

**The Swedish Research Council's Expert Group for Investigation
of Suspected Research Misconduct
Guidelines for the Groups's Work
*Adopted by the Research Council's Board on 29 September 2004***

Under the Board resolution of 22 April 2004, these guidelines supersede the guidelines previously adopted by the Ethics Committee on 13 May 2002

1 The employer is responsible for taking action if suspicions of an employee's suspected misconduct arise

One premise for dealing with suspected misconduct is that, where public-sector employees are concerned, employers are responsible for taking measures if employees fail to meet their employment obligations. Accordingly, it is the employer who, if necessary, must embark on disciplinary proceedings and can decide to take disciplinary measures or bring charges against the employee, or — for an employee recruited by the Government — report the matter of disciplinary liability to the Swedish National Disciplinary Offence Board.

2 The Swedish Research Council can on an employer's request, through its Expert Group for Investigation of Suspected Research Misconduct, assist the employer with investigation

The Instructions for the Swedish Research Council (SFS 2000:1199) do not, in fact, clearly assign to the Council the task of investigating dishonesty or misconduct in research. However, the Council has deemed itself free to set up an Expert Group to examine claims of misconduct in research that is funded by the Council itself, and to offer assistance to other bodies. It is also reasonable for employers, given the above statements about their responsibility, to ask anyone they wish to assist them in obtaining documentation for the further assessments they must carry out. Employers should therefore be able to request the Expert Group's assistance irrespective of who has funded the research in question.

The Expert Group shall in no way take over the employer's responsibility. The Group may merely, if employers so request, assist them in investigating actual circumstances and carrying out an assessment of whether research has been conducted in a manner that deviates from good scientific practice. There is thus no question of a central body for investigation and assessment of dishonesty in research of the kind proposed, for example, in the report (SOU 1999:4) entitled

Ethical Research Practice (sometimes also translated as *Good Conduct in Research*).

3 *Requests for the Expert Group's assistance may be made by higher education institutions' or other public bodies' representatives*

It follows from the above considerations regarding the function of the Expert Group that a case can be initiated only if a representative of a higher education institution (HEI), i.e. primarily the vice-chancellor or equivalent, requests the Group's assistance with the investigation in the event of suspected research misconduct. Any reports submitted by individual researchers or others who suspect research fraud are required to be addressed to the employers concerned and shall, accordingly, be rejected by the Swedish Research Council.

Since the same norms should apply to good scientific practice irrespective of where research is conducted, the kinds of research that take place at other public institutions should also be examined. In such cases, the Expert Group's scrutiny of a case may be initiated by an authorised representative (principal, director or equivalent) of the institution where the research takes place. On the other hand, research in the private sector should not, in any case for the time being, be considered for the Group's examination, given the unusual circumstances that may apply in this sector. Suspected misconduct in connection with research carried out at a non-public institution may, however, be examined if this research is supported by the Swedish Research Council.

The Swedish Research Council can request statements from the Expert Group in cases of suspected research misconduct regarding research supported by the Council, even if this research is carried not at the Council itself but at another institution (as is the case virtually without exception).

4 *The initiator of a case must attach a personal statement to the report*

A vice-chancellor or equivalent who initiates the Expert Group's handling of a case must enclose his or her own statement with the report. This statement must give an account of the grounds on which the vice-chancellor considers that the Expert Group should carry out an investigation. It is thus the vice-chancellor's responsibility to ensure that reports which, in his or her estimation, are unsubstantiated are not subjected to further investigation, and also to assess whether there may, in exceptional cases, be reason to investigate the matter although the matter has been reported to the vice-chancellor anonymously.

Exceptionally, the vice-chancellor may consult the Expert Group in conjunction with the preliminary assessment that he or she must carry out before the matter is reported.

5 One condition for the Expert Group's work is that the person requesting assistance should place all the requisite documentation (paperwork at the HEI, research material, etc) at the Group's disposal

To ensure that the examination is carried out in a reliable manner, it is essential for the Expert Group, in its work, to obtain access to all relevant material

6 The Expert Group's investigation should be aimed at establishing whether research has been conducted in a manner that deviates from good scientific practice

As mentioned by way of introduction it is, for public-sector employees, the employer who is responsible for investigating and also taking legal action against employees who neglect their duties. Under Section 14 of the Public Employment Act (1994:260), employees who wilfully or negligently disregard their work obligations incur disciplinary measures for misconduct. An employee on whom a disciplinary measure has been imposed can lodge a claim against the decision with the Swedish Labour Court (*Public Employment Act*, Section 39). Should there be reason to suspect employees of committing offences in the course of their work, legal proceedings should be initiated if, for example, breaches of duty or other offences are suspected, if the offence may be assumed to result in sanctions other than fines (*Public Employment Act*, Section 22).

It cannot be ruled out that dishonesty in research, besides entailing liability for breach of duty or misconduct at work, may also constitute another offence. People who, for example, receive research grants by entering fabricated or distorted data in their applications may presumably, in certain cases, be deemed to have committed fraud. This offence is defined as being committed:

‘If a person by deception induces someone to commit or omit to commit some act which involves gain for the accused and loss for the deceived’ (*Swedish Penal Code*, Chapter 9, Section 1).

For certain employees, as mentioned above, matters relating to disciplinary liability and initiation of legal proceedings must be examined by the National Disciplinary Offence Board (*Public Employment Act*, Section 34).

The Expert Group's statements must not forestall the review that takes place in a disciplinary case or when legal proceedings have been initiated. The question of whether the researcher has acted wilfully, i.e. with a deliberate intention, is crucial both to the consideration of whether to impose disciplinary sanctions and to criminal action. Decisions to impose disciplinary sanctions owing to researchers' wilful disregard of their obligations may, moreover, be appealed. The same applies, of course, to convictions in criminal cases. On the other hand, there would be no appeal against a report on the same matter issued by the Expert Group. The question of whether a researcher has *had the intention* of deceiving or misleading others should therefore be examined exclusively in the manner prescribed by law.

The Expert Group's work should therefore culminate in an assessment of whether the research that is the subject of the legal proceedings initiated has

been conducted, or its findings have been presented, in a manner that deviates from good scientific practice. The Group must not, accordingly, express an opinion on the subsequent steps necessary to assess whether there has been dishonesty in the research, i.e. whether the deviation has occurred with the intention to deceive.

7 *The notion of ‘good scientific practice’ is given a limited definition in the Expert Group’s work*

It would, of course, be an advantage in terms of the rule of law if either the requirements of ‘good scientific practice’ or the kinds of documents that may be deemed to constitute deviations from such practice could be specified in advance. This is hardly feasible. However, it is paramount that the notion of ‘good scientific practice’ should not, in this context, be interpreted so broadly that protests may be lodged against new ideas and new methods in research.

Deviations from good scientific practice may, for example, consist in fabrication of data; theft or plagiarism of data, hypotheses or methods without the source being cited; or other distortion of the research process (e.g. incorrect inclusion or exclusion of data, or misleading data analysis that distorts the interpretation).

8 *The Expert Group comprises one member who is a qualified judge to serve as Chairman, three permanent members who represent their respective disciplines and, as coopted members, the experts required for each individual case*

The Chairman of the Expert Group is the member of the Swedish Research Council’s Ethics Committee who, under the Committee’s official instructions, must be a qualified judge (*Instructions for the Ethics Committee of the Swedish Research Council*, Section 9). The Expert Group also includes a permanent representative of each of the following categories of academic disciplines: Humanities and Social Sciences, Medical Sciences, and Natural and Engineering Sciences. As required for each case, in addition, experts in the subject area concerned — normally at least two in number — are coopted as special members. The existence of the permanent members ensures continuity in the Group’s work and assessments, and it is also advantageous for the assessments not to be reached solely by representatives of the research discipline concerned. The special members bring to bear the expert knowledge that is required in the specific subject areas involved in the cases.

The permanent scientific members of the Group are appointed by the Research Council’s Director General (*Instructions for the Ethics Committee of the Swedish Research Council*, Section 9). The members’ term of office is the same as for members of the Ethics Committee. Special expert members are coopted by the Expert Group in consultation with the Research Council’s Secretary General(s) in whose sphere of responsibility the subject area in question falls.

9 *Actual case investigations are carried out by the expert members. The researchers involved are given the opportunity to express their views on the experts' report. The Expert Group's report is adopted at a meeting attended by the expert members*

Actual investigation of a case, such as scrutiny of primary data, is performed by the expert members. The researcher involved is allowed to express views on their written report, including a face-to-face meeting with the Group. The Group's final report is adopted at a meeting at which the expert members and Chairman, and at least two of the other permanent members, are present.

The Expert Group issues its report to the party that requested assistance with the investigation. The Group's decisions are taken by a simple majority. In the event of equal voting, the opinion held by the Chairman is adopted. Other decisions in the Group, such as the appointment of an expert member, may be taken by the Chairman alone.

Minutes are kept at the Expert Group's meetings. Other decisions must be recorded in special decision minutes or other documents included in the file.

The Swedish Research Council appoints the secretary to the Expert Group.

10 *Remuneration*

The permanent members are remunerated for their assignment by means of fees paid by the Swedish Research Council. The expert members, for their work, receive fees determined with reference to the nature and scope of the cases concerned. Half of the expert members' fees are paid by the HEI or equivalent that requests the Group's assistance and half by the Research Council.

11 *The Expert Group's report in an individual case is submitted to the party that requested the Group's assistance*

See also point 12 below about public access. As part of its important preventive work, the Swedish Research Council will also publish the Group's reports annually in anonymised form.

12 *Applications to the Expert Group and the Group's reports are public. Work material is not made public until decisions are taken in the cases concerned*

The Expert Group may be regarded as a body within the Swedish Research Council as a public agency. Accordingly, applications submitted to the Group and the Group's reports, and also other documents (special written communications submitted, work material drawn up in the course of the work, etc) are subject to the same rules on publicity, secrecy and archive management that apply to the agency's other work.