

Research Misconduct: Maintaining the Anonymity of a Complainant

Nicola Sainsbury 

September 2023

This note aims to unpack the issues around maintaining the anonymity of a complainant in research misconduct investigations and so will be of interest to Named Persons and Research Integrity Officers running investigations who have experienced difficulties in this area.

UKRIO's [Model Procedure for Research Misconduct](#) states that:

98. Respondents will normally be informed of the name of any Complainant(s) who have made the allegation(s) concerning them at the discretion of the Named Person, in exceptional circumstances the identity of the Complainant(s) may remain confidential. Any such decision should be made after seeking advice from human resources/ student and/or legal services; taking into account the Organisation's whistleblowing policy or equivalent and the impact on the Respondent(s) ability to respond to the allegation(s) that have been made against them. No decision should be made that compromises the Principles and Standards of this Procedure or the thorough and fair investigation of the allegation(s) in question.

99. The Complainants will be informed that their identity is being disclosed to the Respondent(s) at this point unless it has been determined that it should remain confidential.'

Procedure for the Investigation of Misconduct in Research: Paragraphs 98, 99.

This is at the point where a matter is referred to the 'full investigation' stage. It can be challenging to manage this, as some complainants can be concerned about repercussions to their careers for raising concerns. If the complainant does raise concerns about this, then the Named Person will need to come to a view based on paragraph 98 above and the principles in Annex 1 of the Procedure, especially those

relating to confidentiality and balance. Relevant extracts are included in the Appendix below.

The following points may help come to a view:

- It is important to be realistic when discussing anonymity with complainants. If the judgement of the Named Person and those running the procedure is that it will be difficult/impossible to investigate the matter fairly whilst withholding the identity of the complainant from the respondent, this should be communicated to them.
- It could be helpful to outline to the complainant the protections available to whistleblowers/ complainants and, in general terms, what confidentiality provisions other involved parties would have to abide by. They can be told that what will be set out to the respondent in terms of information about the confidential nature of the process and the importance of not communicating directly with the complainant and committing acts of retribution.
- It can be helpful to point out the protections that whistle-blowers have in law under the Public Interest Disclosure Act, and under institutional procedures. [This guidance](#) provides further information about the Public Interest Disclosure Act (1988) including who and what is covered by it. Please note that not all concerns raised under research misconduct procedures will necessarily also be covered by the Act.
- Some institutional procedures allow for an individual to raise the matter with an intermediary who could effectively become the complainant. It should be noted that it can still be clear from the context as to where the concern originated.
- It is fair to point out that the institution has an obligation to follow due process, and this includes a responsibility to provide the Respondent with sufficient information about the concerns raised to allow them to respond and defend themselves. Complainants can be focussed on their belief in the validity of the matter they are raising and do not always see the bigger picture or understand the requirement for fairness and impartiality.

It can be difficult to find a way through, and the options may be not to proceed or proceed and the complainant's identity will be revealed. If the complainant still wishes to remain anonymous and the institution wishes to investigate, then a view will need to be taken on balancing the conflicting priorities.

Appendix

Relevant extracts from the Principles section of the [Research Misconduct Procedure](#)

Confidentiality

183. The Procedure should be conducted as confidentially as is reasonably practicable. The confidential nature of the proceedings should be maintained **provided this does not compromise either the investigation of the misconduct allegations, any requirements of health and safety or any issue related to the safety of research participants.**

184. **The confidential nature of the proceedings is essential to protect the Complainant, the Respondent and others involved in the Procedure.**

185. Nothing in this Procedure prevents anyone from making a disclosure under whistleblowing law (the Public Interest Disclosure Act).

186. **It is important that in the conduct of an investigation using this Procedure that the principles of confidentiality and fairness are applied with appropriate balance for both the Respondent and the Complainant, (see paragraph 214 onwards).**

187. The identity of the Complainant or the Respondent should not be made known to any third party unless:

- a. it has been deemed necessary (by those conducting the investigation) to carry out the investigation and/or to carry out required/ necessary actions or disclosures following the outcome of the investigation;
- b. it is necessary as part of the action taken against the Respondent if (at the end of the Procedure and/or any subsequent process, such as a disciplinary process, and after any appeals processes) the allegations have been upheld;
- c. it is necessary as part of the action taken against a person who has been found to have made malicious, vexatious or frivolous allegations;
- d. it is the stated policy of the employer/ funder/ other national body that the identity of individuals proved through appropriate disciplinary and appeals processes to have committed misconduct in research should be made public;
- e. any party to the Procedure is seeking legal advice or other advice from another third party who owes them a duty of confidentiality;
- f. it is already in the public domain;
- g. it is required by law or by the Organisation's regulator.

188. Any disclosure to a third party of the identity of the Complainant or Respondent, or of any other details of the investigation, should be made on a confidential basis. The third-party should understand this, and that they must respect the confidentiality of any information received.

189. The Organisation and/or its staff may have contractual/legal obligations to inform third parties, such as funding bodies or collaborating organisation(s), of allegations of misconduct in research. In such cases, those responsible for carrying this Procedure out should ensure that any such obligations are fulfilled at the appropriate time through the correct mechanisms, always keeping in mind the legal rights of the employees, students and others involved in the allegations.

190. While the allegations are under investigation using this Procedure (and/or the Organisation's disciplinary process), the Complainant, the Respondent, witnesses or any other persons involved in this Procedure should not make any statements about the allegations to any third parties, unless formally sanctioned by the Organisation or otherwise required to by law.

191. Breaching confidentiality may lead to disciplinary action unless covered by the Public Interest Disclosure Act and/or the Organisation's grievance or whistleblowing procedures.

192. In the event of any conflict between the principle of confidentiality and any of the other principles of this Procedure, those conducting the Procedure should consider the principle of Balance (see paragraphs 214), and use their judgement to choose the appropriate solution.

Balance

214. Those responsible for carrying out this Procedure must be aware that there may be occasions when a balance has to be struck in the application of the Principles and/or its Standards (see paragraphs 18-30). For example, **it may, in certain circumstances prove to be impracticable to undertake a thorough and fair Initial Investigation of the allegations without releasing the Complainant's identity to the Respondent.**

215. The Named Person should be responsible for resolving any such conflicts between the Principles, between the Standards, and/or between the Principles and the Standards, keeping in mind at all times that the primary goal of this Procedure is to determine the truth of the allegations via a thorough and fair investigation, conducted in a timely and transparent manner, and with appropriate confidentiality. The Named Person can seek guidance from UKRIO and other bodies, as well as seeking legal advice.

216. In addition, the Named Person should be responsible for ensuring the integrity of this Procedure and any actions taken. The Named Person should decide the course of action to be taken in cases of doubt.

217. The Named Person should keep a written record of all decisions taken throughout all the steps of the Procedure. The Named Person should liaise closely with the Investigator and the Chair of the Full Investigation panel to ensure that a proper record is maintained throughout the Procedure.

DOI: <https://doi.org/10.37672/UKRIO.2023.11.anonymityinmisconductcases>



Promoting integrity and high ethical standards in research
Providing confidential, independent, and expert support

© UK Research Integrity Office 2023

This article is distributed under the terms of the [Creative Commons Attribution-Non Commercial-No Derivatives License](#), which allows re-users to copy and distribute the material in any medium or format in unadapted form only, for non-commercial purposes only, and only so long as attribution is given to the creator.