainant will be asked to submit a written statement. If the complainant is unable to do this then their advocate will be asked to help them. The advocate is required to agree the form of words with the complainant. The complainant and advocate will together also be asked to provide any further documentary evidence in support of the complaint.
21. If the Assistant Director for Research, Consultancy and Knowledge Transfer believes the complaint is based on a major misunderstanding, s/he may seek to resolve it with the complainant, but must make it clear that the complaint will be passed on if the complainant so insists.
22. In the event of an actual, possible or perceived conflict of interest, the Assistant Director for Research, Consultancy and Knowledge Transfer will ask the Deputy Director to act in his/her place in accordance with the procedures set out in the remainder of the Code of Practice.
23. Within five working days of receiving a report of alleged ethical misconduct, the Assistant Director for Research, Consultancy and Knowledge Transfer, after informing the person or project director against whom the allegation has been made, will either:
  - i) Dismiss the allegation if s/he does not believe that it has substance, and provide a written response to the complainant to that effect with reasons for the decision; or
  - ii) Refer the complaint in writing to any other more suitable Institute procedure or one established by a Research Council or similar body, which is more appropriate to the matter raised; or
  - iii) Establish an Investigation Committee, to inquire into and report on allegations.

## INVESTIGATION

24. If the Assistant Director for Research, Consultancy and Knowledge Transfer believes that an investigation into the allegations raised is justified, s/he will establish an Investigation Committee, comprising two members, in addition to him/herself. One of the members will be a lay member of the Council, appointed by the Chair of the Council. The other member will be a senior, experienced member of the academic staff (normally a Head of Department or member of the Professoriate), who does not come from the same Faculty as the respondent or the complainant's advocate, and who is in a position to enquire independently. The Assistant Director shall also appoint a Secretary to the Investigation Committee from amongst the Institute's senior administrative staff not previously involved with the complaint.
25. At the same time as establishing an Investigation Committee the Assistant Director for Research, Consultancy and Knowledge Transfer will inform any funding body, in confidence, and the Head(s) of Department(s) concerned, of the allegation.
26. When s/he decides to establish an Investigation Committee, the Assistant Director for Research, Consultancy and Knowledge Transfer will notify the respondent, in writing, stating the nature of the allegation. The Assistant Director at this time has the authority to obtain and hold any relevant materials or records, including computer disks. These must be stored in a secure location. The complainant will be informed in writing of the action being taken.
27. The Investigation Committee shall, as part of its investigation, examine all relevant documents and files (including computer files), interview the complainant and the respondent and either interview or obtain written statements from any witnesses or others with knowledge of the alleged misconduct.
28. The complainant and the respondent will each be interviewed by the committee, and will be asked to sign an agreed account of the interview within five working days. The respondent may be accompanied by a student or a member of staff of the Institute or other host institution for individuals from outside the Institute, who may speak during the hearing, but only in the role of a supporter.
29. The role of the advocate is to support the complainant. If an advocate has been appointed for a complainant, then he or she should attend the complainant's interview. It may not always be possible or appropriate for a complainant to attend an interview. The advocate or the complainant should inform the committee of the reasons for this at the first possible opportunity, and the Assistant Director for Research, Consultancy and Knowledge Transfer will make a judgement about the most appropriate way to proceed.

30. Subject to the above, and following the rules of natural justice, the Investigation Committee may determine its own procedure. Should a respondent refuse or fail to co-operate in the investigation process in any way, there will be immediate referral to the appropriate disciplinary procedures.
31. The Committee will be asked to establish the following:
  - i) Whether the respondent acted in accordance with the recommendations of the FREC.
  - ii) Whether the respondent acted in line with the stated code of ethics being applied to the project.
  - iii) Whether the respondent had taken the required steps to register which code of practice s/he was using and to secure ethics approval for what they were doing.
  - iv) Whether there had been a failure of the ethics process at the Institute.

Situations may arise which were unforeseeable, which raise significant ethical issues and where it was not possible to consult with the FREC. If this is alleged to be the case, then the committee should establish the following:

- i) Whether it was in fact possible to seek guidance from an Institute of Education FREC.
- ii) Whether the case at issue falls within an area of substantive ethical disagreement.

## **FINDINGS**

32. The Investigation Committee will normally be required to prepare a written report within 40 working days of its establishment. If this requirement is not compatible with a fair and thorough investigation, the Assistant Director for Research, Consultancy and Knowledge Transfer may extend the period of the investigation.
33. The written report of the Investigation Committee must state how the investigation was conducted, describe how and from whom information was obtained relevant to the investigation, state the findings, explain the basis for the findings, and contain an accurate summary of the views of any individual(s) alleged to have engaged in misconduct.
34. The respondent(s) will be given a copy of the report and evidence considered by the Investigation Committee and an opportunity to comment on its factual accuracy. Comments from the respondent(s) must be submitted to the Assistant Director for Research, Consultancy and Knowledge Transfer within 10 working 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 Assistant Director for Research, Consultancy and Knowledge Transfer

and at least one other member of the Investigation Committee and the respondent (and his/her representative) will be present. The purpose of this meeting will be to allow the respondent to challenge any parts of the report which s/he believes to be factually incorrect or unsubstantiated. A record of this meeting will be appended to the report of the Investigation Committee.

35. Where a complaint is not upheld, the complainant will be so informed in writing, with reasons for the decision. Subject to paragraph 33 above, the decision of the Investigation Committee will not be open to appeal.

## **SANCTIONS**

36. If the Investigation Committee establishes a prima facie case of misconduct, action will then be taken under the appropriate disciplinary procedures. Anyone found guilty of misconduct through the disciplinary procedures will have a right of appeal, as set out in those procedures.
37. In addition to the normal possible outcome of the Institute's disciplinary procedures, the following sanctions may be considered if an allegation of ethical misconduct is substantiated:
- i) letter of reprimand;
  - ii) withdrawal of funding;
  - iii) requiring the withdrawal or correction of pending or published abstracts and papers emanating from the research in question;
  - iv) changes to the staffing of the particular project;
  - v) special monitoring of future work.
38. The respondent may be required to issue a formal apology to the complainant. He or she may also be required to issue a formal apology to other research participants. The Assistant Director for Research Consultancy and Knowledge Transfer will consult with the complainant regarding actions that might be taken to make amends.

Funding bodies may also impose sanctions in these circumstances.

## **RESTORATION OF REPUTATIONS**

39. The Institute will take all reasonable action to restore the reputation of the respondent if the respondent is not found guilty of misconduct and will consult the respondent to ensure that appropriate publicity is given to this outcome.
40. The Assistant Director for Research, Consultancy and Knowledge Transfer has the authority to require that all reference to the matter is removed 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.

### **FURTHER ACTIONS**

41. Where the Investigating Committee concludes that there may have been a failure of the Institute's ethics procedures, this should be stated in the report of the Committee. The report of the Investigating Committee, together with any attachments, will be forwarded to the RGEC, and the FREC or FRECs which approved the project in question. It is expected that the RGEC's response to the complaint should be included in its annual report to Senate.
42. Where the Investigating Committee finds that there has been a failure of the Institute's ethics procedures, the Assistant Director for Research, Consultancy and Knowledge Transfer will review the procedures to minimise the potential for future misconduct.

### **MALICIOUS ACCUSATIONS**

43. Where the outcome of an investigation or appeal stage indicates that an allegation may not have been made in good faith, the Institute may pursue disciplinary action against the complainant where s/he is employed by, or is a registered student of, the Institute, or take action as appropriate against an external complainant.

Approved by Senate 6 June 2007