

## Annual Report 2019



LOWI Report on the Year 2019

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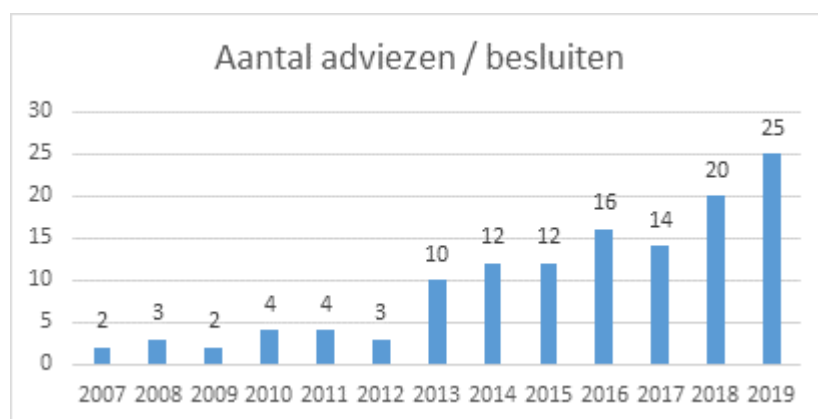
Pronken met andermans veren (kleurets) / The bird in borrowed feathers (colour etching), J.W.M. van der Meer, 2014

## Foreword

Established on 1 May 2003, the Netherlands Board on Research Integrity (LOWI) is a joint initiative of the Royal Netherlands Academy of Arts and Sciences (KNAW), the Association of Universities in the Netherlands (VSNU), and the Netherlands Organisation for Scientific Research (NWO).

Since 2014, the LOWI has published an annual report covering the previous year. The present report describes developments in 2019.

When I joined the LOWI in December 2014, we were working on case 52 (counted from the foundation of the LOWI). The opinion was published on 11 December 2014 as LOWI opinion 2014-12. The last opinion of 2019, LOWI opinion 2019-25, concerned case 158, more than a hundred cases later. This indicates the tremendous growth in the number of petitions since 2014.



A number of opinions are addressed in this foreword, because they involve aspects requiring special attention from the institutions affiliated with the LOWI.

### *What is academic practice?*

The LOWI is regularly confronted with the question of whether the subject of the complaint about an alleged violation of research integrity indeed concerns academic practice. The old Netherlands Code of Conduct for Academic Practice (2004/2014) gave the following definition: academic practice is “scientific and scholarly teaching and research at all universities that have declared to uphold this Code.” This does not say much and does not provide a basis for decision making as to whether or not something is academic practice. The new Netherlands Code of Conduct for Research Integrity 2018 deletes education from provisions on scope (Section 1.3 under 11) on the one hand, but is much more precise in determining the scope of application on the other. Although this too concerns “scientific and scholarly research in the broadest sense,” “research” is defined precisely as “all activities connected to the practice of research: applying for funding, designing and conducting research, engaging in assessment and peer review, serving as an expert and documenting, reporting and publicising research.” The principles and standards of this Code also apply to popular scientific publications, teaching materials and advice provided by researchers,

*insofar as this can reasonably be required*" (Section 1.2, under 2 and 3). There is no simple, straightforward definition that applies to all areas of scientific research, but in any case it should include the "quest for knowledge obtained through systematic study and thinking, observation and experimentation" (ALLEA European Code of Conduct for Research Integrity 2017). I would like to add to this that it should concern "creation of new knowledge, and/or the use of existing knowledge in a new and creative way so as to generate new concepts, methodologies, inventions and understandings" (Australian Code for the Responsible Conduct of Research 2018).

Nevertheless, there is no cut-and-dried definition of academic practice. This means that it is up to the practical field to flesh out this concept in more detail. The LOWI has done this in several of its opinions. The fact that research has been carried out by a scientist is relevant for the qualification of this research, but is not decisive in itself. How the scientist himself qualifies his work is not decisive either. It does not matter what it is called. What matters is whether the nature and substance of the work can be regarded as academic practice.

In opinion 2016-05, the LOWI considered, among other things, that scientific research is characterised by the formulation of a scientific definition of a problem, justification of the research by referring to previous scientific research results, the purpose of publication in academic journals and addressing the scientific forum. In addition, the LOWI noted in opinion 2018-05 that whether there is a case of academic practice is not determined exclusively on the basis of the aforementioned characteristics and that the list of characteristics is not intended to be exhaustive. The LOWI also pointed out that the qualification of work as academic practice does not always require each of the characteristics listed to be met.

In 2018, the question arose whether a reflection audit and the report in question could be considered academic practice. The Research Integrity Committee and the Board ruled that it could not. "Nothing in the report indicates that scientific research was conducted. No scientific problem definition has been formulated, no reference is made to previous scientific research results and a scientific publication in a scientific journal is clearly not intended. No research process is described and there is no justification of the methods used. Furthermore, the report does not meet the essential characteristics of a scientific publication or research and therefore cannot be regarded as such."

The LOWI ruled otherwise (see opinions 2018-18 and 2018-19). The audit report contains a scientific problem definition, a description of the research process, an overview of consulted sources and websites relevant for the interpretation of the findings in the audit, a reference list and a justification of the conclusions and recommendations by the auditors. This satisfies some but not all of the characteristics. This does not imply that there is no academic practice (see above LOWI opinion 2018-05). An audit report does not have to be academic practice if no general conclusions are drawn and the knowledge cannot be generalised (as in LOWI opinion 2016-05). This is different for the audit report in this case. In the LOWI's opinion, the audit report should therefore be considered academic practice. The auditors aim to contribute to the debate on ethics and research integrity in the field by reflecting on a concrete case. The commissioning letter shows that the audit report will be used to improve the faculty's integrity and ethics policy and addresses the scientific forum.

In 2019, the question arose with regard to reports by the Netherlands Consortium for Childcare Research (NCKO). In the LOWI's opinion, these reports can be qualified as academic practice, to which reference should have been made. The fact that these reports were commissioned by and drawn up for examination by a government body does not detract from this (LOWI opinion 2019-14).

In LOWI opinion 2019-17, the LOWI rules that a conversation between a doctor and a patient cannot be considered academic practice. The circumstance of an academic subject being discussed during the conversation is insufficient for this purpose. Nor is the letter subsequently written by the doctor-professor considered academic practice. The fact that the letter contains a more detailed explanation of the latest scientific knowledge is insufficient for this purpose. This cannot be equated with formulating scientific conclusions on the basis of scientific research. The letter contains no scientific problem definition, no description of a research process, and no scientific analysis. A scientific publication in a scientific journal clearly is not intended. The letter does not address the scientific forum. Academic practice focuses primarily on initiating and promoting the scientific debate. The letter lacks this focus completely.

The LOWI's consistent line of reasoning is that under certain circumstances, 'extracurricular activities' may fall within the scope of the Code of Conduct, provided that these activities can be qualified as academic practice. But in its opinions 2016-07 and 2016-08, the LOWI ruled that a certain open letter from a scientist in a newspaper is not academic practice. The fact that the letter was signed with his position and academic titles is not of overriding importance. Nothing in this open letter indicates (or asserts) that scientific research has been carried out: no scientific problem definition has been formulated, no reference is made to previous scientific research results and a scientific publication in a scientific journal is clearly not intended. The letter does not address a scientific forum. Therefore, an open letter may be academic practice, but the letter under discussion here is not.

Finally, LOWI opinion 2019-23 also involves a contribution to a newspaper. Can the contribution to newspaper articles on the decline of the black-tailed godwit population, which the scientists provided by means of an interview, be considered academic practice? Contrary to the aforementioned open letter, the LOWI did conclude that academic practice was concerned in this case. Those involved explicitly manifested themselves as scientists and referred to previous or ongoing scientific research. Incidentally, the popularising nature of the publication may give rise to a more marginal test against the principles of the code of conduct.

As far as contributions to newspapers in the form of an open letter or an interview are concerned, it therefore depends whether or not this is a case of academic practice.

Prof. R. Fernhout, LOWI Chairperson until 28 May 2020

## 1. Composition of the LOWI in 2019

In 2019, the advisory committee of the LOWI (hereinafter: the LOWI) had the following members:

|  |                                   |
|--|-----------------------------------|
| Prof. R. Fernhout, chairperson                     | administrative law                |
| Prof. W.J. Zwolve, deputy chairperson              | historical development of the law |
| Prof. L. Lechner                                   | health psychology                 |
| Prof. J.W.M. van der Meer                          | internal medicine                 |
| Prof. I.E.C. Sommer                                | psychiatry                        |
| Prof. J.P. Hogendijk                               | history of mathematics            |
| Prof. J.G. van Erp ( <i>from 1 February 2019</i> ) | public institutions               |
| Dr E.J. Daalder ( <i>from 1 September 2019</i> )   | administrative law                |
| Dr J. Tijdink ( <i>from 1 October 2019</i> )       | psychiatry                        |

The LOWI is assisted in its work by a secretariat. Until August 2019, H.M.L. Frons was official secretary and F.J.L. Roepnarain deputy secretary.

Since September 2019, the position of official secretary has been held by J.C. Zweistra. The position of deputy secretary has been discontinued. The assistant to the secretariat was A.M.E. Muller.

## 2. LOWI's status

The LOWI Foundation was established on 12 July 2019. This has reinforced the LOWI's independent position in relation to its founders and other affiliated institutions. The LOWI provides independent and impartial advice to Boards of affiliated institutions.

With the establishment of the LOWI Foundation, the organisational structure has changed. The Foundation has a Board and an Advisory Board. The Board appoints the (new) members of the LOWI and manages the Foundation. Institutions wishing to become affiliated with the LOWI still need to be recognised as affiliated institutions by the Founders. Among other things, the Advisory Board advises on prospective LOWI members, prospective affiliated institutions and the LOWI Regulations. The new organisational structure will be further defined in 2020. This will include the appointment of the members of the Advisory Board and communication of the new organisational form via the website [www.lowi.nl](http://www.lowi.nl).

## 3. LOWI's tasks

### *Advising the Boards of affiliated institutions*

The LOWI advises the Board of an affiliated organisation on a ruling (or a provisional ruling) of that Board concerning an alleged violation of research integrity. The LOWI does not advise on its own initiative, but only in response to an admissible petition to that effect. The opinions issued by the LOWI are not binding, but are generally complied with. Although the opinions are not binding, they do entail obligations. Where a Board decides not to comply with a LOWI opinion, it must give reasons for this in the final ruling. If the LOWI does not further consider a petition, it declares a petition inadmissible and does not issue an opinion to the Board. Strictly speaking, these decisions are therefore not opinions, but are also included as 'opinions' in the figures in Section 6 of this annual report in order to provide the most complete picture possible of the work carried out by the LOWI in 2019.

## *Knowledge transfer*

In 2019, the LOWI also contributed to various meetings concerning research integrity:

- 19 March 2019 – Roel Fernhout and Lilian Lechner attended the NRIN/CWIs/LOWI meeting in Utrecht. Topics included the method of assessment by the LOWI of opinions of the CWIs. NRIN is The Netherlands Research Integrity Network. CWI stands for Research Integrity Committee.
- 21 May 2019 – Roel Fernhout and Jos van der Meer attended the LERU Symposium on Research Integrity in Leiden, *Symposium on Breaches of scientific integrity: cases and procedures*. LERU is the League of European Research Universities.
- 25 November 2019 – Roel Fernhout acted as speaker and panel member at the symposium organised by the NRIN and the KNAW on 'Incorrect or mala fide complaints concerning violation of research integrity' (*Onjuiste of malafide klachten van schending van de wetenschappelijke integriteit*). Roel Fernhout spoke about abuse of the right to complain.

## *LOWI international*

The LOWI is a member of the European Network of Research Integrity Offices (ENRIO). The aim of the network is to promote an international debate on research integrity. Via the website of ENRIO – [www.enrio.eu](http://www.enrio.eu) – other ENRIO members, as well as interested parties, have access to information on the establishment, advisory role and procedure of the LOWI. All affiliated institutions have an individual web page containing information on their organisation. The LOWI also publishes English-language summaries of LOWI's opinions and an English version of the annual report on the website. The LOWI also provides information on its advisory role and procedure to countries outside this network.

## **4. LOWI-affiliated institutions**

An increasing number of institutions have joined the LOWI in the years since it was founded. In 2019, the institutions affiliated with the LOWI were:

- the founders KNAW, NWO and VSNU and their institutes
- the public and special universities, including the University Medical Centres and the Open University
- Sanquin Blood Supply Foundation
- University of Humanistic Studies
- National Institute for Public Health and the Environment (RIVM)
- Wageningen Research Foundation
- Netherlands Institute for Health Services Research (NIVEL)
- Theological University of Apeldoorn (TUA)
- Kampen Theological University (TU Kampen)
- Protestant Theological University (PThU)
- Amsterdam School of Real Estate (ASRE)
- Princess Máxima Centre for Paediatric Oncology
- Royal Netherlands Meteorological Institute (KNMI)
- Nyenrode Business University (NBU)
- Research and Documentation Centre (WODC) *affiliated since 6 February 2019*

In addition, various institutions have indicated that they would like to become affiliated with the LOWI. Exploratory talks were held with these institutions in 2019 about the possibility of affiliation. A number of these institutions are expected to be recognised as affiliated institutions in 2020.

## **5. Website and press**

The anonymised opinions issued by the LOWI are published on the website ([www.lowi.nl](http://www.lowi.nl)), along with a summary of these opinions. The summaries also report the rulings taken by the Boards after receiving the LOWI's opinions. The summaries are translated into English and published on the English version of the website. The LOWI decisions in which a petition is declared inadmissible and not further considered are also published on the website. Decisions on any complaints concerning the LOWI are also published on the website.

The LOWI is regularly contacted by the press or third parties. The LOWI answers general questions from third parties to the best of its ability. However, in view of the LOWI's duty of confidentiality as described in Article 4 of the LOWI Regulations 2018, we operate on the principle that the LOWI does not provide information on whether an issue is (or has been) pending with the LOWI.

*The LOWI in (scientific) publications:*

- Schuyt K, Scientific Integrity *The Rules of Academic Research*, translation by K. Gehrman, Leiden, Leiden University Press, 2019

## **6. Overview of petitions submitted and settled in 2019**

*Number of petitions in 2019*

In 2019, the LOWI had a total of 34 petitions awaiting settlement or further consideration. The breakdown is as follows: 2019 began with a backlog of 14 petitions submitted and considered in 2018 but not yet settled by the end of 2018. In addition, the LOWI received a total of 20 new petitions in the course of 2019.

*Number of opinions and decisions issued in 2019*

In 2019, 25 petitions were settled in full and published on the website. The breakdown of this figure of 25 petitions settled in full is as follows: in 18 cases, the LOWI issued a substantive opinion to the Board concerned. In 5 cases (2019-24, 2019-20, 2019-18, 2019-16, 2019-15), the petitions resulted in a LOWI decision not to (further) consider the petitions and to declare the cases inadmissible. 2 cases (2019-18 and 2019-03) concerned petitions for review of a previous LOWI decision or opinion. These petitions were rejected.

*Number of withdrawals: 1*



### *Boards involved in 2019*

The petitions settled in 2019 involved Boards of the following institutions:

| <b>Institution</b>               | <b>Number of cases</b> | <b>Number of LOWI opinion</b> |
|----------------------------------|------------------------|-------------------------------|
| University of Amsterdam          | 7                      | 2019-25,-14, -05 to -08, -01  |
| ZonMw                            | 1                      | 2019-24                       |
| University of Groningen          | 2                      | 2019-23, 2019-19              |
| Tilburg University               | 3                      | 2019-22, 2019-16, 2019-15     |
| Open University                  | 1                      | 2019-21                       |
| Delft University of Technology   | 3                      | 2019-20, 2019-13, 2019-04     |
| Erasmus MC                       | 1                      | 2019-17                       |
| Wageningen University & Research | 1                      | 2019-12                       |
| Erasmus University Rotterdam     | 2                      | 2019-11, 2019-10              |
| Radboud University Nijmegen      | 1                      | 2019-09                       |
| University of Humanistic Studies | 1                      | 2019-02                       |

*Expert opinions in 2019: no external experts consulted*

*Hearings in 2019: 1*

### *Length of the LOWI procedure in 2019*

The LOWI's procedures took between one (minimum) and 58 weeks (maximum), from receipt of the petition by the LOWI to the relevant opinion or decision issued by the LOWI. On average, a LOWI procedure took approximately 29 weeks. This is eight weeks longer than the average in 2018. This increase is attributable to four major outliers: the settlement of petitions 2019-05 to 2019-08. The settlement of these petitions took 58 weeks. Excluding these outliers, the average length of a LOWI procedure was 23 weeks.

### *Number of cases upheld*

Of the 18 cases in which the LOWI issued an opinion to the Board concerned, the LOWI declared 11 cases wholly or partly well-founded. The remaining seven cases were declared unfounded.

### *Final rulings of the Boards*

Of the 18 cases in which the LOWI issued an opinion to the Board, the Board followed the LOWI in its final ruling 15 times. In one case, the LOWI was partly followed. In two cases, it is was not yet clear at the time of writing this annual report whether the LOWI was followed or not.

## Opinions of the LOWI

The LOWI's full opinions are published on the website [www.lowi.nl](http://www.lowi.nl) and provided with a summary.

### 7. Summary table

The table below presents the most relevant figures from Section 6 of this report:

| <b>2019</b>                                |          |
|--|----------|
| Total number of petitions:                 | 34       |
| Total number of petitions settled:         | 25       |
| - ruling on submission requirements        | 7        |
| - ruling on substance                      | 18       |
| Total number of opinions/decisions issued: | 25       |
| - number of these published                | 25       |
| Average length of procedure                | 28 weeks |

The tables from previous years:

| <b>2018</b>                                |          |
|--|----------|
| Total number of petitions:                 | 34       |
| Total number of petitions settled:         | 20       |
| - ruling on submission requirements        | 4        |
| - ruling on substance                      | 16       |
| Total number of opinions/decisions issued: | 20       |
| - number of these published                | 20       |
| Average length of procedure                | 21 weeks |

| <b>2017</b>                                |          |
|--|----------|
| Total number of petitions:                 | 20       |
| Total number of petitions settled:         | 14       |
| - ruling on submission requirements        | 3        |
| - ruling on substance                      | 11       |
| - withdrawn                                | 1        |
| Total number of opinions/decisions issued: | 14       |
| - number of these published                | 14       |
| Average length of procedure                | 23 weeks |

|  |          |
|--|----------|
| <b>2016</b>                                |          |
| Total number of petitions:                 | 26       |
| Total number of petitions settled:         | 18       |
| - ruling on submission requirements        | 4        |
| - ruling on substance                      | 14       |
| Total number of opinions/decisions issued: | 18       |
| - number of these published                | 16       |
| Average length of procedure                | 29 weeks |

|  |          |
|--|----------|
| <b>2015</b>                                |          |
| Total number of petitions:                 | 25       |
| Total number of petitions settled:         | 15       |
| - ruling on submission requirements        | 4        |
| - ruling on substance                      | 11       |
| Total number of opinions/decisions issued: | 14       |
| - number of these published                | 12       |
| Average length of procedure                | 25 weeks |