

Allegations of Research Misconduct

For Trainers

Why case studies?

A core function of the UK Research Integrity Office (UKRIO) is to provide independent, expert, and confidential advice on the conduct of research, from promoting good practice to addressing allegations of misconduct. We have been doing this since 2006.

Each request for assistance received by UKRIO increases our body of knowledge. These 'lessons learned' not only inform our response to subsequent enquiries but also underpin our other activities, especially UKRIO's education and training work.

We have found that illustrative case studies are an excellent way to raise awareness of research integrity and research culture and to illustrate the complexities and 'grey areas' that can occur.

Case studies are not literal accounts of any enquiry to UKRIO. Instead, they are scenarios, based on real-life situations, which illustrate recurring or notable issues and problems that have been brought to our attention. While some case studies may mention a particular discipline or setting, they contain themes that are relevant across subjects.

Please note that this case study is fictitious. Any similarity to actual persons, organisations or events is coincidental.

Case study 12

You are the *Named Person* in your university responsible for receiving allegations of research misconduct and any other concerns about research conducted under the auspices of the university.

Ms A, a *research technician*, has raised a number of allegations about the research practices of a senior research academic, **Professor B**, at your institution. The university has initiated the first phase of its research misconduct investigation procedure, an initial assessment of the allegations to determine whether a formal investigation of the matter is warranted.

Professor B has completely denied the allegations. During the course of the initial assessment of the allegations, he also raises issues relating to the competence of Ms A, suggesting that this is behind the allegations.

The panel conducting the *initial assessment has some difficulty coming to a view on the matter*, as it has had trouble gaining the information it needed. However, the panel eventually concludes that the university should *proceed with a formal investigation*.

Professor B, concerned over his reputation, has contacted the professional body to which he belongs and it has *engaged a firm of solicitors to represent him*. *Ms A has no legal representation*, nor does she have any support from a trade union or professional body.



Please discuss and decide:

1. How do you proceed in this matter?
2. What issues does it raise?

Case study 12 resolution

Trainer tips

You should see your role as guiding the discussions. The resolution below is intended as a starting point for debate and reflection, drawing on the major themes of the case study. Certain approaches are proposed but discussion of the case may well suggest others – there is often no single ‘right’ answer.

You can alter details during the discussion to explore the trainees' understanding of good practice.

1 How do you proceed in this matter?

- Should the university reverse the conclusion of the initial assessment panel because Professor B now has legal representation and/or because Ms A does not? If it did, what would the implications be, both for the matter in question and for any future allegations of research misconduct?

The university started an investigation of the allegation because it has a *responsibility to examine any concerns about research conducted under its auspices*. The conclusion of the initial assessment was that a formal investigation of the allegation should be initiated – i.e., that there was a case to answer. This conclusion was reached in accordance with the university's agreed process for responding to allegations of research misconduct. Provided that due process has been followed, a university **should not be concerned that an involved party now has legal representation**.

The university should have confidence in the decision made by the panel and initiate the formal investigation. The fact that Professor B now has legal representation **should not lead to a reversal of the panel's conclusion or a delay in its implementation**.

Equally, Ms A's lack of legal or other representation should not halt the investigation process. However, as discussed below, the formal investigation would need to take Ms A's and Professor B's circumstances into account, as well as other factors.

1 How do you proceed in this matter? *Continued...*

Ms A and Professor B hold *unequal positions in the university's hierarchy*. Care must be taken to ensure that both parties are treated fairly. As the Complainant or Initiator in the process, Ms A should suffer no detriment for raising a concern in good faith or in the public interest. Equally, as the Respondent, Professor B should suffer no detriment when the allegation is not confirmed. It is only when allegations have been upheld through the relevant university process(es) and any appeals stage, that it is appropriate to apply any sanctions to a Respondent.

To reassure junior staff who are considering raising concerns, it can be helpful for institutions to publicise that the university is committed to encouraging staff and students to speak up when they have concerns, and that it will support whistle blowers and not tolerate any victimisation of them. Announcements and policies should of course be followed up by effective implementation.

- Should Ms A's identity have been kept from the Respondent?

The identity of the Complainant is often kept confidential until a formal investigation is launched. There can be some exceptions to this, for example if such confidentiality would be incompatible with a fair and thorough investigation or if there was a legal or other overriding reason for disclosure. The university should act in accordance with the relevant provisions of its research misconduct investigation process and other appropriate policies.

It can often be clear who has raised a concern even when their identity is supposed to be confidential. Equally, people can become convinced that a particular colleague is the Complainant or the Respondent when in reality they have no involvement in the matter. The university would need to be aware that the *Complainant or the Respondent may require support during the process of the investigation*. It may also need to take action to maintain confidentiality provisions and to prevent harassment.

1 How do you proceed in this matter? *Continued...*

Professor B has raised issues regarding the *competency* of Ms A to carry out her role, and therefore her ability to judge whether research misconduct was taking place. These concerns might be valid. Equally, they could have been raised to distract the panel from its consideration of Ms A's concerns.

The panel's role is to conclude *whether the allegation should be upheld or dismissed*; it is not the proper place to make a broader judgement on whether a member of staff is competent to carry out his or her role. The investigation panel should therefore assess the allegation on the available evidence.

If Professor B's claims about Ms A's competence are correct, this does not mean that her allegation must be dismissed, as her concerns may be justified regardless. In its conclusions, the panel may wish to comment on the claims made by Professor B, whether to suggest that the university should examine them or to state that it felt that the claims were unfounded.

- How should the university respond if Professor B wishes to be accompanied to meetings by his solicitor?

Many institutions state in their procedures who can accompany Complainants and Respondents to meetings – usually a fellow member of staff, a trade union representative and, in the case of students, a representative of the Students' Union. Some universities explicitly state that involved parties may not be accompanied by a legal representative, while in other universities this is a right granted by the statutes and ordinances. This university's response would depend on what was allowed for its staff.

If one or more involved parties are accompanied by a legal representative, it would be sensible to *seek advice from human resources and legal services* on the possible implications and whether the university should engage its own legal counsel. It should be remembered that **a research misconduct procedure is an investigation of employee (or student) conduct, and not a civil or criminal prosecution.**

While Ms A is not a trade union member, the university should remind her that she can be accompanied to meetings by a colleague. The university should also check if she is entitled to any other form of support or representation under its policies and procedures.

2 What issues does it raise?

The case study states that the panel that conducted the initial assessment had some *difficulty coming to a view on the matter*. This might simply be due to an initial lack of consensus. However, other factors can often cause problems, such as:

- a lack of availability of corroborative information;
- deliberate obstruction by involved parties; or
- a reluctance of third parties to co-operate with the process.

Logistical issues (e.g. difficulties in arranging meetings of the panel) can also slow the pace of an investigation.

- How can a panel overcome such problems?
- Is there anything a university could do in advance to reduce their impact?



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