

## REPORT TO COUNCIL FROM EXECUTIVE BOARD

11 APRIL 2016

### RESEARCH & CONSULTANCY POLICIES

#### **Policy for Consultancy & Other External Professional Work**

Council is asked to approve the policy for Consultancy & Other External Professional Work attached as **Appendix I**

University Research Committee, via its Enterprise Sub-Committee, has carried out a review of the current set of policies relating to this topic.

Recognising the role that consultancy can play in facilitating business engagement and supporting increased levels of research income and capacity, it was agreed to completely rewrite the current policy. It was also an opportune time to consolidate four existing related policies into one, partly to address the overlap between them and to bring all of the relevant information into one place.

This new policy therefore supersedes and replaces the following policies:

- Policy on University Consultancy, dated 26 March 2012
- Policy on Personal Consultancy, dated 26 March 2012
- Policy on Remuneration for Academic Professional Services – last updated 26 March 2012
- Policy on Additional Clinical Practice - last updated 26 March 2012

This version reflects the discussions at meetings of the Enterprise Sub-Committee and also incorporates feedback from discussions within the three Faculties.

The approach described in the new policy will be reviewed after two years of implementation.

Executive Board approved the policy at its meeting on 15 March 2016 for submission to Council and Senate.

#### **Policy and Procedure for Investing Allegations of Research Misconduct**

Council is asked to approve the Policy and Procedure for Investing Allegations of Research Misconduct attached as **Appendix II**

The University's 'Policy and Procedures in the event of Academic Fraud' was found to overlap with the 'Policy and Procedure for Investigating Allegations of Misconduct' and so the academic fraud policy has been inactivated. It is felt that the definitions of

academic fraud were useful and so have been added as an appendix to the Misconduct policy.

Other changes include explicitly recognising the Pro-Vice-Chancellor for Research and Innovation as the individual responsible for the policy and process and the inclusion of a process flowchart with clearer timescales to accompany the policy.

Executive Board approved the policy at its meeting on 15 March 2016 for submission to Council and Senate.

Professor Nick Wright  
PVC Research and Innovation and Chair of University Research Committee  
17 March 2016

## **POLICY FOR CONSULTANCY & OTHER EXTERNAL PROFESSIONAL WORK**

### **1. Background**

**This policy forms part of the University's Financial Regulations. It is a condition of employment that University employees comply with the Financial Regulations. Failure to do so is likely to (or) will result in disciplinary action.**

### **2. Benefits of Consultancy**

Consultancy is one strand of engagement with business. By its nature it tends to be short term and focused. However, it can often lead to wider and deeper engagement in the form of research contracts and strategic partnerships. It also has the benefit of broadening the individual's level of commercial awareness.

The priorities for consultancy are to stimulate and encourage the following:

- Increased company engagement
- Increased research income
- Increased levels of research capacity, primarily more PhD students and related activity.

### **3. Definition of Consultancy**

Consultancy is the provision of advice or assistance with problem solving. It does not involve the generation of new knowledge or original investigation or research.

### **4. University Consultancy**

*University consultancy* is defined as the provision of services for third parties which are not credit-bearing teaching or research which involve at least one of the following:

- a) Use of the University's, Faculty's, School's or other University Unit's name and/or logo
- b) Use of any University facilities or staff (including the time of the member of staff undertaking the consultancy)
- c) Undertaken from University premises (including correspondence or contact through the University e.g. email, telephone)
- d) Any consultancy which the member of staff wishes to undertake as a University consultancy in order to be covered under the University's insurance policies.

Expert witness work is covered under this policy.

As a guideline, up to 25 days per annum may be spent on University consultancy activities. However, this may be increased by agreement with the individual's Head of Unit.

*All University consultancy contracts must be negotiated and dealt with through the Faculty Enterprise Teams.* At a minimum, it is expected that FEC (Full Economic Costs) will be recovered.

## 5. Private Consultancy

*Private or personal consultancy* is defined as the provision of expert advice and services for a fee to external clients by University employees in areas of activity related to their University appointment and academic expertise but undertaken privately. For the avoidance of doubt, private consultancy may only be undertaken outside normal and contracted working hours.

A member of staff seeking consent to undertake private consultancy must provide full information to his/her Head of Unit in advance of agreeing to the activity. This information must include:

- a) The amount of time to be committed to the activity (including relevant dates)
- b) An accurate description of the nature of the activity
- c) Client details
- d) Confirmation that the activity does not conflict with the undertaking of any University duties
- e) Confirmation that the member of staff has Professional Indemnity Insurance in place for the activity. It is the responsibility of the individual to ensure that the insurance is sufficient to address the liabilities inherent in the private consultancy being undertaken. In the absence of Professional Indemnity Insurance, the activity should be undertaken as University consultancy.

When corresponding with clients on personal consultancy, staff must not use University business cards, logo, notepaper, letter headed paper, address, email using university user or domain name, or in any way imply that the consultancy is “official University business”. When conducting private consultancy, staff may not use any University facilities e.g. equipment, IT equipment including PCs, telephone, space, University name, expertise or Intellectual Property. In addition, staff may not use University property for meetings as this may be legally interpreted as an association with the University and the University’s tacit approval of the consultancy services.

The following disclaimer must be included by the member of staff in all contracts with clients.

*‘With reference to my work on the project for you I am required by my employer, Newcastle University, to advise you that I shall be acting in an entirely personal capacity and not for or on behalf of the University; and the University exercises no control or supervision over the actual performance or quality of the work. Consequently the University cannot accept responsibility for the work I do or for the advice which I give in connection with the assignment and accepts no liability for any acts or defaults on my part, whether negligent or otherwise. In the event of any conflict between the provisions of this letter and the terms of any other contract between your company and myself, this letter will take precedence. Please acknowledge receipt of this letter, by signing and returning a copy of the same. I am unable to carry out any work on the above project until I receive a copy of this letter duly signed from you.’*

A copy of the signed contract/proposal containing this paragraph must be sent to the Head of the respective Faculty Enterprise Team to be filed for future reference.

In accordance with the University’s *Declarations of Interest and Conflicts of Interest Policy*, all private consultancy must be declared in MyImpact in the individual’s Declaration of External Interest.

## 6. Approval for Consultancy Activity

Approval by an individual's Head of Academic Unit or Service Unit must be given for ALL consultancy work prior to carrying out the work. In certain cases, where it is anticipated that there will be a series of consultancy engagements with a particular company over a period of time, generic approval may be given rather than having to seek approval for each specific instance.

## 7. Summary of Principles

	University Consultancy	Private Consultancy
Head of Unit permission required	Yes	Yes
Declaration of interests required	Yes	Yes
Indemnity insurance	University policy	Personal cover required
Use of University name, equipment, facilities	Yes	No
Permitted working days	Guideline of up to 25 but more by agreement with Head of Unit	None
Contract support	Full	None

## 8. Revenue Distribution

It should be noted that because of the different financial model to which FMS operates, this policy proposes a different revenue distribution for that Faculty.

### **Private Consultancy**

When an individual undertakes private consultancy, all revenues accrue to the individual who must declare the income on all relevant tax returns to HM Revenue and Customs (HMRC). The individual is also liable for any tax and national insurance payments that may be due.

### **University Consultancy**

In order to incentivise staff to engage in University consultancy, the income from such consultancy will be treated as indicated in table 2 below.

Should an individual wish to receive a personal payment from the University consultancy income then it should be noted that any such payment will be subject to tax and national insurance deductions.

<b>SAgE Faculty</b>	<b>HaSS Faculty</b>	<b>FMS Faculty</b>
<p>After deduction of <i>non-salary</i> direct costs:</p> <p>Either: 85% to individual's personal research account 15% to the Academic Unit</p> <p>Or if <b>personal payment</b>: 50% to individual 50% to the Academic Unit</p>	<p>After deduction of <i>non-salary</i> direct costs:</p> <p>Either: 85% to individual's personal research account 15% to the Academic Unit</p> <p>Or if <b>personal payment</b>: 50% to individual 50% to the Academic Unit</p>	<p>After deduction of <i>salary</i><sup>1</sup> and <i>non-salary</i> direct costs:</p> <p>Either: 85% to individual's personal research account and Institute<sup>2</sup> 15% to the Faculty</p> <p>Or if <b>personal payment</b><sup>3</sup>: 50% to individual 50% to the Faculty/Institute</p> <p><sup>1</sup> for a trial period of one year, starting from 13/01/16, salary costs will not be deducted where the consultancy is performed at weekends or bank holidays</p> <p><sup>2</sup> the default is that this is split 50:50</p> <p><sup>3</sup> personal payments in FMS require approval by Head of Institute</p>
<p><i>All personal payments will be subject to tax and national insurance deductions</i></p>		

**Table 2 – Distribution of Consultancy Revenue**

## 9. Remuneration for Academic Professional Services

The following activities are included in the definition of academic professional services:

- a) Royalties from the publication of books
- b) Proceeds from articles published in learned journals
- c) Refereeing of articles in learned journals
- d) Acting as a member of a Journal Editorial Board or related editing consistent with normal academic practice
- e) Reviewing book proposals or manuscripts for publishers and advising on publication
- f) Peer reviewing research proposals for research sponsors
- g) External examining
- h) External *ad hoc* lectures and conference presentations
- i) External Reviewing and Audit Assessment

Major commercial editing contracts and related academic services are not considered as academic professional services and are dealt with under Consultancy.

Staff may retain all revenues from academic professional services personally through direct arrangements with the third party. Where staff wish such payments to be made through the University they will be treated in line with consultancy income.

Staff are required to keep their Head of Academic Unit informed where the volume of academic professional services activity undertaken overall impacts on their agreed workload model.

Works of creative practice in the arts (e.g. sculpture, paintings, music) which are separately commissioned by third parties are a form of academic professional service but the arrangements for these will be dealt with on a case by case basis and should be discussed and agreed separately with the Head of Academic Unit. Where consent is given the remuneration for the activity is entirely a personal matter for the member of staff.

The Member of Staff is entirely responsible for the declaration of any income to HM Revenue and Customs (HMRC) using a personal annual return and taxable income declaration.

For the avoidance of doubt consent to undertake academic professional services is at the discretion of the Head of Unit.

## **10. Additional Clinical Practice**

Additional clinical practice is defined as *“non-NHS clinical work which generates a payment to the clinician”*.

Clinical academic staff employed by Newcastle University are permitted to undertake additional clinical practice providing all of the following is the case:

- a) The employee has, and maintains Medical Defence Union cover which includes indemnity in respect of the activity
- b) Such activities are undertaken in appropriately licensed and equipped premises where the equipment and facilities are in good working order
- c) When corresponding with clients on additional clinical practice, employees must not use University business cards, logo, notepaper, letter headed paper, address, email using university user or domain name, or in any way imply that the activity is “official University business”
- d) The client acknowledges that the activity is additional clinical practice
- e) That the activity is documented and agreed under the Job Plan Review and Follett papers; where the activity is other than occasional it must be incorporated into the Schedule of Programme Work which may result in an amendment to Programmed Activities (PAs)
- f) That in advance of the work the Dean of Clinical Medicine has been notified through the Manager of the Clinical Deanery with a note of the organisation and premises where the activity will be undertaken and its frequency
- g) Such work is scheduled appropriately and does not conflict with University or agreed NHS duties

## **11. Related Policies**

This policy supersedes and replaces the following policies

- Policy on University Consultancy, dated 26 March 2012
- Policy on Personal Consultancy, dated 26 March 2012
- Policy on Remuneration for Academic Professional Services – last updated 26 March 2012
- Policy on Additional Clinical Practice - last updated 26 March 2012

## **12. Document Version and Future Revisions**

Version 6 – 17 March 2016.

This version reflects the discussions at meetings of the Enterprise Sub-Committee and also incorporates feedback from discussions within the three Faculties. It includes minor edits following discussion at Executive Board on 15<sup>th</sup> March 2016.

For the sake of convenience, sections 8 and 9 have been incorporated into this policy. Previously these were separate policies. They have been included unaltered apart from one minor addition in section 9 (bullet point d).

It is recommended that the approach described in this paper be reviewed after two years of implementation.

## **13. Approval**

Approved by University Research Committee: 22 January 2016

Approved by Executive Board: 15 March 2016

Approved by Council:

Approved by Senate:

**Dr James Callaghan**  
**Director of Research & Enterprise Services**

17 February 2016

## Policy and Procedure for Investigating Allegations of Research Misconduct

### 1 General Policy

1.1 The University expects all staff engaging in research to observe the highest standards of integrity at all times. The Nolan Committee on Standards in Public Life identified seven principles that have relevance to best practice in the conduct of research. These are: selflessness, integrity, objectivity, accountability, openness, honesty and leadership. Together these principles provide a foundation for personal integrity that should be reflected in the professional conduct of research by every individual who contributes to research at the University.

1.2 All researchers should be familiar with, and conduct their research in accordance with the University's Code of Good Practice in Research [http://www.ncl.ac.uk/res/research/ethics\\_governance/governance/index.htm](http://www.ncl.ac.uk/res/research/ethics_governance/governance/index.htm). Research misconduct is least likely to arise in an environment where good open research practice is encouraged and where there is effective supervision at all levels. Heads of Academic Units are responsible for establishing and communicating the standards, protocol and ethics for research relevant to their area to all academic and research staff, and for ensuring adherence to these standards.

1.3 Allegations of research misconduct are fortunately rare, but the University takes any allegation very seriously and will ensure that all allegations are investigated in accordance with the policy and procedures set out in this document. The University is also committed to protecting its researchers from malicious accusations and will take action against any individual(s) responsible for such allegations.

1.4 This policy complements the University's policy on Public Interest Disclosure ([http://www.ncl.ac.uk/hr/policy/conduct/documents/policy-conduct-public-interest-disclosure-whistleblowing\\_rjcb.pdf](http://www.ncl.ac.uk/hr/policy/conduct/documents/policy-conduct-public-interest-disclosure-whistleblowing_rjcb.pdf)). Allegations of research misconduct made under Public Interest Disclosure will be investigated in accordance with the policy and procedure set out in this document.

### 2 Scope

2.1 This document applies to all employees, honorary and visiting researchers ("Researchers") conducting research within or on behalf of the University at the time the misconduct is alleged to have occurred. Where allegations of misconduct are made by an individual or organisation external

to the University such an individual or organisation will be informed of the University's policy and procedures and of the University's expectations with regard to compliance.

2.2 In this document singular nouns and verbs include the plural and vice versa.

### **3 General principles**

3.1 Key definitions are presented in Annex 1.

3.2 All University employees or individuals working within the University have a responsibility to both the University and to the wider research community to report observed, suspected or apparent research misconduct as set out in these documents.

3.3 An individual reporting apparent misconduct has a responsibility to do so in good faith, to maintain confidentiality and to co-operate with any subsequent Assessment, Hearing or Investigation.

3.4 Those investigating allegations of research misconduct will be supported in this procedure by the University Research Office (URO). The URO will coordinate the investigation, this includes; providing advice, ensuring that the Complainant and the Respondent are kept informed of progress and reporting to external bodies / partner organisations.

3.5 The timelines referred to in this document are indicative and are not rigid limits.

3.6 The Pro-Vice-Chancellor for Research & Innovation (PVC R&I) is the senior member of staff responsible for the management and implementation of this policy. This includes receiving allegations of misconduct, initiating / undertaking investigations and for reporting. In practice some of these responsibilities are delegated to Heads of Academic Unit and Professional Support Services.

### **4 Initial Assessment (Stage 1)**

4.1 Any member of the University who believes that an act of Research Misconduct has occurred or is occurring should report the allegation (with all relevant background) to the relevant Head of Academic Unit. If an individual is unsure whether a suspected action constitutes research misconduct, he/she may discuss this informally with the Head. If the Head believes that the circumstances described do not meet the definition of research misconduct, he/she will advise the

individual and if necessary take other appropriate action under other University policies and procedures. If the Head decides that the circumstances described meet the definition of research misconduct then he/she will request that the individual submits a formal allegation in writing to the Head, copied to the Research Dean of the Faculty.

4.2 If the individual is not satisfied with the response from the Head of Academic Unit or if, for any reason, the individual does not feel it appropriate to raise the matter initially with the Head he/she may instead discuss the allegation direct with the Research Dean for the Faculty. If the Research Dean believes that the circumstances described do not meet the definition of research misconduct, he/she will advise the individual and if necessary take other appropriate action under other University policies and procedures. If the Research Dean decides that the circumstances described meet the definition of research misconduct then he/she will request that the individual submit a formal allegation in writing.

4.3 A complaint from a source external to the University will be referred direct to the Research Dean concerned to carry out a detailed assessment as described in the following paragraphs. Notification of an external complaint will be sent to University Research Committee.

4.4 Where the Head of Academic Unit (or Research Dean in cases of complaint external to the University) has decided that there is sufficient prima facie evidence to merit further investigation, the Head will discuss the evidence with the Respondent providing an opportunity to respond.

4.5 In cases where Newcastle is not the Respondents primary employer (i.e. honorary staff) and where the Head of Academic Unit believes there is potential misconduct. The University may pass any allegations onto the Respondent's main employer for investigation. Where the main employer is unable or unwilling to investigate then the University reserves the right to undertake its own investigation.

## **5 Detailed Assessment (Stage 2)**

5.1 Where the Head of Academic Unit (or Research Dean in the cases of complaint external to the University) has decided there is sufficient prima facie evidence to merit a detailed assessment, the Head will inform the Respondent. The detailed assessment will be undertaken by the Research Dean and the Head of Academic Unit in conjunction with the URO.

5.2 The assessment will take into account relevant research records and materials and information relating to external funding and publications.

5.3 The Research Dean will ask the Head, in consultation with NUIT to arrange for all relevant research records and materials (including computers and computer discs) to be secured i.e. no further modifications and changes to occur until the investigation is complete.

5.4 If the Research Dean has an interest in the matter this detailed assessment will be carried out under the direction of the Research Dean of another faculty appointed by the PVC(R&I).

5.5 The Research Dean will produce a written report based on his/her findings following the investigation. This will be provided to both the Respondent and Complainant separately who will each have an opportunity to respond to the factual accuracy of content of the report.

5.6 The PVC(R&I) will review the report and Respondent's / Complainant's comments and decide whether the matter should be taken to the next stage.

5.7 If the PVC(R&I) has a conflict of interest in the matter, the Deputy-Vice-Chancellor or Pro-Vice-Chancellor will appoint an alternative senior member of the University to fulfil the role of the PVC(R&I) set out in this procedure.

## **6 Research Misconduct Hearing**

### **6.1 Notification Requirements**

If the PVC(R&I) decides that a Misconduct Hearing will be conducted, he/she will notify both the Respondent and the Complainant in writing and remind them that they are expected to co-operate in the investigation. The PVC(R&I) shall, where required to do so under the terms of any funding conditions, notify any bodies that provide funding related to the research of the individual concerned, that an investigation is to take place. Similarly the PVC(R&I) shall also notify any other body related to the research or individual concerned in the event that the University is contractually obliged to notify that body at this stage in the investigation.

### **6.2 Appointment of Panel**

The PVC(R&I) will appoint a Research Misconduct Panel of three individuals (which should not include him/herself) with no conflicts of interest in the case and who have the appropriate expertise to evaluate the technical or academic issues. At least one member of the Committee will be

appointed from an Academic Unit outside the faculty concerned. One of the three individuals will be nominated by the PVC (R&I) as Chair and will be external to the Faculty concerned.

The PVC(R&I) will notify the Respondent of the proposed constitution of the Research Misconduct Hearing Panel. If the Respondent submits a written objection to any of the persons appointed to the Panel, the PVC(R&I) may replace the challenged person with a qualified substitute. If the PVC(R&I) does not replace the challenged person, the reasons for the objection and its over-ruling should be part of the Panel Report.

### 6.3 The Process

The Panel will receive a report from the Research Dean and will examine all documentation including relevant research data materials, proposals, publications, correspondence, memoranda, and notes of telephone calls, and any other documents deemed by the Panel to be pertinent to the Hearing. The Panel may call upon witnesses to be cross-examined and invite expert witnesses to comment and be cross-examined. The Respondent will have the opportunity to be interviewed and may be accompanied at interview by a trade union representative or work colleague. The Respondent or his/her representative may submit evidence to the Panel and cross-examine witnesses. Whenever possible interviews should be conducted with all individuals involved in making the allegations and other individuals who might have information regarding key aspects of the allegations. Notes of the interviews will be taken.

### 6.4 Time Limit for Completing Investigation Report

The Research Misconduct Hearing Phase should normally take 20 working days from the appointment of the panel.

### 6.5 Investigation Report Contents

The Panel will determine whether the allegation is upheld or not. The Report must state how the investigation was conducted, describe how and from whom the information was obtained relevant to the investigation, state the findings and explain the basis for the findings.

## 6.6 Comments by Respondent

The PVC(R&I) shall provide to the Respondent a copy of the report and evidence considered by the Investigation Panel and offer the respondent an opportunity to comment on the report.

Comments from the Respondent must be submitted to the PVC(R&I) within 10 working days of receipt of the report and shall be attached as an addendum.

## **7 Outcome and Subsequent Actions (Sanctions/Disciplinary procedures)**

In the event that the complaint is upheld, the PVC(R&I) shall pass the Final Report together with comments if any, from the Respondent, to the person designated in the University disciplinary procedure to determine what action should be taken in accordance with the University's disciplinary procedure. If it is decided that formal disciplinary action is appropriate, the report of the Investigation Panel will form part of the evidence to be considered by the person dealing with the matter.

If there is a finding of Research Misconduct at the conclusion of the process, the University may be required to convey the findings to appropriate bodies.

## **8 Complaint not upheld**

If the allegations are not upheld the University will inform those bodies and individuals previously involved in the outcome of the process.

## **9 Appeal by the Complainant against a decision not to pursue the allegation.**

If the Complainant is not satisfied with any decision reached during this procedure, he/she may have recourse to the University's policy and procedure on Public Interest Disclosures.

## **10 Malicious accusations**

Where the outcome of a preliminary action, assessment or investigation indicates that an allegation has not been made in good faith, the University may decide to pursue disciplinary action against the Complainant where he/she is employed by the University.

## **11 Maintenance of records**

Records of Assessments or Panels will be maintained for at least seven years after the termination of the process. Where required under a legal obligation to do so the University may make these records available to external organisations.

### **Related policies and procedures**

- [Code of Good Practice in Research](#)
- [Public Interest Disclosure Policy](#)

Niall O'Loughlin

Research & Enterprise Services

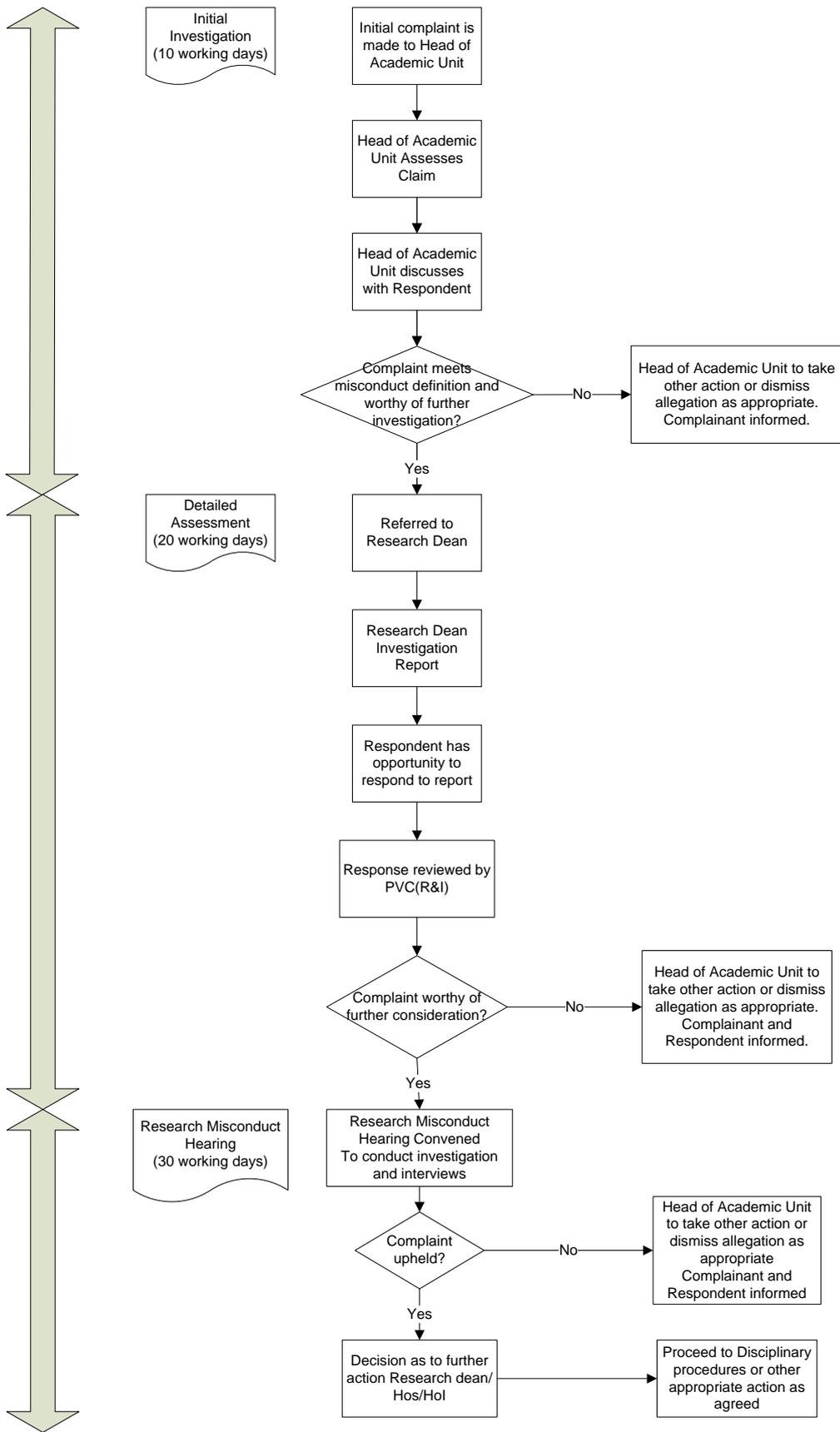
16 March 2016

Approved by Executive Board: 15 March 2016

Approved by Council:

Approved by Senate:

# Appendix A: Misconduct Process Flowchart



## Appendix B: Academic Fraud Definitions

### **Fabrication or falsification of Research Results**

The fabrication of research results includes: claims, which cannot reasonably be justified, to have obtained specific or general results; false claims in relation to experiments, interviews, procedures or any other research activity; and the omission of statements in relation to data, results, experiments, interviews or procedures, where such omission cannot reasonably be justified.

### **Plagiarism**

Plagiarism is the unacknowledged use of another person's ideas, words or work. At one extreme, plagiarism is simply a form of cheating, such as the slavish copying of the work of another. At the other extreme, plagiarism may occur accidentally, through poor standards of scholarship, or may be insignificant in qualitative terms.

### **Unprofessional Behaviour**

Neither misconduct nor academic fraud encompass honest error or honest differences in interpretations or judgements of data, but colleagues are expected to ensure that such disagreements are kept within the bounds of normal civilised academic discourse. Personal abuse, and in particular malicious attempts to undermine the academic reputation of colleagues either at this university or elsewhere have no part in academic life, and may in extreme cases, also constitute serious academic misconduct.