



Sent by email to:

Kamran Abbassi – Editor in Chief, BMJ

The board of BMJ Publishing Group Ltd

Other senior staff at the BMJ group

Cc Chief Executive, British Medical Association

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Dear Officers, Editors and others

**Mistreatment of Michael Biggs and John Armstrong**

Alumni For Free Speech (“AFFS”) is a non-partisan organisation which aims to encourage high standards of compliance with universities’ and other organisations’ obligations to protect freedom of speech. More information about AFFS can be found at [www.affs.uk](http://www.affs.uk).

We have been following closely the cases of Michael Biggs and John Armstrong, and their extraordinary mistreatment by your journal BMJ Open. We note that the BMJ publications are owned by BMJ Publishing Group Ltd (“BMJ”), which is owned by the British Medical Association.

BMJ Open rejected Mr Armstrong’s paper and Mr Biggs’ comment because of their viewpoints on matters of current public controversy. In particular, Mr Armstrong discovered that the editor of BMJ Open had said the following when explaining internally his rejection of the paper: "The author's social media account also coloured our impression of the manuscript as the author is very outspoken on issues relating to EDI." And more succinctly: "He's quite argumentative and opinionated. Here's his Twitter." Mr Armstrong’s viewpoints were irrelevant to, and did not affect the quality of, his paper submitted. Similarly, Mr Biggs discovered that the editor’s grounds for rejection were “His comment was offensive” and “He's known for being transphobic.” Mr Biggs’ comment focused narrowly on the validity of the data underlying a published article in [BMJ Open].

It is also clear that, in the case at least of John Armstrong, BMJ personnel misrepresented to him (apparently deliberately) the real reasons for rejecting his article.

We refer you to Mr Armstrong’s “History of submission” at <https://nms.kcl.ac.uk/john.armstrong/bmjopen/bmj-emails-history.html>.

There are many reasons why BMJ Open’s behaviour is a cause for grave concern.

- What it shows about BMJ Open's attitude to good science, and to editorial standards. By cancelling papers/comment because their authors have viewpoints your staff appear to disapprove of takes BMJ Open, and by inference the whole of the BMJ group, straight back to the thinking that predominated before the Enlightenment. It is quite an achievement for an organisation which is dedicated to seeking scientific truth (we note that the two first items under "Our Values" on BMJ's website are "Evidence-based" and "Courageous and independent") to have regressed 400 years. We are surprised that, to some of its staff at least, participating in the culture war seems more important than good science – even in the context of an organisation of the BMJ's standing and core "values". Whether this was motivated by personal agendas, or fear of activist pressure/online attack, we can only surmise. But either way it indicates lack of courage at the least.

The rejection of a paper which relates to important scientific matters concerning trans/gender issues for reasons which appear to be based on activist viewpoints (or fear of pressure from activist) is particularly worrying in the light of the Cass report, with which we would hope you will be familiar. This highlighted how a reliance on bad science (activism presented as science) underlay many of the problems which formed the Tavistock Clinic scandal. For reference, here are some sections from the Summary to the Cass Report: "Although some think the clinical approach should be based on a social justice model, the NHS works in an evidence-based way. [...] When the Review started, the evidence base, particularly in relation to the use of puberty blockers and masculinising/feminising hormones, had already been shown to be weak. There was, and remains, a lot of misinformation easily accessible online, with opposing sides of the debate pointing to research to justify a position, regardless of the quality of the studies. [...] The University of York's programme of work has shown that there continues to be a lack of high-quality evidence in this area and disappointingly, as will become clear in this report, attempts to improve the evidence base have been thwarted by a lack of cooperation from the adult gender services."

It appears that BMJ publications suppressed criticism of what may (or may not) have been a flawed study, which should be a cause of profound self-criticism if BMJ still cares about good science and being "Evidence-based" and "Courageous and independent".

BMJ's Editorial Policy says: "BMJ Open adheres to the highest standards concerning its editorial policies on publication ethics, scientific misconduct, consent and peer review criteria." The editor appears to have ignored peer review, and the context that these were responses to a published article providing factual correction to it. BMJ's Editor Roles & Responsibilities state "Our Editors base their editorial decisions on the validity of the work and its importance to the journal's readers, not on the commercial implications for the journal, and all our Editors are free to express critical but responsible views about all aspects of medicine without fear of retribution, even if these views conflict with the commercial goals of BMJ as the publisher". Have these been followed?

We bring your attention to the requirement of the ICMJE that: “[editorial] decisions should not be influenced by commercial interests, personal relationships or agendas, or findings that are negative or that credibly challenge accepted wisdom.” The word “agenda” is particularly relevant given what has occurred. The ICME policy is [here](#). BMJ Journals state that they follow ICMJE recommendations. Did they?

Quite a list of apparent failures.

- The second concern is an obvious related one about the BMJ’s integrity as an organisation. We ask: what is BMJ doing in consequence of its personnel having behaved so inappropriately in the context of your organisation and what it supposedly stands for?
- It appears to us that there is a material possibility that your organisation has contravened the Equality Act 2010. Discrimination, and views which count as “protected characteristics”, were clearly present. We point in particular to Section 109(1), which provides that anything done by an employee in the course of their employment must be treated as also being done by their employer or principal; it does not matter whether that thing is done with the employer’s or principal’s knowledge or approval. An employer has a defence (under Section 109(4)) if it can show that it took all reasonable steps to prevent an employee from doing the alleged act or anything of that description. This is a high bar. Does BMJ have requirements for staff behaviour in place, and are they up to date about requirements not to discriminate against people for their protected viewpoints (and what count as protected viewpoints)? If you are not already doing this, BMJ needs to be investigating this possibility of unlawfulness, and setting its compliance house in order.
- Finally: sufficient institutional neutrality. If an institution takes sides, in an area of passionate and polarised debate, with one contested position, it necessarily sets itself against the other position. This gives rise to a very obvious risk of disadvantaging (i.e. discriminating against) or creating a hostile environment for (i.e. harassing) people who hold that other viewpoint, both internally and externally, and encouraging others to do so. It has also led in part to the failures in this case, which undermine the BMJ’s mission and reputation. A number of recent public failures (involving findings of unlawful harassment and discrimination by tribunals) have arisen largely as a result of an underlying failure of objectivity and endorsing and enforcing (or not preventing the unlawful enforcement of) one side of a bitterly contested debate.

In May 2024, following a scandal that cost its President her job, Harvard University announced that it had accepted a working group’s report and recommendations that the “[u]niversity and its leaders should not . . . issue official statements about public matters that do not directly affect the university’s core function” as an academic institution. The working group reasoned that when the University “speaks officially on matters outside its institutional area of expertise”, such statements risk compromising the “integrity and credibility” of [its] academic mission.

We recommend that BMJ needs to act similarly (ie, make a commitment to neutrality for itself and its staff when carrying out editorial and other functions for it), but focused more on its internal practices (and staff behaviour) regarding review and acceptance/rejection of papers and comments.

We attach a statement prepared by our associated campaign Best Free Speech Practice ([www.bfsp.uk](http://www.bfsp.uk)) entitled *Why free speech needs to be a core of your business's ESG and compliance*. You may find this useful.

There are constructive steps which BMJ can take, which would go as far as is possible to redeem the reputation, and ensure adherence to a focus on scientific quality, of your organisation. They would demonstrate that BMJ has learned lessons from this reputationally damaging incident. In particular, BMJ needs to give careful thought to the following questions and issues; and take the following actions.

#### What went wrong and why: identifying failures

- Work out exactly what went wrong, and why. How did these failures come to pass, and go undetected until challenged externally?
  - Specifically, in the cases at hand.
  - More generally, has similar happened in other cases (we note that there are at least two such cases)? Is this a systemic problem? This requires a wide-ranging investigation into recent decisions about papers which relate to “culturally controversial” topics. For instance, have “bad science” papers of the sort highlighted by the Cass report been published in BMJ publications? If so, why (the failure must be likely to have resulted from direct or indirect ideological interference of some sort), how did they get through the vetting process, and why did BMJ reject papers/comments which questioned such for? This is, obviously, profoundly important for the BMJ.
  - Were BMJ editorial policies followed? If not, why not? Are they appropriate to a changing world? Do they need updating?
  - Who are the individuals at fault? Is this widespread, or was it one rogue employee?
  - Mr Armstrong’s appeal was dismissed. Why was this, really? Is the appeal structure itself defective? Is it conducted by people who are independent of the original decision? Were the people who conducted it told all the facts and the real reasons for the rejection? If they rejected it knowing the real reasons for the rejection of the paper, then BMJ has a systemic problem.
  - What relationships does BMJ have with external campaign groups? Have they in any way influenced how editorial or other decisions are approached and made, or exerted pressure for this? Whether its relevant staff liaise or have liaised with external pressure or advocacy groups (such as Stonewall) about (a) generally, the ideology they espouse and how to enforce it, and (b) about the events relating to these cases? If so, which ones and what were the details of the relationships and of liaison made? Did it/they accept advice or viewpoints from them? If so, what, when and in what way? Were these relationships responsible, in part at least, for BMJ’s failures, as has been shown to have happened elsewhere and is currently being litigated in the *Allison Bailey* case?

- What were the steps that should have been taken, and when, to prevent the failures which occurred?
- What is wrong with its culture that has pushed/enabled it to apparently go against a core mission so profoundly?
- To what extent were its failures a result of a failure of active institutional neutrality? What to do to set this right?

#### Governance and oversight

- Was its senior management informed, and indeed told the full truth, about the problem? At what stage, and was that early enough? If not, who misled them and why, and what disciplinary action should be taken?
- To the extent that they were informed, did its senior management operate as they should, proactively with integrity, competence and care for best practice, its core mission and its reputation? If not, why not?
  - Did they get inside the issues, and question/examine the staff who were reporting to them?
  - If not, what were the failings, who was responsible and what should be done to ensure they never happen again?
  - To what extent did fear of disputes and aggression play a part, and a failure of neutrality? What should be done to address that?
- If it turns out that there are relationships with external pressure or advocacy groups (such as Stonewall) of the sort outlined above, should BMJ terminate those relationships? It should clearly then investigate all relationships it has with all external pressure or advocacy groups (e.g. ones involved in climate science) to check whether they have in any way influenced how editorial or other decisions are approached and made, or exerted pressure for this. If they have, these relationships need fundamental restructuring, or terminating.
- What steps are needed to ensure that its governance, processes, practices and requirements are such as to ensure that a scandal of this sort never recurs? This must surely include the following.
  - Reviewing its policies and rules to ensure it is clear to all what is expected in the way of single-minded dedication to scientific quality and truth; making it clear that breach of these policies and rules is a disciplinary matter.
  - Ensuring it is legally compliant, both as regards treatment of staff and external parties. Does BMJ have appropriate requirements re staff behaviour in place to qualify for the Section 109(4) defence, and are they up to date about requirements not to discriminate against people for their protected viewpoints (and what count as protected viewpoints)? You will need quality specialist legal advice.
  - Tightened supervision.

- Reviewing its editors' editorial independence. Does it have sufficient parameters in place within which they must operate so as to ensure that BMJ's fundamental missions are enhanced rather than undermined, particularly by the effective enforcement of activist agendas which have little to do with (or indeed are effective inimical to) quality science?
- Revising its editorial policies to ensure that they are appropriate in a changing world.
- Having a senior manager with designated responsibilities and sufficient powers for ensuring that the BMJ never makes these mistakes again, who does not have other responsibilities or agendas which could conflict materially with their ability or willingness to work proactively to secure this.
- Disassociating from any external pressure or advocacy groups which have directly or indirectly caused this disaster.
- A commitment to sufficient institutional neutrality to ensure that it avoid similar missteps, with requirements for staff to behave accordingly while representing the organisations.
- Including risks resulting from failures of neutrality of the sort highlighted by these issues in its risk register, and regularly reviewed by both its board and risk function.

#### Staff conduct and discipline

- Did staff breach their duties or its rules? If so, who and in what circumstances?
- What disciplinary action should be taken against staff whose actions contributed materially to its failures? Was there any gross misconduct requiring dismissal?

The above needs to be investigated, and remedial action proposed, by someone who has no conflict of interest. This probably requires an external party with sufficient expertise and authority, possibly a senior lawyer.

We find it hard to understand how an organisation dedicated to good science could prefer to take ideological sides rather than focus on its scientific integrity. BMJ needs to act decisively to set this right.

BMJ needs to apologise publicly at the first available opportunity (ie, now) for these failures, resolve to set the BMJ house in order as contemplated above and explain what steps it will take to do so. BMJ then needs to announce the results of the above review and the detailed work it will be taking to address the problems identified.

We will be continuing to observe this case closely.

Yours faithfully

William Mackesy and Andrew Neish KC

# Alumni for Free Speech

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