

**Submission by Dr Andrew Stewart to the *Inquiry into Academic Freedom* by the Education, Employment and Workplace Relations Committee of the Australian Senate 2008.**

**Summary Recommendation of this submission**

**That a national Universities Ombudsman be appointed, funded by the Commonwealth, after consultation with the states and national representative bodies concerned with higher education, including staff and students, and that such an office have the power to investigate matters relating to the functioning and reputation of universities, the welfare of their staff and students, to investigate, conciliate and resolve complaints and to make recommendations.**

**1. Introduction**

In 2001 the Senate Committee on Employment, Workplace Relations, Small Business and Education tabled an Inquiry into Higher Education: *Universities in Crisis: Inquiry into the capacity of public universities to meet Australian's higher education needs.*

In examining the matter of Academic Freedom the Committee found:

*9.40 The Committee takes the view that universities cannot be relied on to maintain their own internal inquiries when serious issues arise which go to the core of academic freedom.*

The conclusions of the Committee which have achieved widespread circulation in the academic world are those that concern structural shortcomings related to governance and the handling of disputes:

*4.107 The university's traditional self-image as a 'community of scholars' and as body devoted to the free exchange of ideas is matched by the equally strong tradition of an institution fascinated with the exercise of power and the encouragement of personal and academic vendettas. In literature, the 'university novel' is a distinct genre. In reality disputes which occur in universities often have serious consequences for the personal and professional lives of academics and students. At stake is position or appointment or promotion, or a desired level of academic achievement or recognition. There is scope for corruption and for unprincipled behaviour generally.*

*4.108 The resolution of disputes depends on the adequacy of formal and accepted mechanisms for dispute resolution, as well as the managerial skill and judgement of those responsible for using these processes. From a council and executive perspective, what is most clearly at stake is the reputation of the university. More often than not this appears to be more important than justice to individuals. As recent events have demonstrated, however, indifference to principles of fairness has the potential to do far more harm to the reputation of a university than pre-emptive executive actions or attempts to suppress complaints or evidence of improper or unprofessional conduct.*

## **2. A recent case of structural shortcomings in the governance of a university that has had detrimental consequences for students and staff**

Sadly, the structural shortcomings in university governance that are identified in the extract above still exist. I describe an example of one of them and suggest a means that might help to stop problems of this nature recurring in the future.

I report events at the Australian National University where, from 1980 until 2005, I held a salaried academic position.

In 2000 and 2001 students in my department were subjected to practices (Appendix: The Pitchfork Rituals) of a bastardisation nature carried out by senior academics. My view was that the practices were, at best, inappropriate and degrading. As a result of representations that I made to senior ANU managers, the University carried out an investigation and ordered that the practices be stopped.

Local academic managers took action against me. I received an unfavourable performance review, being told that I was disruptive. This was the first step in a process that could lead to dismissal. I appealed against the ruling and it was quashed summarily and unanimously by an internal committee of appeal. This avenue of appeal has since been abolished by the university.

Next, I was transferred against my wishes out of my existing department into a non-existing (virtual) department. After two years of that tenuous existence I decided to accept an offer of early retirement. I agreed to this on the condition that I would receive a letter from the Vice-Chancellor commending the actions I had taken to protect the interests of students and apologising for the way I had been treated.

I asked a senior university manager if the university had issued an apology to the students who had been subjected to the rituals and if the university had taken steps to withdraw the offending report from circulation. He replied that it had not.

My assessment of the events that took place is that I was pressured into early retirement as a result of reporting senior academics who were mistreating students.

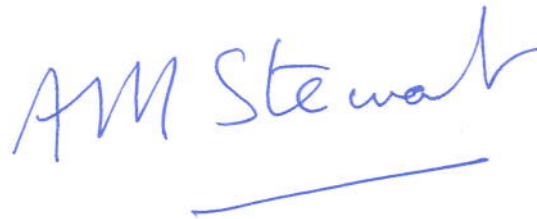
Staff now know what will happen to them if they report inappropriate conduct towards students by senior staff: so do students. Consequently, despite the pious hopes voiced in his letter to me of June 2005 by the ANU Vice-Chancellor, it is my belief that a culture has developed in that part of the University that can be perceived as being hostile to the welfare of students. Although the events I have reported took place a few years ago the cultural attitudes that they engendered are with us still.

One attribute of academic freedom is the ability to speak responsibly in public without fear of retribution from the individual's institution. However, academic freedom can reasonably be extended to cover immunity for speaking responsibly, through the proper official channels, within the institution itself. By that criterion my own academic freedom has been violated by the ANU in this matter and the staff and students of the university are the worse for it.

### 3. Recommendation

The types of conduct that I have described are best discouraged if there are known to be accessible mechanisms for investigating and exposing them effectively.

To do this, an independent investigatory body is needed that is knowledgeable about the functioning and culture of Australian universities and that can act as a mechanism for their quality assurance in the realm of ethics. It will be within the remit of this body to consider matters of Academic Freedom. Following the lead of the 2001 Inquiry of the Committee, I make the recommendation at the top of this submission to establish an Ombudsman for Universities.



Andrew Stewart 15 August 2008  
<http://grapevine.net.au/~a-stewart/index.html>

**Attachment:** Letter from ANU Vice-Chancellor to Dr A.M.Stewart of 22 June 2005.

#### **Appendix:** The Pitchfork Rituals

At the end of 2001, after failing to resolve the matter at a local level, I raised concerns with a senior manager of the ANU about practices that had taken place in a department of the Australian National University.

Academic managers of that department had organised practices (the Pitchfork Rituals) in which postgraduate students who were deemed to be falling behind in their work were required to stand up in front of a department meeting, bend over, have a pitchfork held close behind them and to listen to a 'comic' poem being read which, among other things, referred to postgraduate students as 'little shit's. Present at these department meetings were some twenty-five people ranging from undergraduate students to professors, including people of both sexes and from several cultural backgrounds. The scenes were photographed, and one of the photographs and the poem were published in a formal publication which was circulated outside the university.

Two male students were dealt with in this way on separate occasions. The organisers of the rituals claimed that the students had given their consent to take part. There is no reason to doubt this, but one wonders if consent could be said to be freely given in view of the perceived disparity in power between a professor and a student, particularly one who was struggling to finish his work. Neither student had witnessed a ritual previously. Another student was asked to participate but refused. One of the senior academics who organised a ritual referred, in an e-mail summoning staff of the department to attend it, to 'important secret business'.

After investigating the matter, the Deputy Vice-Chancellor, in 2002, directed the Head of the Department that the Pitchfork Rituals should stop and that similar activities should not occur within the department.

PROFESSOR IAN CHUBB AO  
Vice-Chancellor and President

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22 June 2005

REF: IWC/smr/L.012.DOC  
FILE: 200200340C

Dr Andrew Stewart  
Research School of Physical Sciences & Engineering  
Building 58  
The Australian National University

Dear Dr Stewart

I have received advice from the Director, Human Resources in relation to the matters of concern that you have raised. I note that Mr Clisby has met with you regarding the matters raised and has undertaken investigations on my behalf.

At the outset I wish to state clearly that instances of perceived maladministration to which you refer should be raised with appropriate ANU persons and I thank you for doing so in the past.

I understand from your letter that the substance of your complaints are that:

- You had been assessed unfavourably in a performance review. Although the unfavourable assessment was overturned on appeal, the episode has affected you detrimentally.
- You have been excluded from professional and social occasions in the workplace, denied access to work opportunities and subjected to ostracism.
- You have been removed from your present university department with adverse changes to your work environment and adverse consequences to you compared to comparable colleagues including social and professional isolation.

In relation to those matters I understand that the Director of RSPHysSE had determined that it was in the interest of the School for you to move out of the Department of Applied Mathematics and for you to be supervised by him directly. My understanding is that, at the time of his appointment as the new Director, Professor Williams took these decisions in the belief that it would minimise the likelihood of any personal or professional disadvantage, following resolution of the issues which you had raised. It is always a difficult call in such situations, but I understand that Professor Williams has taken steps to redress these matters since he has been your supervisor.

I wish to provide you with an undertaking that so far as it is within my power:

- No student of the University will be required to participate in ritual-type activities such as the previously held 'Pitchfork' activities in RSPHysSE.
- No member of the staff of the University will experience recriminations as a result of reporting to University authorities instances of inappropriate conduct within the University.

The ANU now has clear policies in place to deal with such matters, including a comprehensive code of conduct and, should anything inappropriate occur, grievance and protected disclosures processes and better misconduct provisions. In addition I have made it clear to Deans and Directors as well as to other senior staff that we will not tolerate abuses of our staff and students' rights to a fair and a safe place of work and study.

In relation to current students studying in the Department of Applied Mathematics, I have received an undertaking that inappropriate behaviour is not recurring, and that an appropriate supervisory culture is in place.

I would like to thank you for raising the matters that you have, even though the substantive issues occurred before my time. I believe that it is appropriate for me to offer an apology in connection with the experiences you have outlined in your letter. I trust that we will be able to move on from this matter.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ian Chubb', written in a cursive style.

Ian Chubb AO  
**Vice-Chancellor**