

SSIS Research Ethics – Note about Reporting Illegal or Harmful Activity Encountered during Research

Some projects involve a risk that the researcher might become aware that the subjects of the research are involved in illegal or harmful activity. This might be more likely in some areas (e.g. research involving protest groups, people with extreme political or religious opinions, some forms of commercial activity, or some online activities), but anyone carrying out research with human participants needs to consider this possibility and what to do about it. This document is intended to assist in working out whether a project might involve such a risk and how to mitigate it.

However, it is necessary to emphasise that the following points do not constitute definitive legal advice and are intended to highlight matters that a researcher should take into account and investigate further, subject to the nature of the project. If in doubt, further advice should be sought from the departmental ethics officer, College ethics committee or University ethics team.

Illegal Activity

1. There is **no general legal duty in England and Wales to report criminal activity**. This is confirmed for example by a specific statement on the [Police National Legal Database](#), which says that although there is no legal duty, there is a moral duty on everyone to do so (the implication being that a good citizen will act in the interests of law, order and the community).
2. In the area of research ethics, **a moral and ethical duty** might be enough to oblige a researcher to state in a project outline and information sheet that confidentiality will be limited to the extent that the researcher will report any illegal activity that they encounter during the research to an appropriate authority (dependent on the area in question). However, as the Ethics Committee has noted in some cases, if declaring that the researcher will report any illegal activity might discourage participants, then the researcher might need to make that moral choice and omit the declaration. This would need to be weighed up by the researcher with regard to the area of research, any relevant subject association or funding council research ethics codes, beneficence and maleficence requirements, the degree of likelihood of the illegal activity taking place, and the possible seriousness and implications of such illegal activity. For further discussion see this [article on confidentiality in research](#).
3. Some areas of research might involve **more specific duties in relation to illegal activity**.

For example, **Terrorism and terrorism-related activity**:

[Terrorism Act 2000](#), s38B –

- (1) This section applies where a person has information which he knows or believes might be of material assistance—
 - (a) in preventing the commission by another person of an act of terrorism, or
 - (b) in securing the apprehension, prosecution or conviction of another person, in the United Kingdom, for an offence involving the commission, preparation or instigation of an act of terrorism.

- (2) The person commits an offence if he does not disclose the information as soon as reasonably practicable in accordance with subsection (3).
- (3) Disclosure is in accordance with this subsection if it is made—
- (a) in England and Wales, to a constable,
 - (b) in Scotland, to a constable, or
 - (c) in Northern Ireland, to a constable or a member of Her Majesty's forces.
- (4) It is a defence for a person charged with an offence under subsection (2) to prove that he had a reasonable excuse for not making the disclosure.

Terrorism Act 2000, ss15-19 – these involve offences of fund raising and money laundering, and a duty to report suspicions that a person is or has been involved in such activities.

See also the [Prevent Strategy](#)

Money laundering:

See for example the [Proceeds of Crime Act 2002](#) and the [Criminal Finances Act 2017](#). These Acts create offences of non-disclosure of suspicious activities, which are only applicable to people working in the financial sector. However, a researcher whose project might involve looking at financial transactions and co-operation with financial institutions should consider seeking specialist advice on money laundering offences and related regulatory matters.

Harmful Activity and Safeguarding Responsibilities

4. A researcher who becomes aware during a project that **a child or vulnerable adult might be at risk of harm**, for example due to abuse or neglect, will also have responsibilities under the University's safeguarding policy to report a concern about well-being to a relevant authority. A researcher undertaking a project in which awareness of this sort of risk might arise would need to express the boundaries of confidentiality accordingly.
- Some guidance is available on the [University Health & Safety](#) pages and see more generally with regard to children pp.6-8 in the [NSPCC guidance](#) on research ethics.
- Researchers should also consider any relevant subject association or funding council research ethics codes.
- For further information contact the University research ethics team.

Other Factors to Consider: Possible Liability for not Reporting Illegal or Harmful Activity

5. A researcher who becomes aware during a project that there is a foreseeable risk of harm to another due to an activity that the researcher is observing or involved in could potentially face **civil liability for negligence** if that harm results to a person and it is deemed that the researcher could and should reasonably have prevented it by reporting the activity to a relevant authority. For example, this could include situations such as:
- observing people undertaking dangerous activities; or
 - observing the provision of care or a service to a (vulnerable) individual, which raises concern about possible mistreatment or exposure to a risk of harm.

6. A researcher who becomes aware during a project that another person might do something illegal, or that harm might result to another person, could potentially face **criminal liability** if the illegal conduct is carried out or the harm caused and the researcher has not taken steps to report the conduct or prevent the harm. The law on this is complex and uncertain. Possible examples could include:

6.1 A situation in which a researcher makes arrangements to observe people carrying out an activity that may be on the verge of illegality, and the researcher's presence encourages them to 'show off' and go further than they might otherwise have done, committing an offence in the process. The researcher could possibly be deemed to be liable for encouraging crime if she/he was aware that her/his presence would or might have this effect and went ahead with the observation. In such situations, it would be advisable for a researcher to stipulate that she/he will not ignore illegal activity and will report it if she/he becomes aware that it is happening or is likely to happen. As above, a decision on this will depend on the context and will involve balancing the risk of illegal activity occurring, beneficence, and the need to secure research participation.

6.2 A situation in which foreseeable harm results to a person and it is deemed that the researcher could and should reasonably have prevented it by reporting the activity to a relevant authority. There is no general duty under criminal law in England and Wales to assist a person in danger or to try to prevent harm to another but specific duties to do so are recognised in some situations. The types and scope of these duties are complex, most are unlikely to arise in a research situation, and criminal liability would require serious personal fault, but when weighing up how to manage risks in research involving a high probability of illegal or dangerous activities it is worth recalling that 'commission by omission' is possible where a duty is found to exist and the accused is found to have intentionally or recklessly breached the duty.

International Research

The above points focus on research activities in England and Wales. If undertaking research in another jurisdiction abroad, a researcher should consider any local reporting and/or safeguarding duties that might be applicable. This could involve asking a research contact or a relevant research ethics body in the country in question for general guidance.

If specific guidance is not available, and a researcher cannot identify specifically relevant legal reporting requirements in the destination country, then an application for ethical approval would need to indicate that possible risks and the above-mentioned factors relating to confidentiality and reporting have been considered, and that if any specific issues and obligations come to light then the researcher undertakes to seek further expert advice.

Some general guidance on international standards is [available here](#), but it does not explicitly engage with illegal and harmful activity in general.