

## **“SHADES OF CORRUPTION –ETHICAL DILEMMAS IN ACADEMIC LIFE AND UNIVERSITY GOVERNANCE”**

### **Introduction**

The nature of work in universities and academic life involves the exercise of varying degrees of discretion and personal or academic judgement. It is in this domain that unease, uncertainty and from time to time unethical behaviour arise.

And it is in this context that I will comment on the complexity of dealing with corruption or ethical dilemmas in academic life and institutions and highlight some of the ways in which the University of Western Sydney is working with academics and professional staff to understand and address corruption systematically and systemically.

While corruption is widely understood to be wrong, recognising and dealing with is often more complex and at times uncertain

At my University I have responsibility for the systems and processes to raise awareness, and limit the incidences of corrupt conduct, and also for dealing with cases of corruption should they occur. The UWS approach has focussed on building **institutional integrity** - integrating our policies and systems, corruption control strategies and ethical standards to create an operating environment which accurately defines and resists corruption.

So what do we mean when we talk about corruption and how are universities different? There are some very well known definitions: one from the OECD states that corruption is:

But there are many others:

These are fairly standard definitions about which we would have little argument. But none of these connect sufficiently well with the nature of academic work to be particularly helpful or meaningful to an academic in their daily work.

I have had two telling experiences when discussing corruption and unethical behaviours in recent times: one was at a UWS senior management conference when the Vice-Chancellor asked me and our Legal Counsel to brief senior staff on our policies for dealing with fraud and corruption. We decided we would have more impact if we worked through a hypothetical incident involving many potentially worrying issues across multiple domains in the University – such as research, student progress, external funding and academic promotion. And because it was straight after lunch we made it quite controversial, humorous and, we thought, over the top.

The presentation went well – and by afternoon tea time we had had nine senior staff members come to us with issues that had been worrying them but

about which they were unsure. They felt our examples and the messages we were trying to convey resonated eerily with their real-life experiences.

The second occasion was at the ANU/ICAC sponsored course on corruption in the public sector in which participants were simply asked to give their own definitions of corruption, ethics, values, morals and the like. It seemed a simple exercise but the answers were as diverse as they were general.

I learnt from both of these situations that understanding corruption is *wrong* coupled with a commitment to dealing with it when it occurs does not automatically equip staff to respond in effective ways to the myriad possibilities for corrupt behaviour and the circumstances in which they might find themselves having a role at some time in the future.

### **Corruption in Higher Education Institutions**

It is often difficult in a university setting to regulate against, develop systems to control or prepare staff to identify and deal with corruption in ways which are meaningful - hence the expression *shades of corruption*.

But there is a plethora of descriptions of corruption in higher education. Just one of these was published in 2005 in the Higher Education Corruption Monitor, at the Centre of International Higher Education, Boston College

The implications for academic work and University governance include:

Those of us who work in universities would say that universities are special places. But how does the nature of academic work and a higher education environment impact on the potential for corruption and unethical behaviour?

The report of the first Global Colloquium of University Presidents held at Columbia University in 2005 said of universities that *“modern societies have entrusted universities with immense responsibilities. They have been charged with preserving the knowledge of the past and transmitting it to the next generation, challenging accepted ideas and norms, and fostering the creation of new knowledge.”*

This was said in the context of a discussion of academic freedom from which the view emerged that: *“At its simplest, academic freedom may be defined as the freedom to conduct research, teach, speak, and publish, subject to the norms and standards of scholarly inquiry, **without interference or penalty**, wherever the search for truth and understanding may lead.”*

But also that while *“Academic freedom is fundamental to the central values and purposes of universities”* ... .. it *“carries with it a concomitant responsibility of scholars to **resist corrupting influences on their research and teaching**, to transcend partisanship and prejudice, and to foster intellectually vigorous and open discussion within the classroom, adhering to the highest norms and standards of scholarly inquiry and teaching”*

And for university senior management it was agreed that *“Academic institutions bear a heavy responsibility to protect the scholars and students who work within them from **improper pressures**, whether political, cultural, economic, or ideological.*

Well that’s the theory. But with these principles in mind it is easy to see why universities and individual academics feel uneasy about corruption as they are called on to deal with the suspicion of unethical behaviour.

This is compounded in a world where academics are bound not only by their employment contracts and organisational responsibilities but also by their deep and abiding links with their discipline and scholarly colleagues and where there is no single reference point and where they may be many and competing viewpoints and value sets.

The outworkings of this “partial inclusion” can create confusion and at times a conflict of loyalties that mask or dilute an institutional imperative to be purposeful in dealing with issues of corruption and ethics.

At an institutional level there will be values/codes of conduct and other such instruments which are intended to guide staff and create an appropriate corruption resistant culture. At UWS we have a well publicised set of values:

Even with the best of intentions, a will to be vigilant and a values-based institution there are issues for which there is no black or white answer and which create the perception or reality of “shades of grey” for staff working at the heart of our academic activities. In effect it is the necessary and scholarly exercise of discretion that opens academics up to the scrutiny of colleagues and raises the potential for claims of corrupt behaviour.

It is also in this exercise of judgment, in the use of discretion to respond to issues and questions, and the degrees of freedom available in this process that academics, staff and students rightly feel vulnerable. Put simply one person’s discretionary, values-based decision can become another’s perception of corruption or breach of ethics.

The Chair of the Academic Senate at UWS has been involved in a number of elements of the University’s corruption resistance program. She also sees, on a regular basis, examples of behaviours, decisions or activities which are at least questionable raised in both formal and informal settings. In her presentations to academic staff she talks about “choice points”. These four choice points are at the centre of the space where corruption might permeate or prevail. She talks of:

The reaction to her talks is almost invariably one I too have encountered in many forums –for example, when I asked a group of Heads of Program (those academics who manage a course within a school) questions such “what makes you feel uncomfortable?”; “do you feel equipped to resolve issues that may be in a ‘grey area’?”; “are you sufficiently well prepared when you exercise discretion in your role?” and “what sort of issues do you worry about?” they were animated and voluble and to a person said the “discretionary space” and the occasional “sense of discomfort” left them feeling vulnerable and in need of support, further education and clear institutional signals.

In this context I am quite taken with a well known quote by Abe Rosenthal, writing in the New York Times in 1991 about the Presidential response to AIDS, in which he said “*so when something important is going on, silence is a lie*”. Although the context for Rosenthal was different, his view that “*silence has a loud voice*” echoes my experience of common reactions to potential corruption. It is often easier not to see something or to see something and to do nothing but this implicitly condones the behaviour and places other staff, students and the institution at risk.

At this stage it might be good to consider some examples to better understand the range of issues that confront institutions, all ***hypothetical*** of course:

### ***Sex for Grades***

I thought I’d start first with a high profile and reputation destroying risk – what happens if an academic staff member seeks to exchange good grades for sexual favours? How would we know? What would we do?

In my hypothetical example the student uses one of the complaint mechanisms within the University to let us know about the incident and the academic's name but does this anonymously. The first test of institutional commitment is whether anything is done in response; after all, it is anonymous. At UWS I would convene a group comprising the Dean, Head of School, Legal Counsel, Human Resources, Equity, Student Support, Media and Communications to have a full and frank discussion of options for action.

With no known complainant what can be done? We might write to the student cohort involved and set up a confidential place where students could come to talk to a trusted staff member and see if this delivers the evidence. But then the story may have become public – is it time to bunker down and say it was an anonymous complaint and we have no way of following it up? It's an easy and defensible option. But maybe then we find out from colleagues in the School that they are not surprised – they have felt an ill-defined unease for some time.

Knowing this do we continue to look for the truth? All sorts of issues of natural justice emerge and to go the next step is to take a significant risk. Taking no action is equally a risk - to our students and to our reputation. But each course is also a powerful sign of our institutional personality and integrity.

We might meet with the staff member and his union representative and make it clear that the University will not rest until we resolve the situation one way or the other– which means we would be satisfied that we have tested the allegations and come to a considered view. Not one we would necessarily have to defend publicly but one which we believe is right. In the event the staff member might leave and the matter is effectively closed. But is it? The University would need to talk to staff in the school and students about these sorts of issues and what to do next time.

The lessons from such a case include:

- At the earliest stages don't ignore those uneasy feelings, report them to someone with the expertise and role to deal with them. This doesn't imply a judgment has been made. It is best to have it dealt with in a professional forum.
- Once a complaint is received follow every possible option to find the evidence and be steadfast in one objective – to identify and deal fairly with corrupt conduct in whatever form.
- Weigh up the risks and benefits from each course of action and always err on the side of keeping faith with our values and dealing purposefully with the problem at hand.
- Bring together all the players and collectively unpack the circumstances and the evidence. Managed transparency is the best approach.
- Give clear signs of institutional expectations and the consequences for wrong doing.

### **Examining a PhD**

The successful submission of a PhD thesis is a major achievement for a student. It is also an important outcome for supervisors and institutions. So when a thesis is failed at the first attempt by say two of the three examiners it is a really serious situation. These examiners give feedback on what needs to be done.

Given all of this, if the student revised their work very quickly and re-submits the thesis but it is examined by a different group of examiners, a high degree of suspicion can arise. This is particularly so when the rework is done in a short time frame and the result from the new examiners is a pass.

This concern may or may not be necessary. The use of a new set of examiners might be benign and a function of some circumstances unknown to the original examiners. It could also be corrupt – we could be dealing with a student with a pressing need to get through quickly who pressures the supervisor or administrators to achieve a pass. It could be the misuse of a position by a staff member who has a close personal relationship with the student.

The original examiners in this scenario are left to wonder and label the revision and re-examination process as highly questionable. The student's standing is compromised and the institutions reputation sullied. All of this may have been the end product of a flawed process, and which could have been avoided with a simple explanatory communication.

### **Close personal relationships and conflicts of interest**

Examples abound in this area – to mention a few:

- The Chair of a selection committee presiding over the appointment of an academic who turns out to be their partner, a relationship which was not disclosed. The Chair defending this action by saying they could objectively review the application and in such a narrow academic field such a situation is often unavoidable. And anyway the best person for the job was selected.
- An academic hiring their son or the child of a colleague on a short term research assistant contract during the holidays because they are studying in that area and it's too hard to find someone good at short notice, although they didn't actually try.
- A staff member recommending the use of a consultant for a project and not going to tender because of timing and the need for specialist expertise and not declaring the principal of the consulting firm is a former colleague and close friend.
- Two staff members in a close personal relationship not declaring this to their respective supervisors and sharing confidential information to influence a decision in another area.

All of these examples seem obvious – but all of them have happened in my tenure at UWS. And all of them became known either through disclosures by other staff or through system controls.

The acquiescence by colleagues to such situations of the past is increasingly being replaced by a drive to assure due process and to stop cronyism and conflicts of interest. This may be because of increased awareness of the policy and institutional expectations, a genuine discomfort among colleagues or a wish to deliver proper outcomes.

### **Student Fees**

As outrageous as it sounds a university has encountered an international student paying fees using credit card numbers purchased on the internet. This person then went on to be a very good student and was one subject away from graduation when the bank contacted the university. Their reason was financial hardship and they pleaded to be able to finish. Academics close to the student were caught up in the emotion of the moment and petitioned the University to allow them to graduate. But corrupt behaviour is corrupt and the student was excluded permanently and the matter reported to the Police.

There are a multitude of examples where students have pressured, cajoled and berated academics for some form of special consideration. Often the academic is left feeling uneasy and that is some way they have been impelled to use the system inappropriately. The simple act of naming this behaviour can free academics to respond more effectively.

The many and varied considerations which would be involved in dealing with these examples and the complexities of thinking through such issues when they arise is well represented in the diagram published by the Australian Institute of Company Directors in its Guide for Dealing with Conflicts of Interest.

Of particular note here is the domain of ethical discretion.

### **So what does a University do?**

At UWS we have focused on building institutional integrity and in developing and implementing systems that support a corruption resistance framework.

The Academic Senate is presiding over the development of an academic honesty project, preferring to take a positive approach to issues such as plagiarism and academic misconduct. Workshops have been conducted in each College under the rubric of managing academic risk. The team of presenters includes the Chair of Senate, the Audit and Risk Director, the University Complaints Manager and the Director of Professional Development. The Academic Senate has also recently devoted a meeting to discuss, better understand and develop a plan to manage academic risk.

The response has been overwhelming – mirroring my own experiences – staff articulating:

- A commitment to ethical and fair processes but not necessarily knowing or being comfortable with what this might entail
- An abhorrence of corruption

- But also an uncertainty as to how to diagnose incidences of corruption in academic work which are not the obvious cases of theft, fraud, misuse of positions.
- Some unwillingness to take on issues where there is a “values-based” decision to be made, an ethical dilemma or an ill-defined “greyness”.
- Experience of colleagues looking the other way and of themselves feeling uncomfortable
- An appreciation of UWS values and of bringing out into the open the need to recognise and where possible facilitate an effective use of discretion.
- A wish to see better institutional support and a “toolkit” to guide academic staff.

### **Changing Culture**

The Australian higher education sector has been confronted by a maze of regulation and reform in recent years. As universities come to terms with the inevitability of this change the canvass on which academic work is portrayed is being framed by a new set of policies, regulations, systems and expectations.

At the same time during the restructure and reinvention of UWS there has been explicit emphasis on fairness, equity, probity and due process. This, in turn, has had a significant effect on the organisational culture – staff expect and support greater transparency, proper process and ethical behaviour. While not always happy (even often unhappy) or not accepting of change staff demand proper process and outcomes they feel are ‘right’.

A demonstrable commitment to corruption prevention and to ethical standards and an willingness to bring issues of concern into the open is a fundamental part of the process of cultural change.

As Taylor outlined moving to an ethical culture and promoting institutional integrity requires the messages to be clear and consistent, with leaders not only modelling what is expected but also ensuring that they indicate what is important and establish systems and practices which reinforce what is expected and valued.

While there has been substantial progress it doesn't mean that there haven't been issues of concern and even failures in the systems designed to mitigate the potential for corruption. Often matters of bad behaviour and poor judgement have been raised as potentially corrupt. While this is not necessarily the case it is demonstrable, at least, of heightened awareness.

Staff require a clear and consistent framework within which to transact their roles as academics, administrators and professional staff. For UWS our approach focuses on openness, strong leadership, a comprehensive education program and well known and publicised consequences for corrupt or unethical behaviour.

### **Conclusion**

Some of the key lessons we have learnt are:

- Name the behaviour for what it is.
- Acknowledge that dealing with sensitive, complex and discretionary issues is difficult and there will always be grey areas - recognising uncertainty and unease strengthens the process.
- Be open, transparent and consistent – model the institutional expectations and values.
- Communicate the what, how, when and why of the situation to relevant players with a clear signal that action as appropriate must be taken.
- Establish and use systems and policies which define a corruption resistance framework. And in individual matters, when in doubt, retreat behind good process to achieve an appropriate outcome.
- Publicise this widely and conduct regular comprehensive education programs with real world academic work examples.

With this in mind the challenge for institutions and university leaders is to provide the space and the freedom for staff to articulate their concerns, the support to take the steps to deal with corruption and the tools to do it well.