

Public Policy Research Funding Scheme (PPRFS) and Strategic Public Policy Research Funding Scheme (SPPRFS)

Procedures for Handling Research Misconduct

Note: This document provides an overview on how allegations of research misconduct will be handled. It intends to enable a fair, proper and prompt handling of allegations. It is subject to revision from time to time for enhancement.

I. Preliminary Investigation by the Secretariat

1. Upon knowing of an alleged research misconduct¹, the Secretariat will see if there is a prima facie case. If necessary, the Secretariat may collect information from relevant parties.
2. If affirmative, the Secretariat will seek clarification from the investigator through the investigator's institution/think tank. The investigator will be given seven calendar days to respond.
3. On receipt of the investigator's supplementary information and response, the Secretariat will examine the case. If the Secretariat still considers that there may be a case of misconduct or the response is found unacceptable, the case will be passed to the Reviewers for examination. If the Secretariat considers that there is no case for further investigation, no further action will be taken. This notwithstanding, the Secretariat will consider if other non-penalty action is necessary.

¹ There is no exhaustive list of research misconduct. Common types of research misconduct include plagiarism, self-plagiarism, falsification, fabrication, double-dipping, and non-disclosure of similar/related research work in the application.

II. Initial Views of Reviewers

4. The Secretariat will invite the Panel Readers concerned² to be the Reviewers to examine the case. To serve as the Reviewers, the Panel Readers concerned should have no conflict of interest with the investigator (and the investigator's affiliated institution/think tank) or the case under investigation. As far as possible, the Reviewers should have expertise in the subject area. In case the Panel Reader cannot satisfy the no conflict of interest requirement, is unable³ to serve as the Reviewer or considered not appropriate to take up the Reviewer role, an Assessment Panel (AP) member, preferably with knowledge in the subject area, will serve as the Reviewer to examine the case.
5. The Secretariat will provide relevant materials (including the investigator's supplementary information and response, if any) and its findings and views to the Reviewers. The Reviewers will then consider whether there may be a case of misconduct.
6. If any of the Reviewers considers there may be a case of misconduct, the Secretariat will request the institution/think tank concerned to initiate a formal investigation and submit an investigation report within 30 calendar days to the Secretariat. If both Reviewers consider that there is no case for further investigation, the investigator will be informed that no further action will be taken. The Reviewers' comments, if any, or advice may be given to the investigator as appropriate.
7. If during the course of the investigation, it is considered that the alleged case of research misconduct may involve any breach of the law (e.g. deception), the Secretariat will refer the case to relevant law enforcement agency(ies) for action and inform the AP Chairman and/or Vice-Chairman as appropriate. The Secretariat may seek legal advice if necessary. In the event that the case is under criminal investigation by a law enforcement agency, or is subject to criminal or civil proceedings in court, the Secretariat will suspend the handling of the alleged misconduct/processing of the review until the completion of the criminal investigation or the

² Normally, there are two Panel Readers for each application/funded project.

³ May include such circumstances as the Panel Readers concerned are no longer AP members, and unavailability of Panel Readers.

criminal/civil proceedings. The process will only be resumed if it is confirmed that all criminal investigation or criminal/civil proceedings are completed.

8. If during the course of the investigation, it is suspected that the investigator may have committed other research misconduct, if considered appropriate, the new allegations will be looked into.

III. Investigation by Institution/Think Tank

9. The institution/think tank concerned should form an investigation panel to examine the allegation. Members of the investigation panel should avoid conflict of interest with the investigator or the case under investigation. The investigation report prepared by the investigation panel should include the representations of the investigator, statements of related parties, records of interviews, other supporting documents, as well as the findings and conclusions of the investigation, including whether the allegation should be substantiated or not. The institution/think tank concerned should also indicate if it accepts the investigation report.

IV. Investigation by Reviewers

10. Upon receipt of the institution/think tank's investigation report, the Reviewers will examine the case, including the written representations of the investigator and related parties, the research proposal(s) and the investigation report submitted by the institution/think tank, which usually includes expert evidence, interview records and other relevant documentation. Having considered the materials, each Reviewer should make his/her own recommendation on whether the alleged research misconduct should be substantiated. He/she should also set out his/her observations, findings and conclusions on the case together with supporting justifications. The investigation by Reviewers is essentially a fact-finding process and should be conducted without undue formality. The Reviewers are not bound by any rules of evidence, and may inquire into any matter and take into account any evidence or information which he/she considers relevant. Supplementary information from the investigator and/or institution/think tank may be sought via the Secretariat as and when necessary.

11. If there is no consensus on the case, the Secretariat, in consultation with the AP Chairman and/or the Vice-Chairman if deemed appropriate, may request the Reviewers to provide further justifications to support their recommendations, and/or seek further clarification from the investigator and/or the institution/think tank. Any new information received will be submitted to the Reviewers for review on whether their findings and recommendations on the alleged research misconduct need to be reconsidered. If there is still no consensus on the case, the AP Chairman and/or the Vice-Chairman will provide their views and the decision will be made based on the majority view.
12. For the sake of fairness, before the case is considered and discussed by the AP, the investigator will be informed of the findings in writing, provided with relevant details if applicable (with personal data of individuals involved redacted if necessary). The investigator will be given seven calendar days to respond and make his/her final written representations. Verbal representations are not accepted.

V. Consideration of Reviewers' Findings and Level of Penalty by AP

13. The Reviewers' findings and conclusions of the case, the investigator's response to the findings and all other related materials of the case will be submitted to the AP for consideration of whether the allegation should be substantiated. No oral hearing will be conducted.
14. The AP should come to a decision on whether the allegation should be substantiated and decide on the penalty to be imposed on the investigator if the misconduct allegation is substantiated.
15. If the allegation is considered not substantiated, no penalty should be imposed on the investigator. This notwithstanding, the AP may take other administrative action(s), e.g. issuance of advisory letter, against the investigator if considered appropriate.
16. If the allegation is considered substantiated, the level of penalty to be imposed on the investigator should commensurate with the gravity of the misconduct, which should be the determining factor. In general, the following factors should be taken into account, as appropriate, when considering the level of penalty to be imposed –

- (a) the nature and gravity of the misconduct;
- (b) the intent of the investigator to commit the misconduct;
- (c) the research experience of the investigator;
- (d) the disciplinary record of the investigator;
- (e) the attitude of the investigator towards the allegation;
- (f) the penalty imposed in precedent cases⁴;
- (g) background and individual circumstances surrounding the case;
- (h) whether the penalty will achieve the desired punitive and deterrent effect; and
- (i) any other factors, including mitigating factors, considered appropriate by the AP.

VI. Scale of Penalty

17. The penalty may include one or more of the following –

- (a) warning letter⁵;
- (b) disqualification of the related funding application⁶;

⁴ Generally speaking, the level of penalty to be imposed should be broadly consistent with that of the precedent cases or the sector-wide norm, if applicable. The AP, however, is not necessarily bound by these precedents, and will consider an appropriate level of penalty having regard to all relevant factors including the gravity of the misconduct in the particular case and the need to uphold a very high standard of research integrity, so as to maintain Hong Kong's status as an international centre of research excellence.

⁵ The warning letter will be copied to the President of the institution/head of the think tank concerned for attention.

⁶ Including the application in question, and if considered warranted, including also other PPRFS and SPPRFS applications in which the investigator in question has a capacity, e.g. as principal investigator, co-investigator and research team member.

- (c) deduction of the amount of grant, termination, revocation of the funding approval, and/or clawing back of any released fund for funded projects;
- (d) debarment from application for PPRFS and SPPRFS⁷ for up to five years; and
- (e) any other penalty considered appropriate by the AP.

VII. Notification of AP's Decisions on Misconduct Allegation

18. The Secretariat will inform the investigator and the institution/think tank concerned of the AP's decisions, and that there is a right to request for a review for the substantiated case. The request for review must be made in writing and submitted to the Secretariat through the institution/think tank within 14 calendar days from the issuance of the notification of the AP's decisions. Grounds for review, together with relevant information and documents, if any, should be submitted alongside the request for review by the investigator. The institution/think tank should indicate if it supports the request. All information and documents received by the Secretariat will be submitted to the Review Panel for consideration.

VIII. Review of Decisions

19. The Review Panel normally comprises two AP members, who must be different from the original Reviewers as mentioned in paragraphs 3 and 4. Review Panel members should have no conflict of interest with the investigator (and the investigator's affiliated institution/think tank) or the case under investigation. As far as possible, they should have knowledge in the subject area. In the exceptional case that no AP members are considered appropriate to serve on the Review Panel, experts outside the AP may be appointed to the Review Panel if necessary.

20. The Review Panel should impartially examine the grounds for review and any new evidence submitted by the investigator, the previous decision and all associated documentation of the AP on the substantiation of the alleged

⁷ Including in all capacities, e.g. as principal investigator, co-investigator and research team member, if considered warranted.

misconduct and the level of penalty imposed. Since any case that reaches the Review Panel has been examined thoroughly by the Reviewers and the AP, the previous decision will only be revised –

- (a) if the investigator can provide new justifiable reasons/evidence that have not been considered by the Reviewers/AP before; and/or
 - (b) when an error has occurred in the previous decision making process.
21. Having considered all related information and documents, individual Review Panel members should make his/her own recommendation on whether the previous outcome should be upheld, modified or overturned. He/she should also set out his/her observations, findings and conclusions on the case together with supporting justifications.
22. If there is no consensus on the case, the Secretariat, in consultation with the AP Chairman and/or the Vice-Chairman if deemed appropriate, may request the Review Panel members to provide further justifications to support their recommendations, and/or seek further clarification from the investigator and/or the institution/think tank. If there is still no consensus on the case, the Chairman and/or the Vice-Chairman will provide their views and the decision will be made based on the majority view.

IX. Consideration of Review Panel’s Findings by AP

23. The Review Panel’s observations, findings and conclusions of the case together with supporting justifications/evidence will be submitted to the AP for consideration. No oral hearing will be conducted.
24. The AP should come to a decision on whether the previous outcome of the case, including the substantiation of research misconduct and/or the level of penalty imposed should be upheld, modified or overturned.
25. The decision of the AP on the Review Panel’s recommendations shall be final. In other words, no further reviews will be permitted.

X. Notification of AP's Decisions on Review

26. The Secretariat will inform the investigator and the institution/think tank concerned of the AP's decisions.

XI. Effective Date of Penalty and Track Record

27. The penalty should take effect from the date when decision is made by the AP.
28. The disciplinary/penalty record will form part of the investigator's track record in future PPRFS and SPPRFS applications.

XII. Related Administrative Measures

29. While the investigator under investigation is presumed innocent until the allegation is substantiated, for prudent management and use of public money, the Secretariat may, prior to the conclusion of the alleged case of research misconduct, withhold the processing of the application, the consideration of the application by the AP, or the approval of funding and release of grants to any related proposal(s) of the investigator that are recommended for funding as appropriate. For on-going projects of the investigator, the investigator may be required to suspend the research and freeze the project account until further notice. For the avoidance of doubt, there is no presumption of guilt implied in taking such administrative action. Whether or not the allegation is substantiated is a matter to be established through investigation and consideration by the AP. A decision to take the administrative action merely implies a view that the allegation might be substantiated. There is no question of any prejudgment of his/her guilt or any prejudice to the course of investigation during which the investigator is presumed to be innocent. Any withholding should always be for the shortest justified period, where practicable.
30. If the investigator withdraws the application, declines the offer of the funding approval or terminates the funded project on his/her own accord during the course of investigation or review, relevant investigation or review may still continue until all procedures are concluded. Relevant penalty(ies) shall apply if the AP considers necessary.

XIII. Confidentiality of Investigation

31. All alleged misconduct cases will be handled by the Secretariat and the AP on a confidential and need-to-know basis and the investigation reports will not be published. Notwithstanding this, for sake of transparency, summaries of the AP's decisions on all substantiated misconduct cases (with personal data of individuals involved redacted) will be made publicly available on the funding schemes' website.

**PPRFS & SPPRFS Secretariat
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