



2003

ANNUAL REPORT

The Danish Committees on

Scientific Dishonesty



PREFACE

By Henrik Waaben

The Danish Committees on Scientific Dishonesty (DCSD) herewith submit their annual report for 2003. However, the reporting period only covers the period after 1 March 2003, from which date I took over the office of chairman of DCSD from former high court judge Hans Henrik Brydenscholt.

During the reporting period DCSD held a total of six meetings, two of which were common to the three independent committees that go to make up DCSD. The Committee for Health and Medical Science held two meetings, and the Committee for Natural Science, Agricultural & Veterinary Science and Technical Science and the Committee for Social Science and the Humanities each held one meeting during the reporting period.

During that same period DCSD considered or began considering 19 cases, including complaints dismissed. The caseload breakdown between the three committees is as follows: The Committee for Health and Medical Science 8 cases, the Committee for Natural Science, Agricultural & Veterinary Science and Technical Science 3 cases and the Committee for Social Science and the Humanities 5 cases.

In one of the cases ruled on, DCSD adjudged that scientifically dishonest action had been taken by the researcher being complained about. The case, which originates from a complaint submitted to DCSD right back in March 2001, was dealt with on the Committee for Natural Science, Agricultural & Veterinary Science and Technical Science and has been reported on in Chapter 2 below as Case No. 1. The researcher in question sub-

sequently requested DCSD to reopen the case and complained to the Danish Ministry of Science, Technology and Innovation and the Parliamentary Ombudsman about DCSD's decision and treatment of the case. The case is still pending in 2004, therefore.

One of the cases ruled on was a so-called "name-clearing case", i.e. a case in which a researcher (in this instance, two researchers) asked DCSD to be cleared of rumours circulating about their having acted in a scientifically dishonest way. This case, which was considered on DCSD's Committee for Health and Medical Science, has been reported on in Chapter 2 below as Case No. 7.

The case that received most publicity in 2003 was the one concerning Bjørn Lomberg's book "The Skeptical Environmentalist". DCSD's ruling in this case was made during the previous reporting period, but since DCSD's decision was appealed to the Ministry of Science, which made the ruling in December 2003, the case has been discussed in this annual report—see Chapter 2, cases 4, 5 and 6. Reference is also made to Chapter 2, which contains discussion of the cases DCSD examined during the reporting period from 1 March 2003 to 31 December 2003.

In addition to the cases discussed in Chapter 2, the reporting period also saw DCSD consider a number of enquiries concerning possible scientific dishonesty without it having actually resulted in any consideration of complaints.

Representatives of DCSD also took part in international activities in 2003:

- **Workshop organized by the Nordic Committees on Bioethics, 4-8 March 2003, Norway**
- **IFIS Seminar, Paris, 25-26 September 2003 – How to Face Fraud and Misconduct in Biomedical Research**
- **Scientific Dishonesty – Workshop of the Nordic Committees and the Baltic Experts, Aabo (Turku), Finland, 4-5 November 2003**
The conference was organized by the Finnish Advisory Board on Research Ethics and hosted by Aabo University.
- **Symposium "Experiences of the Ombuds-committees dealing with Scientific Misconduct" – Universitätsclub, Bonn, Germany, 12-13 November 2003.**

Unlike its four predecessors, this annual report does not include a chapter containing a review of international developments. For work-related reasons it has not been possible to fit in a description of this topic in a separate chapter this year. However, in the

2003 annual report from the Committee of Publication Ethics, we did find a highly instructive article about how to prevent authorship disputes, and I would extend my thanks to the authors, the COPE Council and BMJ Journals, BMA House, London, for permission to reproduce the article in this annual report.

Finally, it is worth noting that in the new Act on the Research Advisory System etc. (Danish Act No. 405 of 28 May 2003) the seminal rules governing DCSD have now been laid down directly in the Act, including those on jurisdiction and DCSD's composition. In addition, it has now been determined that DCSD's rulings cannot be brought before any other administrative authority, i.e. the Ministry of Science. As before, there is a right of appeal to the Parliamentary Ombudsman. The rules did not enter into force until 1 January 2004, but I felt it only natural to include them as an appendix to the annual report for 2003 (Appendix 1 of the annual report). Executive Order No. 933 of 15 December 1998 on DCSD and DCSD's rules of procedure will remain in force until replaced by new rules.

Finally, I should like to take this opportunity to thank DCSD's members, alternates and secretariat for the effort and spirit of cooperation called for by the caseload in 2003. I also wish to thank the members of those ad hoc committees that assisted DCSD in resolving certain specific cases in 2003.

A handwritten signature in black ink, appearing to read 'Henrik Waaben', written in a cursive style.

Henrik Waaben
High court judge
Chairman of DCSD

INDHOLD

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HOW TO HANDLE AUTHORSHIP DISPUTES: A GUIDE FOR NEW RESEARCHERS

By *Tim Albert*, trainer in medical writing
Elizabeth Wagner, freelance writer and trainer

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One of the main tasks of COPE's education committee is to reduce unethical behaviour. This involves the rather bold step of defining when people have been behaving unethically, and then providing suggestions on how they can avoid doing so in the future. To this end we have written, and tested on a group of authors, a guide for young researchers on the area of authorship, which many people agree is one of the more confused areas. But writing a document is one thing; disseminating it is another. We would therefore welcome comments, particularly on how we can use this report to change behaviour, so that it becomes not

just another discussion document, but a real catalyst for change.

In theory, authorship sounds straightforward, but in practice it often causes headaches. While preparing these guidelines, we heard about several cases. In one, a deserving junior researcher was omitted from the author list; in another a sponsoring company insisted on the inclusion of an opinion leader who had made virtually no contribution to a study. And the writer of a review article found her name replaced with that of her boss, because she was on maternity leave when the final version was submitted.

Listing the authors tells readers who did the work and should ensure that the right people get the credit, and take responsibility, for the research. Although journal editors do not always agree among themselves on what constitutes

authorship, many of them subscribe to the guidance from the International Committee of Medical Journal Editors (ICMJE), also known as the Vancouver group. The latest version, issued in 2001, states that: "Authorship credit should be based only on:

- (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; and
- (3) final approval of the version to be published.

Conditions (1), (2), and (3) must all be met.

Acquisition of funding, the collection of data, or general supervision of the research group, by themselves, do not justify authorship." The problem, as studies have shown, is that what editors want is not what authors do. This is hardly surprising given the enormous pressure on individuals and institutions to "publish or perish." Thus the principles laid down by editors are often breached and by-lines often do not reflect who really did the work.

Many people (both editors and investigators) feel that this misrepresentation is a form of research misconduct, and that honesty in reporting science should extend to authorship. They argue that, if scientists are dishonest about their relationship to their work, this undermines

confidence in the reporting of the work itself.

We have written this document to help new researchers prevent and resolve authorship problems. In particular it provides:

- suggestions for good authorship practice that should reduce the incidence of such dilemmas,
- advice on what to do when authorship problems do arise, and
- a glossary of key concepts in authorship, with some reading lists and websites for those who wish to take this further.

HOW TO REDUCE THE INCIDENCE OF AUTHORSHIP PROBLEMS

People generally lie about authorship in two ways:

- by putting down names of people who took little or no part in the research (gift authorship, see below)
- by leaving out names of people who did take part (ghost authorship, see below).

Preventing a problem is often better than solving it and we recommend the following three principles.

(a) Encourage a culture of ethical authorship

One problem is that people who are being unethical about authorship are simply following local customs and practice. They need to be made aware of the views of editors, so that in time the culture will change. As a junior researcher

you can make sure your departmental library has at least one book on publication ethics (see list below). You can also inquire if there is a university or departmental policy on authorship, and suggest that you start working on one if there is not.

(b) Start discussing authorship when you plan your research

Raise the subject right at the start. Start gathering views of all team members and if possible discuss authorship at a face-to-face meeting. Even before a study is finished, you should have some idea of the publications that might come out of it, such as a conference abstract, the full paper, then some supplementary papers, and who is likely to be most involved in these. Continue to discuss ideas about authorship as the project evolves, and especially if new people get involved. Keep a written record of your decisions.

(c) Decide authorship before you start each article

Many authorship difficulties arise because of misplaced expectations and poor communication. So it is important that, before you start to write up your project, you confirm in writing who will be doing what—and by when. Ideally you should do this face to face, though this may not always be possible. Keep everyone informed of any changes with a written note.

HOW TO HANDLE AUTHORSHIP DISPUTES WHEN THEY OCCUR

The above suggestion, that every team should have a written authorship agreement before the article is written, should reduce the chances of disputes arising at a late stage, when effectively all the real work has been done. We accept, however, that many people are reluctant to be pinned down in this way, and that it will not always be possible to take such a sensible approach in real life. Disagreements about authorship can be classified into two types: those that do not contravene ICMJE guidelines (disputes) and those that do (misconduct).

(a) Disputes

These are largely questions of interpretation, such as whether someone's contribution was 'substantial' or not.

In such cases you need to negotiate with the people involved. If the suggestions to include or omit names came from your supervisor, make clear that you are not disputing his or her right to make such a decision, but show dispassionately why you do not agree with the decision. Support this with evidence, such as laboratory notebooks, manuscripts, ICMJE statement, Instructions to Authors etc. If you remain unhappy with your supervisor's decision, you may consider an appeal to someone more senior, such as the departmental head or dean. But you should do this in exceptional circumstances only - and make sure your supervisor knows what you are intending to do.

(b) Misconduct

If you believe that someone is proposing to do something with the authorship list that is unethical, then you have a real problem. Should you say nothing (and therefore be complicit in the unethical behaviour), or should you blow the whistle, even though this might damage your career prospects or future funding? We recommend a third way, which is to explain the fact that the suggested author list contravenes editors' recommendations, and could be considered scientific misconduct. Again, stick to the facts and avoid being emotional. Point out that an editor could well decline to publish if he or she finds out. As soon as the meeting is finished, make a note and file it.

WHAT YOU CAN DO IF AUTHORSHIP ISSUES ARE NOT RESOLVED

Authorship may be used as a bargaining tool if team members cannot agree on the presentation or interpretation of results. All authors should see the final version of a publication before it is submitted so you can withdraw your name. This will not be an easy decision, and you must weigh up the loss of credit for the work you did with the disadvantages of being included in something with which you do not fully agree.

If your name is included on a publication against your wishes you should inform the other authors as soon as possible. If you discover this only after publication you may contact the journal and ask for a correction.

Similarly, if your name is wrongly omitted, you should discuss this with the other contributors. You could contact the journal but an editor is unlikely to add your name without the agreement of the other authors. If your name is omitted by accident, and the other authors agree, then the journal may publish a correction.

KEY CONCEPTS IN AUTHORSHIP

Acknowledgements: Most journals permit (or even encourage) acknowledgement of contributions to a research project that do not merit authorship. The ICMJE guidelines state: 'All others who contributed to the work who are not authors should be named in the Acknowledgments, and what they did should be described'. All those who are listed in this way should be aware of it. Some journals (mainly in the US) will require signatures of those acknowledged.

Appeals: You may ask a journal to withdraw your name from a paper if it has been included against your wishes.

However most editors are reluctant to get involved in disputes about omitted authors since they do not have enough information to judge such cases. Some journals have an ombudsman, but they deal with cases of alleged misconduct by the journal. Similarly, COPE only hears cases submitted by journal editors and is not an appeal body for cases of disputed authorship.

Contributorship: The ICMJE guidelines

now recommend that authors should state their contribution to the project: 'authors should provide a description of what each contributed, and editors should publish that information'. Some journals publish this information but in most cases it is for the benefit of the editor, who wants reassurance that the criteria have been fulfilled. (See Instructions to authors.)

Corresponding author: The person who receives the reviewers' comments, the proofs, etc. and whose contact details are printed on the article so that readers can request reprints or contact the research group. Journal editors view this as a purely administrative role, but some authors equate it with seniority. Take the views of your co-authors at an early stage, and decide in advance who will be the corresponding author. Ideally, choose somebody whose contact details are not likely to change in the near future.

First and last authors: Generally speaking, the most sought-after position is the first, which is not surprising given the convention of referring to studies by the firstnamed author, e.g. 'Smith et al. have shown that'. The firstnamed author is therefore generally held to have made the greatest contribution to the research. Sometimes significance is attached to being the last named author.

However, views about this do seem to vary, so don't assume that everybody feels the same way about it.

Authors have often given the last place to a senior team member who contributed expertise and guidance. This can be consistent with the ICMJE criteria if this person was involved in study design, the interpretation of the data, and critically reviewed the publication. However, cynics may suspect that the final author is often a guest or honorary author. (See Order of authors.)

Ghost authors: This phrase is used in two ways. It usually refers to professional writers (often paid by commercial sponsors) whose role is not acknowledged. Although such writers rarely meet ICMJE criteria, since they are not involved in the design of studies, or the collection or interpretation of data, it is important to acknowledge their contribution, since their involvement may represent a potential conflict of interest. The term can also be used to describe people who made a significant contribution to a research project (and fulfil the ICMJE criteria) but are not listed as authors. The ICMJE guidelines clearly condemn this practice and state that 'All persons designated as authors should qualify for authorship, and all those who qualify should be listed.'

Gift authors: People who are listed as authors but who did not make a significant contribution to the research and therefore do not fulfil the ICMJE criteria. These are often senior figures (e.g. heads of department) whose names are added

to curry favour (or because it is expected). Another type of gift author is a colleague whose name is added on the understanding that s/he will do the same for you, regardless of your contribution to his/her research, but simply to swell your publication lists.

Group authorship: Some journals permit the use of group names (e.g. The XYZ Study Group) but many require contributors to be listed (often alphabetically) and/or the writing group to be named as well. One problem with group names is that they are often miscoded on databases such as Medline. The first person in an alphabetical list of contributors sometimes becomes the first author by default, which rather defeats the object.

Guarantor: Should we expect a radiographer to explain the statistical methods or the statistician to interpret the x-rays? To take increasing specialisation into account, the latest version of the ICMJE guidelines acknowledges that it may be unreasonable to ask individuals to take responsibility for every aspect of the research. However, the editors felt that it was important that one person should guarantee the integrity of the entire project. 'All persons designated as authors should qualify for authorship, and all those who qualify should be listed.'

Each author should have participated sufficiently in the work to take public responsibility for appropriate portions of the content. One or more authors should

take responsibility for the integrity of the work as a whole, from inception to published article.'

Instructions to authors: While there is a great deal of agreement among journal editors on authorship matters, there are also some differences in detailed requirements and the ways in which by-lines are presented. You should carefully read the Instructions to Authors for your target journal.

Number of authors: There are no rules about this. In the past, databases such as Medline limited the number of authors they listed. This was shown to influence the number of authors (most groups tried to stay below the limit) and, in larger groups, probably increased jostling for position. Now, however, most databases list all authors. Rather than decide how many authors there should be, it is probably best to agree who will qualify as an author, and then simply include all those who do. However, remember that including large numbers of authors usually increases the time it takes to prepare, review and finalise a paper.

Order of authors: The ICMJE guidelines state that the order of authorship, should be 'a joint decision of the coauthors. Authors should be prepared to explain the order in which authors are listed'. They rather unhelpfully do not give guidance about the order in which authors are listed. Wherever possible, make these

decisions before starting to write up the project. Some groups list authors alphabetically, sometimes with a note to explain that all authors made equal contri-

butions to the study and the publication. If you do so, make sure it is clear to the editor.

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CASES CONSIDERED IN 2003

By *Hanne Kockvedgaard*, LL.M., Head of Section, Danish Research Agency

CASES RULED ON FOLLOWING INVESTIGATION

Cases carried over from 2002

Case No. 1

Case about accusation concerning fabrication of data (Case No. 7 in 2002 report)

1. THE CASE AND ITS TREATMENT

In March 2001 DCSD received a complaint from a natural scientist. Ahead of the formal complaint, DCSD had been informed of correspondence in connection with the defendant's work in a scientific journal.

The complaint was presented to DCSD's Committee for Natural Science, Agricultural & Veterinary Science and Technical Science (UNJVTF) at a meeting

in August 2001. The committee decided to deal with the case and set up an ad hoc committee with the following members:

Arne Helweg, DSc (Agronomy), research professor, Danish Institute of Agricultural Sciences (chairman)

Freddy Bugge Christiansen, professor, Department of Ecology and Genetics, Aarhus University (external)

Ib Skovgaard, professor of biostatistics, Department of Mathematics and Physics, Royal Danish Veterinary and Agricultural University (external).

The defendant filed an objection to one of the experts' involvement, whereas the complainant accepted the make-up of

the ad hoc committee. Having evaluated the case, DCSD's then chairman concluded that there was no evidence for disqualification on the available basis.

The ad hoc committee's report on the case was presented to the parties to the case, in Danish and English, in the form of letters dated 25 October 2002 with a view to receiving their factual comments. By the time the deadline for replies expired, there were comments from the complainant. The defendant did not reply until January 2003 on the grounds that he had only then received the report, which had been reforwarded by registered post from DCSD in January 2003. In March 2003 the ad hoc committee's comments on the remarks submitted by the parties to the case were sent to the complainant and the defendant, giving them a fortnight in which to reply. The complainant replied within the time limit. The defendant did not reply.

DCSD's Committee for Natural Science, Agricultural & Veterinary Science and Technical Science subsequently deemed the case to have been adequately elucidated and dealt with the case on the basis thus generated.

2. DCSD'S SUMMARY OF THE AD HOC COMMITTEE'S REPORT

The work criticized was an article from 1998 in an international scientific journal.

The complainant asserted that the article contained errors, incorrect information and fabrications of data.

The ad hoc committee, to which the briefs generated in the case were available together with original data, as provided by the University of Copenhagen, and data from the defendant, came to the following conclusion:

- The data files sent by the defendant were inter-company files, not raw data. Evaluations and comparisons of these files showed that they were at any rate partially fabricated and could not be based on authentic measurements.
- There were very strong clues to indicate that the results reproduced in the article's tables failed to reproduce authentic measurements on essential points.
- Throughout the case there was an impression of great scholarly and personal incongruence between the defendant and the complainant, and serious mutual allegations were put forward in several letters, just as the defendant had submitted a complaint to DCSD. In evaluating the case, no account was taken of these considerations, as the ad hoc committee was only supposed to assess the article and its contents as well as the datasets and their application.
- The ad hoc committee considered it regrettable that the complainant had infringed DCSD's request for confidentiality and sent an e-mail about the case to the defendant's ex-manager.

Since the journal editor had the article

invalidated following publication, the ad hoc committee found no reason to take any further action against the journal.

The ad hoc committee's report was incorporated as part of DCSD's ruling. The same applied to the parties' comments on the ad hoc committee's report, the ad hoc committee's remarks on the comments received and the complainant's reaction to the same.

3. DCSD'S TREATMENT OF THE CASE

DCSD's Committee for Natural Science, Agricultural & Veterinary Science and Technical Science dealt with the case at a meeting in October 2003.

The ruling was made by:

Henrik Waaben, high court judge
(chairman)

Claus Christiansen, MD, research director

Vagn Lundsgaard Hansen, professor

Bodil Norrild, DSc, associate professor

Hanne N. Rasmussen, DSc, PhD,
senior research fellow.

DCSD considered itself altogether able to endorse the ad hoc committee's report on the case and the appraisals made. In so doing, DCSD particularly highlighted the fact that neither the raw data kept at the University of Copenhagen nor the data forwarded by the defendant could have generated the results that emerged from the article in question. DCSD also pointed out the fact underlined by the ad hoc committee, that the article contained coincidences and statistically contradictory results.

DCSD subsequently based its findings on the fact that the data files discussed did contain fabricated data, in part at any rate, and that the results reproduced in the article's tables did not reproduce authentic measurements on essential points. This action had brought about a falsification of the scientific message and DCSD could only assume that this had taken place intentionally, or that gross negligence had at any rate been displayed by the defendant as co-author in publishing such. On the available basis, therefore, it was DCSD's opinion that scientific dishonesty had been displayed on the part of the defendant, cf. Section 3 of Executive Order No. 933 of 15 December 1998 on the Danish Committees on Scientific Dishonesty.

In December 2003 the defendant brought DCSD's decision before the Danish Ministry of Science, Technology and Innovation. The Ministry's ruling was not yet available by the end of the reporting period. Furthermore, the defendant has requested DCSD to reopen its consideration of the case, which DCSD has refused to do.

Case No. 2

Case about a conflict situation that led to a ban on the publication of a scientific article (Case No. 10 in 2000 report, Case No. 9 in 2001 report and Case No. 6 in 2002 report)

1. THE CASE AND ITS TREATMENT

In 1999 the complainant contacted the Danish Committees on Scientific Dishonesty in order to obtain guidance on

resolving a conflict that had arisen between him and the defendants over a joint research project. In November 1999 the enquiry was superseded by a formal complaint. At this juncture the controversial project had already been in progress for some time, and the provisional results were presented at a meeting in Finland in May 1998.

At a meeting of the working party in August 1999 disagreement over the article arose between the complainant and the rest of the working party. As a result, the collaborative relationship between the parties ceased.

The dispute was about a section on smoking that it was wished to remove from the complainant's article. In October 1999 the head of the department wrote that "the article must not be submitted, as the co-authors cannot take responsibility for it". This was amplified later on (in May 2000), saying that:

- the steering group had approved a protocol on 19 February 1998 granting a PhD student access to use the department's data on cutting down smoking habits as part of a PhD study, and
- "the exercise group", incl. the complainant, had not been given permission to include smoking data in any way except for smoking to form part of the analysis as a simple confounder on a par with a series of other relevant confounders, as shown by the project description.

No scientific reasoning was given for removing the paragraph.

Pending final consideration of the case, DCSD understood feedback from the defendants to mean that there was now support for the complainant to publish the disputed article under his own name. Having ascertained this, DCSD regarded the conflict as resolved. A subsequent enquiry from the complainant, however, showed that the defendants were opposed to publication nevertheless. Consideration was therefore resumed. This course of events was part of the reason for the lengthy time needed to deal with the case.

After some preliminary consideration, DCSD's Committee for Health and Medical Science formed an ad hoc committee, which was tasked with compiling a report on which to base DCSD's ruling. The ad hoc committee had the following members:

Erik Dabelsteen, DDS, professor
(chairman)

Torben V. Schroeder, MD, consultant,
professor

Povl Riis, MD, professor.

Berit Andersen Faber, Head of Advisory Services, and *Hanne Kockvedgaard*, Head of Section, provided the ad hoc committee with secretarial assistance.

The ad hoc committee's report was presented to the parties to the case in October 2001 for their comments on the *factual* information in the report. Both the ad hoc committee's report and the

parties' reactions to it were incorporated in DCSD's ruling.

2. THE AD HOC COMMITTEE'S EVALUATION IN THE OCTOBER 2001 REPORT

The ad hoc committee found that unfair attempts were being made to prevent the complainant from publishing *his* version of the investigative results. The other "registrees" or active participants in the project were unable to impose their wishes on this manuscript version.

Clarification of any clash of interests between the complainant's use of smoking data and the PhD project rested with the institutions. In the case files available, such a conflict of interests was described only in the most general terms, but was nevertheless used as one of the main arguments for trying to get publication stopped. As a contribution to a possible constructive solution to this point, which was subsidiary to the main grievance, the ad hoc committee had obtained more detailed documentation, which did not support the argument of a clash of scientific interests.

3. THE PARTIES' COMMENTS ON THE AD HOC COMMITTEE'S REPORT

While the complainant had no comments on the ad hoc committee's report, in January 2002 a lawyer produced a lengthy account on behalf of the defendants, containing the following summary, *inter alia*:

"By way of summary, the defendants find that the recommendation of 5 Octo-

ber 2001 contains a number of premisses which are not congruent with the actual facts, and that there is no foundation for the criticism the ad hoc committee has raised against them. The following should be stressed:

- The ad hoc committee seems to have construed the dispute between complainant and defendants as a question of professional disagreement concerning the contents of an article. This is not the case, however. In the draft of the article, the complainant has used data in a manner at odds with the cooperation agreement entered into and the research protocol on access to data for research purposes in links between physical activity and mortality.
- The steering group's publication ban is not due to disagreement over the article's scientific content or standard, but to lack of compliance with the agreements concluded. The ban was not put in place by the working party.
- It is essential for the administration of the department's database that agreements made be kept. Failing this, overlapping research projects can arise that may constitute a mutual hindrance."

Against this backdrop, the defendants' lawyer urged the ad hoc committee to amend the conclusions in the recommendation of October 2001, in the form of a revised recommendation or a supplementary statement to DCSD, since there was no basis for the criticism levelled at

the defendants' practice or regulatory framework.

4. THE AD HOC COMMITTEE'S COMMENT OF MARCH 2002

The ad hoc committee subsequently sent its report of October 2001 to DCSD again, with a commentary from March 2002 on the lawyer's report of January 2002.

Since the ad hoc committee's commentary contained only immaterial differences in relation to the detailed report on the factual aspects of the case, as they had been reproduced in the lawyer's report, the commentary did not actually give cause to be presented to the defendants again. Following preliminary discussion of the case during the committee's meeting in June 2002, DCSD nonetheless considered it necessary to obtain an additional statement from the lawyer in order to add flesh to an allegation made in the letter of January 2002 that publishing the complainant's article in its present form might hamper or complicate publication of the PhD student's work.

5. THE LAWYER'S SUPPLEMENTARY REPORT OF AUGUST 2002

In the lawyer's supplementary report, it was stated that the PhD project had provisionally led to the publication of two scientific articles, the submission of three articles, which were being assessed on the scientific journals' editorial boards, and a further two planned articles to date.

It was stressed, however, that it "has no bearing, in principle, whether there is any current conflict between the complainant's use of data and the PhD student's work. The crucial thing is that if researchers are permitted to use the defendants' data the way the complainant did, sooner or later situations will arise in which a researcher's use of data in an unpredicted and non-agreed fashion may hamper or complicate publication for other researchers, who in accordance with the protocols contracted with the defendants have worked on analysing similar issues on the basis of the same data material. The Department, by adopting a structured administrative approach to data access and application, is obliged to ensure that no such risk of wasting researchers' time and financial resources arises. If the defendants cannot act on trust, knowing that the researchers who gain access to the defendants' data are obliged to comply with agreements concluded on the use of data, this is going to be impossible."

Moreover, it was stated that the question of whether "the Department's enforcement of the protocols contracted with the complainant concerning the latter's use of the defendants' data was justified, does not depend on whether it is possible, now that the bulk of the PhD work is available, to ascertain in retrospect that publication of the complainant's article would have made it difficult to publish the PhD student's works. The decisive factor, con-

versely, is that the risk of spoiling other researchers' chances of publishing their research is ever present if a researcher—like the complainant—is allowed to use data to shed light on areas that have not been agreed with the institution managing access to the data material.

In the view of the defendants, therefore, there was complete and utter justification for opposing the complainant's scope for publishing his article in its existing form, as the article had been compiled at variance with the protocols entered into with the defendants.

The risk of spoiling the PhD student's scope for publishing his PhD projects was not, then, the reason behind the defendants' decision. The risk that the PhD work might have been adversely affected if the defendants had permitted the complainant to publish his article in its existing form, on the other hand, is a pithy illustration of the need for structured administration of access to and use of material from a large data bank like the defendants'".

6. THE AD HOC COMMITTEE'S COMMENTS IN A LETTER OF SEPTEMBER 2002

Having familiarized itself with the lawyer's report of 13 August 2002, the ad hoc committee ascertained in September 2002 that the complainant's article neither had been nor could have been an impediment to completion of the PhD project. The ad hoc committee therefore adhered to its recommendation.

7. THE LAWYER'S STATEMENT OF OCTOBER 2002

In a new statement the lawyer criticized the ad hoc committee for now (during September 2002) having only made known its views about whether the complainant's article had been an impediment to the PhD project but failing to take a stance on the content of the lawyer's report in general. It was insisted that DCSD itself should take a position in its ruling on all points of view that had been set out in the lawyer's statement of January 2002.

8. DCSD'S COMMENTS AND RULING

DCSD's Committee for Health and Medical Science considered and ruled on the case at a meeting in October 2002. In attendance at the meeting were:

Hans Henrik Brydensholt, high court judge (chairman)

Nils Axelsen, MD, deputy director

Gunna Christiansen, MD, professor

Philippe Grandjean, MD, professor

Harald S. Hansen, DSc,

associate professor.

By way of introduction, DCSD noted that the ad hoc committee had produced comments on the lawyer's statement of January 2002. It is the ad hoc committee's task to conduct a review of the case and produce a recommendation for DCSD once the parties have been given an opportunity to comment on the information about the actual facts of the case, as described in a draft of the recommen-

dation. Having received any comments, the ad hoc committee submits its recommendation to DCSD with the remarks to which any comments may have given rise. This procedure was also followed in the present case, where DCSD, however, after its provisional consideration of the case in June 2002, found it necessary to obtain additional information from the lawyer. It goes without saying that DCSD reaches its decision independently, taking into consideration all the circumstances stated.

The committee further found that, on balance, it was able to take the report on the factual circumstances of the case, as reproduced in the lawyer's letter of January 2002, as its basis, since the ad hoc committee's report was not felt to give a view of the case particulars that differed from this in any crucial respects.

It was further considered in keeping with the ad hoc committee's recommendation to take it as given that the complainant's article could not actually constitute a concrete hindrance to the completion and publication of the PhD project.

The crucial point of conflict in the case was whether, by treating the question of change in tobacco consumption and mortality in his article, the complainant had infringed the cooperation agreement entered into in such a way that the steering group had been entitled to ban publication. It was only fair to note, in this context, that the members of the working party, who were also

members of the steering group, could have instigated renegotiation of the contract at a much earlier juncture with a view to clearing up the right to publish.

Determination of the point of conflict could only rest on a balanced consideration of, on the one hand, the significance of stringent compliance with the administrative scheme that had been created by the defendants with a view to piloting the research based on the established data volume in order to avoid inappropriate overlapping and, on the other hand, more general concerns about research interests, including ensuring that research results are not suppressed. Added to this, however, was the critical importance of ensuring, for the sake of the research's reputation, not only that research results are not *actually* suppressed, but also that research is not managed in such a way that it *may appear* to researchers involved or interested outsiders as if research results are being suppressed.

DCSD did not consider—and this was the real gist of the complaint—that it had any basis for contending that the defendants, in banning publication of the complainant's article, had endeavoured to suppress a research result the publication of which was considered awkward. DCSD had no basis for disregarding the defendants' explanation that the publishing ban had been issued on the strength of the steering group's wish to uphold a strict interpretation of the cooperation agreements entered into on

the data bank being managed. DCSD was able to endorse the need for substantial volumes of data, like those used here, to be subjected to some control.

DCSD subsequently found that, even with the subjective demands that are made, the defendants' conduct could not be labelled as scientifically dishonest, cf. Section 3, subs. 2 of the Executive Order on the Danish Committees on Scientific Dishonesty (No. 933 of 15 December 1998). DCSD had no basis for characterizing the concerns which the defendants had stated they were trying to protect as being of an unfair nature.

DCSD was, however, able to endorse the ad hoc committee's view of the extent to which a modest analysis of the significance of tobacco in the complainant's article falls within the realms of the foreseeable. Taking this into consideration, together with the fact that publication of the article could not in any decisive way be assumed to complicate other researchers' work, DCSD for its part deemed that balanced consideration of the concern for a researcher's right and duty to publish versus the administrative interests which the defendants had been protecting could not fail to come down on the side of the right to publish in this particular instance. Given this, then, DCSD is reluctant to class the complainant's publishing of the article under his own name as scientifically dishonest or at variance with good research practice.

In accordance with this, DCSD found

that the defendants had not acted in a scientifically dishonest fashion. Conversely, by publishing the article under discussion, the complainant had no intention of doing anything that can be characterized as scientifically dishonest or at odds with good scientific practice.

DCSD's decision was appealed to the Danish Ministry of Science, Technology and Innovation immediately after the turn of the year. DCSD was asked for a statement in conjunction with the complaint and stuck to its previous ruling. The complaint to the Danish Ministry of Science, Technology and Innovation was later withdrawn by the complainant. The case has also been dealt with in an article by *Hans Henrik Brydesholt*, high court judge, in DCSD's 2002 report, pages 6-14.

Case No. 3

Case of alleged plagiarization of an earlier project draft prepared by the complainant when carrying out an archaeological excavation (Case No. 8 in 2002 report)

In October 2002 the Danish Committees on Scientific Dishonesty (DCSD) received a complaint that the defendant had carried out an archaeological research excavation in the summer of 2002 very closely matching a previous project draft prepared by the complainant.

The case files were presented to DCSD's Committee for Social Science and the Humanities and considered at a meeting in December 2002. The meeting concluded that there was deemed to be no evidence to show that the defendant

had taken over the complainant's project, and hence that there were no actions or omissions resulting in falsification or distortion of the scientific message, or gross misrepresentation about a person's involvement in the research, cf. Section 3, subs. 1 of Danish Executive Order No. 933 of 15 December 1998.

At the turn of 2002/2003 the complainant requested that DCSD resume consideration of the complaint on the grounds that, having been abroad, the complainant had not received the defendant's statement of defence and had thus not had an opportunity to comment on it.

Since the complainant insisted that the defendant had plagiarized his research project and, furthermore, now asserted that the defendant's statement of defence was based on the deliberate fabrication and use of false material, and that the defendant had deliberately withheld a job application from the complainant by adopting an allegedly illegal recruitment process, the parties were heard in accordance with the standard procedure.

During all this, the defendant continued to rebut *having* plagiarized the complainant's research project and *having* fabricated and used false material in her statement of defence, just as she denied having held back the complainant's application for an assistant's post.

The case was presented afresh to DCSD's Committee for Social Science and the Humanities (USHF) at a meeting in

April 2003, concluding that there was still deemed to be no basis for any criticism of the defendant.

DCSD thus based its findings on the lack of similarity between the defendant's project description and the complainant's project. In particular, it was stressed that DCSD felt unable to criticize the defendant for having also conducted a survey of the locality—as part of her project that included several other archaeological investigations—which the complainant had previously wished to investigate, as a *self-contained issue*.

DCSD therefore had to stand by its ruling of 13 December 2002, according to which there was no evidence of scientific dishonesty on the part of the defendant, cf. Section 3, subs. 1 of Executive Order No. 933 of 15 December 1998 on the Danish Committees on Scientific Dishonesty. DCSD added that it did not fall to DCSD to assess the pathway of the recruitment procedure under discussion. If anything, then, the complainant would have to raise this question with the appointing authority.

Cases Nos. 4, 5 and 6

Three cases of alleged dishonesty in research connected with a social science researcher's treatment of subjects in areas including the health and natural sciences

In February/March 2002 DCSD received two Danish and one foreign complaint about a book written by a Danish social science researcher. The book had been published abroad and written in English.

Since the three complaints were levelled at the same book and generally included areas of natural, social and health science, DCSD decided to treat these complaints as one at joint meetings common to all committees. A fourth complaint about the same book was submitted so late on in the course of things that it was not subjected to special consideration.

To examine the highly comprehensive contributions to the case and present them to DCSD's members, DCSD set up a working party consisting of members from DCSD's three committees.

DCSD made its decision in January 2003. In it, DCSD found that, by customary scientific standards, the defendant had acted at odds with good scientific practice in his systematically one-sided choice of data and in his arguments.

If the book was intended to be evaluated as science and not as a contribution to the general debate, then in addition the scientific message had been so distorted that the objective criteria for establishing scientific dishonesty had been met. DCSD did not find a sufficient basis, however, on which to establish that the defendant had misled his readers with intent or gross negligence. DCSD noted, in this context, that in the preface to the book the defendant had himself drawn attention to the fact that he was not expert in environmental issues.

By the time the case was considered, journalists and others had long been asking for the right to access to relevant documents, and when it became known

when DCSD intended to make its ruling, it was decided to grant anyone who had requested it permission to inspect all the case files, including access to DCSD's ruling.

The defendant researcher appealed the decision to the Danish Ministry of Science, Technology and Innovation. The Ministry of Science delivered its ruling on 17 December 2003 and remitted the case to the Danish Committees on Scientific Dishonesty. At the same time, the ruling was made public. The ruling, which implied a reversal of DCSD's decision, was critical of DCSD in a number of respects, partly DCSD's reasoning for the decision, including the rationale for regarding the book as a scientific work (research), and partly DCSD's use of the concept of "good scientific practice". Other, additional points of criticism were levelled against the decision and DCSD's treatment of the case; these were predominantly of a formal legal nature.

DCSD decided not to resume consideration of the case, however, shelving it on the following grounds:

- *An entirely new investigation* would require the formation of one or more ad hoc committees, with the participation of external experts able to assess parts of the book. Such an investigation could be expected to last between six and twelve months, possibly longer. Since, on its initial consideration, DCSD did not find that the defendant researcher had

acted with intent or gross negligence—and hence dishonestly—DCSD did not consider it reasonable to institute such an investigation now.

- *Alternatively*, DCSD could opt for *renewed assessment* of the book based exclusively on the investigations and assessments DCSD itself is in a position to carry out.

Such renewed scrutiny could not be expected to lead to any result other than that set out in DCSD's decision of 6 January 2003. The rules governing DCSD (Executive Order No. 933 of 15 December 1998, Section 2, subs. 2) show that DCSD *must* dismiss a case if the possibility of upholding the complainant's claim is considered unlikely a priori. DCSD thus had no basis on which to resume the complaint against the researcher for renewed scrutiny.

- *Need to adjust the regulatory basis*

In its concluding statement DCSD noted that the case showed up a need to qualify the regulatory basis governing the Danish Committees on Scientific Dishonesty on a number of points. Concurrent with its reply about not reopening the case, DCSD sent a number of comments on the criticism that the Ministry of Science had levelled at DCSD's decision of 6 January 2003.

CASES RECEIVED IN 2003

Case No. 7

Case in which two researchers asked DCSD to evaluate whether the two researchers had acted in a scientifically dishonest manner by consciously having delayed publication of the fattening effect of sugar

In March 2003 two researchers approached the Danish Committees on Scientific Dishonesty (DCSD) with a request for DCSD to evaluate whether scientific dishonesty had been displayed by the researchers in connection with an investigation into the possible fattening qualities of sugar. The approach showed that the researchers felt they had been the victims of accusations of scientific dishonesty in the form of a charge of having deliberately delayed publication of the fattening effects of sugar in order to protect commercial interests.

In 1990-94, during the FØTEK-I appropriation period of the Danish Food and Technology R&D Programme, the researchers had been granted public research funding to conduct research into carbohydrates and energy metabolism in collaboration with a commercial company. As one of the last trials, one researcher in 1995 initiated a trial referred to in the Danish press as "the pop trial". A number of results were presented at a European congress on obesity in 1996. As a result of one researcher taking two lots of perinatal leave, the article was not written until 2000 and then submitted to two international journals.

One journal published the article in October 2002. An abridged version was published in March 2003 in a Danish medical journal.

The scientific dishonesty accusations of which the researchers wished to be cleared were purportedly lodged by one politician, in particular, whose views had also been reported in the daily press and had been the topic of discussion on TV. As part of its consideration of the case, DCSD presented it to the politician in question and requested a statement, including information as to whether, on his part, there was actually any accusation of scientific dishonesty against the two researchers.

The person in question informed DCSD that he had not used the expression "scientific dishonesty", but in the debate with researchers had voiced the criticism *that* the researchers had been very slow in getting their "pop study" published and *that* the researchers had had a far too "pro-sugar attitude".

The case was dealt with at a meeting in October 2003 on DCSD's Committee for Health and Medical Science. The ruling in the case was made by the following:

Henrik Waaben, high court judge

(chairman)

Nils Axelsen, MD, consultant,
deputy director

Gunna Christiansen, MD, professor

Ebba Nexø, MD, professor

Philippe Grandjean, MD, professor

On examining the case, DCSD found no

basis for assuming that the researchers had been guilty of scientific dishonesty by deliberately delaying the publication in question. In this connection DCSD found that a satisfactory explanation had been given of the overall timing, from implementation of the dietary trials in 1995 until publication of the results in 2002 and 2003 in both an international and a Danish journal. DCSD added that it is not within its jurisdiction to take a stance on any professional disagreement over the significance of sugar for obesity. In its ruling, therefore, DCSD took a position solely on the above-mentioned problem of the chronology involved.

DISMISSED CASES

Case No. 8

Case about a complainant's approach to DCSD concerning scrutiny of a researcher's integrity in connection with his research

In January 2003 DCSD's Committee for Health and Medical Science received a complaint about a health-science researcher whose integrity the complainant asked DCSD to scrutinize.

DCSD notified the complainant that, in accordance with Section 3 of the Danish Executive Order on the Danish Committees on Scientific Dishonesty (Order No. 933 of 15 December 1998), DCSD considers cases in a research context involving falsification or distortion of the scientific message or gross misrepresentation about a person's involvement

in the research. A general complaint about a researcher's scientific work, like that put forward by the complainant, does not come within the sphere of DCSD's remit. The complaint was therefore rejected.

Case No. 9

Request for resumption of a previous ruling in DCSD in which the authors of a legislative commentary had omitted to mention the ruling in a court case initiated by the complainant

In January 2003 the complainant asked DCSD to resume its consideration of a previously dismissed complaint about the authors of a legislative commentary. The tenor of the complaint was that the legislative commentary failed to mention a case decided by the Commission of Human Rights, to which the complainant had been a party.

The complaint was lodged with DCSD's Committee for Social Science and the Humanities (USHF), which ruled that it could only be considered improbable a priori that the complainant would be upheld in the view that the failure to mention the ruling could be construed as scientific dishonesty. The complaint was therefore dismissed with reference to Section 2, subs. 2 of the Executive Order on the Danish Committees on Scientific Dishonesty (No. 933 of 15 December 1998).

Case No. 10

Case about alleged scientific dishonesty in connection with a Danish health-science

study published in an international journal in 1992

In February 2003 DCSD received a complaint from a foreign medical researcher who, in a book published in 1995 and later articles, had criticized the results of the study and accused the researchers of scientific dishonesty.

The case was considered by DCSD's Committee for Health and Medical Science, which found that the complaint dealt with matters extending back more than five years. Furthermore, the committee found there to be no factors of such a special nature as to allow the five-year time-limit to be suspended. The complaint was therefore dismissed as time-barred with reference to Section 5, subs. 1 of the Executive Order on the Danish Committees on Scientific Dishonesty (No. 933 of 15 December 1998).

Case No. 11

Case about allegedly deliberate suppression of the professionally reasoned weighting of the merits and demerits of preserving livestock-genetic resources

In March 2003 DCSD received a complaint about the members responsible for a report made out for a government institution, with specific reference to the committee's two scientific sponsors, who, according to the complainant, had suppressed the professionally reasoned weighting of the merits and demerits of preserving genetic animal material with a view to preserving old Danish breeds of animals, instead of preserving them alive.

The complaint was put before DCSD's Committee for Natural Science, Agricultural & Veterinary Science and Technical Science (UNJVTF). The committee found that the recommendations in the report concerned could not be deemed to constitute research, but reflected the committee's proposals for strategy, based on the committee members' evaluations of, inter alia, a professional and practical nature. The report thus fell outside of DCSD's jurisdiction, cf. Sections 2-3 of the Executive Order on the Danish Committees on Scientific Dishonesty (No. 933 of 15 December 1998). The complaint was therefore dismissed.

Case No. 12

Complaint regarding a scientific dispute in which the complainant felt that the authors of a scientific article had overrated their own material and had not made sufficient allowance for weaknesses and uncertainties

In March 2003 DCSD received an e-mail complaining about eight Danish researchers. The complainant had omitted to include documentary evidence to back up his allegations, referring solely to a number of websites where the relevant Danish article could be read.

The case was considered by DCSD's Committee for Health and Medical Science, which found that the complaint needed to be more precise and documentation needed to be presented in support of the complaint if DCSD's Committee for Health and Medical Science was to hear the case on its merits. The commit-

tee therefore stated that it was not willing to consider the complaint on the available basis.

Case No. 13

Case about two Danish medical researchers' alleged misappropriation of scientific material compiled by the complainant

In March 2003 DCSD received a complaint containing a claim that two Danish medical researchers had unfairly appropriated scientific material compiled by the complainant in 1973-74 and at scientific meetings abroad had made unauthorized use of it for their own purposes.

Under Section 5, subs. 1 of the Executive Order on the Danish Committees on Scientific Dishonesty (No. 933 of 15 December 1998), "a complaint about scientific dishonesty shall be submitted within a reasonable period of time after the complainant has been given the necessary wherewithal for presenting the complaint. Only in special cases can the Committees consider circumstances dating back more than five years."

Since DCSD's findings about the course of events under complaint were based on such events going back many—and more than five—years in time, and since DCSD did not deem any special conditions to exist such that the five-year time-limit should be departed from, DCSD dismissed the complaint with reference to Section 5, subs. 1 of the Executive Order on the Danish Committees on Scientific Dishonesty.

Case No. 14

Case about alleged scientific dishonesty in connection with preparation of a textbook

In April 2003 the Danish Committees on Scientific Dishonesty (DCSD) received a complaint about a researcher accused of dishonest use of scholarly literature in connection with publication of a textbook. The usual procedure was adopted of hearing both complainant and defendant.

The complaint was lodged with DCSD's Committee for Health and Medical Science, which found that the preparation of the textbook in question could not be held to constitute research, cf. Section 3, subs. 1 of the Executive Order on the Danish Committees on Scientific Dishonesty. Against this background there was agreement on the committee to dismiss the complaint.

DCSD's ruling has since been brought before the Danish Ministry of Science, Technology and Innovation, which had not made a decision in the case at the time the reporting period came to an end.

Case No. 15

Case about compilation of a report by a governmental research institute, in which the institute compiling the report failed to meet the standards governing good scientific practice, according to the complainant

In January 2003 DCSD received a complaint from a local authority about a report in which a governmental research institute had not complied with the stan-

dards of good scientific practice, having omitted facts that were crucial to the conclusion of the report. The complaint further included a number of points in the report where the complainant disagreed with the calculations made and hence with the overall conclusion of the report.

The complaint was filed with DCSD's Committee for Natural Science, Agricultural & Veterinary Science and Technical Science (UNJVTF). The committee pointed out that, under Section 2, subs. 1 of the Executive Order on the Danish Committees on Scientific Dishonesty, DCSD's task is above all to consider complaints relating to *scientific dishonesty*, as this concept is defined in Section 3 of the Executive Order. DCSD does not deal with complaints relating solely to disregard for the standards of good scientific practice.

Nor can DCSD take a stance on any professional dispute, and in DCSD's view the complaint seemed primarily to concern professional disagreement between the complainant and the institute about calculating the socioeconomic consequences of a deposit scheme for disposable packaging.

On the basis of the available evidence, DCSD did not consider itself able to deal with the complaint; but if the complainant did wish to pursue the matter, he was advised to provide specific details of the respects in which the institute, in his opinion, had acted with scientific dishonesty in relation to the report in question.

DCSD further noted that the committee had not taken a stance on whether the report could be considered to be research or whether it was an analysis on the basis of information collated from other reports outside the concept of research.

Case No. 16

Case about alleged scientific dishonesty on the part of the editor and principal author of a scientific publication

In June 2003 the Danish Committees on Scientific Dishonesty (DCSD) received a complaint about the latest publication from *Magtudredningen*—a project embodying the Danish Democracy and Power Study—as well as the book's editor and predominant author. DCSD's Committee for Social Science and the Humanities (USHF) dealt with the complaint at a meeting in September 2003.

In its assessment of the case, DCSD based its findings on the fact that the book in question was encompassed by the term 'research'. It was DCSD's view that the prospect of upholding the complainants' claim of scientific dishonesty could only be considered unlikely, a priori, as the concept is defined in Section 3, subs. 1 of Executive Order No. 933 of 15 December 1998 on the Danish Committees on Scientific Dishonesty. In so doing, DCSD also pointed out that, in accordance with Section 3, subs. 2 of the Executive Order, being able to establish scientific dishonesty is conditional upon the researcher in question having acted

intentionally or having displayed gross negligence.

DCSD therefore declined to consider the case—cf. Section 2, subs. 2, clause 2 of the Executive Order. It was added that it is not DCSD's job to undertake an assessment of the book's qualitative contents.

Case No. 17

Case about alleged scientific dishonesty in omitting to collect documentary evidence of the mathematical qualifications of an assessment panel adjudging a doctoral thesis

In October 2003 DCSD received a letter from a researcher, complaining that a Danish university had acted with scientific dishonesty by failing to gather documentary evidence of the assessment panel's professional qualifications when adjudging the complainant's PhD dissertation.

The complaint was lodged with the chairman of the Danish Committees on Scientific Dishonesty. It was the chairman's view that the matter under complaint could not be viewed as an activity encompassed by the term 'research'. The matter was therefore not covered by Section 3, subs. 1 of the Executive Order on the Danish Committees on Scientific Dishonesty, and DCSD was thus without jurisdiction to deal with the complaint. DCSD informed the complainant that any grievance about the assessment panel's qualifications must be addressed primarily to the body competent at the relevant Danish university.

CASES PENDING

Case No. 18

Case about alleged plagiarism of a Danish researcher's article published by a foreign researcher in a foreign journal without the permission of the Danish researcher and without the latter's knowledge

In October 2003 DCSD received a complaint from a Danish medical researcher who, when reading a book of abstracts from a world congress on medical science held in Berlin in June 2003, found to his surprise a verbatim reproduction of the complainant's institute's own original publication published in an English journal in 2002.

In the case under review, DCSD lacks the territorial jurisdiction to consider the case, as the defendant's article was published by a foreign researcher with no affiliations to Denmark, cf. Section 2, subs. 2 of Executive Order No. 933 of 15

December 1998. DCSD did provide the Danish researcher with help, however, in the form of forwarding the complaint to the dean of the overseas university where the defendant operates. The foreign university has provisionally advised that the case, which is considered highly embarrassing, is being investigated. DCSD has not yet been informed about the outcome of the foreign investigation into the case.

Case No. 19

Complaint about alleged scientific dishonesty

Immediately prior to the turn of the year 2003/2004 DCSD received a complaint about a social scientist who was accused of scientific dishonesty in the form of discarding data, amongst other things. DCSD did not manage to review the complaint during the reporting year, and the case is therefore being carried forward to 2004.

APPENDICES

We, Margrethe II, by the grace of God Queen of Denmark, hereby make known that the Danish Parliament has passed and we have given our Royal Assent to the following Act:

Part 1

Scope of the Act

Section 1. To strengthen the quality, coordination and internationalization of Danish research and the dissemination and application of research results, the Minister for Science, Technology and Innovation establishes the Danish Council for Research Policy, the Danish Councils for Independent Research, the Danish Council for Strategic Research and the Danish Research Coordination Committee.

Subs. 2. To ensure the scientific integrity of Danish research, the Minister for Science, Technology and Innovation establishes the Danish Committees on Scientific Dishonesty, cf. Section 31.

Subs. 3. The main purpose of the Danish Council for Research Policy shall be to provide independent, expert research policy advice to the Minister for Science, Technology and Innovation, the Danish Parliament and the Government. The Council shall have a purely advisory function, cf. Section 3.

Subs. 4. The Danish Councils for Independent Research shall have both a funding function and an advisory function. The main purpose of the Councils shall be to support specific research activities based on the initiatives of the researchers themselves, and to provide scientific research advice in this regard, cf. Sections 7 and 8.

Subs. 5. The Danish Council for Strategic Research shall have both a funding function and an advisory function. The main purpose of the Council shall be to support research within politically prioritized and thematically demarcated areas of research, and to provide scientific research advice in this regard, cf. Sections 17 and 18.

Subs. 6. The Danish Research Coordination Committee shall be responsible for coordinating the public funding function for research, and shall have an advisory function in relation to research training, cf. Sections 25 and 26.

Subs. 7. The Councils and the Committee mentioned in subs. 4-6 in combination shall ensure that all state research grants, with the exception of basic grants associated with particular institutions, are allocated in open competition following scientific assessment of their quality.

Definitions

Section 2. For the purposes of this Act,

- 1) Recognized researchers shall mean: persons who have engaged in active scientific research for a number of years, and who possess academic and research qualifications at a level corresponding to those of at least an associate professor or senior researcher.
- 2) Research experts shall mean: persons at PhD level who possess either knowledge or experience of performing research tasks for a number of years at a national or international level, or who have undertaken in-depth research administration, research management, research dissemination or research policy work for an institution, organization or company.

(...)

The Danish Committees on Scientific Dishonesty

Section 31. The purpose of the Danish Committees on Scientific Dishonesty is to examine cases involving complaints of scientific dishonesty.

Subs. 2. In the event that scientific dishonesty is ascertained by the Committees, the Committees may:

- 1) Inform the accused person's employer, if the party in question is employed as a researcher.
- 2) Recommend withdrawal of the scientific project concerned.
- 3) Inform the relevant authority responsible for the area.
- 4) Make out a police report when a punishable offence is involved.
- 5) At the special request of an appointing authority, state its views on the degree of scientific dishonesty.

Subs. 3. The chairperson shall resolve all legal questions, cf. Section 32, subs. 2.

Subs. 4. The Committees shall publish an annual report on their activities.

Section 32. The Danish Committees on Scientific Dishonesty shall consist of one or more committees covering all areas of scientific research.

Subs. 2. The chairperson of the committees must be a high court judge.

Subs. 3. The Minister for Science, Technology and Innovation shall stipulate the number of members. Each member must have a corresponding deputy. The members and deputies must all be recognized researchers, together covering all areas of scientific research, cf. Section 36, subs. 2.

Subs. 4. The chairperson shall be appointed by the Minister for Science, Technology and Innovation. The members and the deputies shall be appointed by the Minister in

their personal capacities following a hearing conducted by the Danish Councils for Independent Research. The chairperson, the other members and the deputies shall be appointed for a period of four years. Reappointment may occur for a period of no more than two years. If a member or deputy resigns in an untimely manner, a new member or new deputy may be appointed for a period of less than four years.

Subs. 5. The Committees shall draw up rules of procedure, which shall be subject to the approval of the Minister for Science, Technology and Innovation.

Section 33. The Minister for Science, Technology and Innovation may lay down detailed rules governing the activities of the Danish Committees on Scientific Dishonesty.

Section 34. The decisions of the Danish Committees on Scientific Dishonesty may not be brought before any other administrative authority.

Part 8

Miscellaneous provisions

Section 35. Secretariat services for the Danish Council for Research Policy shall be provided by the Ministry of Science, Technology and Innovation.

Subs. 2. Secretariat services for the Danish Councils for Independent Research, the Danish Council for Strategic Research, the Danish Research Coordination Committee and the Danish Committees on Scientific Dishonesty shall be provided by an independent secretariat.

Subs. 3. The Minister for Science, Technology and Innovation, or a person empowered by the Minister for this purpose, shall supervise the allocation of grants and legal questions in connection with the work of the Danish Councils for Independent Research, the Danish Council for Strategic Research and the Danish Research Coordination Committees.

Section 36. Members of a body encompassed by this Act or of the Board of the Danish National Research Foundation may not be members of another body encompassed by this Act.

Subs. 2. The provision in subs. 1, however, shall not prevent a member of a scientific research council from sitting on a programme committee, or vice versa, cf. Section 14, subs. 1, and Section 21, subs. 5. The same shall apply to members of the Danish Research Coordination Committee, whose membership follows from their positions, cf. Section 28, subs. 2, and to members of the Danish Committees on Scientific Dishonesty and their deputies, cf. Section 32, subs. 3.

(...)

Section 40. This Act shall be reviewed in the 2007-08 session of the Danish Parlia-

APPENDIX 1 ment on the basis of an evaluation of the advice provided by the research advisory system concerning support for research training.

Part 9

Coming into force etc.

Section 41. This Act shall come into force on 1 January 2004. At the same time, the Act on Research Policy Advice etc., cf. Consolidated Act No. 676 of 19 August 1997, shall be repealed.

Subs. 2. Rules determined in pursuance of the Act on Research Policy Advice etc., cf. Consolidated Act No. 676 of 19 August 1997, shall remain in force until repealed or replaced by rules issued in pursuance of this Act.

Order on the Danish Committees on Scientific Dishonesty

Pursuant to Section 4e, subs. 4 of the Danish Act on the Research Advisory System etc., cf. Consolidation Act No. 676 of 19 August 1997, the following provisions apply:

Section 1. The Board of the Danish Research Councils shall create three committees on scientific dishonesty within Danish research: a committee for research in natural science, agricultural & veterinary science and technical science, a committee for research in health and medical science, and a committee for research in social science and the humanities. The Committees shall have a joint chairperson, one of whose tasks is to ensure uniformity in the statements made across the fields of research.

Subs. 2. The Committees' name is the Danish Committees on Scientific Dishonesty.

Section 2. The Danish Committees on Scientific Dishonesty are mandated to consider cases of scientific dishonesty lodged with the Committees in the form of a complaint. A person can make a request to have a case considered with a view to being cleared of rumours in circulation.

Subs. 2. The case must be of significance to Danish research. Where the Committees are considered unlikely beforehand to find for the complainant, the case will be dismissed.

Section 3. Scientific dishonesty includes actions or omissions in research which give rise to falsification or distortion of the scientific message or gross misrepresentation of a person's involvement in the research, and includes:

1. Fabrication and construction of data.
2. Selective and surreptitious discarding of undesirable results.
3. Substitution with fictitious data.
4. Consciously misleading use of statistical methods.
5. Consciously distorted interpretation of results and distortion of conclusions.
6. Plagiarization of others' results or publications.
7. Consciously distorted reproduction of others' results.
8. Inappropriate credit as the author or authors.
9. Applications containing incorrect information.

Subs. 2. In order to label a conduct as scientific dishonesty, it must be possible to document that the person in question has acted deliberately or exercised gross negligence in connection with the activities under consideration.

APPENDIX 2 Section 4. The chairperson shall distribute complaints to the Committees for consideration.

Subs. 2. The individual committee shall decide whether a case is to be considered or dismissed. The committee shall notify the defendant of the complaint and of whether it intends to consider the complaint.

Subs. 3. The parties in a case of scientific dishonesty are entitled to draw on the assistance of assessors. The complainant may be assisted by observers providing that he/she is a party to the case.

Subs. 4. The committee itself shall investigate the complaint, including providing all relevant information in the case.

Subs. 5. When a case of scientific dishonesty has been completed, the committee shall draft a statement with a reasoned position on the complaint lodged. Parties to the case shall be advised of the statement.

Section 5. A complaint about scientific dishonesty must be submitted within a reasonable time of the complainant having been given the necessary wherewithal for submitting the complaint. Only in special cases can the committee consider matters dating back more than five years.

Subs. 2. A committee can decide that a case previously completed by the committee is to be reopened, where prompted by special grounds, particularly the emergence of new information which—had it been available during consideration by the committee—can only be assumed to have resulted in a different outcome to the case.

Section 6. Where a committee ascertains that there is scientific dishonesty in a specific case, the committee can:

1. Inform the defendant's employer.
2. Recommend that the scientific project concerned be withdrawn.
3. Make a report to the relevant public authority supervising the area.
4. Make out a police report where a punishable offence is involved.
5. At the special request of an appointing authority, state its views on the choice of sanctions to be imposed, if any.

Section 7. The Committees shall publish an annual report detailing their activities. The report shall describe all cases of scientific dishonesty considered in non-personalized form.

Section 8. The Committees shall each be made up of a chairperson and two, four or six members, as determined by the Board of the Danish Research Councils. In addition, alternates shall be appointed for the members.

Subs. 2. The chairperson shall be a high court judge. The appointed members and their alternates shall be accredited researchers jointly and as best possible covering the specialist fields of the government research councils. The chairperson and members shall be appointed in their personal capacity.

Subs. 3. The chairperson shall be appointed by the Danish Minister of Science, Technology and Innovation. The members and their alternates shall be appointed by the Board of the Danish Research Councils following consultation with the government research councils.

Subs. 4. Members and their alternates shall be appointed for a period of four years and can be re-appointed for two years. If a member resigns during a term of appointment, the member appointed in his or her stead can be appointed for less than four years.

Section 9. The individual committee can decide that it is to be assisted in its investigation of a case by one or more external experts.

Subs. 2. In the event of a member's absence, the alternate shall deputize.

Subs. 3. The Committees have a quorum when the chairperson and members or their alternates are present.

Subs. 4. The Committees' decisions shall be made unanimously, wherever possible. Where a consensus cannot be reached, the decisions shall be made by an ordinary majority decision. A dissenting member can demand that his/her dissent be noted in the decision.

Subs. 5. In matters of law, a ruling shall be made by the chairman.

Section 10. Members of the Committees are subject to the same duty of confidentiality as for public functions in respect of any information gleaned in their capacity as members of the Committees.

Section 11. The Danish Research Agency shall provide secretariat services for the Committees.

Section 12. The rules of the Danish Public Administration Act shall apply to the treatment of cases by the Committees.

Subs. 2. The Board of the Danish Research Councils shall lay down rules of procedure for the Committees.

APPENDIX 2 Section 13. The Order shall not apply to the Faeroe Islands and Greenland.

Section 14. The Order shall enter into force on 1 January 1999.

Danish Ministry of Science, Technology and Innovation, 15 December 1998.

Jan Trøjborg

/Dan Jensen

Pursuant to Section 12, subs. 2 of Danish Executive Order No. 933 of 15 December 1998 on the Committees on Scientific Dishonesty, the following provisions apply:

The Committees—tasks and objectives

Section 1. The Committees on Scientific Dishonesty consist of three coordinated committees, each individually covering one or more scientific fields. The Committees have a joint chairperson. The three committees are: a committee for research in natural science, agricultural & veterinary science and technical science, a committee for research in health and medical science, and a committee for research in social science and the humanities.

Section 2. The Committees on Scientific Dishonesty are mandated to consider cases of scientific dishonesty.

Subs. 2. A case can be filed by anyone lodging a complaint with the Committees. Anonymous complaints will qualify for consideration only on an exceptional basis and only in the event that there are substantive and essential social interests at stake.

Subs. 3. A person can ask to have a case considered with a view to being cleared of rumours in circulation.

Subs. 4. The Committees can consider enquiries-in-principle, provided that the issue involved is deemed to be of general social interest or of interest to a wider circle of researchers or a research environment.

Section 3. The Committees wish to be conducive to promoting good scientific practice. It is attempted to achieve this goal by disseminating a knowledge of the Committees' annual report and by teaching and lecturing activities etc.

Subs. 2. At the annual joint meeting, cf. Section 9, subs. 1, the Committees discuss initiatives capable of furthering the Committees' objectives.

Preparation and adjudgement of cases on the individual committees

Section 4. The pertinent committee shall itself investigate the complaint and provide all relevant information.

Subs. 2. Information provided by the parties shall form part of the Committee's investigation and consideration of the case. The parties shall be heard by presenting the opposing party's information and comments. The hearing procedure shall consist, as a basis, of two written hearings between the defendant and the complainant; however, the

APPENDIX 3 scope and phase of the hearing shall be laid down in detail by the committee following a concrete evaluation.

Subs. 3. The committee can appoint an ad hoc committee whose brief shall be to investigate and prepare the case by compiling a report. The committee can appoint one or more external experts to an ad hoc committee. The parties to the case shall be informed of the ad hoc committee's composition and are free to offer any comments within a term of two weeks.

Subs. 4. Once the ad hoc committee has compiled a report, the report shall be sent to the parties to the case in order to ensure that factual information in the report is correct. Any comments by the parties shall be sent to the ad hoc committee. The ad hoc committee's report, the parties' comments and the ad hoc committee's remarks on these shall then be presented to the committee with a view to settling the case.

Section 5. The committee shall recommend to the parties that a case be dealt with in confidence until such time as a ruling is in place. While a case is in progress, the committee shall not supply information about the case to any third party, including the press.

Subs. 2. Where access to documents is requested for the immediate purpose of settling a case, that request will normally be accommodated.

Subs. 3. Cases ruled on shall generally be referred to in the Annual Report in depersonalized form, unless exceptional circumstances dictate that the public be made aware of the identity of those involved.

Section 6. Cases shall be decided at a meeting of the committee, cf. however Section 7, subs. 3.

Subs. 2. The committee's meetings are not public, cf. however Section 7, subs. 4 and 5.

The chairperson's tasks and powers

Section 7. One of the chairperson's tasks is to ensure uniformity of the casework procedure across the Committees.

Subs. 2. Where a complainant's claim can be considered beforehand to be unlikely to be upheld, the case shall be dismissed by the chairperson after the issue has been presented to the members of the pertinent committee. If it is apparent that a case must be dismissed, dismissal can be effected by the chairperson on his or her own initiative.

Subs. 3. Where considered unobjectionable, the chairperson can determine that a case be resolved by a written vote. At any time whatsoever, any member of the committee can demand that the case be heard at a meeting.

Subs. 4. The chairperson may decide that the parties can be granted an audience with the committee.

Subs. 5. The chairperson may decide that persons other than the Committees' members and alternates are to take part in the joint annual meeting.

Subs. 6. The chairperson shall decide whether a request for access to documents can be met, cf. Section 5, subs. 2. To an extent to be further specified, the chairperson can delegate authority to the secretariat.

Acting as secretariat for the Committees

Section 8. The Danish Research Agency provides secretariat services for the Committees.

Subs. 2. On receiving a complaint, the secretariat shall acknowledge it by providing particulars of the anticipated case-handling procedure. The chairperson shall be concurrently advised of the complaint.

Subs. 3. If the complaint is expected to be able to be heard on its merits, the secretariat shall then send the complaint to be heard by the defendant. A copy of the case documents shall simultaneously be sent to the members of the relevant committee. The secretariat shall send regular consultation replies and other case-related material to the chairperson and members of the committee.

Subs. 4. Where the complaint is deemed immediately dismissable, by agreement with the chairperson the secretariat shall prepare a draft rejection, which is then normally sent to the members of the pertinent committee for approval, cf. Section 7, subs. 2. The defendant shall be kept informed of the complaint by a copy of the letter of dismissal.

Subs. 5. The secretariat shall take part in committee and ad hoc committee meetings.

Subs. 6. The secretariat shall otherwise assist the chairperson and the Committees in their work, as determined by the chairperson.

Meetings of the Committees

Section 9. An annual joint meeting shall be held with the attendance of members of the Committees and their alternates. The meeting shall not be public. At the meeting the chairperson shall inform those present of the rulings made during the year on the individual committees. At the meeting a decision can be made on topics of common interest to the Committees.

Subs. 2. At the joint annual meeting, the time of the next year's joint meeting shall be finalized. In addition, a date in every quarter shall be fixed when the individual committees can be convened to casework meetings, should the need arise.

Section 10. Notice to attend casework meetings shall be given two weeks in advance, wherever possible, setting out which cases it is intended to consider at the meeting. Previously unsent material shall be sent out simultaneously with the agenda.

APPENDIX 3 Section 11. The Committees' chairperson shall chair the meetings.

Section 12. The secretariat shall minute the resolutions at meetings.

Alternates

Section 13. In the event of a member's absence or disqualification, the chairperson, in consultation with the other members of the committee, shall designate the alternate to take part in considering the case.

Subs. 2. Where a member is allowed to leave the Committees during the appointment period, the Board of the Danish Research Councils shall appoint a new member for the ongoing appointment period. The new member shall be elected from among the alternates and in consultation with the relevant government research council.

Subs. 3. Where a member is appointed in accordance with subs. 2, the Board of the Danish Research Councils shall also appoint a new alternate for the ongoing appointment period in consultation with the relevant government research councils.

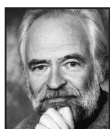
Ensuring the continuity of the Committees' work

Section 14. Once a committee has completed its consideration of a case, a copy of the ruling shall be sent to all members and alternates on the three committees.



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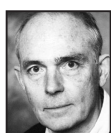
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Erik Dabelsteen, DDS, professor (chairman)

Torben V. Schroeder, MD, consultant, professor (internal)

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SECRETARIAT OF THE DANISH COMMITTEES ON SCIENTIFIC DISHONESTY

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