



Forum agenda

**Meeting to be held on Wednesday 4 December 2013 11am–1pm (GMT)
BY WEBINAR**

1. Update on COPE activities by the Chair

2. Forum discussion topic: How should a journal deal with persistent complainers?
(<http://publicationethics.org/forum-discussion-topic-how-should-journal-deal-persistent-complainers>)

3. New cases

13-14 Ethical concerns about a study involving human subjects (SH)

13-15 Online posting of confidential draft by peer reviewer (JMC)

13-16 Two reviewer reports contain a significant amount of verbatim textual overlap (MG)

13-17 Misattributed authorship and unauthorized use of data (WW)

13-18 Claim of plagiarism in published article (CP)

13-19 Identifying patient information published in a figure (RS)

4. Updates

12-34 Journal refuses to correct the record

13-12 Omitted author

13-13 A case of plagiarism?

CONTENTS

| | |
|--|----|
| 2. Forum discussion topic: How should a journal deal with persistent complainers? | 3 |
| 3. NEW CASES..... | 4 |
| 13-14 Ethical concerns about a study involving human subjects (SH) | 4 |
| 13-15 Online posting of confidential draft by peer reviewer (JMC) | 5 |
| 13-16 Two reviewer reports contain a significant amount of verbatim textual overlap (MG) | 6 |
| 13-17 Misattributed authorship and unauthorized use of data (WW) | 7 |
| 13-18 Claim of plagiarism in published article (CP) | 9 |
| 13-19 Identifying patient information published in a figure (RS) | 10 |
| 4. UPDATES | 11 |
| 12-34 Journal refuses to correct the record | 11 |
| 13-12 Omitted author | 12 |
| 13-13 A case of plagiarism? | 13 |

2. Forum discussion topic: How should a journal deal with persistent complainers?

(<http://publicationethics.org/forum-discussion-topic-how-should-journal-deal-persistent-complainers>)

Every so often a journal may get not one, but a series of complaints from the same source. These complaints may be directed at an author, an editor, or the journal in general. If these complaints turn out to be well founded, obviously there is a serious problem with the publication. However, as a publisher, we are aware of cases where a complainant continuously comes up with cases that turn out to be baseless. Some complaints deal with matters outside the remit of the journal: for example, in one case an editor was accused of blocking a promotion; in another case, several journals received weekly (plagiarism) allegations against papers published by an editor-in-chief apparently because the complainant was not content with the outcome of an earlier unrelated investigation conducted by the editor-in-chief.

Other complaints are about publications. We have seen one complaint that alleges plagiarism, but evidence presented consisted only of common English phrases like "...has been proven to", "In previous research, we observed that...". There are also authors that insist repeatedly on a journal publishing comments to earlier comments, and do not accept that a certain topic has been closed.

In other cases, complainants accuse articles with similar titles of plagiarism whereas the content turns out to be entirely different. Finally, we receive complaints from researchers who insist that their work should have been cited, "as it is so important".

When the above happens on an incidental basis, editors can deal with such cases by following the standard procedure. However, how should they act when the complaints do not stop, get personal, and start humming around the community?

Questions

- How prevalent is this situation?
- What are legitimate options to deal with such cases?
- Should one escalate to higher authorities (lawyers, employing institutes)?
- How to repair any reputational damage incurred by unfounded accusations?
- Is there any way to prevent such cases (for example, through stated policy)?
- Should editors react to messages posted on blogs and forums?
- What is the role of publishers to investigate journals who receive such issues?

3. NEW CASES

13-14 Ethical concerns about a study involving human subjects (SH)

A manuscript was submitted to our journal describing a study of a new drug. The manuscript had only one author who gave their affiliation as a company that we can find no record of online. It describes a study in which they appear to have developed a new drug, carried out a toxicology study in mice and then, because no adverse effects were seen, tested it on one patient and five healthy volunteers. There appear to have been no stages in between. There is no statement of informed consent in the manuscript. There is a statement that says the study was reviewed by the institution's human subjects committee but we cannot find a record of the institution.

We had ethical concerns about the study so we asked the authors for more information, specifically: the details of the ethics committee that approved the study; whether they had informed consent from the patient and healthy volunteers; whether the trial had been registered before it commenced; how the patient and controls were recruited; what information the patient and controls were given before they agreed to participate; where the study took place; what safety/monitoring was in place in case of any adverse effects; what approval was obtained (eg, from the country's drug regulatory body) before this drug was injected into a human for the first time; and what other research had already been carried out on this new drug? The author responded to our email asking to withdraw the manuscript but did not answer any of our questions. We responded that we had serious ethical concerns and therefore would not be withdrawing the manuscript at this time. We informed the author that we would be investigating the potential ethical issues and asked again for answers to our questions. We have heard nothing from the author since.

The author is based in a country that does not appear to have a national medical board and is not affiliated to an academic institution or hospital. The affiliation given is the company that we can find no record of. The author's email address is not an institutional or company email address. We have contacted the professional society for the medical specialty of the author but they have informed us that the author is not a member and therefore they cannot investigate. We have also searched for the author on the registry of the regional medical board for the region in which the author is based, and they are not registered with them either. We do not want to reject the manuscript until an appropriate body has agreed to investigate but we are struggling as to how else to report this.

Questions for the COPE Forum

- (1) Does the Forum agree that we should continue to try and find someone to investigate this before we reject?
- (2) Does the Forum have any suggestions on how we can report this?

13-15 Online posting of confidential draft by peer reviewer (JMC)

Shortly before publication, I received an email from the authors of a systematic review telling me that a version of the paper as first submitted to the journal for peer review had appeared on the website of a campaign group based in the USA. It was clear that the version of the document posted on the website was the same as the version supplied to the journal's peer reviewers. Further investigation showed that one of the three peer reviewers (reviewer A) who initially advised on the paper is also named as a member of the board of directors of the campaign group. The journal operates an anonymous peer review system.

I emailed all three peer reviewers asking for an explanation as to how the confidential draft appeared on the website. Reviewers B and C replied within a few hours, disclaiming all knowledge, as I expected. Reviewer A has failed to reply. I also emailed the senior directors of the campaign group, asking them to remove the confidential draft from their website, and inviting them to replace it with the definitive paper, which had in the meantime been published. They did not reply. The directors have since been sent a letter from our publisher's lawyers asking for the confidential document to be removed—with reviewer A also sent a copy—on the grounds of breach of copyright. They have not replied. The lawyers are continuing to pursue legal avenues for getting the draft removed from the website.

In normal circumstances, I would contact reviewer A's institution and request an investigation. However, reviewer A is unaffiliated, so I cannot follow this course. On our manuscript tracking database, we have removed reviewer A's role as a peer reviewer, with a note explaining the circumstances, so that he should not be used as a peer reviewer again. I have received frequent emails from the lead author of the paper, asking for a resolution of the matter. The author has requested that I give her the name of reviewer A, so that she can ask that he is excluded from peer reviewing her papers in the future. I have declined to do this on the grounds that it would be a further breach of confidentiality.

Questions for the COPE Forum

- (1) Is there any more that can be done to obtain an explanation from reviewer A, or to satisfy the authors that we have investigated the matter to the limits of the journal's powers?

13-16 Two reviewer reports contain a significant amount of verbatim textual overlap (MG)

Two of four reviewer reports received by the editor-in-chief of a journal contained a significant amount of verbatim textual overlap. Although of the same native (not English) language, the two reviewers are affiliated to institutions in different countries. The reports were submitted to the journal within 5 days of each other. Both reviewers suggested rejection of the submission.

Separately, contacted by the editor-in-chief, both reviewers categorically denied that they communicated with anyone (including any other reviewer) about the paper and their review work. One reviewer explained the similarities in the reviews as appearing “due to the fact that I have worked with [the other reviewer] as a co-editor for a special issue ... a few months ago. To ease the review work, we prepared a checklist It seems that we are still making reference to this checklist when we review papers on the same topic, and this explains the similarities in the terminology and approach that we used in our ... reviews. Moreover, I think that the convergence of our opinion about the overall quality, strengths and weaknesses of the paper is due to the fact that we are actively collaborating on the topic ... and therefore have similar ideas about what it takes to provide a good contribution in this field of research”.

The other reviewer offered the following explanations: “[The other reviewer] and I have coauthored several papers ... and, as a result, share many ideas about the ... literature; as a result of working together on several papers on the subject, we use the same perspective in assessing how a study fits into the literature and the contributions that it makes; potential overlaps in the terminology can be due to the fact that we developed for an old special issue that we guest edited a checklist for paper review ..., that we shared with each other. Some of the common terminology in our review can be found in this checklist; ... neither one of us is a native English speaker. This is why some expressions (common in ... but unusual in English) appear in both of our reviews”.

Questions for the COPE Forum

- (1) Should the editor-in-chief rely on the reports of the two reviewers?
- (2) Should the editor-in-chief invite in the future the two researchers to review other submissions in the field?

13-17 Misattributed authorship and unauthorized use of data (WW)

The director of a research laboratory contacted our journal regarding an article published earlier this year. The director claimed that the documents and data used in the article were collected at his research laboratory and used by author A without his knowledge and permission.

At the time, author A was a visiting scholar at the director's laboratory. The director also claimed that author B and author C (both PhD students under the director's supervision) were listed as coauthors without their knowledge. Additionally, he claimed that author D (author A's supervisor at his primary affiliation) was not in any way involved in the research described in the article and should be removed from the authors list. The director stated that he wishes for the article to be withdrawn.

In his email to our journal, the director forwarded us his previous correspondence with author A to corroborate his claims. In their correspondence, author A basically admits his mistake, apologizes and assures the director that he already contacted our journal in order to withdraw the paper. The correspondence between the director and author A occurred approximately 3 months before the director contacted us. Our journal never received a request to withdraw the paper from author A.

However, even though the forwarded correspondence clearly incriminates author A, as far as we know it is not possible to determine whether the forwarded emails are authentic or edited.

After receiving the director's message, we contacted all of the authors in an attempt to resolve the case. At the time of submission, author A was affiliated with institution 1 and institution 2. Author D is affiliated with institution 1, while author B, author C and the director are affiliated with institution 2. Author A stated that he included author B and author C as coauthors due to their help with language editing, but he agreed with their request to be removed from the authors list. When asked to comment on his previous correspondence with the director, he claimed in vague terms that the misconduct allegations stem from some personal disagreement between the director and author D during their collaboration on a research project.

Author B requested his removal from the authors list as well as withdrawal of the article. Author B also claimed that some of the data in the article were not valid. He did not respond to our request to clarify in what way were the data were flawed. Author C requested his removal from the authors list as well as withdrawal of the article. Author D was contacted a week later than the others due to a faulty email address. We informed him that author B and author C expressed that they wish to be removed from the authors list and he agreed with their request.

As all of the authors have reached a consensus regarding authorship, we intend to correct the record and remove author B and author C from the author's list.

The director was asked if he could provide some other proof of his allegations besides the forwarded email correspondence between himself and author A. He did not provide any other proof and demanded that the article be removed at once and that author A's institution (institution 1) be notified of his scientific misconduct. Additionally, he claimed that author B

performed the majority of the research presented in the article as author A had insufficient experience in the field.

Author A was asked to comment on that claim, but he maintained that he wrote the article and did not use data collected in the director's research laboratory.

We do not have the means necessary to pursue further investigation of this case by ourselves, which is why we are seeking advice from the COPE Forum.

Questions for the COPE Forum

- (1) Should the forwarded email correspondence between the director and author A be considered conclusive evidence of alleged scientific misconduct on author A's behalf?
- (2) Should we retract the article based on the scarce information we have managed to gather?
- (3) Should we first publish a correction in order to rectify the misattributed authorship and deal with the data ownership issues separately? If so, should we try to further resolve the data ownership issues ourselves or refer the case to author A's institution?
- (4) Should we publish an expression of concern detailing the alleged misconduct, inform author A's institution about the allegations, request an institutional investigation and wait for the results of their investigation before making a final decision about this case?
- (5) Does the COPE Forum have any other suggestions on how to proceed with this complicated case?

13-18 Claim of plagiarism in published article (CP)

Author A of a 2008 review article in our journal claims her article was used as the "framework" for a 2013 review article on the same subject in an open access journal by a former student of hers, author B. There was no verbatim overlap but the format (comparison of two common conditions) was indeed similar (differential diagnosis, management, pharmacotherapy, and implications for practice).

Author A sent me the articles for comparison and stated that she thought this was plagiarism and that, furthermore, her student had no experience caring for these patients so she had misrepresented herself as an authority on this topic. The student (author B) was the first author, second author was a physician who was well published on this topic, and "writing assistance" had been provided by a professional medical writer and paid by a pharmaceutical company that manufactures drugs in this therapeutic class. I checked both papers through iThenticate and there was no verbatim overlap between the two. I had nine members of my editorial board review and compare the articles in question along with the complaints of author A. I asked for specific comparisons (quantity and quality) of overlapping material and whether or not any overlap constituted plagiarism of ideas (not words). The editorial board concluded, as did I, that this format is fairly standard for clinical articles; content overlap likely resulted from similar content in practice guidelines for these conditions; neither article is 'conceptually original'; and that updates of clinical review articles are a common practice (there was a 5 year gap between the articles). We found multiple articles in the literature on the same or related topics with similar resources, content, and format.

Meanwhile, author A contacted the open access journal stating that she was consulting a lawyer and she wanted author B's article "pulled and reviewed for integrity and rigor". Within 8 days of the complaint, I wrote to author A stating that we did not find evidence of plagiarism and that I would not contact the open access journal with a claim to protect the article copyright because I did not believe it had been violated. Author A was not pleased with my response and claims she has "confirmed" with two colleagues that there are striking similarities between the articles. I reiterated based on COPE guidelines and definitions of plagiarism, there was nothing more I could do. Meanwhile, the open access journal responded to author A's email that they have "removed" the offending article by author B from their website (in fact it is still there) and they suggested she contact the author because authors retain the copyright. I referred author A to my publishing manager, who has been apprised of this investigation since the beginning, if she wishes to pursue this further.

Questions for the COPE Forum

- (1) Do I have an obligation to contact the open access journal with my findings? I am reluctant to do so given there are legal implications (lawyer contacted by author A); author B's paper has not actually been removed; and there are professional medical writers and a pharmaceutical company involved in author B's paper. I had never contacted the open access journal myself and they have not contacted me but I "feel" that I might have some responsibility to let them know that we are not making any claim.

13-19 Identifying patient information published in a figure (RS)

A reader emailed a society, which forwarded the message to the journal office, noting that he can read the name of a patient in a figure in a published letter to the editor. The letter was published online 3 months earlier and had just appeared in print; it was the print version the reader saw. The reader asked if the patient's name could be removed.

The journal's author instructions already stated that no identifying patient information should be included. At all stages following submission (journal office review of initial submission, publisher production of processed manuscript, copyeditor review, and author review of proof), the patient's name was not noticed.

Within 2 days of the reader's email, the publisher had replaced the figure with a version that did not include the patient's name. It was agreed that an erratum would not be issued so as not to draw attention to the matter.

Both the journal office and publisher have since instituted new procedures in reviewing figures to detect any patient information. Additionally, new text has been added to the author instructions: "Patient's identity must be removed in all figures (ie, x-rays, MRIs, charts, photographs, etc). Informed written consent is required from any potentially identifiable patient or legal representative, and should be presented in either the methods section or the acknowledgements".

The publisher and its legal counsel also created a patient consent form (the rural clinic in another country where the patient was treated did not have one) and we able to contact the author who asked her patient to sign the form, post-publication. The patient agreed and signed the form, and the matter is now closed.

Questions for the COPE Forum

- (1) Were we right in deciding not to issue an erratum? Is there any other text that you would recommend adding to the author instructions?

4. UPDATES

12-34 Journal refuses to correct the record

Anonymised text of the case:

An author contacted our journal in August 2011 informing us that a paper he had published in our journal in 2005 had been published, word for word, in another journal (journal X), under a different title and author group, in 2007.

We followed the appropriate COPE flowchart and contacted the editor of journal X. The editor of journal X told us in September 2011 that he would publish a retraction and a letter submitted from the author group admitting a "disagreeable mistake".

Journal X publishes infrequently, so I checked over the past 12 months for the retraction and published letter. The notice and letter were never published and the article is still available through the journal's website and SCOPUS. I contacted the editor of journal X in October 2012 to ask him if he planned to retract the article and publish the letter, as we had agreed. He replied that the article was no longer available. I sent him the link where I was able to retrieve it and he did not reply back.

The original author of the paper contacted the author group's institution in September 2011, but he never received a response.

In the COPE flowchart for suspected plagiarism, the journal that published the plagiarized article issues a retraction; however, what should be done if that journal will not correct the record? Journal X is not a member of COPE.

Advice:

The Forum noted that readers will be confused by having two versions of the paper available in the literature. Hence the advice was for the editor to publish a notice linked to the article explaining the relationship between it and the plagiarized article, which has not been retracted and is still available online. The Forum also recommended alerting the other publisher to the fact that the editor is planning on publishing this notice to see if that will make them respond and formally retract the article. The Forum agreed that there was not a lot else the editor could do but did suggest writing an editorial on this issue.

Follow up:

The editor contacted the editor/publisher again following the advice of the COPE Forum, attaching a notice letting him know that the journal would publish the notice if he did not retract the article. The author agreed to retract it but removed it instead from his site; it was still available in an internet search. The editor suggested he replace the original with a version that included a retraction notice and a watermark on each page that indicated the article was retracted. He agreed to this but did not know how to do it, so the journal prepared the document for him. This was done on 18 February 2013 and the journal is waiting for him to upload this version to his website.

Update (December 2013)

The original article PDF and the "retraction notice" appear in a Google search; however, the retraction letter does not seem to be visible in Scopus so it has clearly not been linked correctly to the original article. As we have discussed before, this publisher appears to be

ignorant of the established protocols for handling situations like this. In back-and-forth conversation with him, we did provide a PDF of the article with the retraction watermark for him and explained that the retraction notice had to link to the article. The retraction letter was not that easy to find—you would need to know what to search for to find it. No further action was ever taken by the publisher. On the plus side, their article has never been cited by any journals that are in Scopus, and our article has been cited 57 times by Scopus journals.

We do not feel that we can do any more at this point, but would be interested to hear what the Forum might say as far as whether this case should be considered closed or, if not, what more we could do.

13-12 Omitted author

Anonymised text of the case:

A case series of 89 patients with a relatively rare condition was accepted for publication by the journal following due process through the peer-review system. The paper was published online within days of being accepted. A few days later the editor of the journal received an email from a professor (Professor X) from the same country from which the paper was submitted to say that one of the cases was "his case" and that he wanted the case and the clinical photograph of his patient to be withdrawn from the paper; alternatively, he requested being made a coauthor on the paper.

The editor circulated the letter from Professor X to the publisher, the editor-elect and the editorial office. It was decided that the editor should contact the corresponding author to ask them to consider this approach and to give their response. The letter to the corresponding author included the name of the professor who had written, and the exact details of the complaint and the two possible outcomes he was requesting (withdrawal of his case or his inclusion as a coauthor). The editor went on to say "If the patient is indeed Professor X's and he (Professor X) meets the authorship criteria (as per the International Committee of Medical Journal Editors (ICMJE <http://www.icmje.org/>)) we can still, if all coauthors agree, add him as a coauthor. If he does not meet the authorship criteria then it would be possible to offer acknowledgement."

The editor went on to highlight the ICMJE criteria as follows: (1) Substantial contributions to conception and design or acquisition of data or analysis and interpretation of data; (2) Drafting the article or revising it critically for important intellectual content; (3) Final approval of the version to be published. Authors should meet conditions 1, 2 and 3.

Additionally, the editor sent an e-mail to Professor X saying that he had contacted the authors for their comments, and in the meantime this paper had been held (as online only) until this matter had been resolved.

The editor also e-mailed the publisher to request that the paper "be pulled" until the issue was sorted. The publisher responded by saying that it was not possible to simply "pull" the paper and that it would need to remain as online only.

A few days later the first author replied to the editor of the journal as follows: "Actually, Professor X provided the picture and clinical data regarding this patient and I should have

included him as coauthor. It was my mistake." This explanation was accepted by the editor and a revised version of the manuscript and authorship consent was submitted.

(Comment: The journal does not require coauthors of papers to state explicitly what they have done to merit inclusion as a coauthor.)

It is hard to believe that Professor X would satisfy the ICMJE authorship criteria on the basis of the information available to the journal. Despite this, he and all the coauthors signed the new authorship declaration forms and assignment of copyright.

Questions for the COPE Forum

- (1) Were the responses and procedures for the journal appropriate for the issue?
- (2) If not, how might the journal and editorial team have behaved differently?
- (3) Do the COPE Forum recommend that the journal tries to gather more information relating to omitted author's contribution to a manuscript before passing the issue over to the authors of the paper?

Advice:

The Forum agreed this was a difficult case, and in such circumstances it is not always easy to know what to do. A few members of the Forum would have handled the situation differently and the majority of the Forum agreed that Professor X did not qualify for authorship.

One view was that this was a case of gift authorship. Some argued that Professor X only partially fulfilled condition (1) of the ICMJE criteria and hence should not have been listed as an author. People who contribute patients or data do not automatically qualify as authors. In this case, perhaps the person could have been put in the acknowledgement section for his contribution of the specific patient data rather than included as an author. The editor should have stood firm and refused to allow Professor X's inclusion as an author. This also raises the question of how many of the other authors on this paper contributed substantially?

The editor noted that the journal does not require coauthors of papers to state explicitly what they have done to merit inclusion as a coauthor. The Forum suggested that the journal might like to revise this policy and in future ask authors to state their exact contributions. The Forum noted that this case highlights the whole issue of the role of authorship and contributorship. Editors, authors and funders frequently struggle with these issues and they are being actively discussed in forums such as http://projects.iq.harvard.edu/attribution_workshop

Follow up

The editor submitted the case more as a learning point about what to do to avoid this happening in the future. He is grateful for the advice of the Forum.

13-13 A case of plagiarism?

Anonymised text of the case:

A paper was published in our journal. A reader contacted us and informed us that the whole of the introduction of the paper was copied directly from another publication. The editor-in-chief suggested retracting the paper immediately. However, the author insists on publishing a correction. They do not want to publish a retraction as this will affect their future career development.

Questions for the COPE Forum

(1) What can we do?

(2) Can we retract without the approval of the author? The author has threatened legal action if we retract.

Advice:

The Forum agreed that this was a clear case of plagiarism, and as another journal was involved, there may also be copyright issues.

The Forum stressed that according to the COPE guidelines, an editor does not need the approval of the author to retract an article. If the editor feels there are grounds for retraction, he/she can retract the article without the author's permission. In this case, half of the Forum favoured retracting the article, on the grounds of plagiarism and breach of copyright.

However, others argued that there are different degrees of plagiarism with different severities. Plagiarism can sometimes occur among authors who's first language is not English and who do not realise that plagiarism is unacceptable in this situation. In this case, the data are not corrupt and the plagiarism seems to have occurred solely in the introduction. If data were corrupt, the editor would be correct in reporting this to the author's institution and retracting the author, irrespective of what the author thinks. But this case seems to be more of a mixture of naivety and lack of understanding of language on the part of the authors. Hence the advice was to publish a correction or expression of concern, and write a stern letter to the authors explaining that this type of behaviour is unacceptable.

Hence the Forum was evenly split between recommending retraction versus publishing a correction together with a firm rebuke to the authors. In the end, it is the editor's decision, but the editor should inform all of the authors of what action he plans to undertake.

Follow up

The journal withdrew the paper.