

Summary of LOWI opinion 2016-07

The Petitioner complained about an open letter sent to national newspaper *NRC* that he believes does not live up to scientific standards. The open letter was signed by a number of persons. The Interested Party did not sign the open letter, but according to the Petitioner he did initiate it. In his complaint, the Petitioner argued that the open letter deliberately provides incorrect information. The complaint contained a painstaking analysis of the open letter and a detailed explanation of the Petitioner's point of view.

The Research Integrity Committee (RIC) considered that an email by the Interested Party to the Petitioner suggested that the Interested Party wrote the open letter. The RIC also considered that the letter was not written under the academic responsibility of the university and that the Interested Party's current appointment did not change matters in that regard. The RIC considered the complaint manifestly unfounded.

The Board declared the complaint unfounded, in line with the RIC's recommendation. The Petitioner then submitted a request to the LOWI.

The Petitioner's most relevant objections are described below:

- During the oral pleadings concerning the complaint at the offices of the ombudsman, the ombudsman told the Petitioner that the matter did in fact involve a violation of the principles of scientific integrity.
- At the time of the open letter's publication, the Interested Party was working on a dissertation concerning the same subject. The university's PhD supervisors were colleagues in the same organisation that employed the Interested Party. The activities at the university and at the organisation that employed the Interested Party were so closely interwoven that they cannot be viewed separately. The Board should have therefore applied the spirit rather than the letter of the Complaints Procedure. The Petitioner asks the LOWI to judge the complaint by its own rules and insights, rather than by the university's Complaints Procedure.
- It is too easy to assert that the open letter is not a scientific publication. Scientists must also act with professional accountability when disseminating scientific knowledge in public media. The open letter seems to offer expert advice, but the positions it asserts and conclusions it draws are incorrect and unsubstantiated.

Below are the most relevant considerations in the LOWI's opinion:

- The Petitioner has not substantiated his claim that the ombudsman informed him that the case involved a violation of the principles of scientific integrity. For that reason alone, the complaint cannot be considered founded. The ombudsman is, furthermore, only competent to advise on the admissibility of a complaint, not its merits.
- The LOWI rejects the Petitioner's request to disregard the Complaints Procedure. When a Board takes a decision, it does so by applying the relevant institution's Complaints Procedure, and the LOWI also takes that Complaints Procedure as its point of departure when ruling on that decision. What the Petitioner has argued does not support a motion to declare the Complaints Procedure non-binding or non-applicable.

- In an earlier opinion (2016-05), the LOWI described the relevant Complaints Procedure as limited in scope, and found that the Board had chosen to bear no academic responsibility for work conducted under the responsibility of another organisation. The LOWI agrees with the Board that at the time, the Interested Party had (co-)authored the letter as the employee of another organisation, and not as the university's employee, meaning that the open letter falls outside the scope of the Complaints Procedure. This means that the Board cannot review the open letter under the Netherlands Code of Conduct for Academic Practice. For this reason alone, the request is unfounded.
- Another issue is whether the open letter in question can be equated with scientific research (or education) at the university, given its nature and contents. Only then would there be reason and leeway to review its compliance with the principles of the Netherlands Code of Conduct for Academic Practice.
- Various opinions issued by the LOWI invariably indicate that under certain circumstances, 'extracurricular activities' may also fall within the scope of the Netherlands Code of Conduct for Academic Practice, specifically when these activities can be qualified as scientific practice. The mere fact that actions are undertaken by a scientist is not enough to justify reviewing them under the Netherlands Code of Conduct for Scientific Practice. More is needed.
- The question as to whether the nature and contents of the open letter reasonably qualify it as scientific practice because it constitutes the publication of (presumed) research results must be answered by a 'no'.
- The open letter in question was drafted out of concern about a specific subject and encompasses a call to desist from certain decision-making. The open letter describes the situation as the signatories see it. The signatories are attempting to influence specific decision-making in this manner.
- This cannot be equated with the formulation of scientific conclusions based on scientific research. Nothing in this letter points to (or claims that) scientific research has been conducted: no scientific problem has been stated, no reference is made to earlier research results, and there was clearly no intention of publishing the letter as a work of science in a scientific journal. The letter neither describes a research process nor presents a methodology.
- The open letter in question fails to display the essential features of a scientific publication or research in other ways as well: it does not address the scientific forum or a readership of knowledgeable laypersons in order to draw attention to scientific findings, and nothing in the letter indicates that it is intended to help disseminate scientific knowledge.
- It is sooner a public plea concerning a specific matter. It is reasonable to expect that readers of this open letter will not view it as a scientific publication with the attendant scientific nuances, but rather as a publication meant to highlight the signatories' opinions and spark public debate. The fact that the open letter has been signed by a few scientists and that the online version has some footnotes is not enough to qualify it as scientific practice in the end.
- Of course, it is possible to discuss whether or not the opinion expressed by the signatories of the open letter is correct. However, the designated platform for that discussion is the newspaper in which the open letter was published. The LOWI is neither equipped nor

authorised to act as an arbitrator in scientific controversies, and that is even more the case for non-scientific differences of opinion.

- In addition to its opinions concerning the scope of the relevant Complaints Procedure, the LOWI believes that this open letter cannot be qualified as scientific practice and should therefore not be subject to review under the Netherlands Code of Conduct for Academic Practice.

The LOWI considers the request unfounded and has advised the Board to adhere to its preliminary ruling unamended in its final decision.

On 30 August 2016, the Board issued a decision in line with the LOWI's opinion.