



Forum agenda

**Meeting to be held on Tuesday 6 September 2011 at 3pm
The Council Chamber, The Royal College of Paediatrics and Child Health (RCPCH), 5-
11 Theobalds Road, London WC1X 8SH**

1. Update on COPE activities by the Chair

2. New cases

- 11-17 Self-plagiarism of review article (MO)**
- 11-18 Retraction or correction? (SA)**
- 11-19 Lost raw data (JC)**
- 11-20 Duplicate publication allegation (JB)**
- 11-21 Duplicate publication in possibly four papers (RL)**
- 11-22 Transparency of peer review to coauthors (BG)**

3. Updates

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- 10-32 Author misconduct**
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- 11-12 An enquiry about arbitrating reviewers**
- 11-13 Case of figure duplication and manipulation involving two journals**
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- 11-16 Seeking retrospective ethics approval**

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NEW CASES

11-17 Self-plagiarism of review article (MO)

A reader flagged up that a review article originally published in a journal X in April 2003 had subsequently appeared with a few minor additions and deletions in journal Y (our journal) in July 2004 and then in journal Z (of which the author is an editor) in September 2006. The authors on the paper are all from the same institute although with some minor differences between the publications: journal X has three authors; journal Y has two of these authors plus a further two; and journal Z has all three authors from the first paper, plus one from the second journal and a further two new authors.

The editor-in-chief and the publisher reviewed the two review articles from journal X and journal Y side by side and identified that significant portions of the text from the 2003 journal X publication were used verbatim in 2004 in journal Y. Specifically:

- (1) The title of the paper is identical.
- (2) Three out of seven headings are identical.
- (3) The abstracts are identical except for a couple of minor amendments.
- (4) Three out of the seven sections within the review article are identical barring a few minor changes (eg, dropping single words like 'other' and an abbreviation is described in full instead).
- (5) In the remaining four sections, the majority of the text is identical except for a few similar minor changes, but has the occasional new sentence(s) and/or paragraph(s).
- (6) Four of the five images that appear in journal Y already appeared in journal X's review article. Journal Y had no other images.

Journal X's paper is only cited once in journal Y and this is only in reference to permission to reproduce an image. No other citation or reference is given to the paper in journal X.

The editor-in-chief of journal Y followed our standard procedures and wrote to the corresponding author seeking an explanation. They responded promptly and indicated that they "object (to) the use of the term plagiarism in this context". Although the "stated facts are correct (the author has) copied and pasted sentences and whole paragraphs from (journal X) 2003 papers in (journal Y's) 2004 paper and (Journal Z's) 2006 paper... all three papers were no (sic) original articles, but invited reviews". The author also noted that "(journal Y's) paper duly cited the prior (journal X) paper... so that nothing was ever concealed". The author goes on to say that "as an author I have the factual and intellectual responsibility for the content of my papers, and if I want to express the same thoughts and say the same things, I am almost obliged to use the same words, unless I find better ones, and this is exactly what I have done in good faith without plagiarizing anyone... I have been invited for updated reviews, and therefore I have updated what needed to be updated and left what was still true. I am not aware that I have violated anyone's rights or rules. I have never signed a copyright release form that would prevent me from using my very own words again". He copied in the Dean of Research Affairs at his institution, who we have not approached for a response, and who has also not commented on the situation.

We would be grateful for the Forum's advice on whether to pursue this as we would an original article case of self-plagiarism (ie, retract the paper) or whether it would suggest an alternative course of action(s). We have not investigated the allegation made about journal Z as it is outside of our remit.

11-18 Retraction or correction? (SA)

A reader contacted us with evidence that a number of western blots in a manuscript published by us in 2007 had been duplicated from other published papers; in one case, the same gel was duplicated in the paper itself. I compared the original papers and agreed with the reader. Some of the blots had also been duplicated in other papers but all had been published previous to being published in our journal. In the meantime, I received a forwarded email from the reader in which the editor of another journal, apparently involved, told this reader that the two affected papers in its journal were being retracted by the author.

I then contacted the two senior authors, Dr X and Dr Y (both listed as corresponding authors), as well as the heads of department (two departments listed) of Dr X. I could not find similar information for the institute of Dr Y (I later learned that Dr Y is the president of that university). I presented the evidence I had received and requested an explanation.

Dr X contacted me to say that he had started to investigate the issue a few weeks earlier (presumably after being contacted by one of the other journals). He said that it appeared that all "scientific wrongdoings identified so far" were caused by his laboratory staff. Although he had recently reproduced the data published in our journal and in other journals, "the mistakes have already appeared in these papers". He said he was willing to take full responsibility for this 'misconduct' and had decided to withdraw all papers involved, including the one in our journal. Dr Y contacted me to say that he and all the other coauthors agreed that Dr X would take responsibility for answering the required questions. I did not hear from either of the heads of the institutes.

I then emailed Dr X, copying in Dr Y and the heads of the institutes, with suggested text for the retraction, asking him to make any changes he felt necessary. He instead wrote back to ask that we consider allowing him to publish a correction, showing the correct bands for each of the relevant experiments. He said that the results in the paper are accurate, and he had all of the original data available for inspection. He had also reproduced the experiments, achieving the same results. He cited a number of papers by other groups in which some of his findings had been replicated. He again admitted that there was 'misuse' of bands, and gave a number of explanations for what might have happened (based on inexperience of his technicians). He said that, ultimately, however, he took full responsibility for what happened, but would like the opportunity to publish a correction. Dr Y also emailed me to support Dr X's request, vouching for Dr X as an honest scientist. Again, I have not heard from the heads of the institutes.

Although I think, in principle, the article should be retracted because of redundant publication of data, does it best serve readers if the conclusions are, in fact, sound? This paper has been well cited in the literature, and some results do indeed seem to have been reproduced by others.

I would very much appreciate advice on whether we should retract this article, issue a notice of redundant publication or involve the original handling (academic) editor and the editor-in-chief. In the latter case, I would most likely ask Dr X's institute to verify the results based on the documentation provided by Dr X, and then ask the the editor and editor-in-chief for their opinions. If the editor and editor-in-chief agree that the data are still sound, then we would issue a correction.

11-19 Lost raw data (JC)

In a nutshell, if someone has lost their raw data, workup data and laboratory books (so that in effect their data cannot be checked/queried/verified/substantiated) what would be the implications of submitting his/her results to a journal? I have a very clear view. I would not do it. However, others seem to think that if you cannot prove that the results are wrong, then they must be accepted on trust. I am hoping that you could point me towards some official ruling.

The peer review process would not be of any help in such a situation as it is unlikely that reviewers would ask to see the original calculations or even imagine a story of such careless custody of data.

11-20 Duplicate publication allegation (JB)

Our journal (journal A) received a complaint from a 'Claire Francis' alerting us to a case of duplicate publication involving our journal and another (journal B). The article in journal A was published first, but submitted after the article in journal B. Claire Francis requested that the article in journal A should be withdrawn as it is duplicate publication. However, the article in journal B was an extended abstract, included in a section of selected conference proceedings. Our records do not go back far enough to check whether the authors informed us of this but they did not reference their abstract in the article in journal A. The article in journal A is a full paper, with a materials and methods section, detailed results and enough information for someone else to replicate the experiment. The extended abstract in B was not. When we contacted the editor of journal B, we were informed that they had received several such complaints from Claire Francis which have turned out to be somewhat spurious.

A simple Google search revealed that 'Claire Francis' is a widely known self-styled whistleblower in scientific publication.

We responded that we had looked in detail at both papers and did not consider it to be a case of duplicate publication, and that we considered the matter closed. Claire Francis did not agree, and reiterated the issue of the article submission timings, insisting that the paper be withdrawn, and seeming to ignore the substance of what had actually been published. 'She' appealed to our status as a member of COPE as a reason that we should take on board these concerns.

We believe not only that using a pseudonym to pursue these matters is unethical, but that we have followed the correct procedure and have made the correct decision regarding these papers. We would be interested in hearing if the Forum agrees (on the former points, if not the latter).

11-21 Duplicate publication in possibly four papers (RL)

This case involves four manuscripts. Three of the manuscripts were originally published in another language and then published in our English language journal. There is overlap in the authors who were involved in all four manuscripts.

The first and second manuscripts were duplicated publications from another journal. The evidence is very clear. The papers were published in another country in another language, and then in English. A native speaker of the other language was able to read both versions and found only minor differences, and the editor of the foreign language journal also did this, and recommended that our journal retract the papers. The authors checked the box on our submission form that indicated that the submissions had not been published elsewhere, and they made no mention of any previous publication in their covering letter.

For the third paper, which shares authors, we had no evidence of duplicate publication until we heard from the editor of the foreign language journal who said that it came from two other articles. However, the editor did not say in which journals these were published. Again, the authors checked the box indicating that the paper was original and had not been previously published.

For the fourth manuscript there is no evidence of duplicate publication, but it shares one author and is therefore included. The editor of the foreign language journal did not find a duplicate publication.

Two authors are in common on the three duplicated papers. The paper for which we do not have evidence of duplication has different authors for the most part, but one of its authors is also an author of two of the duplicated papers. To try to make this clear, the authorship of the four papers is as follows, where each letter indicates an author:

- 1) A, B, C, D
- 2) A, B, C, E
- 3) A, B, F, G, H
- 4) C, I, J, K, L

The editor in chief of our journal wrote to the authors (A, B, and C) telling them that they had violated international standards against duplicate publishing and received an email in reply from a supervisor at their institution, apologising for this.

We seek guidance from COPE on how to publish a retraction in our journal concerning these four manuscripts, or is another course of action more appropriate?

11-22 Transparency of peer review to coauthors (BG)

An associate editor of one of our journals has asked whether we can configure our online peer review system to restrict access to reviewer correspondence to corresponding authors. His concern is that some of the review materials (eg, a harsh critique) might be embarrassing for the principal investigator if accessed by a coauthor who was a junior investigator or laboratory technician. Similarly, he thinks that a cover letter that requests exclusion of reviewers could be embarrassing to the principal investigator if read by certain coauthors.

Our editor in chief is not convinced by this editor's arguments and prefers transparency to all coauthors. He suggests that the principal investigator should explain to junior coauthors that scientific publishing is similar to making sausages—the process is a little messy but the final product is usually good.

Is there any consensus as to whether all coauthors or only the corresponding author should be permitted to access review materials?

UPDATES

10-06 Concerns over research by an author in numerous, separate publications

Anonymised text of the case:

The authenticity of the content of numerous publications by Author K has been questioned by 'concerned researchers' in an anonymous email sent to the Editor of Journal A in December 2009.

The email noted that author K had been publishing articles in numerous journals that "report remarkable findings that watching humorous films, drinking deep-sea water, exposure to road traffic, cell-phone noise and radiation, kissing, playing computer games, listening to Mozart, infant suckling, sleep deprivation and starvation all affect various [physiological] responses." Few of K's findings have been replicated by other authors and the 'concerned researchers' were clear that they believe the findings to be unusual and the research based on improbable hypotheses and mechanisms.

The data presented in each of the articles are remarkably consistent 'and, to be frank, seem too good to be true'. Most of these articles have been published by author K as a single author, and for a lone researcher the output is prolific.

The concerned researchers, the editorial office for Journal A and colleagues from the publishing house have all attempted to find an institution that author K may be affiliated to. There are suspicions surrounding author K's affiliations to two institutions. When the author's name and the two institutions are typed into a search engine, a lot of references to very similar articles appear in the search results.

The 'concerned researchers' therefore "cannot help but question whether the data presented in these articles are genuine. If not, this appears to be a case of scientific misconduct that could have far-reaching implications [in the field] ... This is ongoing, with nearly 100 articles published over the last few years including some published this year (2009)".

Journal A published a paper by author K in 2004 which, taking into account the summary above, could have easily been fabricated from the perspective of the editor of the journal. The editors and the concerned researchers wish to know more about the legitimacy of these publications and whether the articles by author K are reliable.

Advice:

The Forum suggested that if the author's institution cannot be found, the editor could report the author to the General Medical Council or the equivalent medical licensing authority in the author's country. The Forum asked if the editor had tried responding to the anonymous email. There is little that the editor can do without substantive evidence. He could respond to the anonymous email, asking for more information and emphasising that strict confidentiality is assured. The Forum noted that the editor has a duty of care with regard to the journal's published papers. The editor should contact the reviewer(s) of the 2004 paper that was published in his journal and ask them to look again at the paper. Other advice was to contact the other journals where the author has published as they may have some information that would lead to the author's institution, which should be contacted if possible. The Forum advised the editor to be alert to any more papers that come in from the same source.

Follow up:

Following on from the COPE Forum, I took on COPE's advice and contacted the other editors that were listed at the end of the anonymous email that our editor received. There were 12 other editors and journals listed in this email, from a wide range of publishing houses. I have received five responses so far. One was apparently not aware of the email ever being sent. One asked a colleague to respond to my message, which I am still waiting for.

Three have expressed concern about the nature of the email; one of these editors has offered to judge the papers of the suspected author and provide a response, and I am waiting to hear back from them. One of the editors contacted a colleague who lives in the same country as the author and received a general response from their colleague who claims to know of the author and mentioned that the author 'is known for [their] unique treatment'. However, this colleague noted that "I am not personally an acquaintance with [the author]. I just heard from some colleagues that many of [the author's] works seem to be fake or fabrication, although I do not have any evidence about it".

One editor responded with a lengthy email where they mentioned they have had discussions with the other editor of the journal and administrative staff at the publishing house. The editor noted that "My personal view was that we should go ahead and ask the people who made the allegations to give in confidence their names so that we felt that there was a legitimacy to proceed with the inquiry that was clearly needed by virtue of the allegation". However, the editor was not successful in obtaining personal identification from the anonymous email authors. The editor goes on to say that "At this point, our views are split. My view is that there was enough of a basis and concern given the subject of anxiety by the authors of the email about being victimised as whistleblowers. I thought that an open ended question to the author of the series in publication that are in question, [the author], is merited and, at the very least, a request to be able to contact [the author's] head of department or person connected to their institution to gather more information on their research activities. My colleagues thought that this was unreasonably intrusive with no names or specific accusation. As a result, we have not advanced".

As for our journal, we managed to find some email and postal addresses for the author, by searching online and going back through previous submission records. An article by the author was submitted and published in 2004, and the editor of our journal has mentioned that the paper "could easily be fabricated". The editorial office sent a message to the author expressing concern about the integrity of a paper that was published in their journal and asked the author to respond as soon as possible. This email was sent out earlier this week, and one of the email addresses bounced, but the second one seems to have worked. We are now waiting for any sort of response.

Follow-up (September 2011):

One of the email addresses bounced, but others seemed to have got through, including one that was used by the author in a very recent paper. However, after several months we have not had any response. The author of the original email pointing out the odd pattern of author K's publications did contact the editor of our journal having noted that the case had been brought to COPE. He had no direct link to author K, had no special insight into his work and was not from the same country as the author, but had come across the author's publications as he was working in a similar area. For reasons to do with his own experience as a scientist, he

was sensitive to possible fraud which is why he felt obliged to bring his concerns to the attention of the journal editors. The editor of our journal was convinced he was sincere.

A retired UK allergist who said he knew author K contacted us to say that he believed that the author was a genuine scientist and would not undertake scientific fraud.

We asked the reviewers of the original paper whether they had any doubts about the authenticity of the work published in our journal in 2004 and they said that they had not had any concerns. However, the paper was a case series and the information could easily have been fabricated.

The next step is for the editor in chief of our journal to contact known associate editors in the same country as the author, using the following draft text: “Dear X, I write to you confidentially in your capacity as a trusted associate editor of xjournal. About a year ago, the xjournal editorial team were asked to look into a paper published by author K in xjournal in 2004. Many of author K’s papers are single author and contain intriguing observations, and the paper in xjournal fits this description. Although of course we have no evidence to suggest there are any irregularities, we are duty bound to look into the matter. We have tried to contact author K by email at several addresses without any success. I would much appreciate it if you would let me know if you have contact details for him or his departmental colleagues, so that we can correspond with him. This is clearly a very sensitive issue and I would appreciate your treating it as confidential”.

These associate editors may know how to take this matter to the medial association within the country. The emails are now being sent and we are waiting for a response.

10-32 Author misconduct

Anonymised text of the case:

The rector at author D’s institution contacted the editor of journal A stating that they have found what they evidently consider to be serious misconduct in an article written by author D and the rector requested author D to retract the paper from journal A but author D refused to do so. The institution contacted journal A to say that the institution’s name should not be connected with the article and the institution believes that this misconduct should be known to journal A’s readers immediately. The suspected misconduct by author D was that in figure X each lane was taken from different gels that were combined together, according to the rector.

Journal A investigated the situation by communicating with author D. Journal A confirmed that the ‘representative’ western blot image of figure X in the accepted version is a composite photo comprising band images from different gels. Journal A requested author D to retract the paper. However, author D refused to do so. Instead, author D is proposing to publish an addendum containing a new gel figure with all of the controls. Author D has admitted that figure X was a composite from different gels; however, author D’s apparent view is that the data are not flawed. Journal A knows that the journal has a right to retract the paper at their discretion according to the COPE guidelines but journal A would not like to retract the paper. At the same time, journal A feels that this misconduct also should be known to readers immediately as suggested by the rector at the author’s institution.

Journal A believes this fits the situation where an 'Expression of concern' should be published, according to COPE's guideline as author D's institution and author D have not reached common ground.

Journal A replied to author D's institution that they will publish an 'Expression of concern' instead of retracting the paper for now, as author D is refusing to retract the paper. Also, journal A told the rector that if author D keeps refusing to retract the paper, journal A will publish an addendum as author D requests. The rector at author D's institution replied to journal A that they still believe that the paper should be retracted and that the institution's name could not be associated with the article.

Following communication with the authors and the institution, journal A is now thinking it is time to publish an expression of concern anyway as the authors and institution cannot reach agreement and this should be known to readers as soon as possible.

Our question to COPE is:

Would it be appropriate to publish an expression of concern in this situation?

Advice:

The Forum was told that the editor has now decided that he would like to retract the article. According to the COPE retraction guidelines, an editor can retract an article even without the author's consent. In the current situation, it is a question of whether the editor feels that there is a mistake in just this one figure or if there are problems with other aspects of the paper. He must decide if the best way of setting the record straight is to retract or correct. If he feels that only the figure is incorrect, but the rest of the paper is reliable, then he should publish a correction. However, if the editor has more serious concerns, then he should consider retracting the paper.

The Forum suggested that as the institution is involved, the editor should ask the institution if they have conducted a formal investigation. If they have not, the editor should request that the institution conduct an investigation into this matter. The editor could base the wording of the retraction on the results of this investigation. The Forum noted that the retraction notice does not have to accuse the author of deliberate misconduct. It should simply state the facts. The retraction notice can also list which authors have agreed to the retraction and so the editor was advised to contact the other authors and ask them for an explanation and see if they are aware of the situation.

The Forum warned against publishing an expression of concern. An expression of concern should only be published if there is an unresolved, ongoing investigation or if the evidence is inconclusive. Most agreed that the evidence was strong here, but the editor needs to get the institution to investigate. Another suggestion for the future was to publish guidance to authors on how to present images when submitting a paper.

Follow-up:

The journal published a retraction. The editor considers the case now closed.

11-04 Possible conflict of interest

Anonymised text of the case:

Our journal is attempting to encourage the adoption of a uniform standard for the reporting of population genetics data. As part of this, one of the editors of our journal has submitted a proposal requiring authors to submit their data, including raw data, to his own database. While the intention is laudable, there would appear to be a clear conflict of interest.

What can a journal do ethically to require authors to present their data in particular formats and to make their raw data publicly available?

In this situation is there a conflict of interest in the proposition that should preclude the journal adopting this policy?

What suggestions should be made to the editor concerned to resolve the conflict of interest while supporting the aims of standardised data collection and and centralised data storage and analysis.

Advice:

The Forum was cautious about requiring authors to submit their data to a particular database. Some thought it was a step too far. The majority view was that instead of “requiring” authors to submit their data, it could be helpful to “encourage” them to do so and to provide information about the working of the database, but also to publish a clear conflict of interest statement about the ownership of the database when the policy is announced. The journal can only encourage authors—submission of their data should be optional and it is possible that other databases will be developed in time.

The Forum agreed that consulting with the wider community is a good idea. The editor could discuss this with the editorial board and also with other journals in the same field.

Follow-up:

The editor noted that the comments from the Forum were very useful in guiding him to a decision on this case. The resolution was that the review article should be revised to remove any reference to future policy of the journal, and that instead an editorial piece would be written to go alongside the review, putting the case for submission of all population data to a database, such as the one described in the accompanying article. In addition, a letter would be sent to the editors of other journals in the area suggesting that they consider the benefits of such centralised data collection and suggesting that they adopt a common policy of recommending such submission.

These suggestions were passed to the associate editor/author of the review and the journal is awaiting resubmission of the amended review.

11-09 Mislabelling/duplicate images

Anonymised text of the case:

We were contacted by a reader who told us that he had spotted a number of cases of image duplication and mislabelling of fluorescent tags that had occurred over the past 4 years. These involved two papers published in our journal, and two other papers published in two different journals. The two papers in our journal were both reviews, and the one that had the most occurrences involved a poster (associated with the review) that we had recently published. Although each paper had different authors, there was one author, author X, common to all the papers. The reader provided extensive evidence.

I checked all the evidence myself, looking up the original sources and concurred with the reader that there was at least image duplication (I could not verify myself whether mislabelling had occurred). I also discussed the case with our publisher. I then contacted the head of author X's institute, copying in author X and his co-authors on the poster article. I told the institute head that I was making no assumptions about wrongdoing but presented the evidence and asked for an explanation.

The matter was referred by the institute head to Dr Y, the Associate Vice President for Research of the university, who appointed a Committee of Inquiry. This committee found reason to launch a full investigation, and so an Investigatory Committee was appointed. I was told that I would receive their report.

While I was waiting for their decision, the editors of the two other journals in question approached me to ask that I keep them informed. I told them about the Investigatory Committee and recommended that they contact Dr Y if they wanted to be kept abreast of the outcome.

Almost 2 months later, I received an email from author X, copied to Dr Y, with an explanation of what had happened. He could not provide an explanation for the error in the first paper. There was one image in that paper that claimed to show something labelled with a particular fluorescent tag, but a different, although similar, tag was in fact used. He said he spoke with his co-authors, who agreed that the error did not affect the scientific conclusions of the paper and that he could either correct the tag name or provide a new correct image.

For the poster, he said that there were a number of images mislabelled, and that this occurred, in essence, because he used 'placeholder' images while creating the poster but forgot to replace them with the correct images. He offered to redo the poster with the correct images and also wanted to replace some other images that were correctly labelled because he had 'better versions' of them. He assured me that the text did not need to be changed and again said that his co-authors agreed that the scientific conclusions of the paper were unaffected.

After again conferring with our publisher, we have come up with a plan:

- I have contacted Dr Y and asked him to verify that the Investigatory Committee has accepted author X's explanation and found no evidence of fraudulent intention.
- I have asked author X to have his co-authors on both papers contact me directly to confirm that the scientific conclusions of the papers were not compromised and that they are satisfied with the replacement images author X is proposing.
- I will ask author X to provide a replacement image for the first article.
- I have told author X that it is not acceptable to replace correctly labelled images with 'better versions' and that we will only deal with those that are incorrectly labelled.
- I plan to issue corrections for both papers. On the poster article, because it involved 10 images, I also plan to include, with the correction, a statement to the effect that a committee was appointed by author X's institute to investigate the mislabelling and that they found no evidence of malicious intent (I'm wary of the wording I use here).
- I also want to reprint the poster and send a copy of it to each of our print subscribers as they will have received a copy of the incorrect version. I am talking to our online hosts about how we can provide a link to the corrected version of the poster because,

although I feel strongly that the original should remain online as it is, a correct version should be available.

- I will ask author X to cover all costs associated with the redesign, printing and mailing of the poster, in addition to the costs of the corrections themselves.

I am not convinced by author X's explanation and did look to see whether there were any other published corrections associated with author X's previous publications but did not find any. If the Investigatory Committee confirms that they did not find evidence of fraudulent intent, however, then I feel I have to accept that decision and will proceed according to our plan outlined above. I would very much appreciate COPE's advice on how we have handled the situation so far, and whether our plan of action could be/have been improved.

Advice:

The Forum agreed that the editor had done all he could and had handled the case well. The institution has investigated and found no fraudulent intent. The editor should publish corrections, stating the facts and avoiding accusing any of the authors, and then let readers draw their own conclusions. Regarding the whistleblower, the editor does not have a duty to keep him/her informed of all of the details of the case. The whistleblower cannot expect to be involved in the case. The whistleblower can contact the institution if they want. The editor should keep correspondence with the whistleblower as formal as possible, reply only to direct questions and not involve him/her in the investigation.

Follow-up:

The editor followed the plan that he outlined, taking into consideration the advice received from the Forum. Corrections were published for both of the articles involved, with agreement from all coauthors, that stated the facts; a link to a corrected version of the poster was provided (keeping the original in place as published) and print copies were sent to all print subscribers (all costs covered by the author). The whistleblower was contacted only to confirm that corrections had been published. The editor considers the case to be resolved.

11-12 An enquiry about arbitrating reviewers

Anonymised text of the case:

Under certain circumstances, the editors of journal A use 'arbitrating' reviewers. These reviewers advise an editor where, for example, an editor has split reviewer reports or a rebuttal to a decision that was based on split reviewer reports. This reviewer has sight of the other reviewers' reports as he/she both evaluates the manuscript and assists the editor, through their advice, to arrive at an informed editorial decision. Historically, the use of arbitrating reviewers has arisen out of a discussion between an author and the handling editor, with their use being at the discretion of the editor. More recently, the use of arbitrating reviewers has become more routine and has not always involved a discussion with the authors concerned.

The journal's editors are currently reviewing this peer review option, partly in response to an author's complaint that arbitrating reviewers bias the peer review process. We would welcome the committee's feedback on the use of arbitrating reviewers and to have their advice regarding any additional safeguards the journal should put in place when using these reviewers to maintain unbiased peer review. We will use this advice to formulate a new set of editorial guidelines on arbitrating reviewers.

Advice:

This interesting case provoked much discussion. Most agreed that they would not use the term “arbitrating reviewers”. The third reviewer is providing extra information for the editor, who will then decide whether or not to accept the paper. So the editor is in fact the arbitrator, not the reviewer. By using the term “arbitrating reviewers”, it could send a confusing message to the author that the reviewer is the one making the final decision or “arbitrating” on the acceptance of the paper. The editor can keep the author informed of the process, but does not need to give details on how many reviewers are consulted.

The Forum advised that the editor should obtain consent from the reviewers to share their reports with a third reviewer. The Forum noted that there is no evidence that the editor is introducing bias, even by showing a third reviewer the previous reviews. All agreed that the editor needs to make the decision on what he thinks is best for his journal. The journal could, perhaps, audit the process and see if there is any evidence of bias (i.e. whether papers that undergo review by a third reviewer are more or less likely to be accepted than those that are reviewed by only two).

Follow-up:

COPE's feedback was discussed at the journal's annual editors meeting and alternatives to the arbitrating reviewer arrangement are being considering, such as changing the name used for these reviewers, or perhaps seeking advice on papers that have conflicting reports in a different way.

11-13 Case of figure duplication and manipulation involving two journals

Anonymised text of the case:

The editors in chief of journal A and journal B, both owned by society C, received a letter from the last ‘senior’ author, also the corresponding author on one of the papers (author D), concerning separate papers published in both journals (paper E published in journal A and paper F published in journal B), informing them that one of the co-authors on both papers is under investigation for scientific fraud. The results of the investigation are expected to take a further 6 months to complete. The case has, however, attracted some press attention and there is a danger that the journals will be brought into disrepute by association. Author D listed the figures in both papers E and F which the other co-authors had determined, on subsequent examination, to be fraudulently manipulated and/or duplicated and asked for advice on further action. Figures had been duplicated from a third publication, journal G. Author D is a member of the editorial board of journal A. The letter sent by author D was co-signed by all authors except the author accused of fraud. The accused author was the corresponding author on one of the papers.

The editors in chief of both journals also received a letter to the editor from an independent observer of the case, criticising the editorial process that led to the papers being accepted and published.

The society and editors in chief naturally wished to respond rapidly to author D and to avoid any damage to the reputations of the journals through association. Following standard society policy and procedure, and consulting the COPE guidelines, the editors in chief referred the case to the society's independent publication ethics committee.

The editors in chief also instigated a review of the editorial processes for the two papers to be conducted by (1) a former editor of both journals who was familiar with the subject area covered by the papers and (2) the chair of the society's publications committee.

The publications ethics committee investigated and confirmed the figure duplication and manipulation described by author D and recommended:

- (1) that author D should be asked to retract the papers
- (2) that all authors should be banned from submitting to either journal for 1 year, as is standard practice, on the grounds that all authors take joint responsibility for the content of submitted papers
- (3) the third journal, journal G, should be informed of the actions being taken
- (4) that author D be asked to resign as an editor of journal A to avoid bringing the journal into disrepute by association.

The outcome of the internal review of the editorial process leading to the publication of the papers is incomplete at the time of submission. Findings will be fed back to the editorial boards at meetings in July for discussion and action.

The society and editors in chief seek a second opinion on the recommendations of the publications ethics committee and advice on improving the editorial process to avoid similar cases in future. We would also like advice on:

- (a) what opportunity to reply must be afforded to the author, who is effectively accused prior to a public notice by the journals;
- (b) in light of the COPE guidelines and the COPE definition of 'author', should the nature of response depend on whether the corresponding or another author notifies the publisher/journal of a potential problem.

Advice:

COPE never recommends banning authors because of the legal implications involved. The Forum agreed that author D acted honourably by acting quickly and co-ordinating the retraction but agreed that the journal's response should not depend on whether the corresponding or another author notifies the journal of a potential problem. The Forum was told that the editor has contacted the accused author and given him the opportunity to respond. He has not responded to date. The Forum agreed that the editor can go ahead with the retractions, even if the accused author does not respond. The Forum suggested contacting all of the authors and giving them the opportunity to respond.

However, some suggested that if the editor is in doubt about any aspects of the case, he should wait for the results of the investigation before proceeding.

Follow-up:

In view of the general interest in the case and further accusations of lax editing, and in order to preserve the reputation of the journals, the editors-in-chief decided to retract the papers, with the agreement of all authors, barring the author accused of misconduct, without waiting for the outcome of the external investigation. The society is continuing to review editorial procedures to heighten awareness of figure manipulation and duplication among reviewers and editors. The practice of banning authors will be reviewed.

11-15 Disagreement between authors and sponsor

Anonymised text of the case:

Our journal was contacted by a representative of a company following acceptance of a manuscript that was based on a clinical study sponsored by that company. Upon acceptance, the senior author had forwarded a copy of the manuscript to the company, who had identified some discrepancies between the data presented in the article and an initial report that had been presented to them while the study was still underway. They stated that these discrepancies had been brought to the authors' attention but that a satisfactory resolution had not yet been reached and that they had requested a full independent audit.

The authors, who were copied on this correspondence, were asked by the journal to clarify the discrepancies. In a letter to the company and the journal, the authors responded to each of the concerns that had been raised. They stated that the discrepancies resulted to some degree from the use of a different analytic technique in the submitted article, citing the CONSORT statement as evidence that this technique has become the favoured form of analysis since the initial report, which was presented almost 15 years ago. They also acknowledged that one of the numbers presented in the initial report was inaccurate and that they had redone their analysis to ensure accuracy in their results. A revised manuscript was included with this letter.

The company responded that they were not satisfied with the authors' responses and repeated their request for an independent audit. The authors responded that they did not have the resources for an independent audit but would conduct an extensive internal one. The associate editor who had accepted the manuscript and a representative of the editorial board were asked to assess the company's claims and the authors' responses and they felt that the authors had satisfactorily answered the questions that had been raised.

The company contacted the ethics committee of the authors' institution and reported their concerns. The institution's CEO reported that the ethics committee, as well as the institution's board, had investigated the situation and found that while errors had occurred, they did not constitute research misconduct and that they did not see this as an ethics issue. They said that the decision regarding publication should be left to the discretion of the journal's editors.

Our publisher's legal team was consulted, and they felt that if the journal editors were satisfied with the authors' responses and the relevant changes to the manuscript, then they did not see any reason not to publish the paper. They also advised that our society's board of directors should review the situation and recommended that the case be submitted to COPE, a recommendation endorsed by the society's board.

The company continues to maintain that an independent audit is needed. The authors contend that the company is seeking to delay or stop publication of the article, perhaps because of its implications for a line of products produced by the company.

Advice:

The Forum asked whether the company had any contract with the authors requiring them to have company approval before publication. The editor told the Forum that the only contract that was found was a 15 year old letter about the authors promising to produce results.

As the institutions found no evidence of misconduct, and the editor is satisfied with the paper, most agreed that the paper should be published but that the editor should perhaps consult the journal's legal team and the society's board. All agreed the editor has done all the right things and ultimately it is his decision whether or not to publish. An editor does have a duty to publish good research.

The Forum thought it might be helpful to consider whether the editor is reacting differently because a commercial company is involved. Also, the editor should be prepared for any negative publicity or even legal ramifications if he publishes the paper. How will the editor handle letters from the company criticising the paper? Will he publish them?

Another suggestion was for the editor to write a commentary or editorial outlining the issues involved in this case.

Follow-up:

Following review of the Forum discussion, the society's board of directors agreed to proceed with publication of the article. Rather than drafting a full editorial to explain the controversy, a footnote was added to the manuscript to explain the unusual delay between acceptance of the manuscript and publication. The authors were notified of this, and agreed to the proposed language for the footnote. The company that had raised the concerns was also notified that publication would proceed and provided with the relevant deadlines should they wish to submit an official correspondence. The correspondence arrived within days and it and a response from the authors were both published in the issue that followed the one with the article itself. Because the letters are now linked to the article and its entry in most citation databases, the company's concerns and the authors' response are now entered into the public record. The society and editors are grateful to the Forum for its advice; being able to say that an independent body had reviewed the situation was beneficial.

11-16 Seeking retrospective ethics approval

Anonymised text of the case:

I received a submission that had asked a series of questions of visitors to a website about a mental health issue. It was reviewed by a senior colleague and myself. While the science was fine we were both concerned that no mention had been made of any ethics approval. I raised this issue with the authors, especially given that deception was involved.

The authors then appear to have sought ethics approval from their institutional committee.

The committee appears to have granted approval with the proviso that a notice be placed on the website indicating that the material from the questionnaires was to be employed in research, not in supporting the activities promoted by the website, as first indicated. The notice was to remain up for 3 weeks so that any of the participants could ask for their responses to be deleted from the study. No one asked that this be done.

We have discussed this issue 'in-house'. It has been suggested that publication is not necessarily precluded given that the institutional review board has approved the study and required the authors to notify participants of their intentions. Of course, the institutional review board and the authors would need to be able to produce full documentation relating to the submission and approval of the project.

We would be grateful for COPE's advice on this issue.

Advice:

As mentioned many times at the COPE Forum, just because a study has been approved by an institutional review board does not mean that the editor has to consider it to be ethical or to publish it. Also, institutional review board approval does not guarantee that the study is not flawed.

Some questioned what kind of an institution would approve such a study in vulnerable patients. Others argued that they would not publish this study – the population was not fully informed of the study and so the research is misleading. It is unethical research in a vulnerable population.

The advice was not to publish the paper and write to the author telling him why. Another suggestion was to write to the ethics committee and ask why they approved the study.

Follow-up:

The editor wrote to the authors with the Forum's comments and indicated that the journal would not publish their paper and that they should not attempt to seek to publish it elsewhere. The authors have not replied.