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The Australasian Law Teachers Association (ALTA) is a professional body which represents the interests of law teachers in Australia, New Zealand, Papua New Guinea and the Pacific Islands.

Its overall focus is to promote excellence in legal academic teaching and research with particular emphasis on supporting early career academics, throughout Australasia, in the areas of:

- (a) Legal research and scholarship;
- (b) Curriculum refinements and pedagogical improvements in view of national and international developments, including law reform;
- (c) Government policies and practices that relate to legal education and research;
- (d) Professional development opportunities for legal academics;
- (e) Professional legal education and practices programs.

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**PLAGIARISM CAN BE PREVENTED:
A STARTER PACK**

ALISON BONE*

It is generally acknowledged that plagiarism is on the increase and/or we are becoming more aware of it. This paper explores how we as legal academics can reduce the incidence of plagiarism by drawing on the experiences of others both in and outside law schools.

A clear definition of plagiarism is essential. Are we just talking about poor referencing or is it something far more sinister? When should we tackle prevention of plagiarism - should it be a job for everyone at all stages? How can we design coursework to minimise opportunities for plagiarism? How should alleged plagiarism be handled?

This paper deals with all these issues drawing on experiences at the University of Brighton, UK and explains how developing student awareness can often be more effective than computer software deterrents.

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I INTRODUCTION

‘Currently, in Australian universities there is a major focus on plagiarism’. I know this because it is the opening line in an article by Julianne East of La Trobe University called ‘Proper Acknowledgment?’¹ Having acknowledged my source I can be confident that I shall not be accused of plagiarism but it is difficult to see how I could have paraphrased this particular statement. The problem with writing about plagiarism is that most of the things I want to say have already been said, and usually more succinctly with better referencing, so please bear with me as I attempt to be creative in an arena which may result in the discovery of a round object frequently attached to the base of vehicles as a means to assist movement with minimal friction.

Students plagiarise for a number of different reasons, one of which is because they can - it is very easy with the wide range of resources available, particularly online. As Underwood and Szabo² note ‘access [to the Internet] is no longer for the knowing few but is there for the majority’. There have been a number of articles discussing the different forms of academic dishonesty which include plagiarism³ and it would seem that the temptation to cut and paste from a wide variety of sources is sometimes difficult to resist. Even if students when questioned are not prepared to admit that they do it themselves, according to one survey a majority believe that most students do it at some point, even if unintentionally.⁴

According to anecdotal evidence the possibility of downloading material for which a student is awarded a degree presents a threat which is acknowledged by universities all over the Western world and the reaction has been relatively swift. Policies have

¹ Julianne East, ‘Proper Acknowledgment?’ (2005) 2(3a) *Journal of University Teaching and Learning* 1.

² Jean Underwood and Attila Szabo, ‘Plagiarism: is this a problem in tertiary education?’ ((Joint Information Standing Committee Plagiarism Advisory Service (JISCPAS) 2003)) [2] <<http://www.jiscpas.ac.uk/images/bin/underwoodtertiary.doc>> at 26 February 2007.

³ See, eg, Ian Bates, Graham Davies, Catherine Murphy and Alison Bone, ‘A multi-faculty exploration of academic dishonesty’ (2005) 5(1) *Pharmacy Education* 69.

⁴ Alan Dordoy, ‘Cheating and plagiarism: student and staff perceptions at Northumbria’ in Alan Dordoy and Cliff Robson (eds) *Proceedings of the Northumbria Conference: Educating for the future* (2002) <<http://www.jiscpas.ac.uk/apppage.cgi?USERPAGE=7509>> at 26 February 2007

been developed, strategies devised and computer software utilised but is it possible to prevent plagiarism from occurring? This paper explores some ways tutors can at least make plagiarism less likely.

II ADDRESSING PLAGIARISM

There has been a great deal of research carried out into plagiarism which has examined a number of issues including how much of it goes on, why students do it and developing means of detecting it and thus reducing it. Lawyers are particularly keen to define terms and it is important to ensure that as academics we are clear about the nature of plagiarism. Students need to have a very clear understanding of what is acceptable and what is not,⁵ as most definitions of plagiarism do not include any reference to intention. Although students and academics would like to think there is a difference between ‘casual’ and ‘blatant’ plagiarism⁶ the policies of many universities require that both result in disciplinary action. Obviously far more goes on than is detected and Evans⁷ concludes that even using the recently developed plagiarism detection software cannot be sustained on a large scale because of the time needed to interpret the results.

One of the major problems of plagiarism for academics is having to deal with it when it is detected. If we should see a student trying to steal a purse from an old lady’s handbag on the street we would probably react instinctively by shouting a warning (and maybe, depending on the athleticism/size of the student and ourselves, attempt a pursuit) without thinking about the potential time involved later making a detailed statement down at the police station or likely sanction if the student were apprehended. Most university plagiarism policies have a complex system of

⁵ Alison Bone, ‘Plagiarism: a guide for law lecturers’ (UK Centre for Legal Education, 2003) <<http://www.ukcle.ac.uk/resources/trns/plagiarism/index.html>> at 26 February 2007.

⁶ Robert Evans, ‘Evaluating an electronic plagiarism detection service’ (2006) 7(1) *Active Learning in Higher Education* 89.

⁷ *Ibid* 96.

investigation and meetings which require input from the academic and sometimes the punishment, if plagiarism is deemed proven, is perceived to be rather harsh.⁸

The reasons why students plagiarise are extensive. A summary of some of the older pieces of research indicates the main reasons are stress and pressure for good grades, inadequate assessment and a genuine confusion as to what constitutes cheating.⁹ A more recent study¹⁰ cites several more including that students feel alienated and ignored by lecturers, disengaged by assessment tasks or that they are set tasks which do not require original thought but mere repetition of well-established concepts. Another survey¹¹ found that half the students questioned would plagiarise to avoid failing a module, while a later study by the same authors¹² uncovered other reasons such as level of difficulty, tedium of the work¹³ and looming deadlines.

The causes of plagiarism are very complex. As stated above, ease of access to material is a key factor but there are several others: personality, demographic factors such as age (youth is conducive to cheating), gender (males tend to plagiarise more than females), country, ethnicity and culture¹⁴ student lifestyle, style of teaching, lack of training in how to reference, perceived chance of being caught and the changing nature of higher education from elite to mass participation.¹⁵ Some of these causes dictate the approaches necessary to prevent or at least deter plagiarism and are dealt with in more detail below.

⁸ See how it should be done: Jude Carroll and Jon Appleton, 'Plagiarism: A good practice guide' (Joint Information Systems Committee, 2001) 27

<http://www.jisc.ac.uk/uploaded_documents/brookes.pdf> at 26 February 2007.

⁹ Karen Hinett and Alison Bone, 'Diversifying assessment and developing judgment in legal education' in Roger Burrige, Karen Hinett, Abdul Paliwala and Tracey Varnarva (eds) *Effective Learning and Teaching in Law* (2002) [68].

¹⁰ Peter Ashworth, Philip Bannister and Pauline Thorne, 'Guilty in Whose Eyes? University Students' Perception of Cheating and Plagiarism in Academic Work and Assessment' (1997) 22(2) *Studies in Higher Education* 187.

¹¹ Jean Underwood and Attila Szabo, 'Academic Offences and E-Learning: Individual Propensities in Cheating' (2003) 34 *British Journal of Educational Technology* 467.

¹² Attila Szabo and Jean Underwood, 'Cybercheats: Is Information and Communication Technology Fuelling Academic Dishonesty?' (2004) 5(2) *Active Learning in Higher Education* 180.

¹³ Cf the findings of Peter Ashworth et al, above n 10.

¹⁴ Betty Leask, 'Plagiarism, cultural diversity and metaphor – implications for academic staff development' (2006) 31(2) *Assessment and Evaluation in Higher Education* 183.

¹⁵ Evans, above n 7.

The development of computer software to detect plagiarism has had an impact on student attitudes to plagiarism. Evans¹⁶ has evaluated one of the most popular systems available in the UK and similar software has also been piloted at the University of Brighton in the United Kingdom. Coursework needs to be submitted digitally and the program checks material against databases and identifies text that matches. The mere fact that text matches does not mean that it is plagiarised – correct referencing will come up as a match as will repetition eg of the question posed. The report generated requires careful interpretation which takes a great deal of time if each student's work is analysed. Many UK universities have adopted the software however and anecdotal evidence suggests that its main value is that students are deterred from plagiarising because they perceive the risk of being caught is too high. It can also be used in combination with other resources and so can be viewed as a positive aid rather than a 'threatening online policing system'.¹⁷

III STARTING AT THE BEGINNING

Some years ago it was decided at Brighton to address the rules relating to academic misconduct, in particular those relating to plagiarism, because they were perceived to be a little outdated. It was also suspected that some academics were turning a blind eye to plagiarism because the penalties were so severe. As a member of the working party I became interested in the nature of plagiarism, did some reading and discovered how much had already been written about how others had attempted to alleviate the growing problem of plagiarism. Before we reconsidered how we were to deal with plagiarism it was necessary to ensure students were given plenty of information and guidance so they could not argue they were never told about the nature of plagiarism.

All students enrolling at the University of Brighton sign a statement agreeing to be bound by the university's General Examination and Assessment Regulations. These

¹⁶ Ibid.

¹⁷ Lucy McKeever, 'Online plagiarism services – saviour or scourge?' (2006) 31(2) *Assessment and Evaluation in Higher Education* 155.

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include a definition of academic misconduct which includes 'plagiarism and collusion. Where a student submits work originated in sum or in part by someone else, with or without their consent but without acknowledgement'.¹⁸ The first week at university is a hectic time for most students and it is hardly surprising that any agreement to abide by University rules is not one to which they pay much, if any, attention. Students are given several pieces of paper in their first few days some of which contain essential information such as their weekly schedule and others social ephemera useful only in Freshers' Week.

It became clear that for a small number of students their defence at plagiarism investigation meetings that they did not understand what plagiarism was and had never had it explained to them was genuine (but of course, largely unsuccessful). This was particularly true in the case of first-year students. As a result it was decided that all students needed to have specific information which would address the nature of plagiarism and as a result the Plagiarism Awareness Pack was developed. This builds on best practice guidance provided by Carroll.¹⁹ The pack is distributed to all students in their first term but always after induction week. It forms the basis of an interactive session with a tutor where students are encouraged to discuss the difference between plagiarism and poor referencing and to develop study strategies that will prevent them from unintentionally plagiarising. A copy of the pack is available online.²⁰

The use of the pack has ensured that it is now very rare for students to claim that they are unsure what plagiarism is. In the Law Group we have gone a step further by including a section in the handbook all law students are given which gives detailed advice on 'how to approach law coursework'. This covers the different types of law question students will be set, how to understand the question, how to gather material

¹⁸ University of Brighton, *General Examination and Assessment Regulations for Taught Courses (2006/07)* (2005) [51].

<<http://staffcentral.brighton.ac.uk/xpedio/groups/Public/documents/staffcentral/doc001114.pdf>>
at 26 February 2007.

¹⁹ Jude Carroll, *A handbook for deterring plagiarism in higher education* (2002).

²⁰ University of Brighton, *Plagiarism Awareness Pack (2006/07)* (2005)

<<http://staffcentral.brighton.ac.uk/xpedio/groups/public/documents/staffcentral/doc004346.pdf>>
at 23 February 2007.

for the answer, writing, presenting, referencing and checking the answer. There is also a sample assignment in the Appendix submitted by a first year student which is correctly referenced throughout. The section on referencing is based on a recognised UK standard – the Oxford Standard Citation of Legal Authorities (OSCOLA) to which we refer students if they require confirmation or more details.²¹ This is the UK equivalent of the US Blue Book. An excellent guide to the citation of electronic sources was published in March 2006 on the University of Newcastle (UK) Law school website²² which will probably be added as guidance for Brighton students next academic year.

When assignments are set law students are given a detailed brief which refers to the handbook and reproduces some of the guidance on referencing with an explicit warning that poor referencing may result in an allegation of plagiarism. It is important that students are reminded frequently of how allegations of plagiarism arise and of the consequences if such conduct is proven. In the UK the law professional bodies require notification of findings of academic misconduct (including plagiarism) from the universities. With competition for training places becoming fiercer as the number of law graduates increases, students need to be made aware of the high risk attached to submitting work with unacknowledged sources.

A recent study by Culwin²³ evaluated an activity which introduced first year computing students to plagiarism issues by getting them to write an essay which was submitted to a software check which tested for non-originality. The results were then fed back to the students. This was intended to be a positive learning experience rather than to show how effective the software was at detecting potential plagiarism but the findings were interesting in that non-originality was a predictor of failure to complete the first year and also of a lower percentage grade at the end of the year.

²¹ University of Oxford, *Oxford Standard Citation of Legal Authorities* (2006) <<http://www.law.ox.ac.uk/oscola>> at 23 February 2007.

²² University of Newcastle (UK), *How to cite electronic sources* (2006) <<http://www.ncl.ac.uk/nuls/lectures/legwrit/cite6.htm>> at 23 February 2007.

²³ Fintan Culwin, 'An active introduction to academic misconduct and the measured demographics of misconduct' (2006) 31(2) *Assessment and Evaluation in Higher Education* 167.

IV DESIGNING OF ASSESSMENT TO PREVENT PLAGIARISM

Aspects of assessment on the Legal Practice Course (LPC) which is the vocational course all aspiring UK solicitors must undertake after completing the academic stage of training – normally a law degree – have been designed by some providers (encouraged by leading law firms) to minimize the opportunities for plagiarism. The solution is to conduct virtually all written assessment under examination conditions. Materials can be taken into a room where, under the eyes of invigilators and with time constraints - although these can extend to several hours - students write answers to questions without talking to anyone else and without computer access. It is more difficult to plagiarise in such conditions and the problem has thus largely been resolved, but it is not a measure that would find favour in many universities.

As stated above, one of the reasons why students plagiarise is because they can ie. they are set work to do which requires descriptions, explanations or compilations of ideas, theories, concepts or rules which have been written about by many others. A practical exercise which illustrates this well is to choose any law topic and ‘google’ it. If you add the magic phrase ‘law essay’ you will also come across numerous sites where you can purchase an essay at a cost...but there is little that can be done to avoid this form of malpractice as it is even possible to get essays written ‘to order’.

To deter plagiarism the primary rule should be to try and devise an assessment which could not have been set before. The most obvious approach is to pick something so topical that it has not yet been written about. This is clearly difficult if the course exclusively involves the study of historical subject matter but this will rarely apply. In my own subject, Employment Law, students were asked to continuously review legal developments in a particular area of their choice eg, discrimination, over a three-month period ending with the hand-in date and critically select a few key aspects which they were required to explain, justifying their choice. The criteria were weighted such that it was impossible to obtain a good mark (over 60 per cent) unless critical analysis was carried out. This resulted in a generally good set of marks with some excellent work at the top end. It developed the students’ research skills as the

wider the range of sources, the more marks they earned and thus they were encouraged to cite as many sources as possible.

This group of students was of reasonable size – less than a hundred – and it was a joy to read a set of reports based on a wide range of subjects. Students had a free choice of topic as long as it was in the syllabus, although some had to make changes when they realized it was a slow time as far as developments went in the area they had selected. Giving students a choice gives them an element of control and this acts as a deterrent to plagiarism.²⁴ Some students became anxious that they were being asked to do something they had never done before (eg write a report on something where there was no textbook template to give them support) but the majority found the work challenging and feedback indicated that it boosted their confidence in their ability to find the latest materials.

In large groups ‘individualised’ assessments may not be practical but diversification of assessment can be achieved if academics move away from traditional assessment methods. To address this in any detail is outside the remit of this paper but suggestions include self and peer assessment, oral assessment, reflective journals and the use of computers.²⁵

Tracking the process of assessment can boost student confidence as well as improving time management skills. It is common for students who are undertaking lengthy pieces of work such as a dissertation to submit a proposal and receive feedback before progressing. Assessment criteria can be designed to include a ‘work in progress’ report to be submitted a few weeks before the hand-in date. Art students at the University of Hertfordshire, UK have recently been introduced to the concept of the i-map – a ‘map’ which they compile themselves to document information gathering and

²⁴ Noel Entwistle, ‘Recent Research on Student Learning’ in Jo Tait and Peter Knight (eds) *The Management of Independent Learning* (1996) 97.

²⁵ For more detail see, eg, Karen Hinett and Alison Bone, above n 10; Alison Bone, *Ensuring Successful Assessment* (1999) <<http://www.ukcle.ac.uk/resources/assessment/bone.html>> at 23 February 2007; Marlene Le Brun and Richard Johnstone, *The Quiet Revolution: Improving Student Learning in Law* (1994).

handling for their written assignments. Walden and Peacock²⁶ give examples of such maps with comments on how they were used by the students and indicate that the use of such maps has been effective in reducing plagiarism.

V POLICIES AND PROCEDURES – FINDING A WAY FORWARD

Reference has already been made to the availability of software to help detect plagiarism. Detailed information can be found at dedicated websites.²⁷

Before such software can be used effectively there must exist sound policies and procedures. Carroll and Appleton²⁸ set out the key elements of a disciplinary procedure and discuss how to determine appropriate outcomes. For example the motivation of the student may influence the outcome.

If the student intended to gain an unfair advantage (or was negligent in not taking sufficient steps to prevent themselves from committing plagiarism), they have committed a further offence. In determining the degree of intentionality (and hence the degree to which the penalty should be increased) consideration should be given to the following factors, while recognising that they are not necessarily all entirely distinct:

- Whether the student admits or denies the allegation
- The stage of the student in the program
- The number of previous offences
- The learning background of the student
- The extent of the student's knowledge of the concept of academic

²⁶ Kim Walden and Alan Peacock, 'The i-map: a process-centered response to plagiarism' (2006) 31(2) *Assessment & Evaluation in Higher Education* 278.

²⁷ See especially Plagiarism.org <<http://www.plagiarism.org>> at 23 February 2007 which explains how Turnitin software <<http://turnitin.com/static/home.html>> at 23 February 2007 can and has been used successfully at a wide range of universities. The University of Brighton has piloted it and is considering using it across all courses in the next academic year.

²⁸ Carroll and Appleton, above n 9.

misconduct²⁹

Using this guidance and having read advice from other Universities as to how plagiarism is dealt with, the University of Brighton amended their regulations dealing with academic misconduct. A first year student who admits a minor incident of plagiarism (eg, sloppy referencing) would probably receive a warning. However severe penalties are available for major plagiarism (eg, direct copying of large chunks of material without acknowledgement) which a final year student has denied.

A recent article co-authored by Jude Carroll³⁰ explains how a holistic approach is necessary. Our understanding of the nature and causes of plagiarism has steadily increased – helped by research and also access to online discussion lists³¹ but according to Macdonald and Carroll³² it is not the students who have the key responsibility for solving the problem but we, the staff, who need to ensure that we ‘get assessment right in the first place and we need to integrate the specific, focused actions proposed to deal with it into an institution-wide, coherent, principled and evidence-informed approach’.³³ They quote a number of examples, two of which are referred to here. First the decision to go public on the impact of several plagiarism cases by the University of Newcastle, NSW which resulted in a lengthy report³⁴ a Management Report and an Action Plan. Second, at Oxford Brookes University, UK, collegial review was held which led to the introduction of Academic Conduct Officers (ACOs). These officers have a range of options to take when dealing with academic misconduct but because the role is centralized there is greater transparency, consistency and fairness.

²⁹ Ibid 30.

³⁰ Ranald Macdonald and Jude Carroll, ‘Plagiarism – a complex issue requiring a holistic institutional approach’ (2006) 31(2) *Assessment & Evaluation in Higher Education* 233.

³¹ See, eg, the Plagiarism discussion list <<http://www.jiscmail.ac.uk/lists/PLAGIARISM.html>> at 23 February 2007.

³² Above n 31.

³³ Ibid 234.

³⁴ Simon Longstaff, Suzanne Ross and Kerrie Henderson, *Independent enquiry: plagiarism policies, procedures & management controls (St James Centre Ethics Report)* (2003) <<http://www.newcastle.edu.au/service/academic-integrity/staff/index.html>> at 23 February 2007.

Macdonald and Carroll conclude by listing a number of instances which should alert universities of the need to conduct a review. They can be used as a checklist by any law school to exert pressure, if necessary, at the appropriate level. In summary they are:

- No clearly documented evidence of where students are taught the skills necessary to comply with academic regulations and the conventions of academic writing
- The absence of clear approaches to ensuring that students are aware of academic regulations and the need to uphold academic integrity and what their responsibilities are in complying with these.
- No clear evidence that the university promotes academic integrity as a primary value for staff and students
- A lack of staff development activities relevant to deterring plagiarism to ensure all staff are familiar with current procedures and regulations, good practice in course design, approaches to detection and any legal responsibilities
- Evidence that staff may be taking individual decisions that could lead to inconsistent or unfair treatment
- No systematic approach to collecting the data on the occurrence of cases of plagiarism (both intentional and unintentional)
- Statistics that reveal the detection of a small number of cases.³⁵

VI CONCLUSION

Finally, it may be useful to remind ourselves that even respected academics occasionally plagiarise, and sometimes deliberately. Mark van Hoorebeek³⁶ brilliantly demonstrated how it was possible to get an article into an international refereed law

³⁵ See above n 31, 241.

³⁶ Mark van Hoorebeek 'Part One: Turnitin and the Perils of entering the Evil House of Cheat at Cheathouse.com; Part Two: Hold the E-mails: "Senior academic Caught by New Anti-Plagiarism Software"' (2003) *The Law Teacher*, Vol 37 No. 2

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journal by copying chunks from other people's work, initially without acknowledgment. He deserves the last word – or to be precise, his original source, Sommers³⁷ does.....

Stopped by Plagiarism, on a Snowy Evening

Whose words these are I think I know
(They're surely not this student's, though)
Apparently his time's too dear,
And composition far too slow.

The little jerk may think it queer
That I would have a problem here
And ask for work that's sure to break
His comfortable routine this year.

Another painful call to make
To ask if there is some mistake.
Will he deny, or maybe weep,
And threaten then his life to take?

This unclean harvest I must reap
For I have deadlines I must keep;
And piles to grade before I sleep,
And piles to grade before I sleep.

³⁷ Dallas Sommers, 'Stopped by Plagiarism on a Snowy Evening'
<<http://f05n16.cac.psu.edu/cgi-bin/wa?A2=ind0111&L=c18-l&O=A&P=25024>> at 23 February 2007.