**ROSE BRUFORD COLLEGE OF THEATRE AND PERFORMANCE**

 **PROCEDURE FOR THE INVESTIGATION AND RESOLUTION OF ALLEGATIONS OF RESEARCH MISCONDUCT**

1. **Introduction**

 1.1 Rose Bruford College of Theatre and Performance is committed to maintaining the highest standards of integrity and probity in the conduct of research, in accordance with the principles of the Concordat to support Research Integrity (2019). To that end, the College has developed a framework setting out its expectations and requirements for staff and students regarding good practice in research, to ensure that research conducted at the College is of the highest standards of integrity and probity. It is the responsibility of researchers to be aware of their commitments and the expectations placed on them.

1.2 The College takes seriously any allegation of research misconduct and has produced this procedure to deal with such allegations in line with the principles of the Concordat to Support Research Integrity and guidance issued by the UK Research Integrity Office. These procedures outline the action to be taken when concerns are raised about the conduct of research undertaken under the auspices of the College, as set out in Section 2 below.

 1.3 The Procedure is intended to fulfil requirements that funders and other organisations place on institutions to have robust procedures for the investigation of research misconduct.

 1.4 Where concerns relating to potential research misconduct are raised under the College’s Policy on information disclosure (whistleblowing), the matter will be referred under this procedure at Stage 2.

1.5 All staff and students have a responsibility to report, in confidence, any suspected incident of misconduct in research, whether this has been witnessed or for which there are reasonable grounds for suspicion. Non-reporting of an act of misconduct in research can harm the integrity of research resulting in wide ranging and damaging consequences. An act of concealment could also be deemed as an act of misconduct.

1. **Scope**

 2.1 This Procedure sets out special provisions for the investigation of concerns or allegations of misconduct in research. It recognises the complex circumstances in which such investigations are likely to be conducted and seeks to discharge the College’s obligations in a fair and sensitive manner.

2.2 The Procedure is applicable to any person engaged in research under the auspices of the College, either solely or in conjunction with others in the College or in other organisations (commercial or educational) or in conjunction with one or more agencies, and includes, but is not limited to staff of the College. For the purposes of this Procedure research is defined as 'a process of investigation leading to new insights, effectively shared.’

 2.3 This Procedure applies to all individuals (whether employed or otherwise engaged in research on a full or part-time basis) carrying out research for the College, including all College employees or former employees, irrespective of whether their current place of work is within or outside College premises, and all visiting researchers of the College, irrespective of whether they are employed by the College, including persons with honorary positions, conducting research within or on behalf of or in association with the College. After investigation into alleged misconduct by any individual who is not an employee or former employee of the College, the Principal will determine the nature of any further action to be taken in relation to the misconduct.

 2.5 This Procedure does **not** apply to research carried out by students studying for a research degree at the College. As research students are registered with the University of East London, any matter raised will be considered under the procedures in place there. The Procedure also does **not** apply to students registered for undergraduate or masters degrees. Any matters raised will be considered under the academic misconduct arrangements.

 2.6 This is an investigatory procedure and is not part of the College’s disciplinary processes. The reported outcome of either a screening investigation or the report of formal investigation will be used in determining any further action (if any) by the College, including invoking the relevant Disciplinary procedure at any stage. The report(s) may be used in evidence at any formal Disciplinary Hearing and may be released in reporting the matter to any appropriate external body.

1. **Definitions**

**Initiator:** The person making the allegation. This need not be a member of the College.

**Named Person:** This is the person nominated by the University to:

* receive any allegations of research misconduct
* initiate and supervise the Procedure for investigating allegations, ensuring the integrity of the proceedings
* maintain a record and preserve documentation relating to an investigation
* report on the outcome of investigations to relevant parties
* take decisions at key stages of the Procedure
* seek legal or other external advice at any stage or on any aspect of the proceedings, as appropriate
* delegate to another senior officer part or all of his/her responsibilities as the Named Person, as appropriate

**Respondent:** The person or persons against whom the allegation is made shall be described as the Respondent.

3.1 As set out in the Concordat to support research integrity, ‘Misconduct’ in research is taken to include in particular (but is not limited to):

 **Fabrication**: making up results, other outputs (for example artefacts) or aspects of research including documentation or participation consent, and presenting and/or recording them as if they were real;

 **Falsification**: inappropriately manipulating and/or selecting research processes, materials, equipment, data, imagery and/or consents;

 **Plagiarism**: using other people’s ideas, intellectual property or work (written or otherwise) without acknowledgement or permission;

 **Failure to meet:** legal, ethical and professional obligations, for example

* Not observing legal, ethical and other requirements for human research participants, animal subjects, or human organs or tissue used in research;
* Breach of duty of care for humans involved in research whether deliberately, recklessly or by gross negligence, including failure to obtain appropriate informed consent;
* Misuse of personal data, including inappropriate disclosures of the identity of research participants and other breaches of confidentiality;
* Improper conduct in peer review of research proposals, results or manuscripts submitted for publication. This includes failure to disclose conflicts of interest; inadequate disclosure of clearly limited competence; misappropriation of the content of material, and breach of confidentiality or abuse of material provided in confidence for the purposes of peer review.

 **Misrepresentation of:**

* data, including suppression of relevant results/data or knowingly, recklessly or by gross negligence presenting a flawed interpretation of data;
* Involvement, including inappropriate claims to authorship or attribution of work and denial of authorship/attribution to persons who have made an appropriate contribution;
* Interests, including failure to declare competing interests of researchers or funders of a study;
* Qualifications, experience and/or credentials;
* Publication history, through undisclosed duplication of publications, including undisclosed duplicate submission of manuscripts for publcation.

 **improper dealing with allegations of research misconduct:** failing to address possible infringements, such as attempts to cover up misconduct and reprisals against whistle-blowers, or failing to adhere appropriately to agreed procedures in the investigation of alleged research misconduct accepted as a condition of funding. Improper dealing with allegations includes the inappropriate censoring of parties through the use of legal instruments, such as non-disclosure agreements.

3.2 For the avoidance of doubt, misconduct in research includes acts of omission as well as acts of commission. In addition, the standards by which allegations of misconduct in research should be judged should be those prevailing in the country in question (where it not the UK) as well as in the UK and at the date that the behaviour under investigation took place.

3.3 Honest errors and differences in, for example, research methodology or interpretations do not constitute research misconduct. However, poor research practice may be considered misconduct, particularly where individual negligence results in harm or potential harm to research collaborators, participants or animals.

3.4 The basis for reaching a conclusion that an individual is responsible for misconduct in research relies on a judgement that there was an intention to commit the misconduct and/or recklessness in the conduct of any aspect of a research project. Where allegations concern an intentional and/or reckless departure from accepted procedures in the conduct of research that may not fall directly within the terms detailed above, a judgement should be made as to whether the matter should be investigated using the Procedure.

3.5 Accepted procedures include but are not limited to the following:

 gaining informed consent where required;

 gaining formal approval from relevant organisations where required;

  any protocols for research contained in any formal approval that has been given for the research;

 any protocols for research as defined in contracts or agreements with funding bodies and sponsors;

 any protocols for research set out in the guidelines of the employing institution and other relevant partner organisations;

 any protocols for research set out in the guidelines of appropriate recognised professional, academic, scientific, governmental, national and international bodies

 any procedures that are aimed at avoiding unreasonable risk or harm to humans, animals or the environment;

 good practice for the proper preservation and management of primary data, artefacts and materials.  any existing guidance on good practice on research.

3.7 Accepted procedures do not include:

  un-consented to/ unapproved variations of the above;

 any procedures that would encourage, or would lead to, breaches in the law.

3.8 As well as complying with accepted procedures, researchers must comply with all legislation that applies to the conduct of their research.

3.9 Allegations of financial irregularity or fraud shall be dealt with in accordance with the College’s Financial Regulations.

1. **Named Person**

4.1 The Vice Principal is the designated Named Person for the Procedure and has overall responsibility for ensuring the integrity of any proceedings under this Procedure. They determine the procedure to be followed in cases of doubt. S/he may, however, depute to another senior officer some or all of the responsibilities ascribed to the Named Person in this Procedure. The Named Person may at any stage seek legal or other specialist advice on any aspect of the proceedings.

4.2 The Named Person may also seek independent advice to assist with the decision as to the course of action to be followed in any case. This includes the decision to move straight to disciplinary proceedings and/or to recommend that one or more of the individuals involved be given special paid leave pending determination of the allegation. In the case of research students, a decision will be made at as early a stage as possible if an interruption to study is required or if alternative arrangements for supervision should be made. This advice may be sought from senior officers, senior members of the academic staff, and other members of the College, and may include advice from persons external to the College, where judged necessary by the Named Person.

4.3 The Named Person shall ensure that appropriate support and information on the process and its operation is provided in an impartial way to the initiator and respondent.

4.4 The Named Person shall, at any stage of the process, either on her/his own initiative or in response to a request from members of an initial investigation or a formal inquiry panel, have the power to impound, seize or request the surrender of any files, papers, notebooks or records (whether in electronic or hard copy format) or any laptop or equipment which may contain evidence which is essential to the proper functioning of the misconduct Procedure. The Named Person will only take such actions in situations where there is a clear risk to individuals, animals or the environment, or that evidence might be destroyed and only after careful consideration of those risks and consequences. The reason(s) for taking any such actions will be recorded in writing and communicated to all relevant parties. The Named Person shall be responsible for the safe-keeping of such records or equipment during the course of the procedure and shall make them available on agreed terms to those involved in the procedure, whether members of preliminary or formal panels, the initiator or respondent or their respective representatives.

 4.5 Individuals tasked with initial (or any) investigations are under an obligation to ensure that their enquiries are sufficiently full as to allow them to reach well-founded conclusions on the matters they are considering, and that they pursue their enquiries fairly. They are also under an obligation to inform the Named Person at the outset of any conflict of interest that they might have in the case which might disqualify them from acting.

4.6 The Named Person shall nominate an alternate to carry out his/her duties in cases where the s/he is unable to act, for example through absence or conflict of interest.

4.7 The Research Administrator will support the Named Person in carrying out any investigations under this procedure.

1. **General Principles**

5.1 Misconduct in research is a serious matter. The investigation of allegations of misconduct in research must be conducted in accordance with the highest standards of integrity, accuracy and fairness. Those responsible for carrying out investigations of alleged misconduct in research should always act with integrity and sensitivity. The principles of fairness, confidentiality, integrity, prevention of detriment, and balance must inform the carrying out of this Procedure. The Named Person and any individual tasked with an activity under this Procedure shall do so with this in mind and shall refer specifically to the further information set out in Annex 1 of the UK Research Integrity Office Model Procedure here <https://ukrio.org/publications/misconduct-investigation-procedure/> .

5.2 The matter will be treated in a confidential manner by those involved. In particular, those responsible for screening investigations into any allegation and any subsequently appointed formal investigation, the Named Person, and anyone from whom s/he seeks advice shall take all reasonable measures (including the use, wherever appropriate, of a non-disclosure agreement) to ensure that neither the identity of the initiator nor the identity of the respondent is made known to any third party except:

a) as may be necessary for the purpose of carrying out a full and fair investigation; or

b) in any action following a screening investigation, eg where the matter is referred under disciplinary procedures or following a formal inquiry; or

c) in any action taken against an individual who is found to have made a malicious or mischievous allegation.

5.3 Similarly, the initiator, the respondent, any witness or other parties to a case should not make any statements about the case - whether orally or in writing - to any third party while the allegation in question is being determined. The Named Person shall be authorised to take such action where s/he determines that it is reasonably necessary particularly if disclosure is required by law or is otherwise in the public interest, by express contractual requirement, or where the matter is already in the public domain.

5.4 Any necessary disclosure to a third party of the identity of the initiator or the respondent shall, wherever possible, be accompanied by an express request that they undertake to keep confidential the information so disclosed.

5.5 It must be recognised however that in any investigation and for the resolution of the matter, more people than those immediately involved may be affected.

5.6 Every effort will be made to ensure that an individual making an allegation of misconduct in good faith is not victimised for having made the allegation. However, action may be taken against anyone who is found to have made a malicious or mischievous allegation.

5.6 Every reasonable and proportionate effort will be made to ensure that the respondent shall not suffer any loss of reputation or other loss pending resolution of the matter.

5.7 The respondent may be accompanied or represented at any meeting convened under this Procedure by a colleague, friend or recognised union or professional association representative and will be informed of that right in any correspondence with them. Legal representation may be permitted only at the discretion of the Named Person.

5.8 Written records will be made of all formal meetings convened under the Procedure. These will be kept for at least six years after the investigation is completed.

5.9 All correspondence concerning proceedings under these regulations will be sent to the respondent at the most recent address notified to the College. In addition, correspondence may be sent to a College email address or to any personal email address notified by the respondent to the College. None of the proceedings outlined in these regulations will be invalidated or postponed by reason of the lack of response or non-attendance of the respondent, provided that reasonable notice for response or attendance is given.

1. **Reporting an allegation**

6.1 As indicated above, anyone may raise a concern relating to research misconduct; it is not limited to members of the College. The individual making the allegation (the initiator) may, in the first instance and where appropriate, attempt to address the issue with either the individual concerned or the appropriate Head of School. The initiator may also wish to seek advice from either the confidential liaison point within the College, information on which is available here: <https://www.bruford.ac.uk/research/research-the-college/> or from the UK Research Integrity Office, who are available to provide confidential advice, and further information on which is available here: <https://ukrio.org/get-advice-from-ukrio/>

6.2 In the event that the initiator of a concern or allegation is not satisfied with the outcome of an informal approach, or if they do not consider such an approach appropriate, a formal complaint is then made as set out below.

6.3 The initiator should put their concerns in writing and refer it in strictest confidence to the Named Person, contact information for which is available on the College website. They should enclose any evidence they have to support their concerns. It is preferable if allegations are made in a single document on a single occasion to prevent difficulties posed by allegations or evidence constantly being added to and hence interrupting the procedure as set out. A summary of the allegation must be provided along with any other pertinent information. It is the responsibility of the initiator of the allegation to ensure that only pertinent information is provided.

6.4 Individuals wishing to raise a concern will be asked to put their name to their concerns. Anonymous allegations will only be considered at the discretion of the College, taking account of the substance, seriousness and credibility of the allegation(s).

6.5 The College may choose to investigate matters of concern under this procedure that are not formally lodged with it but which are highlighted via other means.

6.6 Allegations will be investigated under this Procedure irrespective of such developments as:

 the initiator of the allegation withdrawing the allegation at any stage;

 the respondent admitting, or having admitted, the alleged misconduct, in full or in part; or

  the respondent or the initiator resigning, or having already resigned, their post. Once initiated, the procedure will continue to its natural endpoint regardless of any of the above taking place.

1. **Preliminary steps**

7.1 Upon receipt of concerns relating to misconduct in research, the Named Person will formally acknowledge receipt of the concerns in writing to the initiator.

7.2 The Named Person will review the nature of the concerns by referring to the definition of misconduct in research detailed in paragraphs xx above. Where the allegations are outside the definition, the Responsible Officer will communicate to the initiator in writing:

 the reasons why the concerns could not be investigated using this Procedure;

 which process for dealing with complaints might be appropriate for handling the concerns (if any); and

 to whom the allegations should be reported.

7.3 Where the concerns do fall under the definition of research misconduct, and are of a nature that require immediate action to prevent further risk or harm to staff, participants or other persons, suffering to animals or negative environmental consequences (where this might contravene the law or fall below good practice), then the Named Person should take immediate appropriate action to ensure that any such potential or actual danger/illegal activity/risk is prevented/eliminated. It may be necessary to notify legal or regulatory authorities.

7.4 Concerns that fall under the definition of research misconduct but which do not require notification to legal or regulatory bodies will proceed to the next stage of the Procedure. The Named Person will inform, where appropriate, the Director of Human Resources of the allegation and the Director of Finance. The contractual status of the respondent will be checked to ascertain whether they fall under the definition of those covered by the Procedure, as stated in paragraphs xx above.

7.5 The Named Person will investigate whether the matter raised requires the College to undertake prescribed steps in the event of allegations of misconduct in research being made, and at what point. Such an undertaking might be :

 specified by a funder organisation as part of their requirements for receiving funding;

  in a contract from a funding organisation;

 in a partnership contract/agreement/Memorandum of Understanding; or

 in an agreement to sponsor the research.

7.6 The respondent will be informed that concerns relating to misconduct in research have been made which involve him/her. If the concerns are made against more than one respondent, the Named Person will inform each individual separately and not divulge the identity of any other respondent. An anonymised summary of the allegations in writing will be provided to the respondent, together with a copy of the procedure to be used to investigate the allegations.

7.7 Where the concerns raised relate to individuals at more than one institution, the Named Person shall contact their equivalent at the other institutions and agree with them an appropriate way forward.

7.7 The Named Person shall ensure that relevant information is obtained so that any investigation conducted under the Procedure can have access to them.

1. **Screening investigation**

8.1 Upon receipt of an allegation, the Named Person or the deputised Senior Officer shall, as soon as is practicable following completion of the preliminary steps outlined above, appoint at least one and not more than three individuals to undertake a screening investigation. The individual(s) will normally be senior members of academic staff and may be from within or outside the Department concerned and College depending on the circumstances of the case and at the discretion of the Named Person.

8.2 Both the respondent and initiator may raise with the Named Person concerns that they may have about those chosen to carry out the screening investigation but neither has a right of veto over those nominated.

8.3 The Panel/individual shall assess the evidence provided and any additional information it requires. The role of the screening investigation will include clarification of the allegation(s) (where necessary), determination of whether the allegation is made in good faith, whether a prima facie case of misconduct (as defined above at paragraph xx) is established and its level of seriousness and a confidential panel review and discussion of the evidence provided. The respondent will be given the opportunity to respond to the allegations made against him/her.

8.4 A report shall be submitted by the investigators to the Named Person, as soon as is practicable after their appointment, indicating (where relevant, for each allegation) whether they judge that: a) the allegation is sufficiently serious and there is sufficient evidence to merit further action by the College;

b) the allegation has substance but due to a lack of intent to deceive or due to its relatively minor nature should be addressed through education or training or otherwise is of a character that can be dealt with and remedied at departmental level (this does not preclude some form of disciplinary hearing/action under the relevant procedure). The Panel will indicate in this situation whether its finding constitutes misconduct in research or poor research practice short of research misconduct;

c) the allegation is unfounded, either because it is mistaken or because it is judged to be malicious, reckless, frivolous, trivial, otherwise without substance, or there is insufficient evidence to support it.

 8.5 A summary of the findings will be sent to the respondent and the initiator for comment on the factual accuracy. The Panel will consider the responses received and if it considers that the report includes errors of fact, will modify the report as necessary.

8.6 Following this initial assessment of the allegation, the Named Person may (subject to paragraph xx below) take one of the courses of action set out below. In exceptional circumstances, for example where new information comes to light, or where the matter is, by its nature serious or has the potential seriously to affect the College’s reputation, the Named Person shall not be bound by the recommendation of the investigators.

a) take no further action;

b) refer the matter to a School or Department;

c) order that further investigation be carried out;

d) proceed to a formal investigation;

e) depending on the status of the individual, instigate another procedure (such as the disciplinary or academic misconduct procedure) or refer the matter to the substantive employer if applicable;

f) refer the matter to an appropriate external regulatory, statutory or professional or similar body.

8.5 If it is found that the allegation is without substance, the Named Person will dismiss the matter and no further action will be taken in relation to the respondent.

8.6 If it is found that the allegation is malicious or mischievous, the Responsible Officer will refer the matter for consideration under the relevant disciplinary procedure in relation to the initiator if s/he is a member of the College. If the initiator is external to the College legal advice may be sought as to possible remedies.

1. **Formal investigation**

9.1 The Investigation Panel shall be provided with precise terms of reference drawn up by the Responsible Officer and agreed by the Panel Chairperson.

9.2 The panel shall comprise at least three individuals. At least one member of the panel shall be from outside the College, and at least two shall be academic specialists in the general area within which the misconduct is alleged to have taken place. One of the members shall be appointed to chair the panel; s/he will normally be a senior member of the College from outside the discipline in which the misconduct is alleged to have taken place. The Named Person shall arrange any necessary support for the panel.

9.3 The College may at its discretion permit observers to attend formal investigations where requested.

9.4 The Chair of the Panel will be responsible for the conduct of the proceedings during the inquiry and will determine its procedure and rules. The Investigation Panel does not have any disciplinary powers. The panel shall decide on the basis of the terms of reference and the information that it has been given, what process it will follow and what information it needs to make a decision and who it wishes to interview/take statements from.

9.5 Following the investigation and inquiry, the Panel will produce a report of its findings on the basis of the relevant facts of the case, including whether the allegations are upheld. It may make recommendations as to the further action necessary to rectify any misconduct it has found and to preserve the academic integrity of the College, for consideration by the appropriate College authorities.

9.6 The standard of proof used by the Panel is that of ‘on the balance of probabilities’.

9.7 The Named Person shall convey the substance of the Panel’s findings to the initiator, the respondent and such other persons or bodies as s/he deems appropriate. The initiator and respondent will be given the opportunity to submit proposals for the correction of facts to the Panel. Following consideration of the proposals for the correction of facts the Panel will send the report of its findings to the Named Person.

1. **Subsequent action and Appeals**

10.1 If the allegation is upheld the College may, in addition to any action recommended by the Panel:

a) where appropriate, convey the Inquiry Panel’s factual findings to any relevant employer, statutory, regulatory or professional body, any relevant grant awarding body or any other public body with a relevant interest, and the editors of any journals which have published articles by the person against whom the allegation has been upheld;

b) where appropriate, recommend to the relevant University the revoking of any degree or other qualification which had been obtained, in whole or in part, through proven misconduct in research.

10.2 If the allegation has been dismissed, the Named Person shall take appropriate steps to preserve the good reputation of the respondent. If the case has received any adverse publicity the respondent shall be offered the possibility of having an official statement released by the College to the press or to other relevant parties or both.

10.3 The Named Person shall normally inform the Academic Board and the Board of Governors of the nature (so as to preserve confidentiality) of any allegation which has been the subject of a formal inquiry, and of the final outcome save that, if the allegation has been dismissed, the respondent shall have the option of deciding that no such report be made.

10.4 The respondent or the initiator may appeal against the Inquiry Panel’s decision and/or its recommendation Any appeal shall be made in writing to the Principal within 10 days of the Inquiry Panel’s decision. The written notice of appeal shall set out the grounds of appeal, and be accompanied, wherever possible, by supporting documentation.

10.5 An appeal will only be considered on one or more of the following grounds:

a) procedural irregularity in the conduct of the case up to and before the Appeal Panel;

b) fresh evidence becoming available which was not, and could not, have been made available to the Inquiry Panel; or

c) there was evidence of bias in the process or decisions taken by the panel;

d) the recommendation is either excessive or inadequate in relation to the misconduct found proved.

14.3 The Appeal Panel shall be made up as follows:

 a) a Chair who shall not be a member of the College;

 b) two independent persons, at least one of whom shall be from outside the College, at least one of whom shall be an expert in, or have experience of, the technical field in question.

10.6 No individual involved in the appeal will have been involved at any stage previously. This includes the professional support to the panel.

10.7 The appeal panel will first decide whether the grounds for appeal are met. If they are, the subsequent appeal hearing will take the form of a review of the evidence including receipt of the additional information, not a complete re-investigation.

10.8 The Appeal Panel shall have the power to uphold, reverse or modify the decision or recommendation of the Inquiry Panel. The decision of the Appeal Panel shall be final.

Date approved: 24th November 2020

Date for next review: November 2022