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Publication ethics- a legal perspective

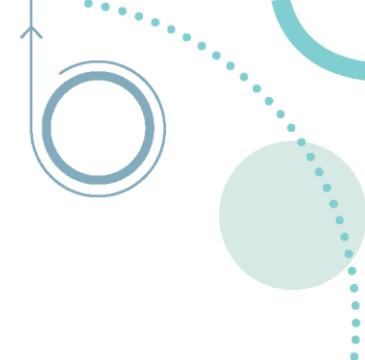
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Trust

“A firm belief in the reliability, truth, or ability of someone or something”

Oxford Dictionaries- Definition of Trust

- Publisher responsibility to validate and peer review
- By definition, material should be trustworthy after issuing the journal brand to the material upon publication.
- Customers place a reliance on this material in order for them to develop their knowledge within a specific industry based on what they assume to be accurate material.



Types of Infringements

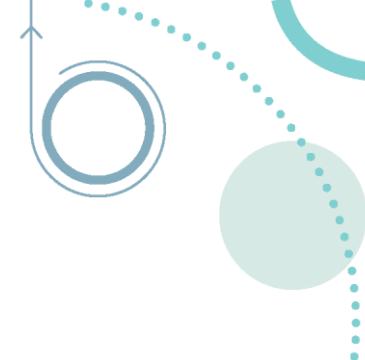
What are the most common problems faced by publishers?

Plagiarism

“[t]he act of appropriating the literary composition of another, or parts or passages of his writings, or the ideas or language of the same, and passing them off as the product of one's own mind. To be liable for plagiarism it is not necessary to exactly duplicate another's work, it being sufficient if unfair use of such work is made by lifting of substantial portion thereof . . .”

Black's Law Dictionary 1035 (5th ed. 1979)

- An example being verbatim copying of another's work or the use of material without crediting the rights holder.
- Avoided if appropriate permission sought and the rights holder receives the correct attribution



Types of Infringements

What are the most common problems faced by publishers?

Dual Publication/ Redundant Publication/Self-Plagiarism

“When a published work (or substantial sections from a published work) is/are published more than once (in the same or another language) without adequate acknowledgment of the source/cross-referencing/justification.”

Committee on Publication Ethics- Redundant Publication

- Sections of text used in more than one of the Author's publications unattributed (self-plagiarism)
- Re-publication of data or ideas, often with at least one Author in common- this is known as a Redundant/Dual publication

Types of Infringements

What are the most common problems faced by publishers?

Unattributed Authors

Defining the roles of Authors and Contributors

- **In what situation would this arise?**

Example: Where a junior researcher will add a senior researcher to the author list of the article in order to gain recognition- The senior researcher may not have been told about the association and will not have contributed towards the work.
Or....
Where a senior researcher wishes to take credit for a junior member of the team's work in order to gain an increase in citation reports- it cuts both ways
- **Who is an Author/Contributor?**

In either of the above circumstances, does the Unattributed Author meet the International Committee of Medical Experts (ICME) criteria for "Who is an Author"?

 - Have they made a substantial contribution;
 - Drafted or reviewed work for intellectual content;
 - Given final approval; and
 - Accountable for all aspects of the work
- **Resolutions**
 1. If "Unattributed Author" scenario arises via an honest mistake – Corrigendum
 2. If the Unattributed Author does not want to be associated with the work and it was a deliberate act of deception- Retraction Statement

Conflicts of Interest

The implications in relation to the objectivity of an Author/Editor

- Financial/Personal interests or beliefs- this could cloud the judgement of the Editor/ Author
- Are there any direct or indirect financial interests?
 - Employee (direct); or
 - Sponsor (indirect).
- Will this impact the credibility of the Journal?
- Are there any personal relationships or is there evidence of academic competition?
- ...Transparency is the key.



Data Fabrication, Image Manipulation and Consent

What does it all mean?

Data Fabrication

- Misleading facts associated with a study research.
- We need to consider how this impacts upon the Research industry- Data is paramount in considering what is trustworthy material.

Image Manipulation

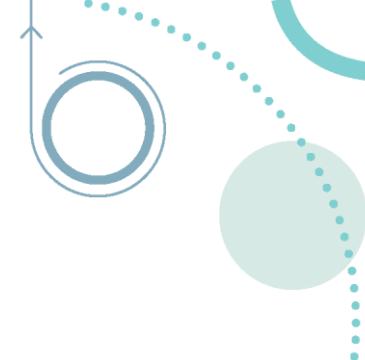
- Altering the Image which in turn creates misleading results
- However... it may be necessary i.e. to magnify a certain area of an image for closer inspection.
- Essential to consider the editorial responsibilities.
 - Request Authors to disclose if and where any image manipulation has been performed within the contribution etc.

Consent/Required approval

- Obtain, obtain, obtain!
- Be proportionate, level of consent should reflect the risks involved
- Consider more than one consent form, one for data collection and one for dissemination.

Ethical Approval

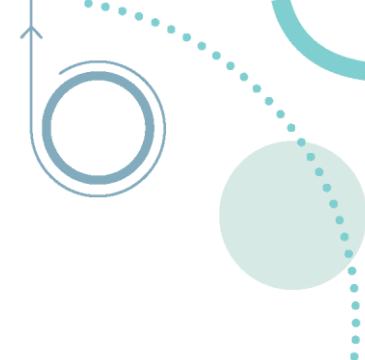
- In order for the researcher to obtain sound results and minimize harm, research must be conducted ethically when concerning sensitive matters such as human or animal testing. Many countries have laws governing the steps that must be taken with respect to human testing
- Generally, we must make sure that anonymity is adhered to at the stages of final publication.



Client Concerns & Prevention Methods

An ounce of prevention is worth a pound of cure - Benjamin Franklin

- Peer Review Process
 - Is it unrealistic to expect everyone to read everything?
 - Reviewers need to have familiarity of literature which is not always possible.
- iThenticate Software (Cross Check)
 - Editors will use this software to identify overlaps
 - It is only as good as the person using it as can project numerous overlaps which can be difficult to differentiate between
 - It requires a certain level of subject knowledge
 - It will run a check, split the screen, highlight potential matches and then the Editor will scan for potential infringements
- Copyright Experts Group, in-house
 - Purpose for a FAQ page on the portal and email inbox for unanswered permission/rights/license queries
- The Intellectual Property Group
 - An in-house team that comprises of Legal, Business and Editorial colleagues
 - The IGP provides support and advice for Editors
 - 24 hour guaranteed turnaround on topics such as:
 - Errata, corrections and retractions
 - Queries relating to libel/defamation
 - Compliance with industry standards.



Client concerns and Safeguarding

- Fake Peer Reviewing (“FPR”)

- Background- How has this come about?
 - Importance of Peer review in order to install trust into the reader
 - FPR- Authors knowingly or unknowingly take advantage of the fact they can suggest reviewers for their submissions to the Publisher which can in turn influence the outcome of the review process
 - It is essential to ensure editors obtain the relevant qualifications from all reviewers before initiating the peer review process.
- What are our recommendations to Editors?
 - Request an ORCID (online digital identifier that distinguishes researchers from one another)
 - If in doubt, follow the best practice guidelines from COPE and the publisher.
- What is Wiley doing to Safeguard this issue?
 - Global team of peer review experts investigating our process to ensure it remains rigorous.
- How is Wiley demonstrating leadership in the Peer Review space?
 - Wiley’s Best Practice Guidelines on Publishing Ethics
 - Reviewer resource centre
 - Peer Reviewers Survey
 - Journal level Mentoring Programme

Case Study- Wakefield, Lancet, Retraction

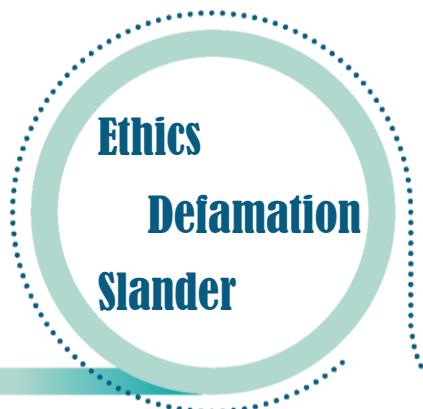
- Case series in the Lancet by Andrew Wakefield and 12 other Co-Authors
- Published in February 1998 and retracted on the 2nd February 2010
- Paper claimed to evidence the link between the MMR Vaccination and Autism.
- A short retraction was subsequently issued due to 10 of the 12 Co-Authors admitting that there wasn't a link between the MMR Vaccine and Autism as the data was insufficient.
- The Lancet then disclosed that Wakefield and the other Co-Authors had a financial interest in this matter. For example, Wakefield had been funded by lawyers who had been engaged with parents in law suits against vaccine producing companies.
- Wakefield et al. were found guilty of ethical violations & scientific misconduct and the paper was retracted in full in February 2010.
- All 13 were later to be found guilty of deliberate fraud which the British Medical Journal published a series of Articles exposing the fraud.

What is Libel?

What do we need to look out for?

“Editors should be alert to language in both submitted manuscripts and also in peer review reports or correspondence which could give rise to legal action for defamation or negligent misstatement. Such language, which can be directed at corporate entities and associations as well as individuals, should not appear within published articles and should be removed from any peer review report or correspondence that is passed on to the author. If in doubt, editors who work with Wiley should seek advice from Wiley.”

<http://olabout.wiley.com/WileyCDA/Section/id-828274.html>



Libel: A published false statement that is damaging to a person's reputation; a written defamation

Oxford Dictionaries- Definition of Libel

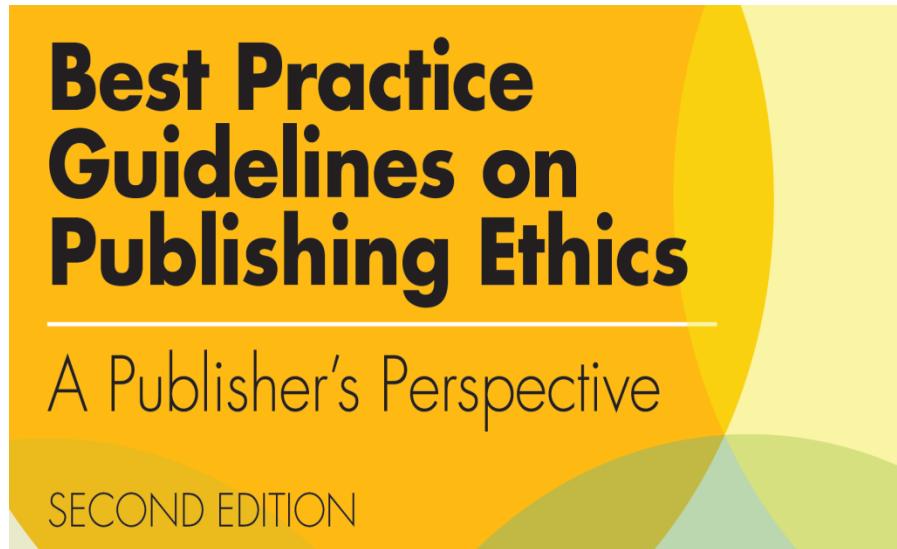
As opposed to...

Slander: The action or crime of making a false spoken statement damaging to a person's reputation

Oxford Dictionaries- Definition of Slander

Wiley Publication Ethics Guidelines

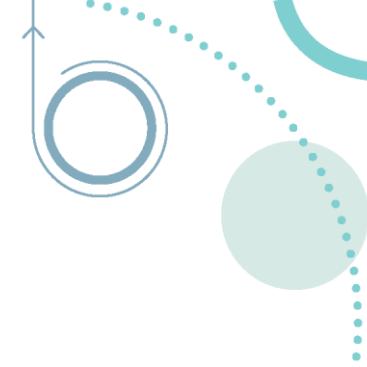
Published in 2014, updating the 2006 first edition.



- Created by in-house colleagues including Sue Joshua and Edward Wates
- Published in 6 Wiley Journals including the International Journal of Clinical Practice.

Copyright & intellectual property • Research ethics • Editorial standards and processes • Various types of resources for best publication practice

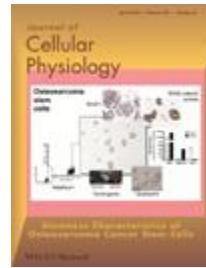
Corrigendums, Expressions of Concern, Withdrawal Statements and Retraction Statements



Corrigendum



Expression of Concern



Withdrawal Statement



Retraction Statement



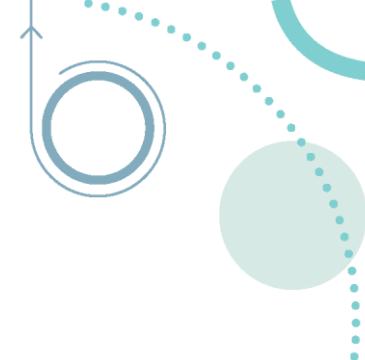
Low

Moderate

Important

Critical

[Retraction Watch](#)



Summary: Legal assistance in relation to Publication Ethics matters

- Working closely with the in-house Intellectual Property Group to achieve positive and constructive outcomes, this includes (but not limited to):
 - Providing advice/confirmation in relation to necessary actions that need to be taken;
 - Reviewing statements for accuracy;
 - Determining the basis for any libel claims potentially being made; and
 - Providing information in relation to the relevant jurisdiction concerning intellectual property.

Thank you for listening

Any questions?

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