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REPORT: UNFAIR PRACTICE AND PLAGIARISM

NOTE: This report contains material of a confidential nature

BACKGROUND:

I am responsible for teaching copyright law within the Law Department. I find copyright to be a fascinating subject and I enjoy teaching it. In simple terms, copyright is the right to copy. The purpose of copyright law is to protect an author or creator from the unauthorised exploitation of his or her work. By allowing a creator to gain economic reward for their efforts, copyright encourages future creativity and the development of new ideas. This is why copyright is important: it facilitates the dissemination of knowledge; it promotes creativity and innovation and therefore supports the development of commerce and wealth creation. I fundamentally believe in the principles underlying copyright law: notably that protection should be afforded to the creator of a work and that the unauthorised use of their work by another should be penalised.

In each semester as a lecturer and module co-ordinator for both Intellectual Property Law and International Copyright Law, I have found evidence of unfair practice committed by a student in their written assignments. In both modules, the written assignment submitted has accounted for 100% of the assessment profile. I find it unbelievable that in a module dedicated to examining the law relating to copyright a candidate has the audacity to exploit the law which they are studying!
PLANNING:

In this Teaching Cycle I decided to concentrate on the issue of plagiarism in the LLM programme. The tasks involved, naturally separated themselves into two parts. The first part of the plan was to identify how students were made aware of what constitutes plagiarism, to evaluate this approach and make revisions where necessary. In the event that appropriate measures were being implemented to ensure students understood what constituted plagiarism, and if a student was subsequently found to have engaged in unfair practice, it would be necessary to ensure appropriate evidence could be gathered to support the allegation. Therefore, the second part of the plan was to protect departmental interests and demonstrate that appropriate information had been imparted to the student such that they knew they had engaged in unfair practice.

PLAN PART 1:

TASK: Ensure student is aware of what constitutes plagiarism

All LLM students are required to attend an Induction Programme which is run during the first week of their studies. One of the sessions is devoted to Plagiarism and Unfair Practice and since in post as lecturer, I have been responsible for taking this part of the programme.
From researching into the nature of plagiarism I was aware that many authors recommend that: 'it is not enough to tell students they must not plagiarise or collude with each other. Students need to be given clear examples of different cheating and other behaviour...'.\(^1\) Moreover, I learnt that there are many reasons which can be identified for why a student may plagiarise. For example, as Varney-Burch suggests, a student may plagiarise for one, or many of the following reasons:

- Time Management
- External Pressures
- Language Skills
- Lack of Understanding of Conventions
- Different Learning Styles
- And, because the student believes they can get away with it.\(^2\)

Literature within the field also offers suggestions on how to prevent plagiarism including for example, devising 'methods of assessment which minimise the potential for plagiarism'.\(^3\)

Therefore, from studying the nature of plagiarism and possible techniques and practices which may be employed to prevent plagiarism, I devised a session plan on Plagiarism and Unfair Practice for the LLM

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\(^1\) Bone (undated) Plagiarism: a guide for law lecturers, UK Centre for Legal Education, UKCLE resource bank, available on line at: http://www.ukcle.ac.uk/resources/plagiarism.html

\(^2\) Adapted from, Varney-Burch (undated) How can we prevent plagiarism? UK Centre for Legal Education, UKCLE resource bank, available on line at: http://www.ukcle.ac.uk/resources/plagiarism.html

\(^3\) Chown (undated) How can we prevent plagiarism? 2: suggestions by Adrian Chown, UK Centre for Legal Education, UKCLE resource bank, available on line at: http://www.ukcle.ac.uk/resources/plagiarism.html. Also, see further, Carroll (2002) A Handbook for Deterring Plagiarism in Higher Education, Oxford Centre for Staff and Learning Development
Induction Programme. Within the session the following I worked through the following topics:

- Definition of Unfair Practice
- Source of the definition: Academic Regulations and Law Department literature, both in paper format and the electronic versions
- How an allegation of plagiarism may be dealt with - penalties available to the Department and to the University of Unfair Practice Procedure Committee of Inquiry
- Essay Declaration sheet - to be signed by a student when submitting written work
- What constitutes plagiarism including examples
- Examples of acceptable uses of another's work
- How to reference correctly
- How to use footnotes appropriately
- The purpose of a bibliography
- For further guidance students are referred to the Effective Study Collection
- Opportunity for Questions and Discussion

To support the verbal explanation of the topics, overhead projector slides were used to display full details of the material being covered. The students were also given a handout containing this material and which also included references to additional documentation (See Appendix 1).
Therefore, as a whole, the ways in which the Law Department ensures an LLM student is aware of the regulations on Unfair Practice may be summarised as follows:

- The student will be in receipt of UWA Students' Examination Handbook for current academic year
- The Law Department Handbook is given to taught postgraduates and particular attention is drawn to plagiarism in the Examination and Assessment Procedures
- The above information is replicated on the Law Department website
- The General Information relating to all assessed essays on the LLM programme reminds students of the need to read the UWA Students' Examination Handbook regarding plagiarism
- The Essay Declaration Sheet which must accompany and be signed by the student for each essay submitted to the Law Department confirms the student has read and understands the information available from the above sources.
- The student attends Plagiarism and Unfair Practice session held as part of the LLM Induction Programme

These practices are individually and collectively designed to ensure that a student is aware of the regulations relating to unfair practice.
PROGRESS NOTES:
It was apparent that extensive measures were being taken within the Department to ensure that students would be aware of what would constitute unfair practice. From evaluating the practices employed, it was considered that adequate measures were being taken and that no revisions to the current coverage on plagiarism were required.

While marking an essay during the summer examination period I suspected it was a case of unfair practice. This activated the second part of my plan, i.e. to gather appropriate evidence to support the allegation.

PLAN PART 2:
TASK: Gather appropriate evidence to support allegation

In order to demonstrate the problem being experienced through this Teaching Cycle, I have extracted evidence from the essay which raised an allegation of unfair practice. The evidence is presented with a mind to protect confidentiality and also to reflect a sense of proportionality. It is hoped that sufficient material is included to adequately illustrate the issues and difficulties which have been faced and have required addressing.

The evidence is contained in Appendix 1.
PROGRESS NOTES:

From first reading of the essay I was alerted to the fact that it could have been copied. The first page of the essay 'positions' the reader and the third paragraph in particular, gives an indication of the candidate's own style of writing. However, on the following pages the style of writing is different: it is very well-written and displays a high level of understanding of the law in this area.

As I suspected unfair practice it was necessary for me to gather appropriate evidence to submit to the Director of Examinations in the Law Department.

It can be an incredibly time consuming task to gather evidence to support an allegation of unfair practice. Different methods may be employed in order to locate relevant information.

The first is the easiest and relies on the good fortune of the lecturer in recognising the written style of the written work and being able to attribute it to the rightful author. The author may be one of the leading academics in their field and their material may be contained in one of the core texts which students have been directed to. Relying on the subject index of the textbook, it is likely that relevant chapters or sections of the text can be located swiftly and from reading thoroughly, the copied material may be identified. This approach may be supported with a review of the student's bibliography, to see if there are indications of where they have taken the material from. (In one case of unfair practice, a student had usefully listed the book in their bibliography.
From locating the text it was instantly apparent which parts had been
copied, because the text had been underlined!

A second approach to locating copied material is to rely on electronic
sources. An Internet search can be done and relying on a search engine
such as Google can be a good start. An educated guess may be made at
determining whether the material has been drawn from an academic
source or a non-refereed article, for example, by considering the
approach to referencing statutes and cases.

A third approach is to systematically work through the books in the law
library and try to find the text which has been copied.

Of course it must be remembered that the essay may be made up of text
which has been copied from a number of sources and therefore in real
terms the above tasks will have to be carried out in respect of each
paragraph of the essay. It is evident that the process can be highly time
consuming. In order to locate the evidence for the essay under
discussion in this report, the task took approximately six hours.

Having gathered evidence to support the allegation of unfair practice the
material was photocopied and highlighted to show the particular parts
which had been drawn from sources and not appropriately referenced to
their rightful author.

The evidence was submitted to the Director of Examinations in Law.
FEEDBACK

The Director of Examinations reviewed the evidence and decided that it was sufficient to proceed with the case.

I was informed that this student had previously been found guilty of unfair practice at a departmental level during the preceding semester.

With this in mind, it was evident that although there may be many reasons for why a student may engage in unfair practice, where these may be offered as an explanation for engaging in such practice, they could not be relied upon to excuse the student.

Following the earlier finding of unfair practice, the student had once again been reminded of the rules and regulations relating to unfair practice and plagiarism. Therefore, the practices in place within the Law Department to ensure a student is aware of what is acceptable practice, and what is not, (as summarised above) had been reaffirmed.

Owing to the seriousness of the case, the matter was referred by the Director of Examination in the Law Department to the Superintendent of Examinations.
PROGRESS NOTES:
I attended the Unfair Practice Hearing as a representative of the Law Department. The student submitted that they had not read the rules relating to unfair practice and plagiarism and owing to language difficulties and cultural difference, they therefore did not understand that what they had done was wrong.

The outcome of the hearing was that the student was found guilty. However, the panel accepted that student’s submission that they had not understood the rules and offered the student the opportunity to resubmit their work.

FEEDBACK & IMPLICATIONS FOR FUTURE PRACTICE:
In his summary of the evidence, the Superintendent of Examinations reported that the Law Department’s coverage on Plagiarism was ‘comprehensive’, recommending that ‘it could thus not have been clearer to the candidate just what constitutes plagiarism and also that plagiarism is totally unacceptable in course essays of the type under consideration here’. This was reassuring and yet, from the result of the hearing it appeared that more needed to be done. I considered what steps could be taken.

I decided to draft a statement for each student to sign to act as evidence that they had the rules explained to them verbally during the Induction programme and therefore could not submit the position that because they had not read the rules they did not know about them.
I submitted the form to the Director of Examinations for his review and recommendations. He commented that the form was an 'excellent idea' and recommended that each signed declaration should be placed in the student's file.

A copy of the Student Statement is included in Appendix 1.
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