

**London South Bank
University**

**Procedure for the Investigation
of Misconduct in Research**

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Procedure for the Investigation of Misconduct in Research

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Procedure for the Investigation of Misconduct in Research

1. Introduction:

- 1.1 London South Bank University (LSBU) is committed to ensuring that research by LSBU staff is conducted to the highest scientific and ethical standards.
- 1.2 This Procedure is used whenever there is a claim of Misconduct in Research against an LSBU member of staff by either an external agent or another member of LSBU staff.
- 1.3 The University accepts that there is a need for a specific procedure for dealing with allegations of scientific misconduct. This procedure is therefore additional and complementary to the University's policies on misconduct, and specifically those covering:
 - Public Interest Disclosure "Whistle blowing",
 - Dealing with Matters of Conduct.

Details of these Policies are available on the HR section of the Staff Gateway.

- 1.4 The University's Procedure for the Investigation of Misconduct in Research is based upon the guidance and recommendations provided by the UK Research Integrity Office (UKRIO - 2008).
- 1.5 The Procedure is intended to be used in accordance with the ***Key Principles*** below:
 - 1.5.1 The requirement for the even-handed treatment of both the Complainant and the Respondent;
 - 1.5.2 The presumption of innocence will be maintained throughout the investigation;
 - 1.5.3 The burden and standard of proof required will be established at the outset and should be commensurate with the seriousness of the allegation(s);
 - 1.5.4 The Complainant and Respondent will expect a just decision following a fair and speedy process involving an impartial, informed and independent investigation;
 - 1.5.5 The responsibilities of those dealing with the allegation will be clear and understood by all interested parties;
 - 1.5.6 Proper records of the proceedings will be kept whilst ensuring the confidential nature of the allegation and investigation are fully maintained.
 - 1.5.7 The final outcome of the Investigation will be binding on all parties.

Those implementing the Procedure will be guided by the above Key Principles to ensure that the Procedure is carried out in a comprehensive, fair and timely manner, and with integrity, sensitivity and confidentiality.

- 1.6 The Procedure is designed to provide a means to facilitate the full exploration of potentially complex matters in research that can arise in situations where misconduct may have arisen.
- 1.7 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.
- 1.8 The Procedure is designed to assist in the full and fair investigation of allegations of misconduct in research brought to LSBU attention by internal or external sources.
- 1.9 It will be deemed to be a disciplinary matter for anyone not directly involved in the Procedure to attempt to influence anyone directly involved in the Procedure or to attempt to or to interfere with any evidence considered relevant to the investigation of any alleged Misconduct in Research.
- 1.10 A report on incidents of Misconduct in Research will be presented annually to the University's Research Committee and in turn to the University's Academic Board.

2. When and How the Procedure Applies

- 2.1 This procedure will be invoked whenever there is an allegation(s) of inappropriate scientific conduct made against a member of LSBU staff by another member of LSBU staff or a former member of LSBU staff.
- 2.2 The Procedure is triggered upon receipt of a written allegation from another member of staff or former member of staff. The allegation must clearly state what the nature of the misconduct is in line with the definitions set out in 3.2, and indicate the date and place where the alleged misconduct took place.
- 2.3 The written allegation must be signed and dated by the Complainant and must be sent to the Dean of School in which the Respondent is based. The date that the allegation is received by the Dean of School is deemed to be the date that the Procedure commences.

3. Definition of Misconduct in Research

- 3.1 LSBU staff are expected to observe high standards of professional behaviour in the practice of research, the publication of research results, their interactions with the public at large, as well as with specific individuals or organisations outside of the University.
- 3.2 For the purposes of this Procedure Scientific Misconduct is defined as:

- 3.2.1 **Fabrication of data**, including the invention of data with the intention of deceiving the intended audience;
 - 3.2.2 **Falsification of data**, including the intentional provision of misleading research information or the false reporting of research results;
 - 3.2.3 **Piracy**, including the intentional exploitation of the ideas or the work of others without acknowledgement, and the misappropriation of results, physical materials or other resources;
 - 3.2.4 **Plagiarism**, including the intentional copying of or passing off without permission or acknowledgement, the ideas, data, text or other work of others as ones own;
 - 3.2.5 **Misrepresentation**, including attempting to represent unfairly or falsely the ideas or work of others, whether or not for personal or institutional gain or enhancement;
 - 3.2.6 **Deception**, in proposing research, carrying out research or reporting the results of research;
 - 3.2.7 **Defamation**, including the intentional communication of a false statement, either in writing or verbally, which harms the research reputation of another individual;
 - 3.2.8 Any other conduct which deviates from generally accepted ethical standards in research, such as, conducting research without appropriate ethical clearance where it is known that such clearance is required, interference, collusion; non-compliance and mismanagement of data;
 - 3.2.9 Failure(s) to exercise due care in carrying out responsibilities in relation to avoiding unreasonable risk or harm to:
 - Humans
 - The Environment
- 3.3 Scientific Misconduct does **NOT** include:
- Honest error or honest difference in the design, execution, interpretation or judgement in evaluating research methods or results.
 - Misconduct (including gross misconduct) unrelated to research activity. Such matters are to be dealt with by the University’s Procedures for Dealing with Matters of Conduct (see HR section on Staff Gateway).

4. The Procedure:

4.1 *The Complainant and Respondent.*

- 4.1.1 The **Complainant** is the LSBU member(s) of staff or former LSBU member(s) of staff making an allegation(s) of Misconduct in Research against another member(s) of LSBU staff (**the Respondent**).

4.2 *The Named Person:*

- 4.2.1 For the purposes of this procedure the Dean of School in which **the Respondent** is based and against whom an allegation of scientific misconduct is being made, is the **Named Person**.

4.2.2 In the event that the allegation is directly linked to the **Named Person**, or which raises the potential for a conflict of interest for the Named Person, the allegation should immediately be referred to the Pro-Vice Chancellor (Academic) (**the Alternate Named Person**) who should then take responsibility for the implement the Procedure.

4.3 **Preliminary Steps:**

4.3.1 In the event of an allegation of misconduct arising, the Complainant (whether internal or external) should submit their written allegation to the **Named Person**.

4.3.2 The written allegation should be accompanied by any supporting evidence that is available to the Complainant. It should clearly state the name of the person who is alleged to have perpetrated the misconduct as well as the nature of the allegation and the date and place where it took place.

4.3.3 The **Named Person** should in conjunction with the Director of HR and the Head of Central Research Support and or Director of Enterprise, investigate the contractual status of the **Complainant** and **Respondent** and the contractual details relevant to any research project(s) associated with the allegation(s).

4.3.4 The **Named Person** will acknowledge receipt of the written allegation by writing to the Complainant normally within 3 working days of receipt of the allegation. The **Named Person's** response should advise the **Complainant** of the Procedure and timetable to be followed.

4.3.5 The **Named Person** should review the nature of the allegation(s) normally within 5 working days referring to the definitions in 3.2 above.

4.3.6 Where the **Named Person** assesses that the allegation(s) is mistaken, frivolous, vexatious and/or malicious, then the allegation(s) should be dismissed. This decision should be reported in writing to the **Complainant** normally within 5 working days providing an explanation why this decision has been reached.

4.3.7 In the event of 4.3.6 applying, the **Named Person** should consider recommending to the appropriate authority that action be taken under the University's disciplinary process against any member of staff deemed to have deliberately made any such allegation(s). In addition, the **Named Person** should take any necessary steps to support the reputation of the **Respondent** and the research project(s).

4.3.8 Where the allegation(s) falls within the scope of one or more of the Definitions in 3.2 above, and could involve situations that pose a danger/risk to people, property or reputation, the **Named Person** should take immediate and appropriate steps to ensure that any such potential danger/risk is minimised. In so doing, it should be made clear to all parties that such actions are not to be regarded as disciplinary action and do not in themselves indicate that the allegation(s) is considered to be proven.

4.3.9 Where the allegation(s) are outside of the definitions, the **Named Person** should communicate this to the **Complainant** in writing normally within 5 working days, setting out:

- The reasons why the allegation(s) cannot be investigated using this Procedure;
- Which process is the most appropriate one for handling the allegation(s); and
- To whom the allegation(s) should be reported.

4.3.10 If, in the judgement of the **Named Person**, the allegation(s) appear to be within the definitions of Misconduct in Research outlined in 3.2 above, the Procedure should continue to the next stage and the **Named Person** should inform the following by confidential email normally within 5 working days:

- Vice Chancellor;
- Pro Vice-Chancellor (Academic);
- University Secretary and Clerk to the Board of Governors;
- Director of HR;
- Head of the Central Research Support and/or Director of Enterprise.

4.3.11 The **Named Person** should indicate in their confidential email:

- That an allegation(s) of Misconduct in Research has been received;
- The nature of the allegation(s) and date received;
- That the allegation(s) is as yet unproven;
- Confirmation that the allegation(s) will be investigated using the Misconduct in Research Procedure.

AND IN STRICT CONFIDENCE:

- The identity of the **Complainant** and **Respondent**;
- Details of any relevant internal and/or external research projects and funding likely to be involved;
- Details of any internal and/or external collaborators likely to be involved;
- Any other details considered by the **Named Person** to be pertinent.

4.3.12 The **Named Person** should, in conjunction with the Head of Central Research Support and/or the Director of Enterprise, decide if any external funding bodies need to be informed of the allegation. If so, then the **Named Person** will instruct the appropriate person to communicate with the relevant bodies in line with any relevant contractual terms.

4.3.13 Where the **Named Person** concludes that there is a need to invoke the Procedure, they shall inform the **Respondent** that an allegation(s) of Misconduct in Research has been made which involves them.

The **Respondent** should be informed of the specific allegation in a Confidential Meeting at which a representative from HR is also present. This Meeting should take place normally within 10 working days from receipt of the allegation(s).

- 4.3.14 If the allegation(s) is made against more than one **Respondent**, the **Named Person** should inform each individual separately, specifying the allegation(s) and should not divulge the name of any of the other **Respondents**.
- 4.3.15 The **Respondent** has the right to be accompanied by a colleague or trade union representative at the meeting.
- 4.3.16 After the meeting(s), the **Respondent** (and any representatives) should receive, normally within 5 working days of the meeting, written confirmation from the **Named Person** of the allegation(s), a copy of the Procedure to be followed, the opportunities that the **Respondent** will have to respond to the allegation(s) and a proposed timetable for the Procedure.

4.4 Pre-Screening Steps:

- 4.4.1 The **Named Person** should ensure that where ever possible all relevant information and evidence is secured, so that any investigation conducted under this Procedure is able to access it if required. This may include, but is not restricted to:
- Securing all relevant records, materials, and locations associated with the work that is the subject of or related to the allegation;
 - Liaising with the Director of HR and the relevant line manager to request:
 - suspending the **Respondent** from duties on full pay;
 - barring of the **Respondent** from part, or all, of the premises of the University and any of the sites of any partner organisation;
 - restricting the **Respondent** from having contact with specified staff or areas within the University or in any partner organisation.
- 4.4.2 The above steps should only be considered and taken where there is a clear risk to individuals or that evidence may be destroyed. The reasons for taking such measures should be recorded in writing and communicated to all parties involved.
- 4.4.3 The **Named Person** should reassure the **Respondent** that such measures are not part of any disciplinary action nor do they indicate that the allegation(s) is believed to be true.
- 4.4.4 In considering the allegation(s) 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.
- 4.4.5 Once initiated the Procedure should progress to the natural end-point irrespective of:
- the **Complainant** withdrawing their allegation(s) at any stage;
 - the **Respondent** admitting the alleged misconduct in full or in part;
 - the **Respondent** or **Complainant** resigning their post.

4.4.6 The Preliminary and Pre-Screening stages of the Procedure should normally be completed within 20 working days from receipt of the written allegation(s). Any delays should be communicated to all parties with a revised completion schedule.

4.4.7 Where the **Named Person** considers that *prima facie* evidence of Misconduct in Research exists, they should convene a Screening Panel to look at any evidence in more detail.

4.5 Screening:

4.5.1 The Screening stage is intended to examine and determine whether on the balance of probabilities Misconduct in Research has occurred.

4.5.2 The Screening Panel should consist of at least three senior members of staff selected by the **Named Person**. In selecting the Panel members the **Named Person** should consider:

- the subject matter of the allegation(s) including whether it would be beneficial for members of the panel to possess any specialised knowledge
- any conflicts of interest that might arise
- any links with the persons involved (**Respondents** or **Complainants**)
- any person connections with the subject matter of the allegation(s)
- any connection with the work as a result of their involvement in a University or Faculty body to review research proposals or ethics committee.

4.5.3 The **Named Person** must NOT be a member, nor should they seek to influence the work of the Screening Panel.

4.5.4 The Screening Panel should seek to complete its work within 20 working days.

4.5.5 The **Named Person** should inform the **Respondent** and the **Complainant** in writing or by email, of the names of those forming the Screening Panel. Both the **Respondent** and the **Complainant** are entitled to raise any concern they may have with the proposed members of the Screening Panel. They should communicate this directly to the **Named Person** with 3 days of being notified of the names. Neither has a right of veto over those nominated.

4.5.6 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 membership falls below three, the **Named Person** should take steps to recruit additional members or re-start the Screening process.

4.5.7 The **Named Person** should nominate the Chair for the Screening Panel.

4.5.8 The Screening Panel should maintain a record of evidence sought and received and any conclusions reached.

- 4.5.9 It should conduct an assessment of the available evidence. This should include interviewing the both the **Respondent** and **Complainant** and any other staff whom the Panel consider relevant to the Screening process.
- 4.5.10 The Screening Panel should provide the **Named Person** with a Draft report within 15 working days from appointment.
- 4.5.11 The **Named Person** will make the Draft report available to both the **Respondent** and **Complainant** (and any agreed representatives) at the same time for factual accuracy of the report. Any factual amendments should be returned to the **Named Person** in writing within 5 working days.
- 4.5.12 Only when there are factual errors indicated by the **Respondent** and/or **Complainant** should the Screening Panel modify their report. The Panel Chair should judge the validity of such comments and seek the agreement of the whole Panel before making any amendments.
- 4.5.13 On completion of the screening process and based upon its consideration of the balance of probabilities, the Panel should recommend one of the following four options:
- No or insufficient evidence exists to trigger a formal investigation and the case should be dropped;
 - The allegation has some substance but due to a lack of evidence or intent or the relatively minor nature of the conduct complained of, it should be dealt with by some non-disciplinary procedure; or
 - Sufficient evidence exists for a Formal Investigation to be invoked; or
 - The allegation is frivolous, vexatious and/or malicious and should be referred to the University's Misconduct process or other internal process.
- 4.5.14 The Chair of the Screening Panel should send the Final report with the Panels recommendation to the **Named Person**.
- 4.5.15 The **Named Person** will forward the Final Screening Panel report to both the **Respondent** and the **Complainant** (and any agreed representatives) normally within 3 working days from receipt.
- 4.5.16 Neither the **Respondent** nor the **Complainant** have a right of appeal against the recommendation of the Screening Panel.
- 4.5.17 Where the Screening Panel recommends that the allegation(s) has some substance, but due to a lack of evidence or intent or the relatively minor nature of the conduct complained of, then it may recommend that the matter be addressed through the University's competency, education and training mechanisms, or other non-disciplinary process, rather than proceeding to the Formal Investigation stage.
- 4.5.18 If the Screening Panel recommends that the allegation(s) is frivolous, vexatious and/or malicious, the allegation will be dismissed. The **Named Person** should then

take all necessary steps to, in the light of the seriousness of the allegation(s), sustain the reputation of the **Respondent** and the relevant research project(s).

In addition, the **Named Person** should consider recommending to the appropriate University authority that action be taken under the University's disciplinary procedure against anyone found to have made any such allegation(s) of Misconduct in Research. Those who have made an allegation(s) in good faith should not be penalised.

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

4.5.20 Once it has completed its report and made its recommendation, the work of the Screening Panel is complete. Screening Panel members should take no part in any further investigation. Panel members should be reminded that at this stage the matter remains confidential and that all information provided to them concerning the case is confidential.

4.6 Formal Investigation:

4.6.1 The Formal Investigation is intended to ensure the full and fair examination of the allegation(s). It is not intended to replace or subsume any existing Disciplinary Process.

4.6.2 The **Named Person** should inform the following normally within 3 working days from receipt of the Screening Panel's Final Report that a Formal Investigation of the allegation(s) is to take place:

- **Respondent** (and agreed representatives)
- **Complainant** (and agreed representatives)
- Vice Chancellor
- Secretary and Clerk to the Board of Governors
- Director of HR
- Head of Central Research Support

4.6.3 The **Named Person** should convene the Formal Investigation Panel normally within 10 working days. In carrying out its investigation the Investigation Panel will not work to a prescribed timetable. The Panel should conduct the investigation as quickly as possible without compromising the key principles described in 1.5.

4.6.4 The Investigation Panel should consist of at least three senior members of staff selected by the **Named Person**. The Panel should involve different members of staff from those appointed to the Screening Panel.

4.6.5 The **Named Person** should inform the **Respondent** and **Complainant** of the names of those making up the Investigation Panel normally within 3 working days of the setting up of the Panel.

If the **Respondent** or **Complainant** has legitimate concerns about any of the proposed member of the Investigation Panel they should inform the **Named Person** in writing normally within 3 working days of being informed of the Panel membership.

4.6.6 The **Named Person** should appoint a Chair of the Investigation Panel.

4.6.7 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 and Procedure;
- Maintain a record of evidence sought and received, and conclusions reached
- Conduct an assessment of the evidence;
- Interview the **Complainant** and any other individuals the Panel consider relevant to the investigation;
- Hold a Formal meeting with the **Respondent** to hear their response to the allegation(s);
- Weigh all the evidence and reach a conclusion based upon the Standard of Proof that is “Beyond All Reasonable Doubt”.

4.6.8 It will conclude whether the allegation(s) of Misconduct in Research is:

- Upheld in full;
- Upheld in part;
- Not upheld.

4.6.9 The Investigation Panel should provide a Draft Report of its findings to the **Named Person**, who should forward the Draft Report to both the **Respondent** and the **Complainant** (and their representatives) normally within 3 working days from receipt for matters of factual accuracy.

4.6.10 Only when the Draft Report contains errors of fact and matters that have a bearing on the facts as indicated by the **Respondent** and/or **Complainant**, and which are accepted by the Chair of the Investigation Panel should the Draft Report be modified. The Chair should judge the validity of such comments and should seek the agreement of the Panel before agreeing to any amendments.

4.6.11 The Investigation Panel should then produce a Final Report that:

- Summarises how the Investigation was conducted;
- States its conclusion
- Recommends any actions;
- Highlights any procedural matters that the Investigation identified.

The Final Report should be sent to the **Named Person**.

4.6.12 The **Named Person** should forward a copy of the Investigation Panel's Final Report in confidence to the following normally within 3 working days from receipt:

- The **Respondent** (and any pre agreed representatives);
- The **Complainant** (and any pre agreed representatives);
- The Vice Chancellor;
- The Secretary and Clerk to the Board of Governors;
- The Director of HR;
- Head of Central Research Support and/or the Director of Enterprise.

Allegation Not Upheld:

4.6.13 If the allegation(s) is not upheld, the **Named Person** should write to the **Respondent** to confirm that the matter is closed and that no further steps will be pursued in this case. They should jointly consider what steps will be taken to support the reputation of the **Respondent** and any relevant research project(s).

4.6.14 The **Complainant** has no right of appeal against the Investigation Panels decision.

4.6.15 Should the Investigation Panel conclude that the allegation(s) made is frivolous, vexatious and/or malicious, the **Named Person** should discuss the matter with the Director of HR for possible referral to the University's Disciplinary Procedure.

4.6.16 Those considered to have made allegation(s) in good faith should not be penalised. In such circumstances education and training should be considered.

Allegation Upheld:

4.6.17 Where the Investigation Panel upholds the allegation(s) in full or in part, the **Named Person** jointly with the Director of HR should consider whether or not the LSBU Disciplinary procedure should be invoked in respect of the **Respondent(s)**.

4.6.18 In the event of the allegation(s) being upheld in full or in part, the **Named Person** should also consider what other measures may be necessary, such as:

- Withdrawal/repayment of funding;
- Notification of misconduct to professional and/or regulatory bodies;
- Notifying other employing organisations;
- Notifying research funding bodies eg HEFCE, Research Councils;
- Adding a note to a **Respondents** personal file for any future requests for references;

4.6.19 In addition, the **Named Person** should consider, jointly with the **Complainant**, what steps will be taken to support the reputation of the **Complainant** and any relevant research project(s), given that their role in the process will most likely have been stressful and may well have caused friction with colleagues.

4.7 Respondents Right to Review:

- 4.7.1 The **Respondent** has a Right of Review against the Formal Investigation Panel's conclusion(s).
- 4.7.2 The **Respondent** must request a Review normally within 10 working days of receiving the Investigation Panels Final Report. The request should be in writing to the **Named Person** and the **Pro Vice Chancellor (Academic)**. It must clearly state the basis for the review.
- 4.7.3 The **Pro Vice Chancellor (Academic)** will organise a Review Meeting normally within 5 working days from receipt of the Review request.
- 4.7.4 In the event that the **Pro Vice Chancellor (Academic)** has been involved in a previous stage of the Investigation then the **Vice Chancellor** will conduct the Review process.
- 4.7.5 The Review will include examination of all the evidence called into question from the Formal Investigation. The **Respondent** will be invited to present their evidence in person.
- 4.7.6 The **Pro Vice Chancellor (Academic)** will decide on the basis of the evidence presented, whether to endorse, amend or over-turn the conclusions of the Final Investigation Panel and/or recommend further action(s), including invoking of the University's Disciplinary Procedures.
- 4.7.7 The **Pro Vice Chancellor (Academic)** shall produce a Review Report normally within 5 working days of the Review. They will write to the **Respondent** notifying them of the Outcome of the Review normally within a further 2 working days. The **Respondent** and any representative will receive a copy of the Review Report.
- 4.7.8 The Review Report shall also be distributed, in strict confidence to,
- **The Named Person**
 - The Vice Chancellor;
 - The Secretary and Clerk to the Board of Governors;
 - The Director of HR;
 - The Head of Central Research Support and/or the Director of Enterprise.

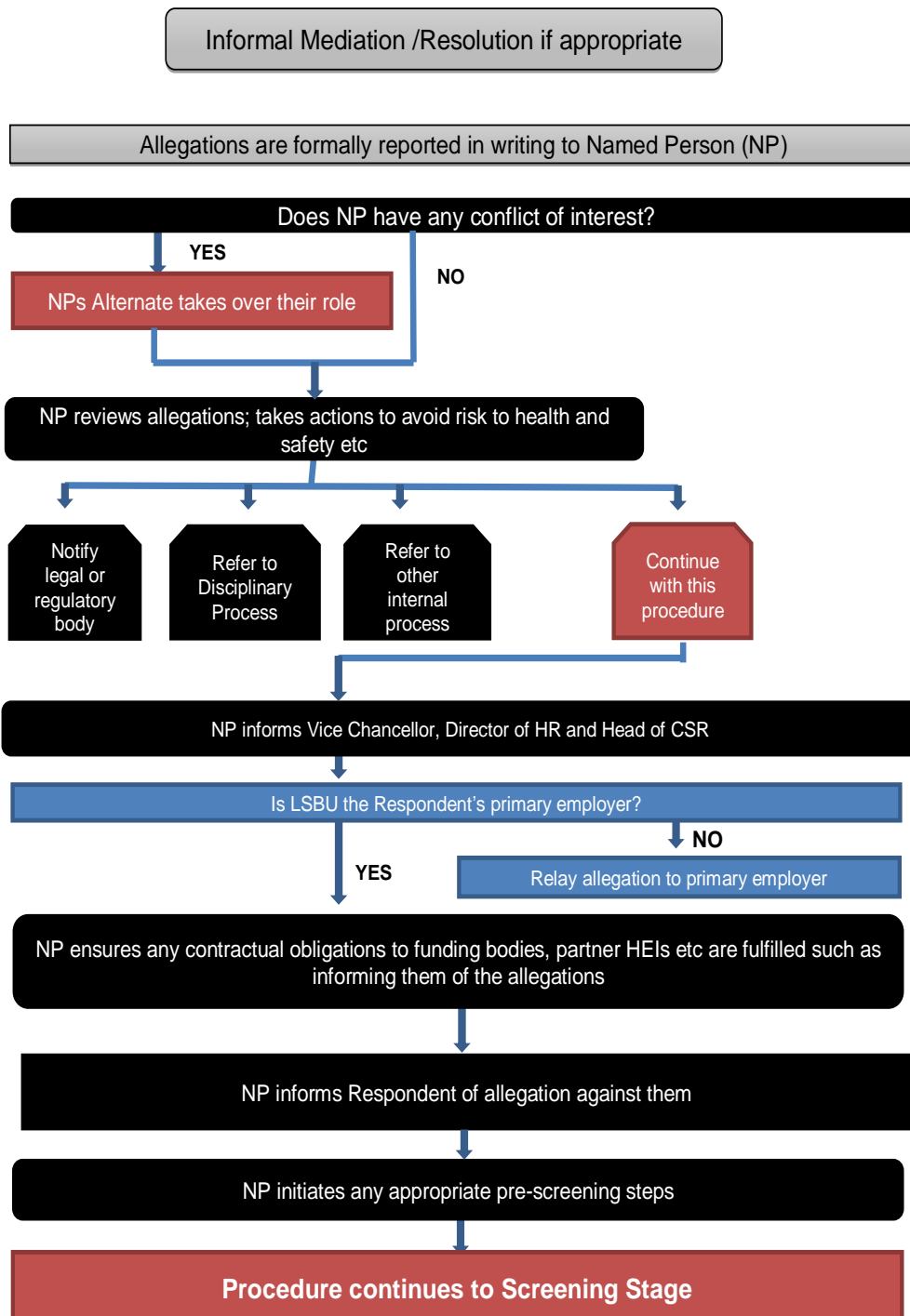
At the discretion of the **Pro Vice Chancellor (Academic)** it may be distributed to other parties.

- 4.7.9 This decision of the Review will be final.

Flow Chart of the Procedure for Investigating Misconduct in Research

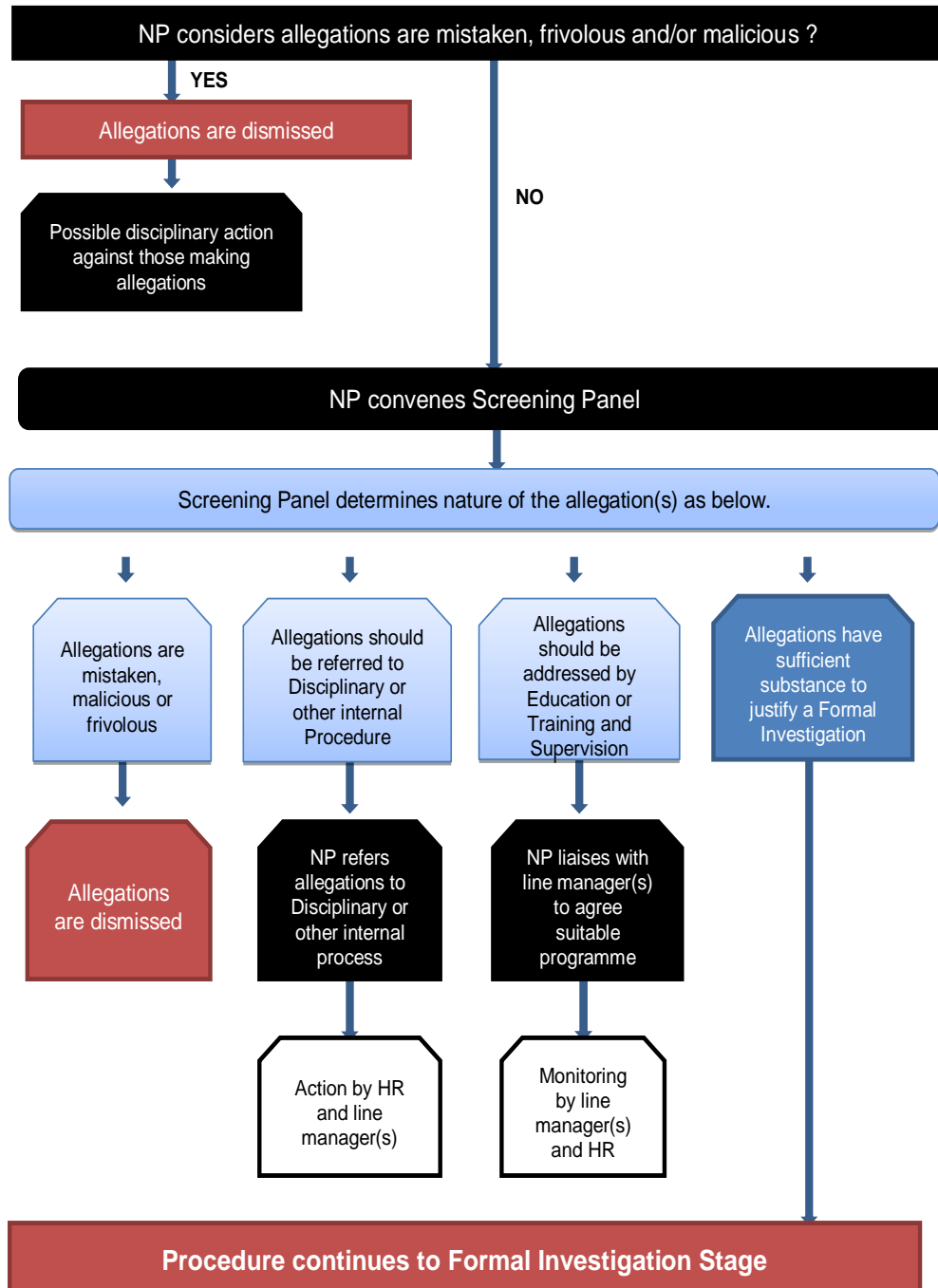
PRELIMINARY/PRE-SCREENING STEPS

(within 20 working days)



SCREENING (within 20 working days)

To determine whether *prima facie* evidence of Misconduct in Research



FORMAL INVESTIGATION *(no set timetable)*

To investigate allegations of misconduct in research which have passed through the Screening Stage and are considered sufficiently serious

NP informs Respondent, Complainant, Vice Chancellor, Director of HR etc. that a Formal Investigation of the allegation(s) is to take place

NP Convenes Investigation Panel

Investigation Panel carries out a full, fair and timely investigation into the allegation

Investigation uncover evidence of misconduct by others or of misconduct by the Respondent that is unconnected to the allegations under investigation?

↓ YES

Submit any new allegations of misconduct to NP

NO

Investigation Panel states whether allegation(s) is

mistaken etc and should be dismissed

Upheld in part

Upheld in full

NP Informs Respondent, Complainant, Vice Chancellor, Director of HR etc. plus any relevant external bodies of the outcome of the Investigation and actions to be taken.

NP, Director of HR and other senior staff decide what actions should be taken

Possible initiation of Disciplinary Process where allegations have been upheld in full or part

RIGHT OF REVIEW (within 15 working days)

