

Statutes of the DESY Commission for Safeguarding Good Research Practice

DESY-Statutes-Commission-GRP Version 1.1

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Questions and remarks please give to: compliance@desy.de

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Imprint

Deutsches Elektronen-Synchrotron DESY

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DESY Commission for
Safeguarding
Good Research Practice**

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Statutes of the DESY Commission for Safeguarding Good Research Practice

Preamble

Research at DESY is carried out in accordance with the recognized rules of good research practice. However, situations may arise while conducting research projects in which researchers are uncertain as to how exactly these rules should be observed.

For this reason, DESY maintains a Commission for Safeguarding Good Research Practice (hereinafter referred to as the "Commission"), which supports compliance with these rules at DESY and, more particularly, conducts its own investigations to clarify suspected cases of non-compliance with the rules.

The responsibilities of researchers and their superiors when carrying out their research projects remains unaffected by the statutory work of the Commission.

The Commission works closely with DESY's Ombudspersons (hereinafter referred to as "Ombudspersons") and reports to the DESY Board of Directors (hereinafter referred to as "Directorate").

§ 1 Duties

- (1) In suspected cases of intentional or unintentional non-compliance by researchers working at DESY with the rules for safeguarding good research practice that apply a DESY, the Commission shall be responsible for determining whether scientific misconduct has occurred in each individual case. It shall reach its decisions based on the principle of the free consideration of evidence and make recommendations for further action to the Directorate once the investigation has been completed.
- (2) Furthermore, the Commission shall support the ongoing development of the rules. Where necessary, it shall instigate an update of these rules, and it shall communicate the rules. The rules are also available in English.
- (3) The Commission is a permanent commission; the following provisions apply with regard to its constitution and members, in accordance with § 2. It shall meet at least once a year and, apart from this, will be convened as necessary. The Commission shall report to the Directorate and submit its recommendations to the Directorate for a decision.
- (4) The Chair and Deputy Chair of the Commission shall be elected by the members of the Commission from among their number for a period of three years. A one-time re-election is possible. The Chair shall conduct the day-to-day business of the Commission.
- (5) The members of the Commission shall perform their duties independently and not be bound by instructions. They shall perform their duties conscientiously and impartially and be obliged to maintain confidentiality even after they cease to be members of the Commission.
- (6) The Commission shall operate on the basis of the applicable laws and recognized scientific standards, as well as the relevant rules of professional conduct. It shall consider relevant national and international recommendations and base its work on the state of the art in science and technology.
- (7) The Commission shall adopt its own rules of procedure.

§ 2 Composition of the Commission

- (1) The Commission shall consist of seven members and be made up as follows:

- one member from each of DESY's scientific divisions (FH, FS, M, AP) ("Scientific Members"),
- one member of the Scientific Committee ("WA Member"),
- one member who is not employed by DESY ("External Member"),
- one member qualified to hold the office of a judge ("Legal Member").

A gender balance should be aimed for among the members.

- (2) The Scientific Committee (WA) shall propose the Scientific Members of the Commission for each division to the corresponding divisional leadership. The divisional leadership shall submit the proposal for its divisional candidate to the Directorate for appointment to the Commission.
- (3) The Scientific Committee (WA) shall propose the freely electable WA Member of the Commission and submit the proposal for the WA Member to the Directorate for appointment to the Commission.
- (4) The Legal Member shall be proposed by the head of the V Division and may be appointed internally or externally. The leadership of the V Division shall submit the proposal for the appointment of the Legal Member of the Commission to the Directorate.
- (5) The External Member shall be proposed and appointed directly by the Directorate.
- (6) The members of the Commission are appointed by the Directorate for a period of three years. A one-time reappointment is possible.
- (7) Any member may resign at any time without giving reasons. The Directorate may dismiss a member for good reason after hearing the Commission. A new member may be appointed for the remaining term of appointment for a member who has resigned or been dismissed, such that the composition of the Commission is maintained in accordance with § 2(1).

§ 3 Opening of proceedings in suspected cases and cooperation with the Ombudspersons

- (1) If the rules of good research practice are suspected of having been violated, the Ombudspersons should be the first to be informed of this suspicion, unless otherwise stipulated in these statutes. Only then should the Commission decide whether to initiate proceedings. Further details on the procedure to be followed by the Ombudspersons may be found in the "Rules for Safeguarding Good Research Practice and Procedures for Investigating Scientific Misconduct at DESY", in particular Rule 6, Rule 18 and Rule 19.
- (2) The Ombudspersons shall discuss their activities with the Commission at least once a year.
- (3) The Commission shall go into action when requested to do so. The request must be submitted to the Chair of the Commission in writing or by email.
- (4) A request for the Commission to open proceedings may only be made by the Ombudspersons or by the Directorate or by the Chair of the Commission itself. As a rule, complainants should contact the Ombudspersons.
- (5) Before referring the matter to the Commission, the Ombudspersons will make a binding attempt to mediate between the complainant and the respondent. If this attempt fails, the Ombudspersons will appeal to the Commission. The Ombudspersons must then inform the Commission of the details of the specific case in the form of a written report. By referring the case to the Commission, the binding attempt at mediation undertaken by the Ombudspersons ends, as does their responsibility for this specific case.
- (6) In exceptional cases, the Commission may, after consultation with the Ombudspersons, go into action without the Ombudspersons making a prior attempt at mediation, provided the

Commission considers this to be necessary in view of the seriousness of the allegations or due to an obvious lack of prospects for amicable mediation.

- (7) The Commission shall not be responsible for any issues for which the Directorate has assigned responsibility to another body, e.g. in the field of ethics. If it is unclear which body is responsible, the Directorate shall decide which body should deal with the case.
- (8) If all Ombudspersons or all the members of the Commission declare a conflict of interest, the proceedings may be referred to the Central Ombudsperson of the Helmholtz Association by the body that is responsible for the relevant step in the proceedings. The Central Ombudsperson of the Helmholtz Association may also be called upon if the leadership level itself is the subject of the allegations or if several Helmholtz Centers are involved.

§ 4 Procedure for suspected cases

- (1) After receiving a request, the Chair shall convene the Commission and determine the time and venue of the meeting. Notice must be given at least 14 days beforehand unless that period is reduced with the consent of all members.
- (2) First of all, the request shall be examined by the Commission to confirm that it falls within its competence. If, after examining the facts of the case, the "Commission for Safeguarding Good Research Practice at DESY" finds itself to be responsible, the proceedings shall be opened. A request may also be rejected if the Commission declares by a simple majority that it is not competent to deal with it. A negative decision must be communicated to the complainant.
- (3) The Chair shall inform the Chair of the Directorate or, in their absence, their Deputy of the opening of the proceedings or the rejection of the request.
- (4) Members of the Commission who have a vested interest in a research project or in the Commission's opinion or recommendation shall be excluded from the proceedings (risk of conflict of interest). The remaining members of the Commission shall continue to work on the proceedings accordingly. If all members of the Commission declare a conflict of interest, § 3 (8) shall come into force.
- (5) The Commission shall discuss submitted requests orally in non-public meetings; telephone and video conferences are permitted; the applicable data protection regulations must be observed. During the proceedings, complainants shall be given the opportunity to comment on their allegations. Minutes shall be kept of each meeting, summarizing the main results.
- (6) The Commission may consult experts and specialists, request additional documents, information or justifications, and obtain expert opinions.
- (7) All members of the Commission, as well as any experts and specialists consulted, are required to give equal consideration to both exculpatory and incriminating evidence in their investigations. In particular, they must follow up on information that helps to clarify the facts of the case, unless it is obvious that this information is being presented merely to delay the clarification process.
- (8) DESY shall ensure that the entire proceedings are carried out as quickly as possible. The necessary steps shall be taken to finalize each stage of the proceedings within a reasonable period of time. If the proceedings cannot be concluded within the term of office of the Commission members, the proceedings shall be duly handed over to the members of the subsequent Commission and continued by them. The members of the former Commission may be heard as experts by the current Commission.

§ 5 Treatment of complainants and respondents

- (1) The Commission shall take appropriate action to protect both the complainant and the respondent to the allegations. Neither the complainant nor the respondent to the allegations may suffer disadvantages in their own academic or professional advancement solely as a result of a request having been filed.
- (2) The legitimate interests of complainants must be protected insofar as this is possible within the framework of a fair procedure. They shall remain protected even if misconduct cannot ultimately be proven, unless the allegations were made against their better judgement. The identity of the person voicing the suspicion will not be disclosed to the respondent without their consent.
- (3) Respondents must be informed in writing of the suspicion against them and given the opportunity to comment (right to be heard).
- (4) The complainant must be informed of the commencement of proceedings within 7 days of the commencement of proceedings. The complainant must be informed of the status of the proceedings no later than 3 months after the proceedings have commenced¹.
- (5) Complainants and respondents must be informed of the completion of the review and of its outcome.

§ 6 Report and recommendation for action to the DESY Directorate

- (1) The Commission shall draw up a confidential report for the Directorate. This report shall contain recommendations for action for the Directorate; the recommendations must be substantiated.
- (2) The report shall be forwarded to the DESY Directorate via the Chair of the DESY Directorate or their Deputy for a decision about the recommended actions it contains.

§ 7 Conclusion of proceedings

- (1) The Directorate shall make a decision about the Commission's recommendations and, if necessary, decide on appropriate measures.
- (2) The Commission shall be informed of the Directorate's decision in writing. This notification shall be sent to the Chair of the Commission, who shall inform the members of the Commission, as well as the complainants, the respondents in the respective proceedings, the scientific organizations concerned and, where applicable, third parties with a justified interest in the proceedings.
- (3) The proceedings are thereby closed.

§ 8 Reopening of a case

- (1) The Directorate may decide to ask the Commission to reopen a case.
- (2) Anyone wishing to have a case reopened must apply to the Directorate, which will decide on their request.

¹ In line with the EU Directive on the protection of persons who report breaches of Union law, of 23 October 2019

§ 9 Final provisions

- (1) The members of the Commission and the participating experts and specialists are obliged to maintain confidentiality. This obligation also extends beyond the time in which they are actively working for or in the Commission.
- (2) The time spent by DESY employees in assisting the Commission counts as working time and will not be remunerated separately.
- (3) All internal costs for the investigation of suspected cases of non-compliance with DESY's Rules for Safeguarding Good Research Practice shall be borne by DESY. The Chair of the Directorate must be consulted before external costs of more than EUR 5,000 are incurred in connection with any proceedings, e.g. through expert opinions for which a fee is charged.
- (4) These statutes shall come into force on the day after they are published.