

CAFAS Update No 25

7 October 1999

Council for Academic Freedom & Academic Standards

Next Meeting:

Saturday 23 October, 2.00-4.30pm

*Room MB307
Birkbeck College
Malet Street
London WC1*

Underground: Goadge Street, Euston Square, Euston

Cambridge Pursues Costs

Cambridge University is demanding that Gill Evans pay the second and third instalments of court costs awarded against her earlier this year. She has been asked to send a cheque for 3,078.65 immediately and then to pay the final instalment by 2 October 1999 or the university will try to get interest as well.

Gill had earlier offered to settle the costs question by paying £3000 into a fund for students. That £3,000 is in the university's hands, but it is keeping it for itself.

Gill is not going to pay what they are demanding, and we shall see what happens.

This is the first time the University has pursued a member of its staff or a student for costs.

On 24 September Cambridge University was found guilty in a

criminal prosecution over loss of a radioactive isotope. The £22,080.49 costs awarded against the University plus its own costs, which it is trying to keep a secret, are not to be taken from the head of the Biochemistry, who is responsible for Health and Safety in his department. One law for the big leading players, another for the rest of us.

Sensitivity over natural justice and fairness in procedures is such at Cambridge that the University is attempting to prevent a member of Council making a disclosure about unjust treatment of a member of the assistant staff, on the grounds that it would be a serious matter and would conceivably be regarded as a breach of confidence.

The report on Cambridge underlines how the introduction of the market into education erodes accountability and safety.

Employment Tribunal To Sum Up

An employment tribunal will be summing up the case of Mary Murphy v the London Borough of Hackney at 10.00 a.m on Monday 8 and Tuesday 9 November 1999 at the Employment Tribunals Regional Office, 19-29 Woburn Place, London WC1H 0LU, tel: 0171 273 8603. The Chairman is

Mr D Pearl and the summing up will probably be in Court 3 in the basement. Please check at reception. Members are urged to attend in support.

The Battle Continues

Contrary to what the headline in *CAFAS Update No. 24* may have suggested, Ursula Riniker's case for reinstatement is by no means over. Although she won an interlocutory appeal on a side issue in the Court of Appeal on 31.3.99, with costs awarded against University College London, the substantive hearing of her case in the Employment Tribunal is yet to take place, after a total of some 6 1/2 years of delay so far by the Employment Tribunals and the Employment Appeal Tribunal. and the Independent 29 April 1999 (see below).

Employment Tribunal: S Sengupta

ON Monday 22nd March 1999, the five day hearing set for S Sengupta v. London Borough of Tower Hamlets was adjourned by the Chairman until November 1999 on the ground that it will take 10 days to hear it. The Chairman agreed to discovery. The Chairman's proposal was agreed by the Respondent's and Mr Sengupta's counsels.

Mr Sengupta's case dates back to 1992. He lodged his tribunal case in January 1997. Like others who have been forced to endure lengthy litigation, he has found that: "Justice delayed is justice denied."

REPORT FROM PUBLIC POLICY SECRETARY

Student matters

A CAFAS student representative, Gill Evans and Don Staniford had

a good frank meeting at the DfEE on student complaints procedures and related issues.

Disability issues

Cedric Pugh and the group of academics pressing for improvements for disabled academics, with Gill Evans, also had a meeting at the DfEE.

Accountability

Our project to get together a cross-party group of MPs to tackle the

problem of lack of accountability we all face is moving steadily along, with a series of planning meetings.

Cambridge students speak for themselves

Cambridge students are planning to use their right to make speeches in the Senate alongside academic staff to get various things moving this term. GRE

The Independent

Court's power to correct error in writ

THURSDAY LAW REPORT

29 APRIL 1999

Riniker v University College London
Court of Appeal (Lord Justice Evans, Lord Justice Schiemann and Lord Justice Clarke)
31 March 1999

THE COURT had power under the inherent jurisdiction to order that a writ which, owing to an error on the part of a court official, had not been issued on the correct date should be deemed to have been issued on the correct date.

The Court of Appeal allowed the appeal of Ursula Riniker against the refusal of her application that the date on a writ issued by her be changed.

The plaintiff wished to commence proceedings claiming damages against the defendant. She was aware that the limitation period for some of her claims might expire on 5 August 1998 and was concerned to issue proceedings before that date as a holding measure.

She drafted her claim herself and attended at the writ office, where she was told that it was in suitable terms to be endorsed on a writ. She therefore posted a draft writ with the appropriate fee to the Action Department, which received it on 28 July 1998. In her letter she asked that the writ be issued immediately on the day of receipt.

The draft endorsement ran to 1 1/2 pages of typescript, and the clerk in the writ section thought that it was intended to be or should be regarded as the Statement of Claim. The draft writ and cheque were returned to the plaintiff, with the comment, "Your writ must be headed up Statement of Claim." The plaintiff did not receive them until 9 August.

The next day she returned the writ, explaining the error and asking that it be issued im-

mediately with the date of issue 28 July 1998, i.e. the day the department had first received it. The writ was issued with the date 14 August. The plaintiff complained, but the senior master felt unable to change the issue date. The plaintiff's application for an order of the court enabling the writ to be treated as if it had been issued on the earlier date was refused, the judge holding that he was bound by the decision in *Harrison v Touche Ross* (Times, 14 February 1995). The plaintiff appealed.

The plaintiff appeared in person; Paul Epstein (Wilde Sapte) for the defendant.

Lord Justice Evans said that in the present case, the draft writ had been in custody of a proper officer of the court on 28 July and it was now accepted that the endorsement was in proper form. In those circumstances, the issue of the writ could not be refused, and the writ could and should have been issued then. The failure to do so was entirely the respon-

sibility of the official in the Action Department.

The court did have power to make the kind of direction sought by the plaintiff. That power should be ascribed to the inherent jurisdiction of the court rather than to the specific authority given by Order 2 rule 1 of the Rules of the Supreme Court, although the closing words of Order 2 rule 1 (2) were wide enough to give that power unless rule 1(1) were interpreted narrowly as applying only to failures by the parties and not by the court.

In that case, however, the possibility of error for which the court was responsible was left to its inherent jurisdiction to remedy. The inherent jurisdiction was reflected in the pre-1965 practice described by Stamp J in *Re N (infants)* [1967] 1 All ER 161, and it continued, in suitably limited circumstances, today.

It had been submitted for the defendant that, if the court had jurisdiction to make an order in the plaintiff's favour, it should not exercise that power, since she had delayed issuing proceedings until the very end of the six-year period, of which she was well aware. She had taken the risk, by using the postal procedure, that something might go wrong.

However, there was no reason why the plaintiff should be punished for the error of an officer of the court. Accordingly, the writ, although issued and dated 14 August, should be deemed for all purposes to have been issued on 28 July 1998.

KATE O'HANLON,
Barrister

Some Observations regarding *Investors in People UK*.

Investors in People UK sells itself as a body that "delivers genuine business benefits to organizations which achieve the Standard" — a Standard publicized as "continuous learning and improvement by quality standards".

Recent editions of *CAFAS Update* have carried 'notices' suggesting a means 'to voice concern about institutions not deserving the title', recommending the reader to write to the 'Practitioner Development Manager' of *Investors in People UK*.

So I wrote to the 'Investors', briefly described how my last employer 'prepared' staff for Investors investigators — specially convened staff meetings where employees were urged to avoid talking with the visitors, who should be referred to a line manager!. If 'an interview' proved unavoidable, individuals were reminded it was never 'in order' to make *critical* remarks about the College (such behaviour would be viewed as 'disloyalty'); interviews that could not be avoided were to be recorded, and passed to the appropriate departmental head. [Subsequently, the College has produced a 'form' for such occasions — as, for example, when OFSTED inspectors visit!]

After briefly mentioning the College's fabrications used to sack me — and the subsequent Industrial Tribunal that 'advised' the College to settle — I summarized two earlier 'clashes' with the College, which I believed *must be* of relevant interest to the *Investors in People UK*:

1) The nepotism whereby teachers are appointed because they have a 'friend' in management. Specifically, I complained that such an unqualified person had been engaged to teach A level psychology. After she confessed to her students, quite openly, that she had never studied the subject, but that she and the 'one-year'(!) class "would work through the textbooks together"(!), the class of mature students, *en bloc*, occupied the office of the Head of Department and successfully demanded that I teach *both* classes.

2) On three occasions I objected to the active resistance of the College to 'failing' students caught cheating in examinations/assessments. In two cases, the students were on *Access to Higher Education* courses. On one occasion, the College attempted to 'get around' the 'problem' by finding 'another

psychologist' to mark the queried work; when the 'other psychologist' supported my assessment, *Access* rules were ignored and the student asked to submit a history essay, outside of time, instead. College policy appeared to be dictated purely by finance — a 'failed' *Access* student meant a loss in income.

Another student had plagiarized about three thousand words from an old journal. I picked it up and failed him. "Maybe he hadn't understood he was 'cheating'", I was told. I 'won' *this* argument by threatening to write direct to the Examining Board.

I hoped the *Investors in People UK* would 'check out' my allegations — much of the documentation required was already prepared (for my Tribunal!). I concluded my letter to the 'Practitioner Development Manager' thus:

"Assuming my complaints fall outside your 'area of interest' — and not meaning to be offensive — that probably tells us something about *Investors in People UK*"

Two weeks later, I received my reply:

"I sympathize but as you mention in your letter, the allegations in points 1) and 2) are outside the remit of what the *Investors in People Standard* asks of organizations In essence the *Standard* relates to how an organization trains and develops its employees in relation to its overall business objectives. *It does not cover how an organization conducts its business.*" (my emphasis, B.P.)

I imagine that *CAFAS* readers will agree with me; the reply tells us all we need to know about *Investors in People UK*.

Bob Potter

NOTICES

Investors in People

If you wish to voice your concern about an institution you know does not deserve the title, please write to: **Julie Sullivan**
Manager
Practitioner Development
Investors In People UK
7 - 10 Chandos Street
London W1M 9DE

CAFAS ON THE WEB

<http://www.cafas.org.uk>

CAFAS is now on the web via the commercial server of Bournemouth University. The address is <http://www.cafas.org.uk>. The cost is £200 plus. Suggestions on what should go in it include: the constitution, the committee, dates and venue for meetings, extracts from Update (with agreement of members concerned).

BAD E.T. EXPERIENCES?

Could members who have suffered bad experiences with Employment Tribunal Chairs and/or with costs awarded against them please send details to Dr Gillian Evans, Faculty of History, University of Cambridge, West Rd, Cambridge CB3 9EF who is collecting information on these as evidence for an inquiry into Employment Tribunals.

CAFAS Publications

We need to send a copy of all CAFAS booklets to five libraries.

Unfortunately, we have sold out of Report 1: Michael Cohen & Colwyn Williamson, *Academic Standards Under Pressure: The Case of Swansea*, CAFAS and Report 2: Michael Cohen & Colwyn Williamson, *The Other Plagiarism Case: Mrs Jones and the University of Wales*: CAFAS. We would be very grateful if any members who have spare copies or who are prepared to release their own copy could contact Dr Bob Potter, 98 Addison Road, Hove, BN3 1TR. Tel: 01273 203 545.

Members who have monies from selling publications or recruiting members, please send to the Membership Secretary & Treasurer, Bob Potter.

Agenda for 23 October

1. Minutes
2. Matters arising
3. Officers' reports
4. Case reports
5. AOB

There will be an officers' meeting in Room MB307 at 1 p.m.

Informal lunch and chat from 12 noon in the nearby cafeteria, first floor Students Union building, Malet Street. All welcome.

Committee

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Dept of Applied Psychology,
Bournemouth University BH12 5BB
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dheathco@bournemouth.ac.uk

Students' Complaints:

Please contact the Secretary.

CONSTITUTION

CAFAS' aims are outlined on the membership form. The full constitution can be obtained from the Secretary.

CAFAS was founded in March 1994. It depends on subscriptions and an active membership. It meets in January, April, July and October.

What CAFAS stands for:

CAFAS welcomes widened access to further and higher education. But expansion without a corresponding increase in funding and the attempt to run education on commercial principles have led to standards being undermined and to staff who protest being victimised. Many are too demoralised, or too pressured by inadequate resources, to challenge the decline; others are fearful of redundancies or intimidated by the threat of victimisation.

CAFAS faces the fact that the British educational system is decaying. The Council will not collaborate with the pretence that this is not happening nor will it compromise on the right to say so. The principle of academic freedom enshrined in the Education Reform Act 1988 - that "academic staff have freedom within the law to question and test received wisdom and to put forward new ideas and controversial or unpopular opinions without placing themselves in jeopardy of losing their jobs" - is increasingly under attack, particularly when staff expose instances of corruption and shoddy standards.

CAFAS

- * campaigns against the decline in standards
- * defends individuals against victimisation
- * gives moral support and legal advice
- * investigates malpractice and publishes findings
- * seeks to develop a support network with unions and other organisations

Everyone who shares these objectives should join and persuade their local union branch or association to affiliate. Affiliations from students are welcome.

Apology

In the course of the changeover of officers for Membership Secretary & Treasurer, there have been some unavoidable delays. We very much regret any inconvenience this may have caused to members and please accept our apologies.

Update deadline: 10 December 1999

Please send letters on any issue, news items and articles to:

CAFAS Update

7 Benn Street

London E9 5SU

e-mail: thorpe@lgu.ac.uk

Tel/Fax: 0181 986 3004

Disks & email are best. Disks will be returned.

Items in CAFAS Update do not necessarily reflect the views of the Council.

Report Order Form

Title	Authors	Report No	Price	Number required
The Other Plagiarism Case: Mrs Jones & the University of Wales	Michael Cohen & Colwyn Williamson	2	£1.50	
The Davies Report, The 'Great Battle' in Swansea	Sir Michael Davies		£4.00 or £3.00 to members	
Prospects of Promotion: Towards a common code of practice	G R Evans	3	£1.50	
Research assessment: as strange a maze as e'er men trod	John Griffith	4	£1.50	
Raising concerns and handling the consequences in Further and Higher Education	G R Evans	5	£3.00 or £2.50 to members	
Upward Appraisal in UK Universities	G R Evans & CAFAS Kevin Moloney	6	£1.50	
Nolan: what you need to know		7	£1.00	
			Total cost	

Please send to: CAFAS Treasurer: 98 Addison Road, Hove, Sussex. BN3 1TR

Your name.....
Address.....

..... Post Code..... Phone.....

Please enclose a cheque made payable to CAFAS Date Received...../...../.....

If you require a receipt please tick this box Date sent...../...../.....

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Your name.....
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If you require a receipt please tick this box Date sent...../...../.....

CAFAS Council for Academic Freedom and Academic Standards

PATRONS: Professors Geoffrey Alderman (Middlesex), Michelle Barrett (City), David Beetham, Leeds, Jennifer Birkett (Birmingham), Noam Chomsky (MIT, USA), G A Cohen (Oxford), J B Deregowski (Aberdeen), Ray Dils (Reading), Michael Dummett (Oxford), Terry Eagleton (Oxford), Chris Freeman (Sussex), John Griffith (LSE), Reuben Hasson (York, Canada), David Howell (Manchester), Richard Hyman (Warwick), J F Lamb (St Andrews), David McLellan (Kent), T J Reed (Oxford), Hilary Rose (Bradford), Steven Rose (Open), James Sang (Sussex), John Saville (Hull), Phil Scraton (Edge Hill), Stan Smith (Dundee), John Westergaard (Sheffield)

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Everyone who shares these objectives should join and persuade their local union branch or association to affiliate. Affiliations from students are welcome. For further information, contact the Secretary: **Dr David Heathcote; Tel: 01202595283; dhealthco@bournemouth.ac.uk**
Please photocopy this application for membership and distribute it among your colleagues. Cheques payable to CAFAS.

Send to Dr Bob Potter, CAFAS Membership Secretary, 98 Addison Road, Hove, Sussex. BN3 1TR

Name.....Address.....
.....Post Code.....Date.....
Telephone..... e-mail.....Specialism.....
I/we wish to join/affiliate to CAFAS and enclose a cheque for..... I wish to be active
(£10 p.a for individual membership, £5 p.a for students and unwaged, £25 p.a for trade union affil.)

Bankers Order please send to your bank

To (name & address of your bank).....
.....
Your Bank Sort Code.....Your Account Number.....
Please pay CAFAS the sum of.....every year from (date).....Signature.....

For Bank Information

Account: CAFAS Sort Code: 30-95-46 Account No: 0824135
Lloyds Bank plc, Swansea Branch, PO Box 66, Swansea SA1 3AP