

# Is partial behaviour a plausible explanation for the unavailability of the ICMJE disclosure form of an author in a BMJ journal?

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**Abstract:** This case study about the ethical behaviour in the field of scholarly publishing documents an exception on the rule for research articles in the medical journal *BMJ Open* that ICMJE disclosure forms of authors must be made available on request. The ICMJE, the International Committee of Medical Journal Editors, has developed these forms for the disclosure of conflicts of interest for authors of medical publications. The case refers to the form of the corresponding author of an article in *BMJ Open* on retraction notices (Moylan and Kowalczyk, 2016). The corresponding author is a member of the council of COPE, the Committee on Publication Ethics. I will argue that the unavailability of the form relates to personal conflicts of interest with the corresponding author about my efforts to retract a fatally flawed study on the breeding biology of the Basra Reed Warbler *Acrocephalus griseldis*. I describe my attempts to get the form and I will argue that its unavailability can be attributed to partial behaviour by BMJ, the publisher of *BMJ Open*. This study complements other sources reporting ethical issues at COPE.

**Key words:** ICMJE disclosure form; partial behaviour; personal conflicts of interest; BMJ; COPE; competing interests; research integrity; transparency; Basra Reed Warbler; *Acrocephalus griseldis*

“Getting closer to the truth, whatever that is, is never a bad outcome” (Ioannidis, 2012).

## 1. Introduction

Full transparency about conflicts of interest is since years the norm for authors of medical publications (Steinbrook, 2017). The International Committee of Medical Journal Editors (ICMJE) has developed a special form for the disclosure of these conflicts of interest (also named competing interests) and it is since July 2010 mandatory that all authors have completed this form when submitting research articles to the medical journals *BMJ Open* and *The BMJ*. It is as well since that date mandatory for research articles in both journals that “the forms must be made available by the corresponding author on request”. I document in this study an exception on this rule. The case refers to the unavailability of the form of Dr. Elizabeth Moylan, the corresponding author of an article on retraction notices in *BMJ Open* (Moylan and Kowalczyk, 2016). The article was published in

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November 2016 and Dr. Moylan is listed as its guarantor. Dr. Moylan is since January 2016 a member of the council of the Committee on Publication Ethics (COPE).

I will describe my attempts to get the form and I will describe conflicts of interest between Dr. Moylan and employees of BMJ, the publisher of *BMJ Open* and *The BMJ*. I will argue that the unavailability of the form is related to personal conflicts of interest with COPE about my efforts to retract a fatally flawed study on the breeding biology of the Basra Reed Warbler *Acrocephalus griseldis* (Al-Sheikhly et al, 2013, 2015; Porter et al, 2015a, 2015b; Anonymous, 2016; Teixeira da Silva, 2017a). The Basra Reed Warbler is a globally endangered bird species with a breeding range which is almost entirely restricted to Iraq (BirdLife International, 2017). The fatally flawed study<sup>2</sup> is the first one on its breeding biology. I am since mid April 2015 co-operating with authors of Porter et al. (2015a, 2015b) and others to get it retracted. I use the definition of the ICMJE for a conflict of interest: “a conflict of interest exists when professional judgment concerning a primary interest may be influenced by a secondary interest. Perceptions of conflict of interest are as important as actual conflicts of interest”. I refer to McCoy and Emanuel (2017) for views about differences between conflicts of interest and potential conflicts of interest.

## 2. Efforts to get a copy of the form

I noted an issue with the conflict of interest statement of Dr. Moylan in Moylan and Kowalczyk (2016) and I therefore became interested in a copy of the form. I received on 11 September 2015 a formal letter from COPE in which it is stated that members of the council of COPE don't open emails from my side. It had therefore towards my opinion no sense to contact Dr. Moylan about this request. I have thus contacted the Editor-in-Chief (EiC) of *BMJ Open* on 28 November 2016 with a request for a copy of the form. The EiC responded with an invitation to submit an eletter. This eletter was published on 18 January 2017 (Van Dijk, 2017). The form was not received. The form was also not received after several reminders were sent to BMJ with a request for a copy of the form.

The form was also not received after filing 10 formal complaints about this issue to BMJ. The first complaint was filed on 7 March 2017. BMJ told me on 7 April 2017: “this matter is closed”. Motives were not listed. BMJ told me on 21 April 2017: “we consider the matter closed”. Motives were once again not listed. Complaint 9 was filed on 21 April 2017. BMJ states on its website about the processing of complaints that “if possible a full response will be made within four weeks. If this is not possible an interim response will be given within four weeks”. Until now only out-of-office auto-replies from that day were received as a response on complaint 9. Complaint 10 was filed on 4 May 2017. The receipt of this complaint is until now not acknowledged. BMJ states on its website that “all complaints will be acknowledged within three working days”. The processing of these complaints is thus remarkable, given that BMJ states on its website that they “welcome complaints” and that they “aim to respond quickly, courteously, and constructively”. BMJ told me on 7 March 2017 that the form “does not constitute underlying research data of the article”. Multiple requests for references (from peer-reviewed sources) to support this claim remained unanswered.

There is no information that Dr. Moylan is sick, or on leave, or for a prolonged period of time at a place without access to the internet. Moylan and Kowalczyk (2016) don't list exceptions on the rule that the form “must be made available by the corresponding author on request”. I was also unable

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<sup>2</sup>The biologist Dr. Filippo Barbanera of the University of Pisa is one of the three authors of the fatally flawed study on the breeding biology of the Basra Reed Warbler (Al-Sheikhly et al, 2013, 2015).

to locate on the website of BMJ that there are such exceptions (for Dr. Moylan). Dr. Moylan and her co-author Dr. Kowalczyk are employees of publisher BioMed Central. Both are member of its Research Integrity Group. This group aims to “promote the ethical conduct, reporting and evaluation of scientific research, based on the principles of trust and transparency”. BioMed Central was informed about the unavailability of the form on 8 June 2017. An out-of-office auto-reply from that day was received as response. Members of the Research Integrity Group were informed on 9 June 2017. Two out-of-office auto-replies from that day were received as response. These auto-replies indicate that both emails have been received in good order. The Research Integrity Group of BioMed Central had been renamed as SpringerOpen Research Integrity Group in August 2017. A legal representative from BioMed Central informed me on 25 August 2017 that Dr. Moylan, and others at BioMed Central, would not engage in a discussion about this topic. There are no indications that the form does not exist. So we work with the assumption that the form exists and that it is unavailable.

BMJ states on its website that they have “a commitment to transparency”. The lack of transparency in regard to the unavailability of the form is thus remarkable.

### 3. My experiences with COPE

I am in contact with COPE since the end of June 2015. My contacts with COPE are related to the efforts to retract the fatally flawed study on the breeding biology of the Basra Reed Warbler (Al-Sheikhly et al, 2013, 2015). This study is published in *Zoology in the Middle East*, a peer-reviewed journal of publisher Taylor and Francis (TF). It soon turned out that TF was unwilling to retract it. TF is member of COPE. I have therefore filed formal complaints to COPE about this decision of TF. COPE informed me on 26 July 2015 to start with processing the complaints<sup>3</sup>. TF would be requested for comments and I would be copied in this correspondence. COPE told me on 4 August 2015 to act as a facilitator of a dialogue with TF. COPE informed me on 13 July 2016 that the processing of the complaints was terminated and that questions would not be answered. The correspondence was never received and there is until now no dialogue with TF. These experiences are in line with experiences of others with COPE (Jacobs, 2011; Anonymous, 2015; Brookes, 2015; Schneider, 2015; Carlisle, 2017; Teixeira da Silva, 2017b).

A report with the findings of an investigation on serious allegations of fabricated and/or falsified data in the study on the breeding biology of the Basra Reed Warbler was released on 1 July 2016 (Anonymous, 2016). The report was sent to COPE, to TF, to the EiC of *Zoology in the Middle East*, and to other parties, on the day when it was released. The report reveals that no university in Saudi Arabia had endorsed the study. The report reveals that all efforts failed to get access to the raw research data. The report confirms the serious allegations that the study on the breeding biology of the Basra Reed Warbler contains fabricated and/or falsified data. Repeated requests to COPE, to TF and to other parties, for example to members of the board of OASPA (the Open Access Scholarly Publishers Association<sup>4</sup>), for views of experts (within this field of research) who refute the main findings of this report remained unanswered. Similar requests to biologists of the University of Western Australia remained unanswered. Similar requests to other parties remained unanswered as well. It seems thus reasonable to argue that there are no experts who refute that the fatally flawed study (Al-Sheikhly et al, 2013, 2015) contains fabricated and/or falsified data. The study thus must

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<sup>3</sup>The complaints are focused around the refusal of publisher TF to retract the fatally flawed study on the breeding biology of the Basra Reed Warbler. This refusal is a clear violation of the COPE Code of Conduct for Journal Publishers in which it is stated that publishers must “maintain the integrity of the academic record”.

<sup>4</sup> Publisher TF is a member of OASPA.

be retracted, and as soon as possible. Montgomery and Oliver (2017) argue that the scientific body of knowledge will get contaminated when fraudulent studies are not removed from the scientific body of knowledge (i.e. when they are not retracted). Fazaa et al. (2017) is an example that this contamination is already happening<sup>5</sup>.

Dr. Moylan is since January 2016 member of the council of COPE and therefore since that moment co-responsible for the processing of the complaints at COPE against TF. Dr. Moylan is also co-responsible for the non-response from COPE on requests for views of experts (within this field of research) on the findings in Anonymous (2016). It seems thus reasonable to argue that there is a personal conflict of interest with Dr. Moylan which is related to my efforts to retract the fatally flawed study on the Basra Reed Warbler.

#### 4. Two BMJ employees with undisclosed side-jobs at COPE

Ms. Trish Groves, the EiC of *BMJ Open* (also director of academic outreach at BMJ and honorary deputy editor of *The BMJ*), confirmed to me on 6 March 2017 that she had for already a few years a side-job at COPE. It seems thus reasonable to argue that this side-job implies that Ms. Groves is more or less collaborating with Dr. Moylan, and already for a rather prolonged period of time. It also seems reasonable to argue that that both can thus easily communicate with each other about my request for a copy of the form. This side-job at COPE is and was not listed at the profile page of Ms. Groves at the website of BMJ. Godlee et al. (2014) list that staff of BMJ must declare at their profile page “non-financial interests” like “unpaid positions that might have a bearing on the product or service being delivered by BMJ”. Godlee et al. (2014) list examples like “unpaid membership of a guidelines panel” and “personal relationships with authors (..) including co-authored articles or papers, or worked together”. Godlee et al. (2014) also state that the declarations must include information about “any personal interest which might affect, could be seen to affect or leave them open to allegations that this could affect their impartiality about the work they are doing”. It is thus remarkable that this side-job at COPE was not listed at the profile page of Ms. Groves, in particular given the views about ethical issues at COPE in Jacobs (2011), Anonymous (2015), Brookes (2015), Schneider (2015), Carlisle (2017) and Teixeira da Silva (2017b).

Dr. Moylan is one of the four authors of Barbour et al. (2017). Dr. Theodora Bloom, an executive editor of *The BMJ*, is another author of this preprint. This preprint is published “on behalf of COPE working group”. The profile page of Dr. Bloom does not list her activities for this COPE working group. So also Dr. Bloom has an undisclosed side-job at COPE. It is once again remarkable that this side-job at COPE is not listed at the profile page of an employee of BMJ. This co-authored preprint implies towards my opinion that Dr. Bloom is closely working together with Dr. Moylan. Both can thus easily communicate with each other about my request for a copy of the form. An extensive review of their preprint, together with a reminder for my request for a copy of the ICMJE form of her co-author Dr. Moylan, was sent to Dr. Bloom on 19 April 2017. There was until now no response, also not on reminders. Dr. Bloom is one of the authors of Bloom et al. (2014). This article defines data as “any and all of the digital materials that are collected and analysed in the pursuit of scientific advances”. There are towards my opinion grounds to argue that the view of BMJ about the

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<sup>5</sup> See Dougherty (2017) for an thorough evaluation of responses from publishers in the field of philosophy to 43 documented cases of plagiarism in philosophy, and for the consequences for this field of research when the plagiarized publications are not retracted.

form of Dr. Moylan (“this form does not constitute underlying research data of the article”, see above) is not in line with the definition of data in Bloom et al. (2014).

The profile page of Dr. Bloom shows that “her responsibilities include ethical and policy matters, and dealing with complaints”. It is therefore remarkable that reminders to Dr. Bloom about my requests for a copy of the form of Dr. Moylan remained unanswered.

## 5. Discussion

I have argued that there is a personal conflict of interest with Dr. Elizabeth Moylan about my efforts to retract the fatally flawed study on the breeding biology of the Basra Reed Warbler (Al-Sheikhly et al, 2013, 2015). I have presented information that both the EiC of *BMJ Open* and an executive editor of *The BMJ* can easily communicate with Dr. Moylan. It is thus remarkable that the extensive contacts with BMJ about my request for a copy of the form have until now been unsuccessful. BMJ states at its website that they “will explain their decisions”. It is therefore remarkable that several questions to BMJ about this issue remained unanswered. This silence from BMJ is towards my opinion a major clue for the real motive of the unavailability of the form. This real motive is towards my opinion partial behaviour. VSNU (2014) defines partial behaviour as personal interests and/or personal preferences and/or personal affections and/or prejudice affecting judgements and decisions<sup>6</sup>. In other words, the (tacit) decision of BMJ that a copy of the form of Dr. Moylan is unavailable for me can be attributed to partial behaviour by BMJ. So I am arguing that the unavailability of a copy of the form is directly related to my credentials.

Elia et al. (2014) list clear examples of partial behaviour. Sources like Ioannidis (2012) and D'Andrea & O'Dwyer (2017) indicate that this behaviour is often difficult to proof<sup>7</sup>. I have therefore sent previous versions of this paper with requests for comments to BMJ. These drafts were sent to BMJ on 14 and 18 June 2017. Both drafts list partial behaviour as the most plausible explanation for the unavailability of the form. BMJ was asked to respond immediately in case of errors and/or mistakes in the texts. Only an out-of-office auto-reply was received on my first email. No response was received on my second email. The auto-reply indicates that the first email was received in good order by BMJ and the non-response indicates a tacit approval that the contents of the drafts is factually accurate.

This non-response is towards my opinion the strongest argument that my view about partial behaviour by BMJ is founded. I have thus no proof that the unavailability of the form can indeed be attributed to partial behaviour by BMJ. BMJ has, on the other hand, not rebutted that partial behaviour is the real motive for the decision that the form is unavailable. BMJ states on its website that they “encourage open debate, comment and criticism”. This statement indicates that BMJ has no objections against the publication of this article. I am looking forward to comments, critics and

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<sup>6</sup> VSNU is the Association of Universities in The Netherlands and impartiality is listed as one of the six key principles of academic practice in the VSNU Code of Conduct (The Netherlands Code of Conduct for Academic Practice, VSNU, 2014). It is since 1 January 2005 mandatory for all students and for all researchers at all 14 Dutch research universities to act always according to this Code of Conduct (VSNU, 2014). For example PhD students at the University of Groningen can not obtain their PhD when they don't want to promise in public, during the graduation ceremony, to keep acting according to the VSNU Code of Conduct. Impartiality is also listed in the European Code of Conduct for Research Integrity (Drenth, 2011) as one of the “principles that all scientific and scholarly researchers and practitioners should observe individually, among each other and toward the outside world”.

<sup>7</sup> See Lubet (2017) for reflections on the impartiality of the researchers of the clinical trial of treatments for the chronic fatigue syndrome.

alternative explanations on my conclusion that the unavailability of the form of Dr. Moylan can be attributed to partial behaviour by BMJ.

## 6. Final remarks

This case study about the ethical behaviour in the field of scholarly publishing complements concerns about the acting of COPE in Jacobs (2011), Anonymous (2015), Brookes (2015), Schneider (2015), Carlisle (2017) and Teixeira da Silva (2017b). I propose that others with comparable experiences about the ethical behaviour of COPE will also publish their findings.

**Conflicts of interest:** The author was employed as regional officer by BirdLife The Netherlands (Vogelbescherming Nederland) in 1995-2004 and was afterwards at intervals employed by Altenburg & Wymenga ecological consultants. Legal representatives from various stakeholders, among them BioMed Central, COPE, TF, and the University of Pisa, have contacted the author in relation to the efforts to retract the fatally flawed study on the Basra Reed Warbler.

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**Abbreviations:** The following abbreviations are used in this manuscript:

BMJ: the publisher of the medical journals *The BMJ* and *BMJ Open*, [www.bmj.com](http://www.bmj.com)

COPE: the Committee on Publication Ethics, [www.publicationethics.org](http://www.publicationethics.org)

EiC: Editor-in-Chief

ICMJE: the International Committee of Medical Journal Editors, [www.icmje.org](http://www.icmje.org)

OASPA: the Open Access Scholarly Publishers Association, [www.oaspa.org](http://www.oaspa.org)

TF: the publisher Taylor and Francis, [www.tandfonline.com](http://www.tandfonline.com)

VSNU: the Association of Universities in The Netherlands, [www.vsnu.nl](http://www.vsnu.nl)

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