

Procedure for handling suspicion of misconduct in research and deviations from good research practice

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Summary The purpose of this procedure is to ensure that any suspected deviations from good research practice are handled in accordance with applicable regulations and guidelines and to help ensure transparency in the handling of these matters. The main intended recipients of the document are staff who are responsible for handling these issues within Mid Sweden University and other affected parties.

Table of contents

1. Introduction and legal context.....	3
2. Handling suspected deviations from good research practice.....	4
2.1 General information about handling.....	4
2.1.1 Notification of deviation from good research practice	4
2.1.2 Decisions on deviations from good research practice.....	5
2.1.3 Information on deviations from good research practice	5
2.2 Determination of further handling	5
2.3 Handling of suspected research misconduct	6
2.3.1 Handover to the National Board for Assessment of Research Misconduct.....	6
2.3.2 After a decision by the National Board for Assessment of Research Misconduct	7
2.4 Handling of suspicions of deviation from good research practice.....	7
2.4.1 Handover to the Council for Good Research Practice	7
2.4.2 Preliminary investigation.....	8
2.4.3 Continued investigation.....	8

Procedure for handling suspicion of deviation from good research practice

1. Introduction and legal context

The purpose of this procedure is to ensure that any suspected deviations from good research practice are handled in accordance with applicable regulations and guidelines, and to help ensure transparency in the handling of these matters. The main intended recipients of the document are staff who are responsible for handling these issues within Mid Sweden University and other affected parties.

Chapter 1 of the Higher Education Act (1992:1434) stipulates that scientific credibility and good research practice shall be upheld in higher education institutions (Section 3 a) and that activities shall be adapted to ensure high quality in education and research (Section 4).

The Act on responsibility for good research practice and the examination of research misconduct (2019:504, hereinafter LAO) stipulates that the researcher is responsible for upholding good research practice in his or her research (Section 4), while the research principal has overall responsibility for ensuring that research is conducted in accordance with good research practice (Section 5). Furthermore, the LAO stipulates that if it can be suspected that research misconduct has taken place in the research principal's activities, the research principal shall hand over documents concerning the case to the National Board for Assessment of Research Misconduct for review (Sections 6-7). The LAO defines research misconduct as a serious deviation from good research practice in the form of fabrication, falsification or plagiarism that is committed intentionally or through gross negligence when planning, conducting or reporting research (Section 2). For the purposes of this procedure document, this definition is applied throughout. Since universities having the state as principal fall within the scope of LAO (Section 3), the LAO is applied to all research conducted at Mid Sweden University, provided that the research is not covered by exemptions prescribed or decided by the government in accordance with Section 3, last paragraph of LAO.

Chapter 1, Section 17 of the Higher Education Ordinance (1993:100) stipulates that an HEI shall investigate suspected deviations from good research practice other than those that are explicitly to be investigated separately in accordance with the LAO, and that an HEI shall establish guidelines for its investigations of suspected deviations from good research practice.

Chapter 1, Section 16 of the Higher Education Ordinance prescribes that an HEI shall ensure that staff can access advice and support on matters concerning good research practice and deviations from such practice. In Government bill 2018/19:58, it was

Procedure document

2021-05-01

Reg. no.: MIUN 2020/2738

emphasised that the system for handling research misconduct must be clear, legally secure and provide protection for all involved (p. 13), and that support structures are needed within the research principals' organisations (p.80).

2. Handling suspected deviations from good research practice

2.1 General information about handling

Deviations from good research practice within Mid Sweden University's activities shall be noted and handled adequately, taking into account the nature of the deviation and its severity. Whether a deviation from good research practice is to be regarded as serious is determined on a case-by-case basis. However, the threshold for handover to the National Board for Assessment of Research Misconduct in accordance with Section 6 of LAO shall be low (cf. Government bill 2018/19:58). As a general rule, any assessment of whether an act or omission is to be considered a deviation from good research practice and whether a deviation is to be considered serious shall be based on regulations, legislative history and well-established guidelines within the respective field. Key documents in this context are the Swedish Research Council's publication *Good Research Practice* (2017) and *The European Code of Conduct* (2017), which is published by ALLEA. In addition, interpretations and practices that are developed at Sweden's HEIs or jointly between HEIs, as well as by the National Board for Assessment of Research Misconduct and other legal bodies, shall be applied.

2.1.1 Notification of deviation from good research practice

In order to ensure compliance with the regulation referred to above, it is essential that any concrete and well-founded suspicion of deviations from good research practice in the course of the university's activities are reported without undue delay and are subsequently handled in accordance with the procedure described below. Line managers are obliged report such deviations within their area of responsibility. Reports are to be made to the vice-chancellor and should be in writing. If a report is made to an official other than the vice-chancellor, the report must also be forwarded to the vice-chancellor without delay. Reports of suspected research misconduct can also be made directly to the National Board for Assessment of Research Misconduct (Section 7, LAO).

The Council for Good Research Practice is responsible for investigating suspected deviations from good research practice other than those that are explicitly to be investigated separately in accordance with the LAO, the composition and overall working methods of which are governed in a separate rules of procedure document (Reg. no. MIUN 2020/2739).

Procedure document

2021-05-01

Reg. no.: MIUN 2020/2738

2.1.2 Decisions on deviations from good research practice

Decisions in cases of suspected deviations from good research practice other than those that are to be investigated separately in accordance with LAO are made by the vice-chancellor. Decisions on disciplinary measures for staff and students at Mid Sweden University are made by the university's Staff Disciplinary Board or Disciplinary Committee, respectively, and in some cases, by the Government Disciplinary Board for Higher Officials (Section 34 of the Public Employment Act).

At each stage of handling, rules that apply under the Administrative Procedure Act (2017:900) shall be considered. Issues concerning conflict of interest shall be handled in accordance with Sections 16-18 of the Administrative Procedure Act. Anyone who is aware of circumstances that may be presumed to disqualify him or her on the grounds of conflict of interest shall immediately notify the vice-chancellor or the Council for Good Research Practice, depending on the stage of the handling.

If the case is subject to an exemption, as prescribed or decided by the government in accordance with Section 3, last paragraph of LAO, this exemption shall be taken into consideration in the applicable stage of the handling process.

2.1.3 Information on deviations from good research practice

Concerned research funders shall be informed about investigations of suspected deviations from good research practice at the appropriate stage, insofar as they have placed such demands.

Suspicions of offences subject to public prosecution or within another authority's area of supervision shall primarily be handled by the relevant authority. If, within the framework of an investigation by another authority, it emerges that deviations from good research practice have taken place in the course of the university's activities, this may result in further handling by the university.

The Council for Good Research Practice is responsible for the annual reporting of the university's investigations of deviations from good research practice to the National Board for Assessment of Research Misconduct, in accordance with Chapter 1, Section 18 of the Higher Education Ordinance.

2.2 Determination of further handling

When a suspected deviation from good research practice is reported, an initial review is done to determine how the case will be handled further. This starts with an assessment of whether the suspicion concerns a deviation from good research practice that falls within the framework of the university's activities. If the suspicion does not concern deviations from good research practice within the framework of the university's activities, the case is dismissed. If the suspicion concerns deviations from good research practice that fall within the framework of the university's activities, a further assessment of whether the suspicion may involve research misconduct is performed.

Procedure document

2021-05-01

Reg. no.: MIUN 2020/2738

The initial review is normally done by the pro-vice-chancellor for research issues in consultation with the vice-chancellor and general counsel. If necessary, the case may be handed over to the Council for Good Research Practice as described above.

If the suspicion is deemed to be related to misconduct in research within the framework of the university's activities, the case is to be handled according to what is described in item 2.3 below. To the extent that the suspicion is deemed to concern both research misconduct and other deviations from good research practice, the part of the case concerning other deviations from good research practice is to be handled in accordance with 2.4 below, if appropriate, after the National Board for Assessment of Research Misconduct has handed over the case to the university.

If the suspicion does not concern research misconduct but concerns other deviations from good research practice that fall within the framework of the university's activities, the case shall be handled according to what is described in 2.4 below.

In cases where the National Board for Assessment of Research Misconduct hands over a case to the university in accordance with Section 11 of LAO, this shall be handled according to what is described in 2.4 below.

2.3 Handling of suspected research misconduct

2.3.1 Handover to the National Board for Assessment of Research Misconduct

If it is suspected that research misconduct has occurred within the framework of the university's activities, the case documents must be handed over to the National Board for Assessment of Research Misconduct (Sections 6-7, LAO). Decisions on handover are made by the vice-chancellor.

The person(s) who is the subject of suspicion shall be informed of the suspicion of misconduct as well as the disciplinary sanctions that may be applicable in the event of a decision confirming that research misconduct has taken place.

The university shall hand over any information and documents about the research that the board requests and provide the board with access to computers and other equipment that has been used in the research (Section 12, LAO). If needed, the Council for Good Research Practice may handle issues concerning the university's cooperation with the board.

In accordance with Section 3 of the Ordinance on exemptions from investigation of research misconduct within the area of defence and security policy (2019:1176), the case shall not be handed over to the board if the conditions for exemptions described in Section 2 of the same ordinance are deemed to be met. The case shall instead be handled according to what is described in 2.4 below, to the extent that it is deemed appropriate given the prevailing circumstances.

Procedure document

2021-05-01

Reg. no.: MIUN 2020/2738

2.3.2 After a decision by the National Board for Assessment of Research Misconduct

If the National Board for Assessment of Research Misconduct finds that research misconduct has occurred, or if it emerges based on the board's decision that a serious deviation from good research practice in the form of fabrication, falsification or plagiarism has occurred without intent or gross negligence having been established, the university shall:

- once the decision has been made, inform concerned research funders, authorities, scientific journals and other parties affected by the decision without undue delay, and inform them that the decision may be appealed to a general Administrative Court (Section 14, LAO).
- take other appropriate measures as a result of the decision, after it has become final and binding. It is the responsibility of the vice-chancellor to decide whether there are grounds for considering disciplinary action.
- within six months after the decision has become final and binding, report to the board what measures the university has taken or intends to take as a result of the decision (Section 13, LAO).

If the board finds that the case does not concern research misconduct but may concern other deviations from good research practice and thus hands the case over to the university, this shall be handled according to what is described in item 2.4 below.

If it becomes evident from the board's decision that a deviation from good research practice is no longer suspected, the decision shall be made known to the extent it is needed in order to safeguard the scientific reputation of the affected researcher(s).

2.4 Handling of suspicions of other deviations from good research practice

2.4.1 Handover to the Council for Good Research Practice

Suspected deviations from good research practice other than those that are explicitly to be investigated separately in accordance with LAO, shall be investigated by the university (Chapter 1, Section 17, Higher Education Ordinance). The investigation begins with a preliminary assessment of the seriousness of the suspected deviation, which is normally done by the pro-vice-chancellor for research issues in consultation with the vice-chancellor and general counsel. However, the Council for Good Research Practice may assist with the assessment as needed.

If, without further investigation, it can be established that the suspicion does not concern serious deviations from good research practice, the university shall handle the case in a way that is deemed appropriate given the nature of the suspected deviation.

Procedure document

2021-05-01

Reg. no.: MIUN 2020/2738

If it cannot be ruled out that the suspicion concerns serious deviations from good research practice without further investigation, the case shall be referred to the Council for Good Research Practice for further handling. The chair of the council is responsible for keeping the vice-chancellor informed about the case during the time the council handles the case. In cases where the individual making the report or the individual being reported is a doctoral student, the university's Student Union shall be given the opportunity to appoint a student representative with the right to attend and express views at the council meetings. If, within the framework of the council's handling of the case, information emerges which indicates that it can be suspected that research misconduct has occurred within the framework of the university's activities, the case shall be handed over to the vice-chancellor and handled according to what is described in item 2.3 above.

2.4.2 Preliminary investigation

The council's handling of the case begins with a preliminary investigation to assess whether the suspicion is strong enough to justify further investigation. The chair of the council shall decide who is to be informed at this stage and who shall be given the opportunity to comment. The individual who is the subject of the report shall, within a reasonable period of time, be informed about the case and the disciplinary sanctions that may be applied if it is found that deviation from good research practice has occurred. The preliminary investigation should be carried out without delay and should not take longer than six weeks. In case of any uncertainty, the case must always be investigated further.

If, during the preliminary investigation, the council finds that there are no grounds to warrant further investigation of the case, the council shall reach a decision to propose that the vice-chancellor make a decision to this effect. The case is then handed over to the vice-chancellor. Any communication to relevant parties before the vice-chancellor makes a decision on the case shall be done in accordance with Section 25 of the Administrative Procedure Act. If necessary, the vice-chancellor can decide to refer the case back to the council for further investigation.

If, within the framework of the preliminary investigation, the council determines that there is reason to investigate the case further, the council shall make a decision to that effect.

2.4.3 Further investigation

The continued investigation should also be conducted without delay. As a general guideline, the investigation should be completed within six months from the date when notification was received by the vice-chancellor. During the investigation, the council may call upon other persons to be heard by the council or seek the assistance of external experts to perform different types of assessments.

The investigation is concluded when the council makes a decision to submit a proposal for a decision in the case to the vice-chancellor. The case is then handed over to the vice-chancellor. Any communication to relevant parties before the vice-chancellor makes a

Procedure document

2021-05-01

Reg. no.: MIUN 2020/2738

decision on the case shall be done in accordance with Section 25 of the Administrative Procedure Act. If necessary, the vice-chancellor can decide to refer the case back to the council for further investigation. If information emerges that indicates that it can be suspected that research misconduct has occurred within the framework of the university's activities, the case shall be handled according to what is described in item 2.3 above.

The case is concluded when the vice-chancellor makes a decision in the case.

Both the council's decision and the vice-chancellor's decision must clearly state the grounds for the decision. If the decision indicates that a deviation from good research practice has occurred, the nature of the deviation and degree of severity must be clearly indicated. Depending on the circumstances, it will be assessed whether there is reason to take special measures due to the vice-chancellor's decision, for example, to inform relevant research funders, authorities, scientific journals and other parties affected by the decision. It the responsibility of the vice-chancellor to decide whether there are grounds for considering disciplinary action.