

Independent investigation of the Cochrane Governing Board process against Peter C. Gøtzsche

Suggestion made by Peter Gøtzsche 19 Dec 2018

This process originated from a dispute between Cochrane's CEO, Mark Wilson, and me, the Director of the Nordic Cochrane Centre and co-founder of the Cochrane Collaboration. The dispute was about whether I had breached the Spokesperson Policy in two concrete cases from the spring of 2018 when I used the Centre's letterhead for a request about missing numbers and causes of death in a study of schizophrenia and for my expert testimony in a homicide trial where the accused was on a drug that increases the risk of violence.

Many people and organisations have called for an independent investigation of the Cochrane Governing Board process against me that led to my expulsion from the board and from the Cochrane Collaboration on 13 September 2018.

For example, all 31 Cochrane centre directors from Spain and Latin America signed a letter from 8 October to Cochrane's CEO and the Governing Board that called for an independent investigation:

We have doubts that the process has been sufficiently appropriate and coherent with the principles of Cochrane ... Any entity (e.g. a political party, a trade union, a religious organisation, the university) have well-established internal mechanisms that guarantee an objective analysis of the accusations and defences, as well as the right to appeal with the necessary guarantees to a neutral group or commission different from the one involved in the conflict. These mechanisms and the associated processes should be transparent and auditable ... Expelling a member from an organisation can never become ... a summary process that lacks the necessary transparency, and this is ... how we and many other people in our organisation and outside of it have perceived the resolution of this conflict ... We do not want Cochrane to become an organisation that passively accepts the decisions made by its leaders ... without enough collective mechanisms for discussion, contrast and control ... We propose the following ...

That the new Board appoints an ad-hoc commission, without the participation of any person who has been directly involved in the conflict, so that it independently reviews all the actions related to this conflict and establishes the possible responsibilities that will then be assumed consequently.

That the report of the mentioned commission is known and discussed by the different Cochrane members and entities, so that the conclusions derived from this discussion can be incorporated into the regulations and processes of the organisation: guarantees and rules to objectively assess possible faults and respect the presumption of innocence, the right to defence, the equality of opportunities, and the impartiality of those who qualify the alleged faults and apply proportional sanctions to the infractions, if any.

The Governing Board has rejected these proposals, but the board has a conflict of interest because an independent investigation might potentially reveal that the board process was invalid.

The board's acceptance of an independent investigation is not needed. It could be done quite easily because I have uploaded all important documents in the case on my website, www.deadlymedicines.dk. A few days of work would suffice. It could be done for free, by volunteers, or at a very low cost. A committee of three people could be appointed to do the work. They should preferably all come from outside Cochrane, and one of them might be a lawyer. In addition to the work of a committee, a group of centre directors might also wish to look at the issues.

I have suggested a number of relevant questions the committee could be asked to respond to.

Questions to the committee

1 Was it appropriate for the board to institute a legal investigation going 15 years back in time rather than making a decision itself, given that the dispute between Wilson and Gøtzsche was about whether Gøtzsche had breached the Spokesperson Policy in two concrete cases, and given that the Agreement between Wilson and the Nordic Cochrane Centre specifies under paragraph 23 that, "If, following attempts at a resolution of the dispute, the Cochrane Director remains opposed to the decision, he/she may appeal it to the Cochrane Governing Board"?

2 Were the instructions the Governing Board sent to Cochrane's hired law firm impartial?

3 Was the 330-page material the Governing Board's co-chair Martin Burton assembled and sent to Cochrane's hired law firm impartial?

4 Did Wilson get an opportunity to contribute to this material?

5 Did Gøtzsche get an opportunity to contribute to this material?

6 Was Counsel's report on the issues impartial, fully reasonable and evidence-based?

7 Were there errors or misunderstandings in Counsel's report, particularly in relation to what Cochrane centres are supposed to – or free to - work with?

8 Did Counsel's report exonerate Gøtzsche from the charges raised against him? Did Counsel find it reasonable to go back 15 years in time as concerns Gøtzsche's actions and behaviours?

9 Did the Board get sufficient time to study the 652-page material provided to them ahead of the board meeting on 13 September that ended with Gøtzsche's expulsion?

10 Did Gøtzsche get a fair opportunity to submit additional material to the board that might have been important for his defence?

11 Did Gøtzsche get a fair opportunity to defend himself at the board meeting against the charges raised against him before the board meeting?

12 Did Gøtzsche get a fair opportunity to defend himself at the board meeting against the additional charges and statements about his actions and behaviours raised *de novo* during the board meeting?

13 Did the board violate any of the rules for charities or Cochrane during its deliberations? The most important rules to consider are these:

According to the Charity Commission, when you make a decision, you must:

- *ensure you are sufficiently informed, taking any advice you need*
- *take into account all relevant factors*
- *ignore any irrelevant factors*
- *If something goes seriously wrong, the Charity Commission or the courts may look into the way you made the decision. The commission doesn't expect you to be legal or technical experts, but it will consider what you could have reasonably known or found out when you made the decision.*

According to the Code of Conduct for Trustees, the charity is effective, open and accountable; the highest standards of integrity and stewardship are achieved; and the trustees must avoid actual impropriety and any appearance of improper behaviour. Several trustees violated the code of conduct to such a degree that it was defamation.

Cochrane's own rules mention:

- *honesty, integrity, and trust*
- *high standards of professional conduct and competence*
- *commitment to transparency, openness, and accountability in relationships, communication, and actions*
- *a spirit of mutual respect and cooperation*
- *embracing the diversity of thought and perspective represented by all at Cochrane*
- *using power and authority in a fair and equitable manner*
- *showing respect for the views and actions of others*
- *ensuring every individual is treated fairly*
- *valuing the contribution colleagues make and recognising their achievements*
- *communicating in an honest, open and truthful way*
- *avoiding focusing on irrelevant issues or incidents that took place long before the matters in hand.*

14 If any rules were violated, was this, or could it have been, important for the board's decision about expelling Gøtzsche?

15 Should any of the board members have recused themselves because they were conflicted, thereby not having participated in the board meeting or part of it?

16 Was the board process due, fair and based on the best available evidence, and if not, what were the main problems?

17 Were irrelevant issues brought up and did they influence, or could they have influenced, the voting about Gøtzsche's possible expulsion?

18 Was Gøtzsche treated differently to other people in a similar situation, particularly in relation to the Spokesperson Policy and to whether or not the Collaboration Agreement between Wilson and centres – which is very similar for all centres – had been breached?

19 Were clear testable reasons given as to why Gøtzsche was expelled from the board and from Cochrane?

20 Had Gøtzsche done anything wrong to such a degree that drastic measures like expulsion were needed, considering also the actions and behaviours of other Cochrane members?

21 Did the board consider sufficiently the potential damage Gøtzsche's expulsion could do to Cochrane's reputation and did it adequately weigh the potential benefits and harms to the Collaboration by keeping him in Cochrane versus expelling him?

22 Was the sanction – expulsion – proportionate to the alleged violations?

23 Were other commonly used methods for dispute resolution tried, e.g. mediation by an outside body?

24 Was there an independent appeal committee that dealt with Gøtzsche's appeal after his expulsion?

24 Did the Board benefit or harm the charity by expelling Gøtzsche?

25 Should the remnants of the board, only 6 of the 13 members, have resigned, given the above, to make way for an entirely new board?

26 Were the board's various statements about Gøtzsche after his expulsion fair, truthful, reasonable, transparent and evidence-based, e.g. the statements from 17 September and 26 September and those presented in a webinar on 4 October, or were any of them defamatory and potentially libellous?

27 Should the board process against Gøtzsche, including the appeal process, be considered invalid, given the above?

28 Other comments.