

# Plagiarism Proceedings in Higher Education – Quality Assured?

**Martin Jones**

*Glasgow Caledonian University, UK*

## **Abstract**

The ongoing development and maintenance of academic standards within UK higher education has become an increasing feature of academic life and in recent times has become synonymous with the phrase quality assurance. The adoption of national qualification frameworks, benchmarks and codes of practice all underpinned by a system of review goes a long way to satisfy employers and the public in general of the veracity of a UK degree, irrespective of the awarding body.

There is, however, a question mark over whether such quality assurance processes governing institutional plagiarism policies and procedures have kept pace with the threats to academic integrity that plagiarism in the Internet age has brought. It is acknowledged that many institutions have, in recent years, revisited and revised their academic regulations to deal with these emerging challenges but this has largely been undertaken in isolation and has created diversity in practice. Such diversity may lead to inconsistent treatment of students from institution to institution and may also have legal implications.

This paper analyses the academic regulations from Scottish universities where law is taught. It also draws on plagiarism statistics gained under The Freedom of Information (Scotland) Act 2002 from the same institutions. It argues that the coordination of the HE sector in the context of plagiarism should go beyond that already established in the provision of electronic detection tools and the

Martin Jones, School of Law and Social Sciences, Glasgow Caledonian University, Cowcaddens Road, Glasgow, G4 0BA, UK. Email: <a href="mailto:m.jones@gcal.ac.uk">m.jones@gcal.ac.uk</a>
---

dissemination of good practice via JISCPAS and QAA. Standardising academic policy and procedural regulations, albeit not an easy process, would help to ensure the quality expected by students, employers and the public in general.

## 1. Introduction

The inspiration for this paper stems from a change of employer a couple of years ago from a university in England to one in Scotland. The experience of witnessing the operation of plagiarism procedures across the two different institutions raised a number of significant issues. Differences that may exist in terms of methods of detection, such as the implementation of electronic methods, were not, however, the major concern. Such divergences may exist in any event within an institution, either between modules or even across members of a module team depending upon individual staff attitudes or the individual reserves of tenacity available to collate the evidence required in order to sustain an allegation of plagiarism (Larkham and Manns 2002). That is not to discount the effect of such differences on the equality of the student experience but to emphasise that the exploration of these issues is outside the scope of the current paper.

The concern addressed here is centred on the institutional definitions of plagiarism, the procedures formulated to deal with allegations and the penalties for a breach of the regulations. Over the past two years, there was a nagging feeling that if the same allegation of plagiarism was placed before my current and former employers, there would be very little to guarantee that the outcome would be the same.

Given the potential effect on not only the law student's academic career but the repercussions for those wishing to pursue a career in professional practice there is a need to examine more closely the regulation of plagiarism across the sector. To date, concerns about plagiarism in the Higher Education community have tended to focus on the establishment of electronic detection methods and the development of Teaching and Learning strategies to either design out opportunities for plagiarism (Carroll 2002) or develop student's referencing skills. In addition, with so much focus on the maintenance and enhancement of quality across HE over the past couple of decades, there might be a danger that divergence in plagiarism practice begins to undermine some of this work. There is an argument to be made that professional bodies might also seek to ensure a more uniform approach to the notion of academic dishonesty

In an attempt to move this general feeling of disquiet on to a more research based footing, a twofold strategy was adopted. An examination was made of the academic regulations adopted to deal with instances of academic

dishonesty by the ten institutions currently running a LL.B in Scotland (Glasgow, Glasgow Caledonian, Strathclyde, Napier, Edinburgh, Stirling, Abertay, Dundee, Robert Gordon and Aberdeen Universities). This represents four 'new' and six 'old' universities. In parallel, an attempt was made using the provisions of The Freedom of Information (Scotland) Act 2002 to discover the extent to which these regulations were being breached.

## 2. Recorded Instances of Plagiarism

The provisions of the Freedom of Information (Scotland) Act 2002 provide a mechanism to gain access to recorded instances of plagiarism at universities across Scotland. Information requests were sent to the ten relevant institutions in early February 2006 and for the most part the responses were sent within the required statutory time limits. It was felt that this was an efficient way of quickly gathering data although admittedly it may have placed an extra pressure on academic colleagues to comply in such a short space of time.

This is a method that has been employed in the past by The Times Higher Education Supplement (Tysome 2005) to produce information on institutions and levels of plagiarism. It is perhaps a measure of the sensitivities involved with this subject that one institution sought to

restrain the further dissemination of their figures by including a copyright notice in their letter. Copyright protection may extend to database entries as mundane as instances of plagiarism under s.3A(2) Copyright Designs and Patents Act 1988 'if and only if they constitute the author's own intellectual creation'. As the figures were compiled to meet a specific response to a third party request, it is arguable whether a copyright is created in this instance and in any event such a constraint runs counter to the spirit of freedom of information. It has never been the intention of this paper to present the figures in a manner that would purely make good copy. Analysis of the returns will be given without recourse to identifying individual institutions.

It was clear from the speed of some of the responses that the information had already been collated and was readily available. Others indicated that the recording of plagiarism breaches was not mandatory across its departments (although in that case the Law School in question did keep such information) or that a register was only maintained for the more serious instances. Glasgow Caledonian only began systematically recording such information during the current academic year and therefore fell outside the survey. These different approaches have an impact when attempting to compare the data returned from institutions. As such, there needs to be a health warning placed on drawing too many conclusions from the data presented here. More importantly, such differences in recording, if extended to student files, may mean that there could be inequalities for the future. Two students at different institutions who have

been found to have plagiarised may receive very different references a couple years after graduation as a result.

One institution indicated that because there were such a small number of students involved, the exact numbers for each year were withheld to prevent the identification of individuals. It is submitted that the provisions of the Data Protection Act 1998 should achieve this without the need to restrict the reply to the information request and such an approach – whilst perhaps overly cautious – is again an indication of institutional sensitivity to the issue.

The request for information was fourfold:

- Total numbers of undergraduate students found to have breached university regulations relating to plagiarism in each of the academic years 2002-2003, 2003-2004, 2004-2005.
  
- Total numbers of postgraduate students found to have breached university regulations relating to plagiarism in each of the academic years 2002-2003, 2003-2004, 2004-2005.
  
- Total numbers of undergraduate law students (where law is the major part of the academic award) found to have breached university regulations

relating to plagiarism in each of the academic years 2002-2003, 2003-2004, 2004-2005.

- Total numbers postgraduate law students (where law is the major part of the academic award) found to have breached university regulations relating to plagiarism in each of the academic years 2002-2003, 2003-2004, 2004-2005.

Across all subject areas, there were 1340 instances of plagiarism recorded by the selected Scottish institutions during the specified period. The general trend during the period 2002-2005 in terms of frequency of occurrence is, not surprisingly, on an upward trajectory and mirrors the concerns that have been expressed in the academic community during this time. This trend is reflected in the global figures for all subjects and also those specifically for law at undergraduate and postgraduate level.

	2002-2003	2003-2004	2004-2005
All UG Students	213	273	340
All PG Students	63	68	191
UG Law Students	8	7	54
PG Law Students	1	2	22

Table 1: Total recorded numbers of students who have breached academic regulations relating to plagiarism in Scottish Universities where law is taught.

When examined in closer detail, it is noticeable from Table 1 that the rate of increased incidence has been gradual in the global figures for all students but in the law subject area at both undergraduate and postgraduate levels there has been a sharp increase between the academic years 2003-2004 and 2004-2005. There was nearly an eightfold increase in instances of undergraduate law plagiarism and postgraduate instances increased eleven times during this period. It is not really possible to speculate fully as to the reasons for this increase at this stage without gathering further information from the institutions involved e.g. whether there was a widespread introduction of electronic detection aids between the academic years in question. In addition, one institution changed the way it recorded information at this time which may partially explain the steep increase in that particular case. It must also be noted that not all institutions showed such an increase. Between 2003-2004 and 2004-2005, two institutions (one 'new' and one 'old') actually showed a slight decline.

One issue that might cause some debate is the breakdown of figures between 'old' and 'new' institutions. As shown in Table 2, there appear to be many more recorded instances in the post-1992 institutions. This is certainly a matter that might provoke heated debate, albeit again with the caveat that there is no universal methodology for recording this data. Are



the figures reflections of the seriousness that the more traditionally teaching-oriented institutions attach to the plagiarism problem? Could there be a correlation between the high incidence of plagiarism and those most committed to widening access? There might be more than enough information to fuel a variety of viewpoints in discussion.

All Subjects	Undergraduate	Postgraduate
Total 'New' Universities	656	280
Total 'Old' Universities	352	52
Mean Per 'New' University	218.7	93.3
Mean Per 'Old' University	58.7	8.6

Table 2: Breakdown between pre and post-1992 institutions of recorded numbers (2002-2005) of all students who have breached academic regulations relating to plagiarism in Scottish Universities where law is taught.

The picture regarding the breakdown of the figures between 'old' and 'new' institutions is more mixed when considering law subjects in Scotland. One institution from the pre-1992 sector indicated that it had not recorded a single instance of plagiarism in law during the three academic years in question. The institution with the next lowest incidence reported (one) was, however, from the post-1992 category. When considering the breakdown shown in Table 3, the differences across the sector in law are

not as stark as they at first appeared when all subject instances of plagiarism were considered.

Law Subject Only	Undergraduate	Postgraduate
Total 'New' Universities	20	12
Total 'Old' Universities	49	13
Mean Per 'New' University	6.7	4
Mean Per 'Old' University	8.2	2.2

Table 3: Breakdown between pre and post-1992 institutions of recorded numbers (2002-2005) of law students who have breached academic regulations relating to plagiarism in Scottish Universities where law is taught.

The complicated picture is also highlighted by the fact that the institution recording the highest incidence of undergraduate plagiarism was 'old' whilst the institution recording the highest number of postgraduate incidents was 'new'.

### 3. Examination of Plagiarism Regulations

When examining the regulatory practices adopted by the selected Scottish institutions to deal with plagiarism, it is clear that many have revisited and amended them since the turn of the decade. For the purposes of this paper, the information was taken from freely available sources on the websites of the universities concerned. What emerges is a picture of complexity and difference but which has potentially far reaching implications for what it is that is finally awarded to students as a law degree.

There is no unified model to describe the operation of plagiarism regulation. Differences occur in terms of definition, process and penalty. That is not to say that the sector is devoid of commonality. There are overlaps between the regulations adopted by Glasgow and Glasgow Caledonian and also for example between Strathclyde and Dundee. Instances also exist where one institution appears to have borrowed heavily from the regulations adopted elsewhere. This approach, had it been adopted by a student, may well have been highlighted as a plagiarism issue as evidenced by the following extracts from the relevant regulations:

Original:

The primary responsibility for detecting all forms of plagiarism rests with teaching staff, though on occasion it may be detected or substantiated by others such as an invigilator or external examiner. Where a *prima facie* case is detected...

Copy?:

The primary responsibility for detecting plagiarism has to lie with teaching staff, though on occasion it may be detected or substantiated by an external examiner. Where a substantive case is detected...

Each university effectively has its own freedom to define the nature of academic dishonesty, the process for dealing with it and the penalties for infringement. It might be possible to see a parallel with the way in which different jurisdictions choose to deal with regulating behaviour that is universally accepted as criminal such as theft. Despite a broad consensus that might exist as to the key elements of the crime it is accepted that globally, outcomes may vary for the same offending behaviour between countries. A law student in Scotland might though reasonably expect parity of treatment for plagiarism infringement at whichever university it occurs.

There are many variations in the detailed regulations as to what constitutes plagiarism. All do agree though on the point that it involves the incorporation of another person's text without acknowledgement. Even at this level, it is not a uniform approach. Edinburgh, for example, stipulates that it is 'without adequate acknowledgement'. Glasgow Caledonian defines it as 'substantial unacknowledged incorporation'. Beyond this, the approach taken varies to the extent that Dundee and Strathclyde only

require that there be a threshold of more than a single copied phrase to show that a student has plagiarised. Abertay introduces a greater degree of discretion by requiring that the copying be to an unreasonable extent.

One of the key elements of a number of regulations is the classification of academic dishonesty as being of a major or minor nature. Such a classification can have an effect on process (e.g. whether to proceed to a full hearing) or ultimately penalty. Fundamentally, some institutions, such as Glasgow, define in detail what might constitute a major infringement and take into account the level of study, whereas it is more a matter of individual discretion in others (e.g. Strathclyde). In a number of institutions, if classified as minor, the matter will remain within the relevant department and be dealt with by an individual without a hearing (Napier) or, in the case of Stirling, dealt with by correspondence. At Glasgow Caledonian, minor issues remain in the department with a hearing. In the absence of the type of definitional guidance offered by Glasgow, the opportunity to introduce discretion into the process raises issues as to how it is being exercised.

The establishment of culpability also highlights major differences between the universities. For some, such as Strathclyde, the existence of intention is considered at the outset and determines whether or not to instigate disciplinary proceedings. Edinburgh on the other hand makes it clear that plagiarism exists even if there is no deliberate intention to cheat. Additionally, the existence or absence of intention might be of relevance

when it comes to considering penalty. If there is no intention to deceive, a student at Abertay may only receive a warning. Stirling University's regulations make it clear that a hearing establishes facts and determines culpability. Motivation in this context is not relevant and the offence becomes one of more strict liability.

There are also differences in the standard of proof required by institutions in order to sustain an allegation of plagiarism. Abertay and Glasgow adopt the standard of the criminal courts that the matter is proven beyond reasonable doubt. In Robert Gordon and Strathclyde, the requirement is based on the balance of probability, which is a lower standard. Elsewhere (as it is not specified), it is presumed to be a matter of discretion for any disciplinary panel. The potential effects of such divergences on student outcomes are huge.

Clear differences also exist in the penalties awarded. Stirling has a strictly defined graduated scale of penalties for a range of misconduct where there is very little discretion for those who decide the matter. Aberdeen has a strict penalty for first offences where the mark is reduced to zero and at the other end of the infringing scale, Robert Gordon has an automatic expulsion for third offences. The use of major/minor classification of offences at some institutions has a bearing on penalty. Typically, there is a ceiling placed on penalties of a minor nature. In this context, Napier and Glasgow Caledonian specify that for such infringements there will be at

most a reduction in marks. Once again the introduction of discretion raises questions as to how it is applied.

#### 4. Legal Implications

Whilst this paper has focused on Scotland, a cursory examination of plagiarism regulations across the rest of the UK appears to suggest that a similar level of divergence applies more widely. Institutions throughout the UK need to bear in mind that although they have the power to define their regulations relating to discipline, the operation of those rules can be open to challenge. In the context of an increasingly expensive and consumer driven system of Higher Education, it should not be underestimated that students might seek to challenge disciplinary procedures and might increasingly consider the use of lawyers. Some solicitors such as the firm of Match have begun to target this niche market and now openly advertise their services to students via the Internet ([matchsolicitors.com](http://matchsolicitors.com)). In England and Wales, the first two appeals to be decided by The Office of the Independent Adjudicator for Higher Education following its establishment in 2004 both concerned plagiarism. The potential for plagiarism regulation to provoke legal conflict has been recognised by Robert Gordon, which makes specific mention in its regulations of the opportunity for lawyers to be present at hearings.

Although it must be remembered that Scotland has a separate legal system, there are broad issues of public law applicable throughout the UK. In

general, the lawfulness of decisions adopted by public bodies such as universities can be open to challenge via the courts. Judicial review might provide an avenue for the student to challenge the way in which a decision concerning them was made. This does not therefore give rise to the opportunity for the student body in general to challenge the fact that their institution has in place regulations that might be perceived to be more rigorous than the university down the road. It might be possible to claim that an individual decision is so irrational that no reasonable institution could have made it. This could in theory relate to the harshness of penalty. From the research contained in this paper there does not appear to be an institution that could be perceived to be out of step with the rest of the sector in terms of the harshness of its penalties, thus making challenges on that basis difficult. Where universities might be particularly vulnerable to a challenge is in the application of the processes defined in their regulations.

Judicial review could be seen as a way in which the courts ensure that there is fair play and this is reflected in the rules relating to natural justice. In making decisions concerning plagiarism, institutions must ensure for example that bias is eliminated, and the student concerned has a right to a fair hearing. These issues have in the main been carefully considered by institutions and are reflected in the regulations. Glasgow specifically states that at all times the rules of natural justice should be observed. The composition of a disciplinary panel is carefully considered in the case of Edinburgh, where it is made up of academics from a different subject area



to the student. Elsewhere, it is conceivable for there to be a problem where the disciplinary panel is made up of academics from the same subject area as the student. It is possible that a student who had been the subject of plagiarism hearings in the past but who had not been found to be in breach might be compromised here. It might be prudent to adopt the Edinburgh model more widely.

It does not necessarily follow that the right to a fair hearing will mean that the student is entitled in law to a face-to-face hearing. Some institutions such as Stirling deal with minor cases in writing. Provided that the opportunity has been given to the student to make a written submission in response to the allegation, it could be argued that the requirement has been met. This approach might in any event be the only practical option in the case of an overseas student.

As a matter of course, each institution will make its disciplinary regulations available to students. As such this will give rise to legitimate expectations as to how an allegation of plagiarism will be handled. Deviations from this published process may also give rise to a challenge. At Glasgow, in addition to the regulations, which like most institutions tend to be legalistic in nature, there is a set of guidance notes to be used by staff to help ensure that published procedures are followed.

There is, however, nothing new in the idea that disciplinary decisions relating to plagiarism adopted by universities might be open to challenge

in the courts. The case of *R v Cambridge University Ex p. Beg* [1999] E.L.R. 404 concerned a student who unsuccessfully alleged that the composition of his disciplinary appeal panel was a breach of natural justice in that he would not receive a fair trial. Nor are such cases confined to the UK. In *Flanagan v University College Dublin* [1988] I.R. 724 the judge indicated that plagiarism disciplinary procedures should approach those of a court hearing. The question that remains to be answered is whether universities invest enough resources in staff development to ensure that those involved with the conduct of disciplinary hearings are fully aware of the legal consequences of their actions.

One important aspect in relation to judicial review is that an applicant must be wary if an alternative remedy exists. In this context that would include exhausting university appeals processes before embarking on a legal challenge. It is unclear at this stage as to the precise relationship between the Office of the Independent Adjudicator and judicial review. A judge may refuse to hear a case when such an avenue remains open to the student. Whether the OIA itself is subject to review is a matter that the courts have so far resisted. It is also unclear as to the extent of the role of the Public Services Ombudsman in Scotland.

A student challenge might also utilise the provisions of s.6 Human Rights Act 1998 that places an obligation on public authorities to act compatibly with the European Convention on Human Rights. Art 6 of the Convention specifies the requirement for a fair trial. Although this may be seen to be

reflected anyway in the principles of natural justice, it must be remembered that such breaches make damages more likely.

## 5. Concluding Remarks

Following an examination of the selected Scottish institutions, the picture that rapidly emerges is that there is very little consensus between institutions as to how to deal with an allegation of plagiarism. Such multiplicity in approach will inevitably lead to a situation where similar allegations will be treated very differently from university to university. Such influence on student outcomes might be supported by the fact that one institution whose regulations contained a high degree of discretion was unique in that it did not record a single instance of plagiarism in law during the three academic years of the survey. This could be explained by other factors but it perhaps highlights a need for more detailed research on the operation of plagiarism regulations. If an institution is perceived to be more forgiving of plagiarism it might bizarrely become an influence on recruitment for a particular type of student.

In the main, most students and their prospective employers are keen to know that there is a broad parity in the value of a degree irrespective of the awarding body. This is of particular concern in areas such as law where professional bodies will accredit the awarding of a degree. It is not inconceivable that pressure might be applied from such sources to ensure that there is a more common approach to dealing with instances of

plagiarism. In law, such breaches relating to dishonesty may make it impossible for the student to enter the profession.

To suggest, however, that there might be a need for a unified approach may appear to begin to encroach on the autonomy of an institution to adopt its own methods of governance and discipline. The issue of plagiarism and its regulation requires to be seen as a quality issue which to date has received little attention from QAA. In its Code of Practice on Assessment, institutions are merely required ‘...to have effective mechanisms to deal with breaches of assessment regulations, and the resolution of appeals against assessment decisions.’ It is therefore not surprising how the current situation has arisen. Universities are already governed by standardised qualification frameworks and subject benchmarks and in many ways to extend this approach to plagiarism could be seen as just a continuation of an established process.

It is possible that more frequent legal challenges to institutional policies may provoke a defensive discussion within the sector and ultimately the adoption of a more common approach but it is hoped that the issue of divergence is one which the HE sector addresses before that stage arrives.

## References

Carroll, J. (2002) *A Handbook for Deterring Plagiarism in Higher Education*, OCSLD

Glasgow Caledonian University, *University Regulations Regarding Cheating and Plagiarism*

[http://academicadmin.gcal.ac.uk:90/Pages/AADocums/regs\\_appendices.html](http://academicadmin.gcal.ac.uk:90/Pages/AADocums/regs_appendices.html)

(Accessed on 22/03/06)

Larkham, P. and Manns, S (2002) *Plagiarism and its Treatment in Higher Education* Journal of Further and Higher Education, Vol.26, No.4, 2002

Napier University, *Plagiarism Code of Conduct*

<http://www.napier.ac.uk/depts/registry/Regulations/ApprovedCodeofConduct%2BflowchartMay05.pdf>

(Accessed on 22/03/06)

Office of the Independent Adjudicator for Higher Education, (2004) Press Release, Issued 25 November 2004

[http://www.oiahe.org.uk/docs/OIA\\_PR\\_251104.pdf](http://www.oiahe.org.uk/docs/OIA_PR_251104.pdf)

(Accessed 17/06/06)

QAA (2000) *Code of Practice for the Assurance of Academic Quality of Standards in Higher Education, Section 6 Assessment of Students*, May 2000

<http://www.qaa.ac.uk/academicinfrastructure/codeOfPractice/section6/default.asp>

(Accessed 17/06/06)

Robert Gordon University *Disciplinary Procedures for Academic Misconduct*

<http://www.rgu.ac.uk/files/ACF5ED1.pdf>

(Accessed on 22/03/06)

Tysome, T. *Fraud Booms Worldwide*, The Times Higher Education Supplement, 5 August

<http://www.thes.co.uk> (Accessed 17/06/06)

University of Aberdeen (2005) *Code of Practice on Student Discipline*

<http://www.abdn.ac.uk/registry/quality/appendix5x15.pdf>

(Accessed on 22/03/06)

University of Abertay Dundee, *Academic Deceit Policy and Procedures*

<http://quality.tay.ac.uk/Modular/academic%20deceit%20policy.doc>

(Accessed on 22/03/06)

University of Dundee, *Code of Practice on Plagiarism & Academic Dishonesty*

<http://www.somis.dundee.ac.uk/academic/Plagiarism.htm>

(Accessed on 22/03/06)

University of Edinburgh, *Undergraduate Assessment Regulations*

<http://www.aaps.ed.ac.uk/regulations/Plagiarism/Intro.htm>

(Accessed on 22/03/06)

University of Glasgow, *Plagiarism Statement*

<http://senate.gla.ac.uk/discipline/plagiarism/>

(Accessed on 22/03/06)

University of Stirling, *Academic Policy Assessment, Plagiarism in Undergraduate Coursework and Dissertations*

<http://www.quality.stir.ac.uk/ac-policy/PlagiarismUG.php>

(Accessed on 22/03/06)

University of Strathclyde (2001) *University Procedures and Guidelines Dealing with Instances of Academic Dishonesty*

<http://www.mis.strath.ac.uk/Secretariat/Publications/general/procedures/academic-dishonesty.pdf>

(Accessed on 22/03/06)