

# Responsibility, Expertise and Trust: Institutional Ethics Committees and Science

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## ABSTRACT

This paper addresses what should be an important question for many institutional ethics committees: How might they justifiably trust external peer review of the scientific merit of research proposals under their consideration, since these committees are typically not constituted to review the science themselves?

Keywords: expertise; peer review; ethics committee; trust; authority; responsibility.

## Introduction

Many institutions require that proposed research that would be conducted under their auspices gain prior approval from an appropriate ethics committee. This approval procedure complies with legal requirements in many countries in which institutional ethics committees based in hospitals, research centres, academic institutions and governmental bodies have the responsibility of evaluating proposed research for ethical approval before the research is permitted to proceed. In coming to their decisions, such committees can require external scientific peer review of research proposals that are subject to their ethical appraisal. (For convenience I shall refer to scientific peer review in a broad sense that includes physical and biological sciences, biomedical and veterinary science, and also areas of social science). I shall assume, I believe reasonably, that the use made by ethics committees of external peer review of the scientific merits of proposed research involves a type of trust in expertise. Precisely what type of trust it can legitimately involve is something that this paper will explore.

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An important question for many institutional ethics committees should be how they might trust external scientific peer review of the research proposals under consideration, since these committees are typically not constituted to review the science themselves. This question is the focus of this paper. Some of the considerations that I address here are relevant to critical issues of trust in other practical contexts where a person or a body that has responsibility for a substantive judgement or decision, as opposed to responsibility merely to ensure that due process is followed, must rely to some extent on external expertise in coming to that judgement or decision. An exploration of these wider issues lies beyond this paper's more specific concerns.

#### Why external scientific peer review can be necessary for ethics approval

An obvious preliminary question is why an institutional ethics committee would need external scientific peer review of research that is subject to the committee's ethical appraisal. If proposed research is ethically unacceptable for some reason (e.g., because it fails to disclose significant risks to the research participants) an ethics committee can reject it irrespective of its (purported) scientific merit. If, on the other hand, proposed research is ethically unobjectionable, then its scientific merit is not the ethics committee's concern. On this basis, members of institutional ethics committees are sometimes formally reminded that their role is to judge whether proposed research is ethically acceptable, as opposed to whether it is good science. This picture is simplistic, however.

Appropriate ethical appraisal of proposed research is not always independent of its scientific merit. There is a general question about the ethics of conducting (costly) research that is likely to be scientifically a waste of time and resources. This is an important question for research ethics, especially where the proposed research would involve human subjects or be publicly funded, although it seldom receives detailed attention in academic literature.<sup>1</sup> However, the responsibilities of institutional ethics committees are usually more narrowly confined to specific ethical matters and concerns such as

<sup>1</sup> Benjamin Freedman notes that scientific merit as a prior condition of ethical research has generated remarkably little discussion within the literature on research ethics, despite its recognition in various international codes and protocols. Freedman, (1987). See also Emanuel, et al. (2000).

consent of research participants, confidentiality, deception, and possible or predicted harm to researchers, research subjects or others.

A research proposal can raise specific ethical concerns that are not necessarily in and of themselves sufficient reason to reject the proposal, and here the scientific merit of the research can have an important bearing on whether it should gain ethical approval all things considered. In such cases, the central question for the ethics committee to answer is often whether the scientific significance of the proposed research is sufficiently important to justify the risks or harm that the research would involve. In relation to this, researchers seeking ethical approval for a project can be required to complete a *pro forma* that asks them to identify possible risks or harm involved in the proposed research and to explain how the scientific significance of the research would justify these risks or harms. The ethics committee must then assess what applicants say in this regard.

In deliberating the ethics of a proposal, members of an institutional ethics committee may need to come to a view about its scientific merit that is based upon external scientific peer review. For example, say as a moral philosopher Jane is a member of an institutional ethics committee that reviews research involving non-human vertebrates. A researcher submits an application in which he proposes using rabbits in developing a vaccine for human use. According to the application, the research procedures themselves will not cause the rabbits any pain or suffering but their immune systems will be significantly compromised and they will be humanely killed on the project's completion. In judging the ethical (un)acceptability of this research Jane needs specialist guidance about its scientific merit. In particular, she needs to clarify the following: Whether the proposed research methods and aims are well-conceived; whether the research is likely to deliver its aims and whether they are scientifically important; whether the use of rabbits is really necessary and, if so, whether there is a feasible better outcome for them on completion of the project; whether there are identifiable risks or harms that are not apparent in the application.

Assessment of the scientific merits of a particular research proposal is not necessarily outside the competence of some members of an institutional ethics committee who have relevant scientific expertise in respect of that particular research field. However, institutional research ethics committees are not constituted to review the scientific merits of the research under consideration even though, as I have said, this can be an important element in their

deliberations on the ethics of some proposals. Institutional ethics committees are perhaps not unique in this respect. All the same, their use of external scientific peer review can be distinguished both from the way in which an editorial board of an academic journal takes external peer review into account in its deliberations on the academic merits of submissions, and also from the deliberations of research grants awarding bodies that seek external peer review where members of the relevant panels are not themselves sufficiently competent assessors in the subject areas of particular grant applications. Editorial boards and research funding panels are constituted to review the academic merits of submissions that come before them; indeed this is their central remit. Institutional ethics committees, on the other hand, are charged with making a decision on the *ethics* of proposed research and typically these committees are explicitly not charged with reviewing its scientific merit. This is clear in the constitutions of many institutional ethics committees and also reflected in their composition where their specified membership includes people from outside the relevant research area who will bring an independent, disinterested perspective and understanding or expertise that is directly relevant to ethical, as opposed to scientific appraisal.

In judging whether proposed research is ethically acceptable it can be necessary for an institutional ethics committee to take external scientific peer review of the proposal into account. If, as I assume, this use of external peer review involves a type of trust, how and when is it warranted? In addressing this question in the next sections, I shall focus my discussion around the conceptions and conditions of justified trust that are the most relevant to this particular context.

### Relevant Conceptions of Justified Trust

As recent philosophical discussions of trust emphasise, there are different types of trust. For instance, we can contrast personal trust with putting our trust in the health service; we can also contrast trusting a person to act in a certain way (e.g., to be punctual), as opposed to trusting what she tells us (e.g., that the train is on time). There are various philosophical accounts of the nature and requirements of trust and of trustworthiness.<sup>2</sup> For our purposes we need to focus principally on trust in another person's testimony, and in

<sup>2</sup> For a useful bibliography of recent philosophical writing on trust, see McLeod, (2014).

particular on an ethics committee's trust in external peer review of research proposals. As with all trust, this will involve some risk: as others have noted, if what another person tells us came with a cast iron guarantee of its truth or accuracy we would have every reason to believe it but no need to trust it. What we want to know is under what conditions this trust is justified.

Philosophical accounts of the conditions of justified trust invoke a range of elements. Nonetheless, these accounts usually take the task at hand to be a matter of identifying the conditions under which trust is *well-founded*. Certainly in asking ourselves whether we are justified in trusting what someone else tells us we usually have in mind whether or not our trust is well-founded. (For example, a student says that his essay is late because his mother is ill. Have I good reason to trust him on this? According to Wikipedia, Wittgenstein and Hitler could have known one other at school. Can I trust this source? I ask a stranger for street directions. Why should I trust what he says?) In considering whether our trust in what others tell us is justified we need to refer to the general conditions under which such trust can be well-founded and apply these conditions to the circumstances at hand. Philosophical accounts of the conditions of justified trust typically maintain that our trust in a person's testimony is justified when this person is trustworthy; these accounts usually go on to identify the competence and also the veracity of the person providing the testimony as two central conditions of her trustworthiness on the subject matter in question. (So, for example, the stranger who gives me street directions is untrustworthy if his knowledge of the surrounding area is poor (he is incompetent) or if he enjoys misleading passing strangers about their whereabouts – he lacks veracity.)

Clearly we need to think about the extent to which an institutional ethics committee's reliance on external scientific peer review could be well-founded, and this requires identifying the conditions under which peer reviewers and their reports (testimonies) are trustworthy. I shall take this up shortly. Before doing so, however, I want to draw attention to a distinguishable sense in which we can ask whether our trusting another person's testimony is justified. This distinguishable sense concerns when it is (il)legitimate for us to *entrust* a judgement on a particular subject matter to someone else. The following hypothetical example will help explain what I have in mind.

As a philosophy lecturer, Mary has the responsibility and the corresponding authority to grade her students' essays. Anne, a philosophical colleague from another university, is visiting Mary this weekend and they decide to go out for

the whole day on Sunday. Unfortunately Mary cannot do this and also complete all of her essay grading by Monday morning when her students' results are due. So on Saturday morning Mary and Anne agree to split the essay grading between them, taking half each. When Anne tells Mary that this particular essay is a distinction, that this one is a credit, and that this one is a borderline pass, and so on, Mary trusts Anne's judgement and she simply records the grades for those essays accordingly. Here Mary's trust in Anne's judgement about the appropriate grades for those essays can be justified in the sense of being well-founded. Anne is *trustworthy* in this particular respect: she is competent to assess the academic quality of the essays she grades; she is reliable in grading the work fairly; she reports her grades truthfully; and so on. But is Mary thereby justified in *entrusting* the grading of those essays to Anne in the way that she does?

To explain why the answer to this question is no, we need to attend to the relevance of notions of responsibility and authority to justified trust in the sense I have identified in the example of Mary and Anne. If a person's competence and veracity in relation to judging a particular subject matter (e.g., the merits of philosophy essays) are necessary for her (rightly) to have the authority to decide on this subject matter, they are not always sufficient for her having such authority. Notwithstanding Anne's trustworthiness as a judge of the merits of Mary's students' essays, Anne does not have the authority to grade those essays. In this case, this is because grading those essays is Mary's responsibility in her role as the course lecturer and assessor, and Mary has no role-related authority simply to delegate this task *via trust* to Anne in the way that she does. Even though we might agree with Mary that Anne is *trustworthy* in grading the essays, since Anne lacks the role-related responsibility and authority to grade those essays she is not what I shall call *trust-authorized* in this regard.

An institutional ethics committee's use of external scientific peer review of research proposals is not analogous to Mary's delegation of her essay grading to Anne. Rather, this particular example is intended to highlight the significance of the question of when a person is justified in *entrusting* a judgement to someone else, and to make the point that in some contexts this is not simply a matter of whether the other person is trustworthy on the matter in question. The salient point to take from the above discussion is that when a particular person or group carries the role-related responsibility for a making a

particular judgement, we need to consider both of the conceptions of justified trust that I have distinguished.<sup>3</sup>

From my example of Mary and Anne, I have emphasised the relevance of trust-authority in relation to Mary's unjustifiably entrusting some of her role-related judgements to another person. However, there are also circumstances in which we should consider the question of trust-authority in relation to our own judgements on particular matters. "Can I justifiably be entrusted with this judgement?" is not always exclusively a question about my trustworthiness in relation to making the relevant judgement; the question can also require that I consider whether I have the authority to decide on the matter in question. For instance, Anne should have asked herself this latter question before she undertook to grade Mary's students' essays, and her answer should have been no.

Having identified these two conceptions of justified trust in another person's testimony, I shall now consider both conceptions in relation to conditions of trust that are relevant to an institutional ethics committee's use of external scientific peer review.

### Relevant Conditions of Justified Trust

#### *Trustworthiness*

Let's agree that an ethics committee's trust in external scientific peer review would be well-founded only if the reviewers are trustworthy.

As philosophical accounts point out, trustworthiness is relational notion: a person can be trustworthy in relation to *y* but not in relation to *z*.<sup>4</sup> This might be because she is competent in relation to *y* but not in relation to *z*, or because she is truthful in relation to *y* but not in relation to *z*. (For example, Anne is competent to assess philosophy essays but not chemistry exams; she might be truthful about her age and not about her income). Alongside a person's competence and veracity in relation to *y*, some accounts of trust invoke an additional condition of a person's trustworthiness which they identify as a

<sup>3</sup> It may be worth clarifying that alongside the fact that a person's trustworthiness in respect of *y* is not always sufficient for her having trust-authority in respect of *y*, so too a person's having institutional or role-related trust-authority in respect of *y* does not guarantee her trustworthiness in respect of *y*.

<sup>4</sup> A related claim is that *A* might trust *B* in relation to *y* and not in relation to *z*. (See, e.g., Hardin, Russell (2002).) It is a distinguishable matter whether *B* is actually trustworthy in relation to *y* and not in relation to *z*.

certain kind of commitment on this person's part: a motivation to act out of goodwill or in good faith as opposed to acting from ill-will, selfishness, or an ulterior motive. This commitment is said to distinguish a trustworthy person from one who is merely reliable. (If someone is truthful about *y* only because he will be subject to heavy sanction if he lies about it, or because he expects to be rewarded for being honest, although his testimony might be reliable in these circumstances, since it is conditional on an external sanction or reward we would probably not say that he is trustworthy in relation to *y*.) Arguably a condition of presumed goodwill makes most sense as a condition of personal trust, as opposed to trust in professionals or institutions.<sup>5</sup> All the same, as I shall outline shortly, an ethics committee's trust in the testimony of scientific peer reviewers needs to presume a particular type of commitment on the reviewers' part.

To what extent can an ethics committee justifiably regard external peer reviewers as trustworthy? In coming to a view about this we might appeal to the importance of having structures and procedures in place within the committee's operations that are designed to identify and select external peer reviewers who are most likely to meet the conditions of competence and veracity. As part of this process, potential reviewers can be required to state the grounds on which they are competent to review particular proposals and to declare any actual or perceived conflicts of interest. While such statements and declarations can be independently verifiable, nonetheless to some extent an institutional ethics committee might have to trust what a reviewer says about whether she meets the conditions of her own trustworthiness. It is here that a peer reviewer's commitment seems crucial: she must act with a certain motivation that requires that she both understands the role of an external peer reviewer and also that she endorses the norms of that role. A peer reviewer needs to act with a high level of professional integrity, central elements of which are conscientiousness and impartiality in reviewing the scientific merits of the research. A *pro forma* that scientific peer reviewers can be asked to complete as an initial step might prompt them to reflect on whether they are justified in trusting their own judgments about the merits of a particular research proposal. For example, they can be asked explicitly to state how the proposed research falls within their competence to review and also required to declare factors that could compromise their impartiality as reviewers.

<sup>5</sup> Baier, Annette (2013). What is Trust? In D. Archard, et al. (Eds). Reading Onora O'Neill. London and New York: Routledge, 175.

While all of the above steps are significant in selecting peer reviewers who are likely to be trustworthy, it is also the case that the role of a peer reviewer and its norms can be poorly understood by some of those who undertake it. Examples include people undertaking to review research in areas where their competence or impartiality is objectively questionable, and people reviewing the work of applicants with whom they have close personal relationships or animosity.<sup>6</sup> In such instances the relevant norms can be understood but nevertheless be flouted for personal, professional or other reasons: a reviewer can know that he is acting improperly in undertaking to provide a report and yet go ahead anyway, or he can be self-deceived about his suitability as an independent reviewer. Peer reviewers can also sometimes act with arrogance about their impartiality which they would not or ought not to accept from others in a similar position, and they can be insensitive or ignorant about what constitutes a conflict of interest.

### *Trust-Authority*

An institutional ethics committee's use of external scientific peer review is complicated by the fact that the responsibility and authority for ethical approval reside with the institutional ethics committee. This might be thought to put the committee in the anomalous position of not itself being trustworthy or trust-authorised on what can be a significant element in its deliberations on some proposals, namely a review of their scientific merit. The need for external peer review of the scientific merits of some research proposals is of course why the issue of trust arises in this context. Nonetheless, we should bear in mind that while an ethics committee is not itself constituted to *review* the scientific merits of research proposals, in such cases it *is* charged with responsibility for making a judgement about the scientific merit of the research *based on* external scientific peer review.

In considering the situation of an institutional ethics committee in this regard, it will be instructive to consider a different context in which a body that is charged with the responsibility and authority for making a particular judgment draws upon expert testimony. Juries sometimes need to do this in the

<sup>6</sup> Peer reviewers typically remain anonymous to the research applicants (although not to the ethics committee). However, factors that identify a research applicant to a reviewer, such as the applicant's qualifications, experience, publications and reputation, can be highly relevant to reviewing the scientific merits of a research proposal.

course of their deliberations in a trial, for instance. (For convenience I shall refer to juries in the following discussion and note here that trial judges also sometimes draw upon expert testimony in cases or in legal jurisdictions in which it is their role to judge the facts.)

*External Expertise: Authoritative or Advisory?*

Legal theorists who discuss juries' reliance on the testimony of expert witnesses distinguish between what they call *authoritative*, as opposed to *advisory* testimony. This particular distinction refers to the differing degrees of deference that are called for on the part of a lay-person, a non-expert, and it corresponds to a difference in the degree to which a jury needs to depend upon what an expert witness says.<sup>7</sup> A jury's degree of dependence might be considerable where, for example, an expert witness testifies that a victim died of arsenic poisoning (authoritative), and its dependence not be as great where, for example, an expert witness says that in her opinion the defendant's anti-social conduct was influenced by his troubled childhood (advisory).

As understood by legal theorists, the distinction between authoritative, as opposed to advisory testimony refers to the *accessibility* to a lay-person, a non-expert, of the *reasoning* on which a particular expert's judgement is based. For example, whether a lay-person can reasonably accept the testimony of a pathologist as to the cause of a victim's death, or the testimony of an expert lip-reader as to what a defendant said on a particular occasion, must depend on *indirect* factors such as the pathologist's or the lip-reader's attested skill and record of reliability on such matters (which we take as evidence of his or her competence). By contrast, the reasoning that a psychologist uses in testifying that a person's anti-social tendencies stem from her violent upbringing can to some extent itself be *directly* understood by a non-expert, who might or might not find such reasoning persuasive.

I think that a distinction between authoritative, as opposed to advisory testimony might also be drawn somewhat differently however, and taken up in a second (related) way in which 'authoritative' means something like definitive or decisive. We call a person an authority on a subject, and we say that she speaks authoritatively on that subject when we think there is very strong reason to believe that *what* she says on that subject is very likely to be accurate or true.

<sup>7</sup> On this I am indebted to Ward, T. (2006).

We can contrast this with someone whom we regard as having (merely) advisory expertise on a subject, in virtue of which her opinion on that subject commands respect such that we should take it seriously into account in coming to our own view on the matter. An example of expert testimony that purports to be authoritative in the sense of definitive or decisive would be a pathologist's testimony as to the cause of death, given in the following form: "I can attest to the fact that the victim died of arsenic poisoning". By contrast, expert testimony that presents itself as (merely) advisory provides an interpretation of particular information. An example of this would be where a psychologist says that in her professional opinion a defendant suffers from particular antisocial tendencies that are due to his violent upbringing.

I have intentionally elaborated this second distinction in terms of expert testimony that *purports* to be authoritative (decisive), as opposed to testimony that *presents itself as* (merely) advisory. This terminology does not commit me to claiming that a pathologist's testimony, as given in the form above, *is* in fact authoritative (decisive) so that jurors must simply *defer* to it. Different pathologists could disagree about the cause of a victim's death, for instance, and each of them might purport to give authoritative (decisive) testimony on the matter.

Both of the senses that I have distinguished above, in which testimony might be regarded as authoritative, as opposed to advisory can and must allow for disagreement between expert witnesses on the same subject matter. Conflicting expert testimonies can each *be* authoritative in the first (the legal theorists') sense, since for testimony to be authoritative in that sense means that the reasoning on which it is based is not directly accessible to a lay-person, a non-expert. However if, for instance, two expert lip-readers disagree about what a defendant said on a particular occasion, although we can accept that both of their conflicting testimonies can *purport* to be authoritative in the second sense (decisive), we cannot ourselves regard their conflicting testimonies as *being* authoritative in this sense.

For the purposes of our present enquiry, the more important of the above two ways of distinguishing between authoritative, as opposed to advisory testimony is arguably the first (the legal theorists') sense that concerns the degree to which the reasoning on which expert testimony is based is accessible to a non-expert. However, the second distinction between expert testimony that purports to be authoritative (decisive) as opposed to (merely) advisory (an interpretation), is relevant to how external scientific peer reviewers should be

asked to frame their reports to the committee. The second distinction is also relevant to what we should say about cases where scientific peer review purports to be decisive or where the reasoning on which it is based is genuinely inaccessible to a non-expert. I shall now elaborate these points.

Like a jury in a legal trial, an institutional ethics committee is itself in a position of public trust in relation to decisions within its remit. Juries are charged with the responsibility and authority to judge matters of fact and to do this they must sometimes draw upon expert testimony that bears on these matters of fact; institutional ethics committees are charged with the responsibility and authority to judge whether research proposals are ethically acceptable and to do this they need to draw upon external scientific peer review when this bears on the ethics of proposals. Just as expert testimony given to juries is sometimes advisory in the sense that juries can directly access the reasoning on which it is based, so too institutional ethics committees can sometimes understand and assess the reasoning that underpins external scientific peer review. For example, if a peer reviewer says that proposed research would duplicate existing research, then the evidence that supports this claim can and should be provided in a way that is accessible to a non-expert.<sup>8</sup> Similarly, if a peer reviewer claims that the methodology of proposed research is flawed, a non-expert might be well able to understand the reasons why this is so if those reasons are clearly set out; and if there are risks involved in proposed research that are not apparent in the application itself, a peer reviewer who identifies these can explain how they might come about. For these reasons, external scientific peer reviewers should be directed to regard their role as advisory in both of the senses that I have distinguished above: this means instructing them to present their reviews as expert opinions that explain, as far as possible, the reasoning on which their assessments are based in a way that is comprehensible to non-experts.

Where the reasons upon which a peer reviewer bases her judgement about the scientific merits of research *are* accessible to members of an ethics committee, at least to some extent, the committee has a duty not simply to adopt a peer reviewer's conclusions *on trust*: it ought not simply *entrust* this element of the ethical review process to peer review reports. To be sure, an institutional ethics committee is not constituted to engage in scientific review

<sup>8</sup> Julian Savulescu and co-authors maintain that applications for ethical approval of health care research should require completion of a section entitled "Systematic review of relevant existing research", in terms that are accessible to ethics committee members (Savulescu, et al., 1996).

of the proposed research that is subject to its ethical appraisal. Nonetheless, just as a jury must reflectively consider, and not simply uncritically accept expert testimony about the facts of a case on which it must judge, so too an institutional ethics committee has a responsibility reflectively to consider, and not simply defer to external scientific peer review that it receives as part of its deliberations.

In this latter respect an institutional ethics committee's use of external scientific peer review is unlike the use that such a committee might make of independent legal opinion on whether proposed research would or could incur any legal liability or involve the commission of a criminal offence. Legal liability is relevant to an institution's approval of research to be conducted under its auspices but it is not a consideration that is relevant to whether proposed research should receive ethics approval. The criminality of proposed research is a sufficient reason for its not gaining ethics approval and this is something about which an institutional ethics committee should be aware. However, the legal permissibility of proposed research is a *precondition* of its evaluation by an institutional ethics committee, whereas the scientific merit of the research is an element that an ethics committee can need to take into account as part of its own ethical appraisal of the research.

We now turn to the question of what we should say about genuinely hard cases in which external peer review is authoritative in the first sense, where the reasoning, or part thereof, of a report is directly inaccessible to a non-expert. When this happens, should an institutional ethics committee regard a peer reviewer's assessment of the scientific merit of the research *as* authoritative (decisive), and thus simply defer to it? Here I think the ethics committee's responsibility requires that it obtain more than one report. It must also take responsibility for seeking independent clarification if external reviewers disagree. Where disagreement among authoritative experts persists, an ethics committee's decision on which report(s) to accept cannot be based on its own direct assessment of the veracity of reports in hand, since this would be outside the committee's own competence and remit. In coming to its own judgement, then, the committee must carefully consider *indirect* criteria that are relevant to assessing the competence and the veracity and commitment of its external peer reviewers.

What such indirect criteria can reasonably include raises further issues. More generally, Alvin Goldman distinguishes and endorses a number of possible sources of evidence that a lay person might have for trusting one

purported expert more than another where neither expert's evidence is directly epistemologically assessable to the lay person (Goldman, 2001). Goldman invokes the relevance of what he calls an expert's 'dialectical superiority' in defending a position; an appeal to 'numbers' in judging experts' relative credibility; evidence from interests or biases; and appeal to experts' past track records of correct decisions. All of these considerations can be relevant to conditions of warranted trust in (expert) testimony, it seems to me. Nonetheless, their applicability to an ethics committee's deliberations in hard cases must be shaped by such a committee's remit, its composition and responsibilities, and the way in which external peer review is appropriately conducted, presented to and received by the committee.

External scientific peer review normally comes to an institutional ethics committee in the form of written reports. In some circumstances where a particular research proposal raises significant ethical concern, scientific peer reviewers might appropriately be interviewed or further questioned by the ethics committee. (This could include asking them to comment on a position on the scientific merit of the reviewed proposal that runs contrary to their own appraisal, for instance). Expert witnesses who testify in court cases are of course subject to critical or cross-examination. However, unlike the use of expert witnesses in a jury trial in English-speaking jurisdictions, the context in which external peer review is used in the deliberations of institutional ethics committees is investigative, as opposed to adversarial. This is surely an advantage in the latter case. The investigative nature of an institutional ethics committee's deliberations has an important bearing on how external scientific peer review should be conducted and presented on behalf of the committee: peer reviewers should be advised not to regard themselves as advocates or as part of an advocatory process, for instance. It also has an important bearing on how the ethics committee should regard and interpret the reports of external peer reviewers: these reports should be taken seriously into account but not unreflectively so.

As suggested earlier in the paper, steps to identify and minimize biases and conflicts of interests can be incorporated into the institutional procedures for selection of appropriate peer reviewers for particular proposals. To be sure, the number of peer reviewers who then support a particular view of the scientific merit of a proposal, and also their established 'track records' of correct decisions about such matters can be relevant indirect evidence for the committee where disagreements among peer reviewers arise. The extent to

which an ethics committee could be obliged to garner and consider these latter types of indirect evidence is another matter.

When disagreement among experts persists and indirect criteria are summoned, it is important that an institutional ethics committee keeps in perspective that its responsibility is to form an overall judgment about whether the research proposals that come before it are *ethically* acceptable. This highlights two overarching considerations. The first is that the committee should address the level of confidence that it needs to have in the scientific merit of a particular proposal in order to be justified in deeming that research to be ethically acceptable. The required level of confidence can vary across applications in relation to a number of factors, the most obvious being whether and to what extent the proposed research involves significant (risk of) harm. The ethical acceptability of such research *depends* on its scientific merit being sufficiently important to justify any significant (risk of) harm. Where in such a case disagreement amongst external peer reviewers is sufficient to create reasonable doubt for the committee as to the scientific merits of the proposed research, this doubt must weigh more heavily against the ethical acceptability of that research than would be the case were the research to be relatively harmless or risk free.

The second overarching consideration is that the committee's decision (including any confidential aspects) on the ethical (un)acceptability of proposed research must be based on reasons that the committee can articulate and that would, in principle, be publicly defensible.

### Concluding Remarks

Philosophical accounts of trust stress that all trust involves risk. Procedures, structures and protocols can be put in place, and also instruction can be provided that aims to strengthen the conditions under which external scientific peer reviewers are likely to provide trustworthy reports. That these measures would not guarantee the trustworthiness of external peer reviewers is clear enough. Less obvious is the point that these measures would not confer on external scientific peer reviewers what I have called trust-authority as far as an aspect of the deliberations of institutional ethics committee are concerned. This is because the responsibility of overall ethical appraisal of a research proposal lies with the institutional ethics committee and an important element

of this ethical appraisal can require that the committee itself form a view on the scientific merit of a research proposal. (Where individual ethics committee members disagree about this, or about any other aspect in relation to assessing the ethical acceptability of a particular proposal, appropriate procedures need to be in place to arrive at an acceptable and publicly defensible outcome.)

The committee itself must *take responsibility* for all of the elements that provide its reasons for its final decision. The committee's taking this responsibility is compatible with its drawing on the expertise of external scientific peer review of research proposals, and indeed such external review can be formally and ethically required. Here what the committee delegates, and what the committee cannot itself do and thus needs to rely upon external expertise to do, is a *review* of the scientific merits of proposed research. Measures that can increase the trustworthiness of such reviews do not justify the committee's then simply entrusting its judgement on this element of its deliberations to external experts.

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