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Report on
the rules governing research ethics

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Please notice:

In the event of any discrepancy between the Danish and the English versions of the Working Group's report, the Danish text shall apply.

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1. INTRODUCTION

1.1. Summary and recommendations

Being accused of scientific dishonesty is a serious and onerous matter. Making such an accusation against a colleague is also a serious action for any researcher to take: being declared scientifically dishonest can have a potentially devastating effect on the researcher's position and career.

There is every reason, then, to ensure that cases concerning scientific dishonesty are considered in such a way that no doubts can be raised about the reasonableness and fairness of the process.

Ideally, for the individual researcher and the research community, it must be perfectly plain what is understood by scientific dishonesty, which specific factors can give rise to a case of dishonesty being able to be raised and under what conditions a researcher can be held to be dishonest.

The procedure surrounding the treatment of such cases must be as transparent as possible and couched in the utmost due legal process possible for the researcher indicted. It must be clear which researchers can be embraced by a dishonesty case, and who has the right to action proceedings.

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More specifically, the working group wishes to recommend:

- a change in the definition of dishonesty,
- drafting of local definitions of good scientific practice,
- consolidation of teaching in good scientific practice on Bachelor, Master and researcher-education programmes,
- that an active researcher hold the chairpersonship and that the chairperson's brief be described clearly,
- that the opportunity be created for voicing dissent and otherwise establishing clear rules for the substance of rulings,
- that direct provision be made for name-clearing cases.

1.2. Background

The Danish Committees on Scientific Dishonesty (UVVU in Danish, DCSD in English), which were formed by the Board of the Danish Research Councils, as authorised in law by the Act on Research Advice, publicised the Committees' ruling on three complaints about Mr Bjørn Lomborg at a press conference on 7 January 2003. This ruling set off a large-scale exchange of opinions among researchers, political decision-makers etc., particularly concerning the basis for the ruling. The ruling was also the subject of relatively great attention abroad, including in the foreign press. Against this backdrop Mr Helge Sander, the Danish Minister for Science, Technology and Innovation asked the Danish Research Agency for an evaluation of DCSD's terms of reference. On this basis the Danish Research Agency's director decided to set up a working group.

1.3. Composition of the working group

After soliciting proposals from various interested parties, the director of the Danish

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Research Agency subsequently appointed the following to the working group:
Professor Mogens N. Pedersen, Department of Political Science and Public Management, University of Southern Denmark (chairperson of committee).
Eva Zeuthen Bentsen, head of the Organisation, Management and Research Division under the Association of County Councils in Denmark, nominated by the Association of County Councils.
Professor Peter Gundelach, Department of Sociology, University of Copenhagen, nominated by the Research Councils.
Egon Bech Hansen, Director of R&D at Danisco, nominated by the Danish Academy of Technical Sciences (ATV) and the Research Councils.
Hans Peter Jensen, Vice-Director of the Institute of Food Safety and Nutrition, nominated by the Directors' Assembly of Government Research Institutions, SEDIRK.
Pia Jørnø, MSc, science journalist, nominated by the Danish Science Writers' Association.
Professor Lars-Henrik Schmidt, Rector of the Danish University of Education (DPU), nominated by the Danish Rectors' Conference.
Professor Else Tønnesen, consultant doctor, Aarhus University Hospital, nominated by the Research Councils.

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Secretariat:

Helle Strøm, Senior Adviser, Danish Research Agency

1.4. Terms of reference

According to the terms of reference articulated by the Danish Research Agency, the working group was mandated to evaluate **whether** there is a need

1. to adjust the definition of the concept of “scientific dishonesty”
2. to specify which forms of products can be taken on board in DCSD's assessments
3. to request the Danish Research Councils to draw up collective or area-specific guidelines for good scientific practice in support of DCSD's rulings and researchers' conduct
4. for the studies, reports and deliberations underlying DCSD's rulings, hitherto regarded as in-house working papers, to be publicised in future, including the way publication of such should be done, if adopted
5. to adjust the form and dissemination of DCSD's rulings
6. to systematise the preventive and disciplinary role of the institutions in a set of rules, and
7. to define the relationship between DCSD and the universities' ethical role/committees, cf. the draft of a new Danish Universities Act, Section 2, subs. 2 etc.

1.5 The working basis and the working group's deliberations

The aim of the group's work, according to its terms of reference, is to evaluate whether there is any need to adjust the current basis of DCSD's work, and in this connection the Group has based its work not only on the legal basis, as set out in Danish Executive Order No. 933 of 15 December 1998, but also the basis which according to DCSD can be supported by case law. In addition, the working group

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has taken as its point of departure proposals for a new Research Advice Act, Sections 31-34 of which deal with DCSD.

In its work the party has adhered to the terms of reference given and has dealt with all the questions included in those terms.

The working group has been presented with a parliamentary question as to whether it is in compliance with customary and good scientific practice for specialist reports on which policy decisions are to be based not to include or highlight essential academic criticism from an officially commissioned professional reviewer of such a report.

Since there is no generally applicable definition of good scientific practice available, the working group did not find there to be any way of providing a clear-cut answer to this question under these particular conditions. The working group refers to the recommendations given in the present report concerning the establishment of good scientific practice.

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2. THE CONCEPT OF ‘SCIENTIFIC DISHONESTY’

2.1. The concept used to date

Dishonesty is defined as follows in Danish Executive Order No. 933 of 15 December 1998 on the Danish Committees on Scientific Dishonesty (hereinafter referred to as the Executive Order):

“**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. Plagiarisation 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 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.”

The working group considers it inappropriate that Section 3, subs. 1 operates with examples that are a mixture of intentional acts (such as plagiarisation) and possibly non-intentional acts (such as applications containing incorrect information) subsequently occasioned by an intention in subs. 2. It is the working group’s impression that this construction may give rise to misunderstandings and

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hence some uncertainty, which should be precluded in the context of a definition of such importance.

The working group further considers some of the examples mentioned problematic:

In no. 1 “fabrication and construction of data” is stated as an example of dishonesty, but the concept has different meanings within different scientific traditions. Moreover, an unfortunate impression is created by fuzzy concepts like “the scientific message” and “distortion”. Finally, the definition seems to be aimed at researchers as individuals, irrespective of the fact that much research is conducted by researcher groups of varying size.

The working group has found that among the examples of dishonest conduct cited there is nothing to indicate that mislocation of place of work can be dishonest.

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2.2. Some alternative definitions

There is no consensus in the literature about the scope and delimitation of the concept of dishonesty. The working group has discussed a small number of the known definitions:

- a) From *Håndtering av uredelighet i forskningen* [“Handling Dishonesty in Research”], a recommendation from May 2001 to the Research Council of Norway, page 36:
“Scientific dishonesty is taken to mean violation of good scientific practice in the planning, implementation, peer review and reporting of research that may be instrumental in misleading people about the results of research. Scientific dishonesty does not include inadvertent errors or professional disagreement.” [translated from Norwegian]
- b) Quote from the publication mentioned under (a), page 12, according to which the US Department of Health and Human Services (DHHS) proposed the following definition in 1999:
“Misconduct in science is defined as fabrication, falsification, or plagiarism, in proposing, performing, or reporting research results. Research misconduct does not include honest error or honest differences of opinion”.
- c) Quote from the publication mentioned under (a), page 13, on proposals for a definition in Sweden:
“Dishonesty in research is taken to mean that a researcher deliberately and misleadingly departs from scientific requirements or consciously breaks with generally accepted ethical standards”.
- d) From an article by Professor Henrik Zahle, LL.D., in the Danish weekly law journal *Ugeskrift for Retsvæsen* 2003 B, page 96, which proposes
“Accordingly, dishonesty is present—summarising the notions of the executive order—when by means of falsification, plagiarisation or in some similarly gross fashion a researcher misleads people concerning his or her scientific efforts”.

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The working group went on to discuss whether it is appropriate to have an open and broad-based definition or better to have a relatively narrow delimitation. The working group would prefer a brief, succinct yet relatively open definition to be used, which can then be illustrated with examples.

2.3. Proposal for rewording

The working group proposes the following formulation, based on the definition set out above under d):

“Scientific dishonesty is present when a researcher or research group by means of falsification, plagiarism, non-disclosure or in some similarly gross fashion misleads people about scientific efforts or the results of research.”

2.4. Implications of the proposed wording

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This definition singles out the gravest forms of dishonesty in the research world. It is comparatively open (cf. “similarly gross fashion”) and emphasises the fact that dishonesty generally hinges on fraudulent intent. In special instances, however, it must be possible for DCSD to deem conduct dishonest despite the impossibility of proving intent on the part of the defendant. It ought to be possible, then, to uphold dishonesty if the defendant has acted clearly outside of a recognised pattern of behaviour or at odds with generally familiar regulations. The conditions involved must therefore be ones which ought clearly to be known to the defendant according to the standards applicable to the situation but which, for various reasons, he/she cannot be demonstrated to have known.

The current division into ascertainment of “objective” dishonesty (Section 3, subs. 1) and “subjective” intent to act dishonestly (Section 3, subs. 2), which has given rise to no little confusion and misunderstanding, can—and should—be avoided.

The definition makes non-disclosure a possible form of dishonesty. It also takes into consideration the fact that dishonesty can occur in a collective form, and it is therefore also conceivable that sanctions should be directed at research groups or environments.

As a proposal for improvements to the present examples of dishonesty, cf. Section 3 of the DCSD Order, the working group wishes to suggest that the word “undeclared” be added, as some of the actions set out can be honest provided they are declared in connection with the presentation of the results, cf. the comments above on the construction and fabrication of data. As a consequence of the above, the following, slightly altered wording of Section 3 of the DCSD Order is proposed:

Section 3. Scientific dishonesty is present when a researcher or research group by means of falsification, plagiarism, non-disclosure or in some similarly gross fashion misleads people about scientific efforts or results of research, and includes:

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1. **Undeclared construction or fabrication of data or substitution with fictitious data.**
2. **Selective and surreptitious discarding of undesirable results.**
3. **Undeclared misleading use of statistical methods.**
4. **Undeclared misinterpretation of results and distortion of conclusions.**
5. **Plagiarisation of others' results or publications.**
6. **Grossly misrepresented rendering of others' results.**
7. **Inappropriate credit as author or misrepresentation of place of work.**
8. **Applications containing deliberately incorrect information.**

2.5. Delimitation of the concept

At DCSD the practice followed has long been for DCSD to call attention to any deviation from good scientific practice in cases where dishonesty cannot be ascertained. This practice is set out in the introduction to DCSD's annual reports and the rulings minuted therein. There is no authorisation for this practice in the current rules, however.

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The working group finds that DCSD may have a legitimate need—to a limited extent—to express criticism outside of clear instances of dishonesty. Thus, it must be borne in mind that a “verdict” of dishonesty is serious and may be devastating to the person in question’s career, for which reason dishonesty must only be found if the case allows of no shadow of a doubt.

However, any indictment on the grounds of deviation from good scientific practice should be included in the premises of the statement, not in the conclusion. Similarly, it must be a condition that accepted and familiar guidelines for good scientific practice exist within the relevant area, cf. below in paragraph 3.

The working group has discussed a number of specific and imaginary cases with a view to possibly laying down a more precise limit for the use of the dishonesty concept than that adopted above, but must note

- that varying practice applies within the different branches of science, e.g. with regard to peer review, and acknowledgement of authors and references
- that different rules apply within the various types of research institutions/companies as regards e.g. publishing
- that censurable conduct, whether or not it constitutes dishonesty, can be picked up on and sanctioned by other rules, e.g. the body of rules governing criminal or employment law matters
- that many areas are not regulated by the legislation but are controlled by the self-regulating mechanisms of the research community with sanctions like social exclusion etc.

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3. FROM DISHONESTY TO GOOD PRACTICE

3.1. A continuum?

The working group has dealt with the traditional discussion of whether a fast boundary exists between poor scientific practice and dishonesty, or whether dishonesty is a discrete group of clearly defined actions.

DCSD's practice to date, according to which attention is called to poor scientific practice in the conclusion of the ruling, might reflect the existence of such a continuum, in the opinion of DCSD.

However, the working group has emphasised above the importance of embodying the requirement that the researcher knew or ought to have known that he or she was acting dishonestly, advocating the view that different groups of actions are involved.

The working group does not find that the concept of dishonesty can be graduated, but the sanction can be graded according to the nature of the dishonesty involved, of course. In practice, implementation of the concept can be interpreted by DCSD, which has to make a hands-on assessment on a case-by-case basis.

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3.2. Many aspects/dimensions to good practice

The European Science Foundation (ESF), an association of 76 research organisations from 29 European countries, stated a view in its publication "Good scientific practice in research and scholarship" on what needs to be subject to standards of good scientific practice.

Good scientific practice can vary across disciplines and nations, but nevertheless covers an intersection that can be divided into six areas:

- 1) Design and methodology.
- 2) Data collection, data management and data storage.
- 3) Publication.
- 4) Protection of copyright.
- 5) Researcher training.
- 6) Appointment to academic positions.

The working group recommends that future work on the formulation of standards of good scientific practice be based on ESF's classifications and views.

3.3. Good practice can vary between scientific disciplines

The working group notes that the scientific approach varies rather a lot across the scientific disciplines. Amongst other things, this depends on the rigidity of the paradigms that apply within the relevant area. The more fixed the paradigms that apply, the easier it is to talk of fixed and explicit standards.

Similarly, it should be noted that within the same scientific discipline, different standards of good scientific practice can prevail.

Against this background the working group cannot recommend endeavouring to

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draw up a common set of rules. If it materialises, such a set could only contain very general considerations that all researchers would regard as a matter of course. On the other hand, the working group will recommend that locally adapted standards of good scientific practice be drawn up at the individual institutions.

3.4. The Research Councils' possible role in formulating practice norms

In order to ensure a certain minimum standard for practice norms and to pick up on researchers who cannot adhere to a local set of rules, the working group will recommend that the government (free) Research Councils be requested to contemplate drafting and maintaining overall practice norms within the relevant council's specialist field. The council members are active researchers of high standing who can guarantee their knowledge of the *state of the art* within the various sciences and hence assure the quality and legitimacy of the overall practice norms which, as mentioned above, can be supplemented at the individual research institution.

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3.5. Good practice should be learned through training

The working group considers it essential that preventive action be taken. Teaching in the "ethical rules of research" in the more general sense might be envisaged as early on as bachelor degree courses. In so doing, awareness of the ethical problems could be raised in graduates, possibly avoiding some of the dishonesty which it is common knowledge occurs in connection with examinations. More important still is to additionally take in hand in the researcher programmes the discussion of faculties' and research institutions' or departments' specific views of and rules governing what is good scientific practice, including discussion of the possible intersections of ethical problems that cut across scientific disciplines.

The working group is aware that in many researcher programmes and research schools such activity already takes place. These initiatives should be actively supported.

4. WHAT AND WHO CAN BE COMPLAINED ABOUT?—AND BY WHOM?

4.1. The scheme to date

The current executive order says very little about who can complain and who can be complained about. DCSD's rules of procedure state that a case can be raised by anyone lodging a complaint. The committee can only deal with anonymous complaints on an exceptional basis if there are substantive and essential societal interests at stake.

The working group agrees that a complaint should be able to be lodged by anyone, just as the working group approves the practice currently in force, according to which the case is withheld from the public for as long as the case is pending. Once ruled on, a case should be made available to the public—

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regardless of the outcome.

The working group foresees DCSD having the discretion to decide in special cases to deal with complaints where the complainant's name is kept confidential, even from the defendant.

It is equally essential that virtually nothing be said about the object or action to which the dishonesty allegation relates. However, it is explicitly said that "The case shall be of importance to Danish research" (Section 2, subs. 2), thereby also providing authorisation to dismiss peripheral or patently baseless complaints.

It emerges from Section 5, subs. 1 that matters dating back more than five years in time can be considered only on an exceptional basis. The working group agrees with this restriction.

The working group further agrees that only complaints about scientific dishonesty can be dealt with, not complaints pertaining solely to deviation from good scientific practice.

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The working group wishes to recommend allowing complaints to be submitted by anyone and against anyone if the complaint is a concrete one and applies to circumstances covered by the definition of dishonesty

4.2. Dishonesty relates to a product

Dishonesty relates to research actions, but not just any such action. In order to qualify for consideration as dishonesty, a product must be available to the public. In the current executive order this product is referred to as "the scientific message", an expression which the working group did not approve of, cf. pt. 2.1. above.

The "product" can take on many shapes, all of which have a written form, however.

The published book or article published in a scientific journal is a typical form of research product, but other sorts of research products should also qualify for evaluation in terms of scientific dishonesty:

- a. Applications to Research Councils and other funding bodies.
- b. Applications and other materials in connection with patent cases.
- c. Abstracts and "posters".
- d. Reviews.
- e. More informally published "working papers" and suchlike, which are not subject to any clause banning quotations.
- f. Any form of thesis located at an Internet address.

Whether or not a thesis is registered in an institution's annual report is not crucial to determining whether it can be characterised as a research product.

Researchers do—and should—take part in the public debate. Their freedom of expression should definitely not be subjected to more comprehensive restrictions than those that apply to other citizens and to (other) civil servants (cf. Section 77

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of the Danish Constitutional Act, the defamation legislation etc.).

From this it might perhaps be concluded that a researcher's contributions to the public debate, in book or article form, in features, readers' letters or other short speech or statements should not be eligible for scrutiny for the distinctive form of dishonesty characteristic of DCSD. Conversely, however, it is worth stating that it can be particularly incriminating for a researcher if, e.g. in a feature article, he makes use of another researcher's work in a plagiaristic or consciously misleading way or if, with resort to scientific titles, he advances claims that can be characterised as dishonesty in the sense proposed by the working group.

In a single case (2001, case no. 15), DCSD declined to take a stance on the clearly plagiaristic conduct of a researcher in connection with a feature article, with reference to the fact that the feature "according to the form in which it appeared, was unable to warrant consideration in accordance with scientific criteria".

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The working group has come to the view that, with the definition of the scientific dishonesty concept suggested here, it would be most reasonable if any written "product" produced by a researcher, irrespective of the form in which it manifests itself, could be subjected to scrutiny for dishonesty. Conversely, DCSD should be extremely reticent about assessing a researcher's writings in and contributions to the public debate in the press.

A qualification should be added in here, to the effect that researchers' participation in TV and radio spots, interviews and so on should be regarded as acts—verbal acts—which only with extreme rarity will fall within the domain where testing for dishonesty is reasonable.

4.3. The researcher is the maker

Notwithstanding the existence of a product in keeping with the considerations above, there can be cases that merit exception. This is true of cases in which the researcher can no longer be regarded as the maker of the product because, for example, in journalistic terms, it has been reworked by a journalist or editor.

4.4. Should there be facilities for having a case heard in instances other than complaints?

Under the present executive order, a case can be lodged by a researcher who wishes to have his name cleared of circulating rumours, cf. Section 2, subs. 1, clause 2 of the Order. However, this option has not been included in the draft of the new Act on Research Advice, despite the explanatory notes having stated that the bill corresponds to the current provision in force, cf. the notes on Section 31 of the draft bill.

The working group considers this task very important and feels that it should be performed by DCSD; the working group therefore wishes to recommend that express provision be made in the new rules to allow the consideration of such types of cases.

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5. DCSD'S COMPOSITION AND MODUS OPERANDI

5.1. The composition and number of the Committees

Under the present scheme, three committees have been set up:

- 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.

Currently, these committees each comprise four members and four alternates, all appointed by the Board of the Danish Research Councils following consultation with the Danish Research Councils. Appointments are made for four years, as for members of the Danish Research Councils, with the option of reappointment for a term of two years. In practice, members and alternates are often council members or former council members, and in practice the alternates attend the Committees' meetings etc.

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The present division into three committees, with the specialist areas outlined and the current number of members, would seem to afford sensible coverage and functional scope, for which reason the working group sees no reason to change the present organisation in respect of members.

5.2. The chairperson and his role

According to the Executive Order – and the proposal for a new Research Advice Act – the responsible minister appoints a joint chairperson for the three committees. Under the provisions the chairperson must be a high court judge and under the bill his mandate will be to rule solely on matters of law (Section 31, subs. 3).

According to the rules of procedure currently in force, the duty is also vested in the chairperson to

- ensure uniform consideration cutting across the Committees (Section 7, subs. 1)
- reject cases patently worthy of rejection (Section 7, subs. 2)
- determine that any deliberation be made in writing (Section 7, subs. 3)
- grant the parties an audience with the Committee (Section 7, subs. 4)
- invite other participants to the Committees' annual joint meeting (Section 7, subs. 4)
- decide requests for access to documents (Section 7, subs. 5) and
- chair the Committees' meetings (Section 11)

The chairperson's tasks described in the rules of procedure are presumably in line with the tasks incumbent on the chairmen of other collegiate bodies, and it must be assumed that the Committees can change the delegation at any time by changing the Committees' rules of procedure.

In the opinion of the working group, however, it is not normal for a chairperson to be vested in law with the authority to make a ruling on his own in an undefined group of "matters of law". The working group wishes to recommend a clearer definition of the areas in which the chairperson will be empowered to make rulings under the Act. This should be done for the sake of both the parties to the

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cases and the Committees, who after all have no way of bringing in such matters for their own ruling.

The working group has discussed whether the chairperson should be an active researcher instead of a high court judge. The rationale for the chairperson having to be a high court judge, according to the explanatory notes to the bill, is “to assure the legal expertise at DCSD, whose disciplinary sanctioning powers can have great consequences for the individual researcher”. The Council, however, finds that the defendant’s rights can be taken into account without having a high court judge in the chair, and feels that the actual legal evaluations of DCSD’s professional assessment are not to take place until the next stage, i.e. with the authorities mentioned in Section 31, subs. 2. DCSD’s ruling should be a purely academic, specialist ruling, so that in the view of the working group there should be an active researcher filling the position of chairperson. As a guarantee of due process for the legal aspects involved, some channel should be retained for making complaints to the ministry on points of law.

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5.3. About delegating to subcommittees

According to the current rules, the individual committee can decide that it is to be assisted by one or more external experts in its examination of a case (Section 9, subs. 1 of the Executive Order). This is expanded in the current rules of procedure, according to which external experts can be recruited to the ad hoc committees mentioned in the same place. Under the rules of procedure, an ad hoc committee can elucidate and prepare the case, which includes drafting a report to be presented to the committee with a view to ruling on the case.

The working group considers this to involve extensive delegation of the committees’ treatment of the case. If such delegation is to be possible, there should be direct authorisation for doing so. The current rules—or the minutes of the cases that have been prepared by ad hoc committees—do not show how many committee members and how many external parties are involved in the ad hoc committees formed.

6. DCSD’S DECISIONS AND THEIR IMPLEMENTATION

As it is onerous for complainant and defendant alike to have a case pending, top priority should be assigned to having cases dealt with fast and efficiently. Thus the Committees’ rules of procedure should stipulate how long the procedural time should normally be for a case and the secretariat should be duty-bound to notify parties to the case of any delays and the reason for such.

Whether DCSD’s decision involves adjudging research dishonest or acquitting the defendant of dishonesty, both complainant and defendant are entitled to expect the decision to be well grounded. This calls for the conclusion to be a clear-cut and logically correct consequence of the premises applied and of their application to the factual information retrieved. All empirical as well as normative premises should be set forth in DCSD’s reasoning, and every step in DCSD’s reasoning must be able to be followed by the reader—even one not previously acquainted with the, often convoluted, ins and outs of the case. Since some rulings are of interest to the public at large and since any DCSD case is of

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great importance to a researcher's reputation, it is important that the ruling and the premises be clear and readable to, inter alia, political decision-makers, the media and research environments in the broad sense.

It must only be possible to characterise a researcher's actions as dishonest if those actions are classifiable under the general categories listed in the definition. Any stance taken on good scientific practice can be stated in the premises of the ruling.

It is recommended to establish rules governing the content of the ruling; according to the working group, these must contain a minimum of:

- summary of the complaint lodged and any other pleas by either party,
- information as to the steps taken by DCSD in the investigation,
- summary of recommendations from the ad hoc committees, if any
- report on any external evaluations in the case, clearly stating sources and specifying the inclusion of quotes, and
- the committee's premises and the committee's ruling.

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6.1. Unanimity, majority decision and dissent

Section 9, subs. 4 of the Executive Order sets forth unanimity as the ideal for DCSD's decisions. The working group concurs in this. As done in the current order too, however, some mechanism must also be provided for enabling a ruling to be indicated by means of an ordinary majority decision, even though such a form of decision-making may not be desirable. Since a majority decision must of necessity reflect material disagreement on the part of DCSD as to questions of dishonesty, dissenting voices should always be required to be shown in the decision—unlike now.

6.2. The possible sanctions

In the event of dishonesty having been ascertained, and only then, DCSD has a number of possible sanctions (present executive order, Section 6, and the bill, Section 31, subs. 2).

The working group can endorse the following four sanctions:

1. Inform the defendant's employer, if the party in question is employed as a researcher.
2. Recommend withdrawal of the scientific project concerned.
3. Advise the relevant public authority that supervises the area.
4. Make out a police report where a punishable offence is involved.

The working group cannot, on the other hand, endorse the fifth sanction, included in Section 31, subs. 2, clause 5) of the bill, according to which DCSD "at the special request of an appointing authority (can) make a statement concerning the degree of scientific dishonesty".

Fejl! Ukendt argument

The working group considers the provision incomprehensible and unacceptable, since in the party's view, as previously mentioned, it is not possible to operate meaningfully with "degrees" of dishonesty. Similarly, it seems unclear when an appointing authority is supposed to make use of the option outlined.

The sanction mentioned under 2 should be extended, so that a recommendation to recall a scientifically dishonest product can also be directed at any publishing house, daily paper etc. that may have received this with an eye to publication. The working group therefore proposes adding "and not be published".

With regard to DCSD's courses of possible action after considering a case, there is also a lack of any direct description of cases raised with a view to clearing the defendant's name. The section of the Act on the origin and outcome of cases ought to take into consideration that DCSD's ruling may just as well involve the non-presence of dishonesty, in which event the parties to the case should be notified of this.

Danish Research Agency

7. DISSEMINATION AND FREE ACCESS

To date DCSD has worked predominantly in such a way that both complainants and defendants have been able to rely on confidentiality during the hearing of the case. The parties are heard continually, as stated in Section 4 of the present rules of procedure. The working group thinks these principles should continue to be the mainstay of DCSD's work.

In accordance with DCSD's rules of procedure (Section 5), DCSD recommends to the parties that the case be considered in confidence. In the same place, DCSD has indicated that it is not wished to provide outsiders, including the press, with information about any case in progress.

DCSD seems to have modified this attitude slightly in connection with an ombudsman's statement and the Danish Ministry of Science, Technology and Innovation's subsequent consideration (case no. 8, 2001). The Ministry would find it most appropriate if DCSD were to allow the defendant to make up his or her own mind on the need for non-disclosure in cases where access to documents was requested while the case was still under consideration. DCSD could "see the usefulness of such a procedure, which will provide the committee with a more differentiated basis on which to construct its stance on whether to request the parties to await the committee's ruling before informing the press."

Once a decision has been reached in a case, a request can be made for access to the documentation in accordance with the current rules, and such a request should be treated according to the applicable rules concerning access to public administration files.

The working group takes the view that no compelling grounds can be seen for providing the public with access to documentation while a case is under consideration.

Fejl! Ukendt argument

The working group considers present standard practice for publishing DCSD's rulings appropriate: Once a year DCSD gives an account of its activities, and the annual report deals with the cases considered in depersonalised form. This gives any members of the public who are interested a chance to keep abreast of developments in the field.

This must be construed such that DCSD's decisions are not normally made the subject of any other publicity on DCSD's initiative. In the—relatively large number of—cases where there turns out to be no scientific dishonesty, the anonymised discussion in the annual report is the only reference made.

DCSD's rules of procedure open the way for deviating from the principle of confidentiality, where “exceptional factors require that the public be made aware of the identity of those involved.” It must be assumed that such a wide-reaching step will have to be taken by DCSD as a collegiate body.

Danish Research Agency

8. OTHER PLAYERS AND THEIR ROLE

Players other than DCSD may conceivably deal with cases concerning dishonesty.

Firstly, the law courts can be presented with cases of this type. It is possible to imagine dishonesty becoming a topic or subsidiary topic in a court case about intellectual property rights. In connection with civil actions concerning libel, slander, defamation, calumny and vilification, the problem of dishonesty can also crop up. Dishonesty can sometimes also raise its head in connection with a problem issue relating to industrial relations. In such contexts, however, the courts can be assumed to have only a limited role.

Of greater practical significance than the courts' activities are the efforts of the Danish Confederation of Professional Associations' (AC) standing Committee for the Protection of Intellectual Property Rights (UBVA). UBVA regularly deals with cases concerning infringements of the provisions of copyright law on publication, crediting etc. Cases are typically lodged with UBVA by a researcher who feels his or her rights have been encroached. These cases are not a rare occurrence when a project or other research collaboration founders. UBVA has drawn up a good deal of general guideline material for researchers, and the committee also provides support in the form of hands-on advice, where appropriate in connection with legal proceedings over copyright infringement. From time to time, UBVA has also referred the injured parties to DCSD.

In the USA and a number of other countries, scientific societies play some role in framing professional codes of ethics. This more active role, which certainly ties in with the societies concerned often doubling as trade unions, will not be found among the many Danish scientific societies and associations. But there is nothing to stop issues of good and bad scientific practice being addressed and discussed at this level.

Fejl! Ukendt argument

The upcoming Danish Act on Universities and Other Institutions of Higher Education and the Act on Government Research Institutes imposes on the universities and government research institutes independent responsibility for safeguarding freedom of research as well as scientific ethics (both proposals, Section 2, subs. 2). Universities also need to encourage their staff to take part in the public debate (Section 2, subs. 3).

In the explanatory notes to the draft bill on universities, it is stated that research work must “be conducted in compliance with the bodies of rules etc. regulating ethical questions and with respect for the ethical issues otherwise linked to research”. In this connection, reference is made to the Danish Act on the Scientific Ethical Committee System, to the Danish Researchers’ Patent Act and to DCSD. By the same token, the explanatory notes to the Danish Act on Government Research Institutes state that “scientific ethics refers both to the honesty of research and to the issues espoused by the scientific ethical committees, the Danish Council of Ethics and the Ethical Council for Animals. A number of government research institutes work within spheres such as genetic engineering and biotechnology, where it is particularly important to keep scientific ethics in mind. Lofty scientific ethics is instrumental in underpinning the credibility of the government research institutes”.

Danish Research Agency

The working group finds reason to emphasise that the independent responsibility of the institutions must also entitle them to take an independent stance on how they intend to live up to that responsibility, including how and to what extent it is wished to have advice on matters of scientific ethics overseen by internal committees. The working group is aware of the fact that so-called “practice committees” already exist at a number of institutions, and that arrangement can only be expected to spread. A principle of subsidiarity dictates that many problems of research ethics are best handled close to the research environment. Conversely, it is worth stating that it is also important to have an independent body like DCSD, since local committees are not always able or willing to perform the task for a variety of reasons.

At any rate a relationship is developing between local “ethics watching” on the one hand and DCSD on the other. Several types of relations will be admissible, e.g. with DCSD preoccupied itself primarily with cases of general public importance and the—relatively few—cases in which there is every probability of discovering the existence of dishonesty.

The working group takes the view that the relation between the local level and DCSD should be allowed to evolve and that it should not be regulated more than necessary.

Beyond the domain of the Universities Act and the Government Research Act, there may also be reason to institutionalise the treatment of issues involving research ethics. Here it is a matter of the individual executives having responsibility. However, the area is so large and diverse that it is scarcely possible to posit models for the most appropriate treatment of the ethical problems that have arisen.

Fejl! Ukendt argument

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10. APPENDIX A

Executive Order No. 933 of 15 December 1998 on the Danish Committees on Scientific Dishonesty

Pursuant to Section 4e, subs. 4 of the Danish Act on Research Advice 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.

Danish Research Agency

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 considered unlikely to be able to find for the complainant beforehand, 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. Plagiarisation 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.

Fejl! Ukendt argument

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.

Danish Research Agency

Section 5. A complaint about scientific dishonesty must be submitted within a reasonable time of the complainant having been given the necessary wherewithal to submit 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 withdrawal of the scientific project concerned.
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-personalised 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 Danish 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

Fejl! Ukendt argument

by the Board of the Danish Research Councils following consultation with the Danish 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 deputise.

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 recorded in the decision.

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

Danish Research Agency

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.

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

Fejl! Ukendt argument

10. APPENDIX B

Rules of procedure for the Danish Committees on Scientific Dishonesty

The following is stipulated pursuant to Section 12, subs. 2 of Danish Order No. 933 of 15 December 1998 concerning the Danish Committees on Scientific Dishonesty:

The Committees — missions and aims

Section 1. The Danish Committees on Scientific Dishonesty comprise three coordinated committees, each of which covers one or more scientific fields. The Committees have a joint chairperson. The three committees are: a Committee for Natural Science, Agricultural & Veterinary Science and Technical Science, a Committee for Health and Medical Science, and a Committee for Social Science and the Humanities.

Danish Research Agency

Section 2. The Danish 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 very 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 research environment.

Section 3. The Committees wish to play an instrumental part in promoting good scientific practice. It will be endeavoured to achieve this goal by disseminating a knowledge of the Committees' Annual Report and by means of teaching and lecturing activities etc.

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

Preparation of cases and settlement on 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 Committees' 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 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 may produce any comments within a term of two weeks.

Fejl! Ukendt argument

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 met.

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

Danish Research Agency

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. Section 7, subs. 4 and 5, however.

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 unlikely to be upheld beforehand, 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 means of 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 subject to further qualification, 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 acknowledges it by providing particulars of the anticipated case-handling procedure. The chairperson is concurrently advised of the complaint.

Subs. 3. If the complaint is expected to be able to be heard on its merits, the secretariat then sends the complaint to be heard by the defendant. A copy of the case documents is simultaneously sent to the members of the relevant committee.

Fejl! Ukendt argument

The secretariat sends regular consultation replies and other case-related material to the chairperson and members of the Committees.

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

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

Subs. 6. The secretariat otherwise assists 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.

Danish Research Agency

Subs. 2. At the joint annual meeting, the time of the next year's joint meeting shall be finalised. 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 unsend material shall be sent out simultaneously with the agenda.

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 who is to help consider 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 Danish Research Councils.

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 Danish 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 is sent to all members and alternates on the three committees.

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Fejl! Ukendt argument

10. APPENDIX C

Draft bill for a Danish Act on Research Advice etc. Law 142 of 29 January 2003.

Part 7

The Danish Committees on Scientific Dishonesty

Section 31. The Danish Committees on Scientific Dishonesty are mandated to consider cases of scientific dishonesty lodged in the form of a complaint.

Subs. 2. If the Committees ascertain the existence of dishonesty in a case, the Committees can:

- 1) Inform the defendant's employer, if the party in question is employed as a researcher.
- 2) Recommend withdrawal of the scientific project concerned.
- 3) Advise the relevant public authority that supervises the area.
- 4) Make out a police report where a punishable offence is involved.
- 5) At the special request of an appointing authority, make a statement concerning the degree of scientific dishonesty.

Danish Research Agency

Subs. 3. The chairperson shall make a ruling in matters of law, cf. Section 32, subs. 2.

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

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

Subs. 2. The chairperson of the Committees shall be a high court judge.

Subs. 3. The Danish Minister of Science, Technology and Innovation shall stipulate the number of members. In addition, for each member there shall be an alternate. Members and alternates shall all be accredited researchers, who jointly cover all fields of scientific research, cf. Section 36, subs. 2.

Subs. 4. The chairperson shall be appointed by the Danish Minister of Science, Technology and Innovation. The members and alternates shall be appointed by the Minister in their personal capacity following consultation with the "Free Research Council" [*Det Frie Forskningsråd*]. The chairperson, the other members and alternates are appointed for a period of four years. Reappointment can take place for a term of two years. If a member or an alternate vacates his or her post prematurely, a new member or a new alternate can be appointed for less than four years.

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

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

Section 34. The Danish Committees on Scientific Dishonesty's rulings cannot be referred to any other administrative authority.

EXPLANATORY NOTES ON INDIVIDUAL PROVISIONS OF THE BILL:

Re Section 31

Fejl! Ukendt argument

The provision as a whole is a continuation of Section 2, subs. 1 of the present Executive Order No. 933 of 15 December 1998 on the Danish Committees on Scientific Dishonesty (DCSD). Thus, no change is intended to the current legal state of affairs, according to which DCSD has not been vested with the authority to review cases of its own accord.

Re subs. 2. The provision is a continuation of Section 6 in the current executive order, which gives an exhaustive enumeration of DCSD's sanction options if the Committees consider dishonesty to be present in a specific case.

Re no. 1). A linguistic clarification is proposed in relation to Section 2, subs. 1, clause 1 of the present executive order so as to make it plain that, as hitherto, the sanction option applies only in cases where the defendant is employed as a researcher. This qualification needs to be seen in light of the fact that informing the defendant's employer that the Committees have ascertained scientific dishonesty in a specific case is expected to be relevant only where militated by the substance of the position held.

Re subs. 3. The provision is a continuation of Section 9, subs. 5 of the present executive order. It is thus proposed that the chairperson of DCSD should make a ruling in legal matters in future too. The provision needs to be seen in the context of Section 32, subs. 2 of the bill, according to which the chairperson, as a high court judge, is required to command the requisite expertise in matters of law.

Re subs. 4. The provision is a continuation of Section 7 of the present executive order, according to which DCSD must publish an annual report detailing its activities, describing all cases dealt with that concern scientific dishonesty. For reasons of due legal process, it is presupposed that the description will, as previously, be in some non-personalised form.

Danish Research Agency

Re Section 32

Under Section 1, subs. 1 of the present executive order, DCSD consists of three committees for research in natural science, agricultural & veterinary science and technical science, for research in health and medical science, and for research in social science and the humanities, respectively. In order to ensure the most appropriate organisational arrangement of DCSD, it is proposed that scope be provided for greater flexibility in determining the future organisation, such that DCSD can consist of one or more committees. Reference is further made to the explanatory notes on Section 33 of the bill. The criterion that all fields of scientific research must be covered will be upheld.

Re subs. 2. The provision is a continuation of Section 8, subs. 2, clause 1 of the present executive order. The background to the requirement that the chairperson must be a high court judge is to assure the legal expertise at DCSD, whose sanctioning powers can assume great consequences for the individual researcher. Reference is also made to the explanatory notes on Section 1, subs. 2 and Section 31, subs. 3 of the bill.

Re subs. 3. The provision is consequential to subs. 1, in that a suitable number of members and alternates will depend on the number of committees. It is thus proposed removing the commitment to two, four or six members with an alternate for each in Section 8, subs. 1 of the present executive order. The criterion about the members' and the alternates' powers is upheld.

In subs. 4 it is proposed carrying forward Section 8, subs. 2, clause 3 and subs. 3 and 4 of the present executive order. The Free Research Council will also be consulted about the proposed composition prior to selection in future. The

Fejl! Ukendt argument

intention is to ensure coverage of members' and alternates' individual powers as well as the overall field of competence, cf. subs. 1.

The proposal that the Minister of Science be the one to appoint the chairperson, members and alternates in future is a law-enforcement consequence of Section 1, subs. 2 of the bill.

Re subs. 5. The provision is a substantive continuation of Section 12, subs. 2 of the present executive order, but such that in future it will be the Minister of Science who approves the rules of procedure as a law-enforcement consequence of Section 1, subs. 2 of the bill.

Re Section 33

The present executive order lays down a series of rules for DCSD's activities etc. Given the proposal to set up the Committees with authority directly invested by this bill, cf. Section 1, subs. 2 of the bill, it is proposed authorising the Minister of Science to lay down such rules in more detail in the form of an executive order. Experience to date from work at DCSD and the public debate in connection with the Committees' latest ruling of 6 January 2003 has resulted in assessing whether there is any need to revise the criteria for establishing scientific dishonesty under Section 3 of the present executive order. The results of this evaluation will be reflected in a future order.

Correspondingly, the number of committees as well as members and alternates will be fixed in such an order, cf. Section 32, subs. 1 of the bill.

Danish Research Agency

Re Section 34

With this provision it is proposed that there be no right of recourse concerning DCSD's rulings. The provision needs to be viewed in the context of Section 31, subs. 3, of the bill—cf. Section 32, subs. 2. Since the chairperson of the Committees must be a high court judge, and that judge delivers the ruling in matters of law, this is considered to constitute a sufficient guarantee of due legal process for the defendant. The question also needs to be seen in the context of the courts' independence of central government.

In this connection it would be inappropriate if central government were able to voice its judgement about a ruling made by a judge. A similar legal position was aspired to by the present law, as no express right of recourse concerning the Committees' rulings has been created in the present executive order. The Danish Parliamentary Ombudsman, however, deemed in a report of 5 April 2001 that the wording of the present sets of rules supported an assumption that DCSD's rulings could be appealed as a matter of legal recourse. The Ministry of Science subsequently followed this interpretation.

Against this background, it is proposed that express provision be created to ensure that there will be no right of recourse concerning such rulings.

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