

Sharing of information among editors-in-chief regarding possible misconduct

Background:

Recent high profile cases of research misconduct have relied upon the sharing of relevant information among the Editors-in-Chief of the journals concerned during the months and years leading up to the final settlement of the cases (see [http://onlinelibrary.wiley.com/journal/10.1111/\(ISSN\)1365-2044/homepage/-_research_misconduct.htm](http://onlinelibrary.wiley.com/journal/10.1111/(ISSN)1365-2044/homepage/-_research_misconduct.htm)).

Discussions with publishers suggest that such sharing of information risks accusations and/or legal claims of defamation, since submissions should be handled confidentially – even though the journals concerned might carry a statement on their website saying that manuscripts and related documents may be shared if that's considered necessary to investigate possible misconduct.

However, without the (apparently risky) sharing of such information by emails, the above cases would not have been brought to light in such an effective way – and possibly would never have been revealed at all. Sharing the information by telephone is not practical given the potentially large number of journals and Editors-in-Chief involved, especially across different time zones.

The type of information shared might include general enquiries about whether a particular author has submitted certain types of cases to other journals within a particular field, or specifics about manuscripts including data or even reviews. Such sharing might allow comparisons of submitted data in different versions of the same manuscript for example, or of potentially plagiarised text, or other inconsistencies.

Questions for discussion:

- Are publishers right to be cautious about sharing of such information?
- Would a disclaimer on a journal's website prevent such claims?
- Would COPE's endorsement or publication of a Code of Conduct that allows sharing of information under certain circumstances prevent such claims?
- Such a Code might consist of the following:
 - Editors-in-Chief and journals have a duty towards authors to treat their work in confidence, except where sharing it is a necessary part of the review/publication process;
 - However, Editors-in-Chief should be able to inform other Editors-in-Chief of current enquiries relating to possible data fabrication, lack of ethical approval, serious plagiarism, or duplicate publication affecting multiple papers;
 - This should not occur at the time of the first enquiry/letter to the author, but only if the response is inadequate or there is no response at all within a reasonable time (e.g. a month);
 - The format of the summary should be purely factual, e.g. 'I have just sent a letter to Dr X asking about the publication of six papers arising from a single study';
 - Circulating this information in no way indicates a judgement of wrongdoing on behalf of the named author(s), but is merely to help the alerting Editor-in-

- Chief (in case any of the others has information that might be useful – perhaps even to exonerate Dr X) as well as the other Editors-in-Chief, who may be currently appraising manuscripts from the same author or who may also be considering similar letters (since it'd be much better to so jointly);
- It is appropriate to use email for such communications, all of which should be marked as, and treated as, confidential;
 - Participating journals would inform authors via their webpages that information may be shared under these circumstances.
- Even were legal advice to suggest that such a Code would not prevent a legal claim arising, should COPE endorse or publish such a Code anyway, at least to advise Editors-in-Chief of best practice?

The topic was discussed at the COPE Forum on 4 September 2013.

COMMENTS FROM THE FORUM (4 September 2013) – NOTE, Comments do not imply formal COPE advice, or consensus.

- Legally, is there any difference between sharing information (ie, suspicions) about a submitted (but as yet unpublished) manuscript and a published document? Authors expect papers to be handled in confidence, but some journals now include in their instructions to authors a notice saying that if they suspect misconduct, the journal may break confidentiality, and may contact the author's institution or appropriate investigative body.
- It is very difficult to detect serial misconduct unless you share information between editors, especially if the author is submitting papers simultaneously to different journals.
- It is essential that we are able to share information with other journals—otherwise we risk being sued for not acting responsibly as editors.
- It is unlikely that a journal or publisher would be protected legally (from a defamation claim or legal action by an author) by publishing a disclaimer on the journal website stating that a journal may share information relating to an author in the event of suspected misconduct.
- As a publisher, we would not have a problem with editors sharing information. But for issues relating to defamation, libel or threat of lawsuit, these would need to be referred to our legal team.
- Precautions should be taken when discussing cases with other editors. For example, in the initial stages, it is advisable not to mention author names. It is very important when discussing any case to be non-judgemental, factual and cautious.
- Editors do share information, especially in the case of reviewers who may report to the editor that they have had the same submission from an author. In such cases, it is quite right that you should contact the other editor. However, in some cases, this sharing is done in a very incautious way—many people are copied in, authors are named, for example. If editors do have to share information it is vital that they involve

as few people as possible, state clearly that the information is confidential, and avoid using names.

- What kind of protection do editors have against personal law suits? It is vital to have some form of legal protection. Also, editors should contact their publisher as early as possible if they are involved in any potential legal issues. A form of defence can be that you are following industry best practice, which is what COPE aims to be, although it may not be a defence in itself.
- Does the Office of Research Integrity (ORI) have any role in investigating cases involving multiple journals? This would only work in the USA, but it may be worth investigating if there are other bodies in specific countries who may help if multiple individuals are involved.
- Some journals have statements on their websites stating that there will be occasions when sharing of information might be required.

In summary, the forum thought this was a very interesting topic and one where members would welcome further advice.

Action: COPE will draft a best practice document to provide advice and guidance to editors on this issue.

COMMENT POSTED ON THE WEBSITE

Posted by Liz Wager, 30/8/2013

Is there any difference between sharing information (ie suspicions) about a submitted (but as yet unpublished) manuscript and a published document? It might be helpful to consider both situations. For redundant publication or possible plagiarism, it might be worth talking to Hal (Skip) Garner about the Deja Vu database, as I understand they had some legal concerns but managed to overcome these. Use of text matching software makes it easier to make an objective statement (eg we found 40% text overlap between X and Y) but suspicions of fabrication or falsification are harder to communicate without being defamatory.