



UKRIO response to 'The Concordat to Support Research Integrity'

May 2012

1. Introduction

- 1.1 The UK Research Integrity Office (UKRIO) welcomes this opportunity to contribute to the consultation on the draft Concordat to Support Research Integrity. We fully support attempts to review and improve research governance, to protect research participants and the public, enhance the quality and ethical standards of research, and reduce bureaucracy and other burdens on researchers.
- 1.2 This submission draws upon the views of: the staff of UKRIO; members of its Board of Directors; members of its Advisory Board; and members of UKRIO's Register of Advisers, the experts who assist UKRIO in responding to questions and concerns about the conduct of research. It also draws upon the views of a number of organisations and individuals who made comments to UKRIO concerning the draft guidance.
- 1.3 In addition, our submission draws upon UKRIO's extensive experience in the promotion of good research practice and addressing poor practice and misconduct. As the only dedicated research integrity body in the UK, UKRIO has amassed unmatched practical expertise in these issues.
- 1.4 In the event of any queries about this submission, please contact James Parry, Chief Executive, UKRIO on 01273 234 697 or at james.parry@ukrio.org.

2. About the UK Research Integrity Office

- 2.1 UKRIO was set up to support good research practice and assist with the prevention and investigation of questionable practices and misconduct. Since 2006, we have provided independent and expert support across all disciplines of academic and scientific research. UKRIO is a registered charity and helps all involved in research: organisations, researchers and the members of the public. We support research wherever it is carried out in the UK: in universities, the NHS and the private and charitable sectors. UKRIO is the only body in this country that offers dedicated support to the public and the research community on issues of research integrity.
- 2.2 Advice from UKRIO is not mandatory but reflects and reinforces best practice. We have no statutory powers and see ourselves as a bulwark against the introduction of overly restrictive and bureaucratic systems of regulation or quasi-regulation. Our work goes beyond what can be achieved through contractual standards and complements the work of regulatory, professional and funding bodies. We provide proactive support tailored to the needs of employers, researchers and the public. UKRIO's services are in-depth but light-touch: practical without additional burdens.

- 2.3 UKRIO has engaged in a comprehensive long term programme in support of research integrity since 2006. Use of our services has continued to grow year on year. UKRIO received more than 60 formal requests for assistance in both 2010 and 2011. Many leading research organisations, including over 50 universities, use our published guidelines, which have been endorsed by funding and professional bodies. Employers and individuals value our confidential, independent and expert service. They are willing to come forward and seek guidance from UKRIO at times of need. Our aim is to be the organisation of choice for all organisations and people across the UK to come to for these purposes.

3. Summary

- 3.1 UKRIO welcomes the draft Concordat. It has the potential to demonstrate that the UK research community shares the values underpinning high standards of professional behaviour in relation to research, is clear about its responsibilities, and is prepared to act on them. We hope it signals a collective determination to show our international collaborators and competitors, as well as the British public, that our research community understands the pressures which undermine sound science and remains a champion of research integrity. We believe that, with a small number of further developments, it could be very influential.

4. Our questions

- 4.1 UKRIO has a number of questions about the detailed implications of the Concordat, and is ready to work on them with the authors once it has been published. This response discusses six issues which in our view should be considered further before the draft can be finalised. They relate to:
- a. proportionate requirements without imposing burdens;
 - b. obstacles to embedding a culture of research integrity;
 - c. professional and legal responsibilities and incentives for collaborative action;
 - d. action to learn from experience and develop professional understanding;
 - e. competent action to manage allegations of misconduct; and
 - f. listening, revision and implementation.
- 4.2 **Proportionate requirements for researchers and employers, without imposing burdens**
- 4.3 Structures for promoting research integrity and addressing poor practice and misconduct have been debated for decades. Some countries take a regulatory approach. Others, such as the UK, have a policy of minimising regulation and relying more on professional practice. Inappropriate regulation or quasi-regulation can become a disincentive to good research. New mechanisms to sustain good practice should encourage the strong professional ethos which, thankfully, drives most research here.
- 4.4 Much of the Concordat describes, in general terms, what most institutions are already doing, or should be doing, to support research integrity. It has the potential to summarise existing broad requirements and guidelines. However, it also proposes new oversight measures by funding bodies. Research integrity is a core responsibility of researchers and their institutions, one which UKRIO does not feel should be delegated or diluted. The Concordat can be read as a move away from this

long-established principle and towards regulation of research practice, albeit through terms and conditions of research grants rather than statutory legislation.

- 4.5 The Concordat states that it recognises the autonomy of employers, so we assume that it is not the intention of the stakeholders to introduce a quasi-regulatory regime; however, this was a recurring concern of the researchers and organisations who contacted UKRIO to share their views on the current draft. Other submissions to the consultation have echoed these concerns.
- 4.6 This is not simply an issue of proposals being misunderstood and needing to be restated more clearly. Regardless of the intention, the introduction of such oversight measures could lead to the quasi-regulation of research practice through 'mission creep' and the understandable desire of organisations to meet the conditions of grant awards. We note that implementation of the Concordat may become such a condition. It is surprising that the Concordat does not include a clear commitment on behalf of research funders to revise the reporting and oversight measures if employers and researchers find them to be disproportionate.
- 4.7 UKRIO welcomes the conclusion that research institutions should have a specific senior member of staff leading on research integrity, a concept we have championed for some years. However, the Concordat would require organisations to allocate significant additional staff and resources to meet its requirements, particularly those relating to reporting and monitoring. There is a great risk of imposing additional bureaucracy, costs and delays at a time when higher education and research funding are experiencing significant financial constraints. The draft does not describe the benefits of reporting and oversight and how they will outweigh the apparent costs. Equally, it does not state how the stakeholders will help institutions to meet the new requirements.
- 4.8 Employers are being asked to commit to making regular reports to research funders without knowing precisely what data they will have to supply and how it will be used and disseminated. It would be useful if the stakeholders to provide a much clearer statement on these issues. As noted in previous consultations on guidance for research practice, the sharing of data related to research integrity and misconduct can have significant legal and ethical implications. It would be helpful to see how the stakeholders have assessed the impact of these issues on researchers, employers and funders.

4.9 Responsibilities and incentives

- 4.10 As drafted, the Concordat recognises the roles and responsibilities of only three sets of actors: researchers, employers of researchers, and funders of researchers. This is inadequate.
- 4.11 The present draft does not give enough prominence to the interests of society at large, or to the individuals who agree to take part in research - sometimes accepting personal risk. Consequently, it has little to say about public understanding of the mechanisms assuring research integrity. It does not contemplate the possibility that a whistle-blower might be not an aggrieved fellow researcher but instead a well-informed member of the public or a person who has suffered harm of a kind that might justify a civil action for damages.
- 4.12 The present draft does not sufficiently acknowledge that many types of research are governed by a regulatory framework which assigns legal responsibilities to individuals or institutions. The draft does no more than mention their legal responsibilities and says nothing about the possibility that bad practice may involve criminal offences.
- 4.13 This tends to create the unfortunate impression that the authors prefer to ignore the long history of thinking about the wider relationships that underpin better regulation, and wish to gloss over the

incentives which government, statutory regulators, professional bodies and others can create in favour of competent, collaborative professional practice.

4.14 The Concordat emphasises the responsibilities of research employers, which is sensible as they are legally responsible for resolving most issues of research conduct. However, it defines research organisations solely as those ‘that employ individuals to conduct research’. This is a narrow definition and does not encompass other types of affiliations between organisations and researchers, such as that between a university and a research student. The role of the employer should continue to be given due emphasis but a wider definition of research organisation would be sensible. For example, “‘organisations’ refers to any bodies which: conduct, host, sponsor or fund research; employ, support or host researchers; teach research students; or allow research to be carried out under their auspices’ (UKRIO, 2009. *Code of Practice for Research: Promoting good practice and preventing misconduct*).

4.15 Obstacles to embedding a culture of research integrity

4.16 We welcome the commitment to create a research environment with integrity at its heart, yet feel that the Concordat lacks some of the depth and coverage necessary to ensure this. The stakeholders might recognise their responsibility for creating systems that promote, recognise and reward good professional behaviour, expanding and strengthening Commitments 1-3 accordingly.

4.17 The Concordat should also address how to respond to transgressions inadvertently encouraged or facilitated by institutions and funders. Research misconduct is defined solely as ‘behaviour by a researcher’, ignoring that organisations, including sponsors and funders, can also engage in questionable practices and misconduct. This should be corrected and more should be said to ensure that whistleblowers do not suffer victimisation or detriment. Equally, where allegations of misconduct are upheld, it should be emphasised that appropriate action should be taken to address the matter in full, even where it means challenging powerful individuals or valued partner organisations or funders.

4.18 A key element of a culture of research integrity is that researchers feel free to seek help if they run into difficulties or have concerns about possible malpractice. The Concordat could do much by clearly stating that there should be no stigma attached to a researcher who admits they have encountered problems.

4.19 As noted by other submissions to the consultation, certain aspects of research enterprise can inadvertently foster questionable practices. Internal and external pressures can lead researchers to fall short of the fundamentals of good research. The Concordat has an opportunity to address this by emphasising the duty of care that institutions have for researchers. This includes research students, who have a minimal presence in the document. The culture of ‘publish or perish’ should be actively discouraged by organisations and funders.

4.20 Building professional competence, learning from experience

4.21 UKRIO agrees with the emphasis which the draft Concordat places on embedding a culture of research integrity by creating the right environment. Only a minority of researchers receive training in regulatory, ethical and governance issues. It is a commonplace within research management that senior researchers can be unfamiliar with their obligations. Yet the current draft does not say clearly that this aspect of professional development is a part of a research employer's core responsibility or that such training is a requirement for anyone accountable for leading research. It says only that someone unnamed should create opportunities for training.

- 4.22 The draft is unclear about the influence that funders are expected to exert on institutions that neglect good governance and professional development. Conditions of grant and terms of contract are significant levers but the Concordat does not include an agreement to use them in case of significant failure.
- 4.23 The detail under the fifth commitment is welcome but says nothing about the mechanisms for coordinating efforts to learn from mistakes or near-misses and translate those lessons into generally accepted good practice across the sector. One of the reasons that major stakeholders came together in 2005 to set up the panel which became UKRIO was that they felt the lack of a shared means to do this. It is surprising that the draft Concordat is silent on this point.
- 4.24 UKRIO is not aware that any UK research funder has ever reacted by suspending a research grant or contract following evidence of systemic failures in the governance of a portfolio of research. If others are aware of instances when this has happened, we would be glad to record their experience in confidence and publish anonymised lessons for funders and institutions.
- 4.25 During five years of providing confidential advice on dealing with lapses, UKRIO has built up a track record in sharing anonymised experiences so that the research community can learn from them through its publications, education and training, and work with institutions and researchers. This applies particularly to the competent management of different types of allegation of misconduct.
- 4.26 Allegations of misconduct**
- 4.27 UKRIO welcomes the fact that a substantial proportion of the draft Concordat is devoted to this issue. However successfully an institution builds a healthy research environment, its reputation can collapse around the action it takes in response to an allegation of serious scientific misconduct: the press and the public naturally tend to generalise from a controversial case. What is more, incompetent handling of the evidence can easily taint the process leading to the right response.
- 4.28 That is important because a serious allegation may lead to one or more of a range of outcomes. The investigation may clear the good name of the research team, requiring the institution to support the accused staff in public explanation of the justification for their findings or actions. In extreme cases the evidence might give grounds for civil action against the person making a malicious allegation. On the other hand, if the allegations are well-founded, they may call for challenging judgements about intent, blame and impact which may lead to a range of responses: retraining, public retraction of findings, suspension or other disciplinary action and possible dismissal, professional misconduct proceedings and in extreme cases criminal prosecution of the individual, the institution or both. This is difficult territory. A number of scenarios make it likely that the institution will have to set up and take forward its process in the glare of hostile publicity with commentators and the media more jumping to wider conclusions about the good governance of whole areas of science. Because of this, the draft's treatment of misconduct is inadequate, for all that it is quite detailed.
- 4.29 It would be deeply disappointing if the Concordat missed the opportunity for the main stakeholders to say clearly how they work together around the process and sequence of decisions leading to sound and fair handling of serious allegations. UKRIO's published *Procedure for the Investigation of Misconduct in Research* is intended to help research institutions meet their professional responsibilities by conducting their own investigations in a disciplined way, with private advice from UKRIO if they need it. UKRIO's guidelines include the principle that there should be an independent external member of the internal team which investigates an allegation, and UKRIO has established a panel of senior people prepared to give their time to this. What UKRIO's guidelines cannot do is act

as a substitute for a supportive consensus between institutions, funders, academic journals, government, regulators and others on the correct way to respond to research misconduct.

4.30 Listening, revision and implementation

- 4.31 The Concordat has the potential to be a useful further contribution to research integrity in the UK but it is essential that it is supported with proper resources by its stakeholders to help researchers and employers implement its requirements, as it appears they will be required to do. The key stage is not the final publication of the document but what comes after. The implementation of the Concordat needs to be carefully managed to prevent duplication of existing systems and avoid creation of another tier of quasi-regulation.
- 4.32 In particular, the stakeholders should clarify how they will build upon the Concordat in terms of requirements for its implementation and further guidance for research practice, whether binding or otherwise. To avoid misinterpretation by the research community and 'mission creep', this should be clearly set out in the final version of the Concordat.
- 4.33 Given the resource implications of implementing the Concordat, it would also be sensible if it clearly identifies where it mirrors existing requirements from funding bodies and where it sets out new obligations. It does not appear to identify existing good practice and it would be useful to indicate where deficiencies are apparent. Harmonisation and streamlining of the existing requirements of funding bodies where appropriate would be a desirable outcome of the Concordat yet this is not clearly stated in the document. Researchers and organisations would also welcome a clear commitment from funders to explore the harmonisation and streamlining of existing reporting and assurance mechanisms, ensuring a risk-based and proportionate approach.
- 4.34 We have already noted that the implementation of the Concordat would require the allocation of significant additional staff and resources by organisations. There are some specialist bodies which could assist organisations and researchers with the implementation, such as UKRIO with its expert assistance with revising systems for research governance and provision of education and training. The Concordat says nothing about what assistance the stakeholders themselves will provide.
- 4.35 The stakeholders will be aware of concerns that the Concordat has been drafted by a group which does not represent a significant portion of the research community, including learned societies, professional bodies, academic journals, regulatory bodies and others. These concerns have been echoed by the researchers and organisations who contacted UKRIO to share their views on the Concordat. The apparent lack of inclusion of bodies which represent research participants, patients and the public has generated particular concern.
- 4.36 Another common concern is that the consultation period is too short for a document of this significance and should have been lengthened to produce a broader and fuller consultation.
- 4.37** We feel the research community would welcome the demonstration of further engagement by the stakeholders as some feel their views have not been fully considered to date. The Concordat cannot be effective without the support of a genuine consensus and would instead run the risk of becoming a 'tick box' exercise. There is an opportunity to create such a consensus by drawing together a wider variety of bodies to assist with the further development of this initiative. The stakeholders should also demonstrate that the Concordat is not 'set in stone' but responsive to feedback, both positive and negative, from the research community and the public.