

Summary of LOWI opinion 2016-14

The Petitioners had complained about two reports published by a research institute, Report 1 (1A) and 2, because – in their view – the reports had been realised in a manner that contradicted various principles set out in the Netherlands Code of Conduct for Academic Practice. According to the Petitioners, the Interested Parties who authored Report 1 had been guided almost entirely by the commissioning parties' commercial interests in their choice of methods and criteria. They had also failed to provide a complete list of sources and omitted certain data or adapted it without noting the changes. The Petitioners had also claimed that Report 2 was carelessly realised and contained serious errors. In addition, the report had made little allowance for alternatives and rival opinions.

The Research Integrity Committee (RIC) ruled that the deficiencies of Report 1 had not been rectified entirely in Report 1A. The RIC considered the technical deficiencies and sloppiness as a failure to exercise due care in scientific practice. However, it did not regard these as an infringement of the principles of research integrity. The Interested Parties were aware of the deficiencies and had corrected them where necessary.

The Board resolved to adopt the RIC's conclusions.

The Petitioners' most relevant objections are described below:

- The Petitioners believe that the actions of the Interested Parties are related to the culture of their research institute, and therefore to the research integrity of that institute. The Board has not come up with institutional guarantees to prevent future violations of the principles of research integrity. The Petitioners ask the LOWI to also consider this broader context in its opinion;
- Given the seriousness of the complaints, the RIC and the Board were remiss in not conducting a more rigorous investigation;
- Interested Party 1 actively sought media attention to influence the public debate in the commissioning parties' favour;
- The reports do not meet the requirements for source references and acknowledgements.

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

- The decision to extend the complaint to the research institute's performance goes beyond the LOWI's remit in these proceedings. According to Article 8.1 of the LOWI Regulations, the LOWI examines whether the Board's decision (or preliminary decision) was taken with due care, both procedurally and substantively. The RIC and the Board have not had the opportunity to rule on this (new) aspect in the complaint proceedings. Pursuant to the principle of fairness in complaints proceedings concerning research integrity, the LOWI has not reviewed this extended complaint;
- In the LOWI's view, the RIC's investigation was scrupulous, impartial and exhaustive. It secured the expertise required to conduct the investigation by consulting various external experts. As a result, it must be assumed that the investigation was properly conducted;
- The LOWI does not see any cause to cast reasonable doubt on the scrupulousness of the RIC's investigation. There is no evidence that certain sources were omitted deliberately. Pursuant to Elaboration 3.1 of the Netherlands Code of Conduct for Academic Practice, references to sources used were adequately documented. Whether these sources also

support the report's conclusions is not for the LOWI to judge but should be the subject of scientific debate;

- Interested Party 1 failed to act with due care because Report 1A contained the same errors as Report 1; these errors should have been noted and corrected. His supervisor's decision to publish the two reports does not excuse Interested Party 1 from his responsibility. That does not mean that the principles of research integrity have been violated, however, because the Interested Parties did correct the deficiencies in Report 2. The complaints about Report 2's assumptions and margins belong to the realm of scientific debate and have not been assessed by the LOWI;
- Contrary to Principle 5 of the Netherlands Code of Conduct for Academic Practice, Reports 1, 1A and 2 do not refer to the commissioning parties and third-party funding and do not state clearly that the researchers are independent vis-à-vis the commissioning parties. This is a culpable failure to exercise due care. In the LOWI's opinion, this does not imply a violation of the principles of research integrity: there is no evidence that a reference to the commissioning parties was omitted deliberately, or that the commissioning parties influenced the subject matter of Report 2, causing the Interested Parties to act as no responsible scientist should. Pursuant to Elaboration 5.3 of the Netherlands Code of Conduct for Academic Practice, it would have been better to have made the relationship between the Interested Parties and the commissioning parties explicit;
- Interested Party 1's account of his contact with the media has given the LOWI no reason to assume that he used the media to try to influence the public debate in his commissioning party's favour. There is no evidence that the Interested Parties violated Principle 4 of the Netherlands Code of Conduct for Academic Practice concerning impartiality;
- The Petitioners' attorney infringed the duty of confidentiality by granting an interview and publishing the interview on his website. The LOWI rejects his claim that the research institute had itself infringed the duty of confidentiality by issuing a press release. The research institute did so before it had learned of the petition submitted to the LOWI. In addition, it behoves a good employer to respond to accusations that staff members have violated the principles of research integrity.

The LOWI considers the petition unfounded and has advised the Board to adhere to its preliminary ruling unamended in its final decision. The LOWI would, however, note that omitting any mention of the commissioning parties and third-party funding in the reports is not only sloppy reporting but a culpable failure to exercise due care. The LOWI concludes that the Petitioner's attorney infringed the duty of confidentiality under Article 10 of the LOWI Regulations.

On 28 November 2016, the Board issued a decision in line with the LOWI's opinion and recommendations. While the Interested Parties did not violate the principles of research integrity, the Board regards their having omitted any mention of the commissioning parties and third-party funding as a culpable failure to exercise due care. The research institute's internal processes have since been improved.