

**THE WELLCOME TRUST SANGER INSTITUTE**

**A WHISTLEBLOWING INVESTIGATION**

**October 2018**

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**Matrix Chambers**

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## Introduction

1. Genome Research Limited (GRL), is a wholly owned subsidiary of the Wellcome Trust<sup>1</sup>, responsible for both the Wellcome Trust Sanger Institute (the 'Institute') and the Wellcome Genome Campus (the 'Campus') both being situated on a single site in Hinxton, Cambridge. Presently, the Chair of GRL's Board of Directors is Lord David Willetts. Professor Sir Mike Stratton<sup>2</sup> is the Institute's Director, the Chair of its Management Board (the 'Board') and Chair of the Campus.
2. The Institute was founded in 1993 as a 'not-for-profit' organisation dedicated to large-scale genome research. Its aim is to improve human health by scientific research using genome sequencing. The approach is collaborative and inter-disciplinary, embracing experts in biology, mathematics, computer science, informatics, medicine, pathology and technology. Thus far, the Institute has provided the DNA sequence of one-third of the human genome and continues to be a global leader in genome research.
3. The Institute operates a Whistleblowing Policy<sup>3</sup> which allows any member of staff who believes that they have uncovered '**serious malpractice, wrong doing or impropriety**,'<sup>4</sup> a procedure for disclosing that information internally and not necessarily to their line manager, without fear of reprisal. Where appropriate, an investigating officer will be appointed, who is un-connected with the issues raised and who is without conflict of interest. The investigating officer will in turn produce a written report containing findings made and reasons for the outcome reached. The outcome of the investigation will be communicated to the complainant by GRL's Board, who commissioned this report. Beyond the report's outcome, it will be for the GRL Board to determine what further steps will be taken and the extent of any disclosure of the report to others.
4. I have been appointed by GLR as investing officer and have been commissioned to produce this report. I have also been asked to make any recommendations that I feel appropriate to address any concerns identified. I have made recommendations detailed in the executive summary.
5. There is some confusion as to which Whistleblowing Policy is in play. I have been provided with a Policy dated June 2011. There is a further Policy dated November 2017, which I understand is available to the Institute's members of staff. Both these Whistleblowing policies reflect the law prior to the important changes made in 2013. As I understand it, in November 2017 the Institute's Whistleblowing Policy was updated to reflect the legislative changes made in 2013 but this updated policy has

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<sup>1</sup> The Wellcome Trust Limited, a company incorporated in England under number 2711000

<sup>2</sup> Referred to in this report as Professor Stratton

<sup>3</sup> Dated June 2011

<sup>4</sup> Section 2 Whistleblowing Policy - June 2011

not been formally adopted. The November 2017 Policy identifies the need for the disclosure to be in the public interest, 'this policy specifically refers to concerns which are perceived to be in the public interest'<sup>5</sup>. Both the 2011 and 2017 Policies provide an assurance that those members of staff who raise legitimate concerns will not be dismissed or subjected to detrimental treatment. This is important in the light of the allegations made of retaliatory conduct for raising concerns.

6. On 27<sup>th</sup> April 2018 ██████████ raised various whistleblowing concerns detailed in a twenty-page statement, sent to Lord Willetts via her direct-access barrister, together with supporting documentation running to one hundred and fifty pages. In raising her concerns, ██████████ also referred to separate concerns raised by ██████████, ██████████, ██████████ and ██████████ contained in a separate seventeen-page joint statement, with supporting documentation running to four hundred and nineteen pages. In addition to these documents, I have been provided with further witness statements and supporting documentation running to more than two thousand pages. I have interviewed twenty-three individuals, some on more than one occasion.
7. My remit is specific and defined. In terms of the various whistleblowing matters raised by ██████████ I have been asked to investigate them. Where a matter is in dispute, I am to make the necessary findings and to set them out in my report and where appropriate, to make recommendations.
8. In respect of the disclosures made by ██████████, it is said that they evidence a failure on the part of the Institute to comply with its legal obligations, and thereby qualify as a whistleblowing complaint under the Institute's whistleblowing policy. The legal duties said to have been breached:

'[1] contractual duties to staff, including its duties under the Equality Act 2010 with respect of gender discrimination and its duty to maintain the trust and confidence of its staff; and [2] its contractual duties to others through the wrongful exploitation of scientific work for commercial purposes; and through its staff and in particular the Director, [3] of its fiduciary duties with respect to misuse of grant monies'<sup>6</sup>.

9. In respect of the three legal obligations identified in paragraph eight above, ██████████ relies on various incidents identified in the Index above. Unhelpfully several of these incidents are repeated. ██████████ also identifies some thirty individuals she suggested I speak to. I have spoken to many of those identified and who I determined may be able to assist me in my investigation. It would have been disproportionate to

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<sup>5</sup> Enterprise & Regulatory Reform Act 2013

<sup>6</sup> ██████████'s statement @ paragraphs 2 & 3

speak to all of them and in the light of the contemporaneous documents provided, unnecessary.

10. ██████ then goes on to assert: ‘I very much consider it to be in the public interest that these breaches of duty be thoroughly investigated, not least in order to preserve the reputation of the Institute’<sup>7</sup>.
11. I am not required to determine the merits of any individual’s grievance as against the Institute, which are not in the nature of a whistleblowing complaint or advanced by others. There is a separate grievance procedure open to members of staff to invoke in respect of personal concerns about matters not constituting a whistleblowing complaint. However, in considering the whistleblowing complaints raised, it has been necessary to consider the treatment of individuals, some of whom have raised no formal complaint. The purpose of this investigation is to consider the whistleblowing concerns raised by ██████ and determine the legitimacy of those concerns. I note that several individuals, including ██████ have reserved the right to raise separately a grievance. ██████ has asked that her witness statement be treated as raising a grievance under the Institute’s grievance procedure stayed pending the outcome of this investigation.
12. In producing this investigation report, I have considered the documentation provided and the helpful contribution of all those I interviewed. I am indebted for the assistance provided and for the courteous, open and transparent manner in which those interviewed conducted themselves. This was particularly so when those individuals were facing hurtful allegations about their integrity, motivation and alleged discriminatory conduct. The nature of these allegations, if proven, would lead to profound consequences but this has not deflected me from the task I have been asked to undertake, namely the investigation of serious allegations of unlawful conduct. There is also the potential impact as to the reputation of individuals and the Institute within the scientific community and beyond.
13. A lasting impression left with me was the collective commitment of those I interviewed and the recognition of the importance of the scientific research and the role played by the Institute.
14. It is hoped that the recommendations I have made in the report will be seen as a positive way forward for the future operation of the Institute and its staff members.

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<sup>7</sup> ██████’s statement @ paragraph 4

## Executive Summary and recommendations

15. As for the allegations of unlawful conduct by the Institute's senior management and in particular Professor Stratton (gender discrimination, exploitation of scientific work and misuse of grant monies), I have determined that:
- 15.1 There has been no direct discrimination of ██████████ on grounds of her gender nor is there evidence of gender discrimination in relation to others I have interviewed,
- 15.2 There has been no wrongful exploitation of scientific work,
- 15.3 There has been no misuse of grant monies, no breach of fiduciary obligations and no conduct giving rise to a conflict of interest by Professor Stratton.
- 15.4 The specific allegation of bullying by Professor Stratton, defined by ██████████ as 'being the hostility towards any views which diverge from his own<sup>8</sup>' is misplaced, unwarranted and misconceived. The manner in which Professor Stratton manages the Institute's staff is neither gender specific nor amounts to harassment (behaviour which is unwanted offensive, intimidating or humiliating).
16. There were failings by the Institute and Professor Stratton as ██████████'s line manager and the Institute's Director, in the communicating of the decision that ██████████ was required to leave the Institute (transition of her science) and the failure to be candid as to why she had to leave. Performance issues need to be handled in the future with greater transparency, be properly documented and reasoned. HR have an important role to play in assisting management in this regard, something that HR has failed to do in the past.
17. The Institute should introduce a specific process 'scientific expert panel' allowing any Faculty member who is asked to leave the Institute, because of a lack of 'scientific excellence' or 'scientific fit', to challenge this decision. That challenge should then be considered by an appropriately skilled tripartite panel, with possibly one external expert member. This policy would be analogous to a capability policy operated by many employers. This would avoid the use of the grievance procedure to challenge such a decision and the engaging of the whistleblowing policy which is concerned with public interests and not individual disputes. This process should not be seen as undermining the Director's role, but as providing a positive affirmation of a decision made.

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<sup>8</sup> ██████████'s statement @ paragraph 66

18. There needs to be further work on why it is that so few female scientists are employed at senior levels. Only seven out of thirty-three members of the Institute's Faculty are female. This will require consideration as to the disadvantages faced by women and whether the Faculty Model gives rise to indirect discrimination. In addition, how the review cycle of individuals impacts on women beyond just those who have been on maternity leave and more subtle issues such as the impact of personal assessments based on presentational skills or high profile standing in the scientific community should be considered. This may include external assessment and review of the Institute's EDI policies and the data gathered as to their effectiveness.
  
19. Settlement agreements with secrecy clauses should only be used when absolutely necessary. They should not be used when transitioning individuals and their science to another organisation.
  
20. There should be greater transparency in terms of decisions made about programmes, projects and the individuals involved. Without exception, the decisions challenged by [REDACTED] as evidencing unlawful and inappropriate behaviour by Professor Stratton were, on a forensic analysis, justified and appropriate and untainted by personal interest. I am not sure how this greater transparency can be achieved but it would go some way towards avoiding the concerns raised by [REDACTED] re-surfacing.

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<sup>9</sup> Andrew Jack - 'Wellcome challenges science journals' - Financial Times