



## **Forum agenda**

**Meeting to be held on Tuesday 7 December 2010 at 3pm**

**The Council Chamber, The Royal College of Paediatrics and Child Health (RCPCH),  
5-11 Theobalds Road, London WC1X 8SH**

### **Agenda**

#### **1. Update on COPE activities by the Chair**

#### **2. New cases**

- 10-31 Nuisance author (KC)**
- 10-32 Author misconduct (MN)**
- 10-33 Submissions from members of the editorial board (LR)**
- 10-34 Questionable ethics related to clinical trial raised by peer-reviewer (SK)**
- 10-35 Authorship order dispute (ER)**
- 10-36 Ethical approval (SH)**

#### **3. Updates**

- 10-14 Supervisor publishes PhD students work**
- 10-25 Breach of peer review confidentiality**
- 10-28 No ethics committee approval of a study**
- 10-29 Falsified references**
- 10-30 Claim from an author that his name should not have been included as author on a paper**

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## NEW CASES

### **10-31 Nuisance author (KC)**

An author submitted a paper which went through the review process and was rejected. He is now sending abusive emails to me, the editor, and spamming an enormous number of people in his research area and the government (he even tried to contact the royal office) as a protest. He continues to submit his paper (over 20 times so far), changing his author name.

We have rejected the paper, expired his account, etc, but can't do anything to stop him from submitting again. He just creates another account and submits under a new name. All of the accounts are @yahoo.fr or @yahoo.in or @yahoo.cn. He has not given the name of an institution so we don't even know who he really is or where he is from. He is rude and threatening. We are now ignoring him, but he is sending out these emails to the community which are untrue. He has edited my email responses and then forwarded them on to people. He attached a copy of an email from me which said his paper was unsuitable for publication in our journal. However, he had removed that text and typed in "If all Chinese authors are as impolite and narrow-minded as you, any contribution from China will be automatically rejected. So please stop this."

I can assure you I did not send this email, or indeed anything like it. He has sent it out to a very large number of people however. A number of these people have contacted me to either ask what is going on or to let me know he has done this. Some have responded to him and asked to be removed from his mailing list—they then receive rude replies and he forwards on their emails which have again been tampered with. In fact I wonder whether the email he is sending out as mine is perhaps an edited version of a response from someone else as the English is not the same style as his.

While I can continue to ignore this person and his submissions (although this is messing with our journal statistics!), I am very concerned that he is traducing our reputation and is spamming such a large number of people. I would be grateful for any help or advice.

### **10-32 Author misconduct (MN)**

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?

### **10-33 Submissions from members of the editorial board (LR)**

Our journal has decided that members of the editorial board are allowed to submit manuscripts which will undergo peer-review directed by the present or former editor-in-chief. It can be difficult, and I would like to present one example.

A group of authors (including one member of the editorial board) submitted five manuscripts during a period of 17 days. The handling of some manuscripts was delayed for two reasons. At first, essential forms (such as the conflict of interest statements) were missing and the editor-in-chief received the manuscripts 10–35 days after submission when the administrative checklist was complete. In addition, it was difficult to recruit reviewers who were willing to assess the manuscripts over the summer, and several papers were within a rather narrow research field. The authors were sending numerous e-mails during the review process. The co-author, who was a member of the editorial board, had already contacted the editor-in-chief the day after submission of the first paper where he stated that he would appreciate it if the evaluation (including revision) was completed prior to a specific date since there was a grant application deadline. The same co-author requested a “preliminary verdict” 7–8 weeks after the peer-review process was initiated.

The editor-in-chief apologised that the handling had been delayed and provided information about the current status of the manuscripts. As the research funding deadline was getting closer, the number of e-mails increased and the authors contacted one other member of the editorial board, apparently to influence the handling of their submissions. The authors claimed that “in view of the delay in the handling” they believed that they were “entitled to a positive response about acceptance”. The authors asked if there was anyone on the editorial board who, during the afternoon, could read the manuscript and make a preliminary decision as to whether one specific paper was likely to be accepted, even if a revision was needed afterwards, according to standard procedures. The editor-in-chief felt that such requests were not acceptable for a peer-reviewed scientific journal.

We have the following question for COPE:

Should we specifically state in our author guidelines or editorial policy that authors should not contact the handling editor during the review process? Any information regarding the process can be obtained from the editorial assistant. The role as co-author can be difficult for a member of the editorial board and I wonder if other journals have experienced similar problems?

### **10-34 Questionable ethics related to clinical trial raised by peer-reviewer (SK)**

We received a paper describing a clinical trial comparing treatment X with treatment Y. Treatment Y is the standard treatment for the indication under investigation (indication 1); treatment X is a combination treatment not recommended for treatment of the indication under investigation. One of treatment X's components has shown some efficacy against indication 1 and is widely used as a second line treatment for a different indication (indication 2).

The handling editor invited four clinical peer-reviewers (one of whom had been recommended by the authors) and a statistical reviewer. Reviewer A responded to the invitation explaining that he had a conflict of interest with the pharmaceutical company who were financial sponsors of the trial, but s/he would still be happy to peer-review the paper if the editor would like to receive her/his comments. The editor asked reviewer A to send their comments but to note the conflict of interest on the peer-review report so that it could be taken into account.

Three clinical reviewers and one statistical reviewer were broadly positive about the paper. However, reviewer A recommended rejection; the concerns were that treatment X was being marketed without proper good clinical practice assessment and had not been licensed by any country with rigorous assessment standards and that the component of treatment X should be reserved solely for indication 2. Reviewer A claimed that the study was unethical.

Treatment X is licensed for the treatment of indication 2 in the country where the study was done (and several others); all the components of the treatment are licensed for use; and the study was given ethical approval and legally sponsored by an institutional review board. Following discussion with colleagues, and considering the conflict of interest indicated by reviewer A and taking into account the fact that another reviewer was recommended by the authors, the editor invited an additional reviewer (B) to assess the paper, specifically asking about the ethical concerns. Reviewer B unreservedly recommended publication and thought the design was more than adequate with adequate safety and IRB coverage.

Given the overall feedback from reviewers and considering the licensing status of treatment X and that the study had ethical approval, the editor invited the authors to revise the paper; in the invitation to revise, the editor suggested that the authors could discount the comments of reviewer A.

The authors revised the paper satisfactorily, choosing not to respond to the comments of reviewer A, and the paper was published. Since publication, reviewer A has contacted the journal to express again their ethical concerns and querying why the paper was published and how the author had responded to the the comments that s/he made at peer review.

Was it appropriate for the editor to recommend that the authors could choose not to respond to the comments of reviewer A? And what should be the procedure from here to investigate the concerns regarding the ethics of the study?

### **10-35 Authorship order dispute (ER)**

A manuscript has been accepted for publication in our journal and we would like to publish in the March 2011 issue. The corresponding author (Dr F) is trying to collect copyright forms from all of the authors of the paper to send back to us, but one author will not sign the copyright form due to a disagreement about authorship order.

The author (Dr D) who is refusing to sign the copyright undertook a substantial early literature review for the manuscript but this was taken over by another colleague (Dr E) when Dr D had to leave due to a long term illness. Dr C was the initiator of the subject matter for the study and oversaw the early directions of Dr D's efforts. The manuscript was ultimately put together by Drs C and E, with the oversight of Dr F as the head of department.

Dr D is adamant that she should be first or second author on the paper (rather than third as she currently is), and said that she intends to block publication if this is not done, even though she has said that she will not work in academia again and is not interested in academic rewards. As head of department, Dr F is not willing to change the order of the authors as he believes the current order accurately reflects the scientific input of the authors. He has discussed with his research institute chair and with his region's ethics board.

In the meantime, Dr D has not been communicative, despite Dr F's correspondence requesting cooperation. Dr F has been instructed not to speak to Dr D in person and has to communicate through e-mail or a third party legal representative. So far, our publications office has not communicated with Dr D—we have only been getting updates through Dr F as the corresponding author.

We do not want to proceed with publication until these issues are resolved, at the risk of facing legal action or having to retract the paper. In any case, we would only move forward once we received all copyright forms from the authors.

What should we do?



### **10-36 Ethical approval (SH)**

We have received an article on health care access and availability in prisons of country XX. In the first version of the manuscript there was no mention of ethics approval. On request, the revised version included a statement that approval for research had been sought and granted from the ministry of internal affairs and foreign affairs. The authors also refer to the concept of non-research, which they believe applies to the study and claim that non-research does not require ethical approval. The authors have followed the guidelines on informed consent, and the identity of all study participants is anonymized.

Questions to COPE:

- (1) Is approval from a ministry for research within a setting sufficient and does it replace formal ethics approval from an ethical review board?
- (2) What is the definition of non-research? Is it correct that non-research does not need ethics approval? Who should make that judgment?

## UPDATES

### **10-14 Supervisor publishes PhD student's work**

#### **Anonymised text of the case:**

The PhD supervisor and a co-supervisor published a paper. The paper contained the work of a PhD student; approximately 90% of the paper was from the thesis. The PhD student found out when the paper was electronically pre-published. He contacted the supervisor. The supervisor's first reaction was "How did you find out"? The supervisor did not want to include the PhD student as an author since he himself had done most of the work. The editor decided to remove the paper from the journal until the case was decided.

The editor contacted the supervisor and he stated that he would have included the student as an author when the paper was accepted. Contact with the co-supervisor (and co-author) showed that he was not aware of the paper. He found the quality too low and did not want to be involved. He informed the editor that a similar case with the supervisor had occurred in another journal, 2 years earlier. (The editor contacted the editor of the other journal who confirmed that a similar case had occurred and the paper had not been published.) The paper was finally removed from the journal; no paper version had been printed.

What do we do in this case? We want to ban the supervisor but allow the student to publish. The editor told the PhD student that he could submit a paper himself. However, the quality may not be sufficiently high for it to be accepted. To date, the PhD student has not submitted a paper to the journal.

#### **Advice:**

The Forum emphasised the fact that if something is published online (especially if it has a DOI number), then it should be considered published. Hence, an editor cannot simply remove a paper from their website. A paper should only be removed from an online site if it has been formally retracted. In this case, the paper should be re-instated on the website, with an expression of concern. The editor should contact the author's institution at a high level—perhaps the head of department or dean of the university—and request that they conduct an investigation into this case. An expression of concern can be published on the website while the editor is waiting on the outcome of the investigation. Depending on the outcome, the editor may then decide to retract the paper. COPE does not recommend banning any author because of the legal implications. The editor may want to discuss this with his publisher.

#### **Follow Up:**

I followed the advice from COPE and contacted the university in question and asked them to investigate the case. They have responded that they will investigate and come back with their results.

#### **Follow Up (December 2010):**

The institution has not responded and the editor now considers the the case closed.

## **10-25 Breach of peer review confidentiality**

### **Anonymised text of the case:**

This case concerns a submitted review article that proposes a new theory in a field of research where there are two polarised positions.

The original manuscript (R0) underwent peer review and was returned with reports indicating a major revision, which took several months. On submission of the revision, one of the reviewers from the previous round was asked to re-review. That reviewer (reviewer A) declined but provided a suggestion for an alternative reviewer (reviewer B). The editor invited reviewer B, who agreed to review the revised manuscript (R1).

Reviewer B delayed reviewing the paper, but finally submitted the review after a reminder from the editor. That review was one of two that were returned for manuscript R1. The other review was complimentary and suggested a very minor revision.

The editor included the reviews with a decision letter to the author explaining that it appeared that certain important aspects of the paper were not yet in order, or representative of a genuine division of opinion in the community, and asking for clarification. The contact author recognised one of the reviewer reports (reviewer B) as identical to that from reviewer A from the R0 round of peer review. Clearly, at this point, the author and editor could only assume that the confidentiality of peer review had been broken between reviewer A and reviewer B, but also that further misconduct/incompetence had occurred between the two.

The editor put this point to reviewer B for clarification, and the reviewer replied (after a delay of 3 days) that he/she did not know what the editor was talking about. With that email reply, reviewer B included a different report with the words of explanation "THIS is my report on the manuscript".

In good faith, and preserving anonymity, the editor forwarded that "second" report from reviewer B to the contact author whereupon the author replied that even that report referred to concepts that were no longer present, or no longer presented in such terms, in the revised manuscript. That observation further added to the author's and editor's concern that the revised manuscript had not been judged properly, or even at all, by reviewer B, and that the process of peer review had been compromised in several ways.

An inevitable conclusion is that the peer review of this manuscript was compromised in respect of the confidentiality and proper conduct that is expected of peer reviewers. Although it is often possible for a second round reviewer to see—verbatim—the report of a previous reviewer included with the author's response letter, this was not the case with the above manuscript. The editor double checked the manuscript submission system: the verbatim version of reviewer A's report was not included with the author's response that reviewer B was able to see, although the author did address reviewer A's points in that response.

Therefore, the editor can only assume that the first report that reviewer B submitted actually came from, or by way of, reviewer A.

Furthermore, the second report from reviewer B refers to concepts that were in the R0 version of the manuscript, but not in the R1 version, hence indicating that reviewer B had reported on the wrong manuscript, which he/she could only have obtained via reviewer A.

On receiving feedback on the second reviewer B report from the author (ie, that it must refer to the R0 manuscript instead of the R1), the editor emailed reviewer B, laying out the events and concerns, as described above. The email ended with the following observation: “Both the contact author and the editor have important concerns about the peer review of this manuscript: ie, that it has been compromised in serious ways that might even have influenced the careers of the younger authors. Clearly, the proper review of manuscripts in a journal that maintains confidential peer review is of paramount importance, given the lack of knowledge that the author has as to who has reviewed his/her paper. I trust that you appreciate my concerns”.

The editor received no reply but has marked both reviewer A and reviewer B as excluded reviewers in the manuscript submission system, and has made the case and identity of the reviewers known to his publishing department. From the course of events, it is highly likely (although not provable), that reviewers A and B conspired to get the manuscript rejected. What further action is necessary/advisable?

**Advice:**

The Forum agreed that breach of confidentiality is a serious matter and should be investigated. As the editor confirmed that the instructions to reviewers in his journal stress the confidentiality of reports, it does appear very likely that reviewer A did breach confidentiality. The editor should contact reviewer A and ask for an explanation. It may be that this was an honest mistake and reviewer A thought s/he was being helpful in forwarding the report to reviewer B. However, if the editor has clear evidence that the reviewers behaved inappropriately, he should contact their institution and request an investigation. He should also tell the reviewers that they have been excluded from the journal’s manuscript submission system. The editor should also contact the authors and assure them that he is investigating the case and that the journal takes reviewer confidentiality seriously.

The Forum also suggested that the editor may like to write an editorial on this issue in general, after the case has been resolved.

**Follow Up:**

The editor tried to contact the other reviewer but received no reply. He has continued to exclude the reviewers from the journal’s manuscript submission system (both as potential reviewers and as potential authors). The editor also communicated the problem to the rest of his department

## **10-28 No ethics committee approval of a study**

### **Anonymised text of the case:**

Our journal received a manuscript describing a comparison of two different techniques for patients in the intensive care unit. There was no information on ethics committee approval and so we asked the authors if approval was obtained. They replied that they had not applied for ethics committee approval “as it was a clinical comparison of two existing methods, none of them experimental. All patients had an indication for the technique, and the technique was introduced in our intensive care units before the beginning of the study period”.

The study is described in the manuscript as a “prospective, comparative clinical study” conducted in 2009 and that “every other patient” who received the technique during the study period was assigned to “the technique of choice at our institution” or to a technique introduced in 2005. It is not clear whether informed consent was obtained.

We believe that this study was not conducted in accordance with the Helsinki Declaration where it is specified that “The research protocol must be submitted for consideration, comment, guidance and approval to a research ethics committee before the study begins”.

Regarding informed consent, it is stated that “Research involving subjects who are physically or mentally incapable of giving consent, for example, unconscious patients, may be done only if the physical or mental condition that prevents giving informed consent is a necessary characteristic of the research population. In such circumstances the physician should seek informed consent from the legally authorised representative. If no such representative is available and if the research cannot be delayed, the study may proceed without informed consent provided that the specific reasons for involving subjects with a condition that renders them unable to give informed consent have been stated in the research protocol and the study has been approved by a research ethics committee. Consent to remain in the research should be obtained as soon as possible from the subject or a legally authorised representative.”

We have the following question for COPE: should we wait for the authors to apply for approval from the ethics committee at this stage or should we reject the manuscript and forward our concerns to the person responsible for research governance at the institution?

### **Advice:**

The Forum agreed that the described project was clearly research and not a service audit. It appeared, in fact, to be a prospective randomised trial and so it should have been registered and ethics approval obtained. Retrospective approval would not be appropriate. In addition, all participants should have given their informed consent. The lack of consent suggests a breach of the Helsinki declaration. All agreed that the editor should contact the author’s institution and inform them of the situation and ask them to investigate.

### **Follow Up:**

The editor contacted the professor who is responsible for research governance at the authors' institution. He agreed that this case raised significant concerns and an investigation has been initiated. Based on this, he has arranged a teaching programme in the department focusing on research principles and legislation. He has promised to keep us informed about other "whatever measures" that he deems necessary.

## **10-29 Falsified references**

### **Anonymised text of the case:**

An article was submitted to my journal and was sent for peer review. An editorial board member realised that a number of the references were incorrect: publication dates had been changed to make them more current.

The author was contacted by email and telephone who said he/she had a number of students working for him (who were not listed as authors or in the acknowledgment) and they must have changed the dates because it was well known that faculty preferred current research. He was sorry and was happy to correct the references so the peer review process could move forward.

I told him the manuscript was rejected based on the grievous errors in the reference list. This author also had an accepted manuscript in the production queue. I reviewed that manuscript again after realising the issues above and found the same problems.

Because I had already accepted that manuscript, I gave the author the opportunity to correct the references and add the student's names who worked on the paper to the acknowledgment section. The managing editor and I had to review and further correct the references following his attempt, and this manuscript will be published.

Have other editors experienced similar problems and how does COPE recommend handling them?

### **Advice:**

The Forum agreed that this is serious misconduct and almost amounts to falsification of data. The Forum questioned the motivation of the author and nobody present had seen a similar case. The author's behaviour seems extremely odd and it seems strange that the author did not realise that the incorrect dates would be spotted, either because of well-known papers or through reference checking and automatic linking. The Forum suggested that the editor should send a firm letter to the author, explaining that this type of conduct is unacceptable and that she will be contacting the author's institution and informing them of the situation.

The Forum also suggested that in light of the misconduct and extremely unusual behaviour regarding the references, the editor should perhaps question the scientific veracity of the studies and perhaps this too needed to be investigated, not only in terms of the current paper,

but also in relation to previous papers published by this author. The editor told the Forum that other journals had published papers by this author and the Forum advised the editor to contact these editors and share her findings. It may be that all of the editors could write to the institution if similar problems are found in other papers by this author.

**Follow Up:**

The publisher is working with their legal department to determine the contents of a letter that will be sent to the author's dean and will be signed by the editor and a representative from the publisher. The editor also decided not to publish a manuscript by the same author that had previously been accepted.

**10-30 Claim from an author that his name should not have been included as author on a paper**

**Anonymised text of the case:**

Dr R submitted a paper to our journal and has since expressed unhappiness about the way in which our journal has dealt with the issue.

The manuscript was submitted to our journal according to the usual accepted procedures. Our journal requires that only a single author (the corresponding author) sign the copyright assignment form (on behalf of all the authors). We require that the author also affirms that all authors have seen and agreed to the submitted manuscript. Dr R was the corresponding author for this paper and she provided the requested assurances.

The paper was reviewed, revised and accepted without any unusual comment. It was published online and was scheduled for print publication. We received a protest letter from Dr M in July (several months after online publication) claiming that he was not consulted about the paper and did not want to be a coauthor. We then removed the article from our website and from the upcoming print issue, pending resolution of the protest.

We wrote to the corresponding author (Dr R) asking for an explanation, which she provided. The gist of the explanation was that Dr M objected to publication as a means of retribution, for her spurning his romantic advances. According to the appendix provided by Dr R, there was no communication between her and Dr M at the time of manuscript submission (because of the split caused by this personal issue). Dr R therefore relied entirely on Dr V (who was her Head of Department) for her determining that Dr M was happy with the submission (assurance that was apparently provided by Dr V).

We have requested a confirmatory letter from Dr V (Dr R's advisor—the senior member of the authorship team). Dr V has responded with a letter indicating the scientific excellence of Dr R's work but not clearly addressing the issue of whether Dr M did indeed see and approve the submitted manuscript. Dr M has written to reiterate his objection, and to clarify that he

opposes publication per se. Dr R wrote again indicating her unhappiness with the way this issue was being handled by our journal.

What does COPE advise?

**Advice:**

The advice from the Forum was that the editor should act as if the paper has been published, as it was published online. Hence the first thing the editor must do is reinstate the paper on the website, as taking it down amounts to retraction, and there are no grounds for retraction of this paper. The editor needs to decide if there is anything wrong with the data of the study. What are the objections of Dr M? Are they justified? The editor could suggest to the authors that he publish a correction with the correct list of authors. If all of the authors do not agree, then the editor should contact the institution and ask them to investigate the case and decide whether there are grounds for retraction.

Another suggestion was to contact Dr M and ask him if he wished to submit a letter to the journal for publication stating his objections to the paper. This would give him an opportunity to have his comments aired.

The Forum suggested that in the future, and to avoid similar cases, the journal should request that all authors, and not just the corresponding author, sign the copyright forms, and the journal should communicate with all of the authors at some stage.

The Forum does not recommend imposing sanctions on authors because of the risk of litigation.

**Follow Up:**

After hearing the opinions of the COPE Forum, we determined to proceed with publication of the paper in question. We first wrote to the one unhappy author, telling him that we were going ahead with publication but asking him if he wanted to have his name removed from the paper. We did not hear back from him and have proceeded with publication of the initial manuscript.