**Managing Ethics in Higher Education:
implementing a code or embedding virtue?**

Geoff Moore[*]

Executive summary

This paper reviews a publication entitled, "Ethics Matters. Managing Ethical Issues in Higher Education" that was distributed to all U.K. universities and equivalent (HEIs) in October 2005. The publication proposed that HEIs should put in place an institution-wide ethical policy framework, well beyond the customary focus on research ethics, together with the mechanisms necessary to ensure its implementation. Having summarised the processes that led to the publication and the publication itself, the paper then considers whether following the now common-place corporate practice of implementing a code of ethics is appropriate for such institutions. Drawing on both the empirical evidence in relation to codes in the business ethics literature and a consideration of the nature of the university as an institution, the paper offers an alternative suggestion for how ethical issues in higher education might be managed.

Introduction

> *"No university ought to be merely a national institution, even if it is
> supported by the nation. The universities of Europe should have their
> common ideals, they should have their obligations towards each other. They
> should be independent of the countries in which they are situated. They
> should not be institutions for the training of an efficient bureaucracy, or for
> equipping scientists to get the better of foreign scientists; they should stand
> for the preservation of learning, for the pursuit of truth, and, in so far as
> men are capable of it, the attainment of wisdom."*
> (T. S. Eliot 1962: 123)

In October 2005 a report entitled, "Ethics Matters. Managing Ethical Issues in Higher Education", was published jointly in the U.K. by the Council for Industry and Higher Education (CIHE) and Brunel University (CIHE 2005). The report refers to itself as a "guide" and this abbreviation, duly capitalised, is used subsequently for convenience. The Guide was distributed to all U.K. universities and equivalent, generally referred to as Higher Education Institutions (HEIs), and proposed that HEIs should put in place an institution-wide ethical policy framework, well beyond the customary focus on research ethics to embrace all of the institution's activities and including the responsibilities of students, together with the mechanisms necessary to ensure its implementation.

This paper first reviews the background to, motivation for and process that was followed in producing the Guide. It then summarises its content and the immediate impact of its publication.

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[*] Professor of Business Ethics, Durham Business School, Durham University, U.K. and a member of Durham University's Ethics Advisory Committee.

The Guide generally eschews the word "code" (although Box One of the Guide refers to a "code of ethics or ethical framework" and it is acknowledged that the Guide as a whole evolved out of the IBE code booklet (IBE 2003) – see pages 11 and 22 respectively). Instead, and as noted, the Guide refers to an institution-wide ethical policy framework. It is clear, however, that the implementation of its recommendations in an HEI would be equivalent to a code of ethics by any other name. This raises the question whether the common-place corporate practice of implementing a code of ethics, with all its attendant issues, is appropriately transferable to the higher education sphere. A review of the literature on ethical codes suggests that all the mechanisms for enforcement that the Guide recommends would be equally required in HEIs and that its success might be just as difficult, if not more so, to guarantee in HEIs as in the corporate sphere.

This leads, however, to a consideration of the nature of HEIs as institutions. The Guide accepts that there is a difference between HEIs and the corporate sector, but nonetheless proposes a corporate solution. If, however, an HEI is considered to be, in its very essence, a fundamentally different kind of institution, then it may be that a corporate solution is not only not transferable but, if implemented, a further nail in the coffin of the idea of a university. The paper, then, concludes by offering an alternative suggestion for managing ethics in higher education.

The Guide

Background, motivation and process[1]

The Guide originated in a CIHE event in March 2004 at St. George's House, Windsor on "Higher Education as a Public Good", at which ethical issues in higher education were discussed. CIHE's mission "is to advance all kinds of learning through the fostering of mutual understanding, co-operation and support between higher education and business" (CIHE 2005), and leadership in higher education, including ethical leadership, was already a focus for CIHE. Hence, the event, at which Philippa Foster Back, Director of the Institute of Business Ethics (IBE) spoke, was part of a continuing debate. Following the event, CIHE and Brunel University jointly approached the Higher Education Funding Council for England (HEFCE), which supported the project from its Governance, Leadership and Management fund, providing £67,000.[2] The support of other key agencies was also elicited: Universities U.K. (UUK); Standing Conference of Principals (SCOP); Committee of University Chairmen (CUC); The Higher Education Academy; Leadership Foundation for Higher Education; and the Centre for Business and Public Sector Ethics at Cambridge.

CIHE was already aware of IBE which was established "to encourage high standards of corporate and business behaviour and the sharing of best practice" (www.ibe.org.uk), and in particular its work on codes of ethics (IBE 2003, for example), and thought this a useful approach. Having been a speaker at the March 2004 CIHE event, IBE was then invited to manage the project with the eventual outcome being the production of a report – the Guide. Although HEIs were clearly involved, both through their representative organisations (as above) and directly (see

below), it is clear that the initiative's origins were more from a business than academic perspective. Given this, and IBE's involvement, it was perhaps likely that the outcome would follow corporate practice and be in the form of a template code and associated implementation measures.

In addition to CIHE's interest in ethical leadership, another motivating factor behind the project was the general encouragement for HEIs to become more commercial. Diversifying income streams, so that HEIs become less dependent upon government funding, has been a continuing theme in U.K. higher education, supported both by government (which has sought to limit its funding particularly as the Age Participation Index has increased (Smith 1999:152 and 155)), and by HEIs themselves (which have sought to limit their exposure to one major income stream, and a politically motivated one at that). This increasing pressure to become more commercial seems to have been a motivating factor in two ways – first through the interesting implication that becoming more commercial necessarily leads to the temptation to become less ethical, and second through assuming that a corporate-style response (a code) would therefore be an appropriate way of dealing with the issue.

The project was established with an active Advisory Group comprising academics, members of academic-representative organisations and business people, and chaired by Professor Stephen Schwartz, then Vice-Chancellor of Brunel University. One of its first activities was a survey of SCOP and UUK members, carried out in December 2004. The outcome of this survey is summarised in the Guide (Appendix 1). A high response rate (63%) from 99 HEIs led to a convincing set of conclusions: there is a lack of common discourse on ethical issues in higher education; there is fragmentation with HEIs tending to have a series of different documents rather than a coherent institution-wide approach; there is inconsistency in the approach and language of ethics-related documents; and there is an overwhelming emphasis on research ethics. On the other hand, 73% of respondents said that their institutions had published a statement of their institution's values.

While this survey was being analysed a further event at St. George's House, Windsor in January 2005 offered an opportunity to gather information and discover different perspectives on the project from delegates across a broad spectrum – including academics, students and trade unions. Armed with the evidence from the survey and this more anecdotal evidence, a first draft of the Guide was produced and disseminated via UUK and SCOP in April 2005. Comments were received from 53 HEIs and CIHE also had a detailed discussion with some 15 members from Church Colleges. Generally, feedback was positive although there were a number of suggestions, notable among these being a request for the inclusion of an illustrative guide.

A revised version of the Guide was then produced and presented at a national consultative conference in June 2005, which over 90 delegates attended. This confirmed the usefulness of the document but with further suggested amendments. The Guide became shorter as a result, with less on the need for high standards of ethics (which was already accepted), inessential background removed, but the illustrative guide (which became Part II of the final version) definitively included. Also in June 2005, the Times Higher Education Supplement (THES – a national

weekly newspaper on higher education) carried an eight page supplement trailing the publication and content of the Guide (THES 2005).

The Guide was then further discussed, going through several versions, and agreed by the Advisory Group via e-mail over the summer of 2005, before being published on 5 October 2005 and disseminated to all Vice-Chancellors or equivalent. The publication received support from the Prime Minister, Tony Blair (www.cihe-uk.com/ethicsPM.php, accessed 25 May 2006). It also received some media attention with Guardian Education (4 October, 'Whose line is it anyway?'), Education Guardian Online (5 October, 'Universities urged to draw up their own ethical policies'), the Financial Times (6 October, 'Universities' commercial activity needs ethical control' and 'Call for universities to develop ethics code') and the THES (7 October, 'Guide steers campuses through moral mazes'), all giving coverage. Interestingly, Professor Stephen Schwartz, the Chair of the Advisory Group, writing in the Financial Times (the titles of whose article are themselves of note), argued that "[m]odern universities are serious commercial players and are increasingly being viewed with the same scepticism as their industry partners … All universities have ethical standards for research, but they also need to address the ethical issues that arise from commercial activity". Again the stress on the commercial as motivation for the Guide is evident.

The contents of the Guide

The Guide is 36 pages long and, in its substantive sections, consists of two parts. Part I contains four chapters. Chapter 1 ('The case for articulating ethics') discusses ethics in higher education, referring in passing to the "Nolan Principles" for Standards in Public Life,[3] and giving a wide range of external and internal reasons for HEIs to tackle ethical issues. It then discusses why an HEI should publish an institution-wide ethical policy framework, referring to the fragmented approach to ethics in higher education that the December 2004 survey had revealed (summarised, as noted above, in Appendix 1).

Chapter 2 ('Thinking about ethical issues in higher education') gives several examples of ethical dilemmas (overseas partnership opportunities, advances in public health and intellectual property rights, friction in the community involving student residences, a student suicide, freedom of speech involving an academic and a charge of racism, handling people in a job cuts situation). It then contains an interesting section raising issues about how to go about tackling such dilemmas. Of eight issues to consider only two refer to "guidance provided by existing codes or other ethics-related documents" and ensuring that "individuals adhere to a particular solution", while others include reference to the institution's mission and values, whether staff should be told what to do or use their judgement, and how an open culture where ethical issues can be disclosed and discussed can be encouraged.

Chapter 3 ('Developing a framework') discusses the process of developing an institution-wide ethical policy framework. The sub-sections cover: the need for leadership and endorsement; the need for time and resources; starting with values; building on what exists already; learning from others; thinking about language and length; deciding on the beginning (a word from the head of the institution) and the end (how it will be implemented); choosing a structure (stakeholder, issues-based,

functions-based or a hybrid); producing and testing a first draft; and finalising the framework.

Chapter 4 ('Policy into practice') develops the point made in the Executive Summary that, "[s]imply publishing a framework will not ensure ethical behaviour. The framework needs to be put into practice through training, monitoring, review and reporting" (8). In order for the framework to be "read, understood and used throughout the institution" (19) a series of implementation measures are discussed covering: leadership; a committee; publication and dissemination of the framework (with encouragement that it be read!); training and staff development; adherence, including how breaches will be handled and whether the framework should be signed up to; monitoring and measurement; help advice and whistle-blowing; reviewing the framework; and reporting on its implementation.

Part II then contains the illustrative framework. This begins with a health warning that it is not intended to be a template and that, "it simply provides an idea of the issues and approach that institutions may want to think about in developing their own framework" (22). The Foreword refers to HEIs developing their own "'signature' statements" (6), and it is clearly the intention of the authors that the illustrative framework is not adopted in an uncritical manner. Indeed the Guide is explicit in this: "Please do not simply adopt this illustration" (22). The illustrative framework, over the next nine pages (23-31), then adopts a functions-based approach focussing on higher education activities. It covers: preamble (to include mission and values statements); purpose and use of the framework; teaching, learning and assessment; research and development; the student experience; business and local communities; leadership and governance; management (actually human resources); adherence; resources (links to other ethics-related documents); and an index.

Initial reflections on the Guide

The Guide is clearly the outcome of an exhaustive process involving the appropriate constituencies. Although the initiative's origins were more from a business than academic perspective, the consultation processes and the involvement of academics and their representative bodies on the Advisory Group, has led to significant development during the process, making the Guide appropriate to HEIs. It *is* a guide, not a prescriptive "take it or leave it" code. It is clearly written, presented in a professional manner and contains helpful examples and illustrations. It may, as a result of all of this, be adopted widely.

In terms of its *diagnosis* of the ethical issues in HEIs, the Guide does a good job. The types of dilemmas facing HEIs (Chapter 2) are easily recognisable – indeed many in HEIs reading it will have been faced with exactly these issues. The Guide's analysis of the fragmented nature in which ethical issues are currently approached in HEIs also rings true.

The *prescription* that the Guide recommends – the writing and implementation of an institution-wide ethical policy framework, or, as has been argued above, a code of ethics by any other name – is hardly novel, even if it has been adapted in an attempt to suit HEIs. It is, of course, the favoured solution in corporations, where it has a long

history. Two questions therefore arise. Does the evidence from the corporate sphere suggest that the implementation of the Guide's recommendations (appropriately adapted by each HEI to suit its own situation) will be successful in encouraging the ethical behaviour of HEIs and their staff and students? Secondly, is the transfer of a corporate solution to a very different type of institution appropriate, or would it, in its implementation, have a significant detrimental effect upon the very nature of the institutions it is attempting to assist?

Codes of ethics in the corporate sphere

Definition, types and motivation

A review of the literature on codes of ethics in the corporate sphere is not particularly encouraging to the project represented by the Guide. A code of ethics is commonly defined as "a written, distinct, and formal document which consists of moral standards used to guide employee or corporate behaviour" (Schwartz 2001: 248), but it is recognised that such documents can take a variety of forms. One means of categorising codes is in terms of their character: inspirational (a statement of ideals); regulatory (detailed rules to govern conduct); or educational (buttressing of understanding of prescriptive provisions with commentary and interpretation) (Farrell *et al*. 2002: 159). In terms of content, codes also vary in relation to the ethical issues they address. One helpful categorisation of ethical issues provides three clusters – issues impacting primarily on employees, or on companies or on wider society (Stohs & Brannick 1999: 315).

The motivation for producing and implementing a code of ethics similarly varies. Following from the categorisation given above, the evidence suggests a greater focus on internal issues (particularly on employees) and on issues related to the company itself than on issues relating to other parties and wider society including consumer, community and environmental stakeholders (see O'Dwyer & Madden 2006: 219). This suggests that the motivation for introducing a code relates more to firm protection and compliance issues (preventing harm, particularly to the company) than to a more positive and outward looking motivation.

Implementation issues

With regard to implementation, most studies reinforce the point made in the Guide that a code of ethics by itself is insufficient, and the implementation measures mentioned in Chapter 4 of the Guide are all found in studies of code implementation. The findings from these studies are, however, unconvincing in relation to the consistency and rigour with which codes are implemented. Two major studies, one based in the U.S.A. with a 26% response rate from the Fortune 1000 service and industrial firms (Weaver *et al*. 1999) and a European study with a 14.2% response rate from the top 1000 companies in Ireland (O'Dwyer & Madden 2006) provide a useful basis on which to assess implementation issues.

Who writes the code is itself an important issue, with wide involvement generally recommended if employee acceptance is to be high (O'Dwyer & Madden 2006: 220). Codes need to be distributed, but practice and the breadth of distribution varies with

some evidence of lower distribution to lower levels in the corporation (Weaver *et al*. 1999: 287). O'Dwyer & Madden (2006: 228) found that 11% of firms had no formal method of introducing the code to new staff.

Whether employees are then required to acknowledge receipt and confirm compliance with the code is also a matter of variation, Weaver *et al*. (1999: 287) finding that 90% of firms in their study required acknowledgement of receipt at least once in the employee's career but only 45% on an at-least annual basis. Acknowledgement of compliance was similar with 85% of firms requiring this at least once while 51% required it on an at-least annual basis. As Weaver *et al*. (1999: 287) note, since nearly half the firms make no effort to require employees repeatedly to acknowledge or recommit to the firm's ethical policies they risk "a situation in which codes are noted once and then forgotten". This is confirmed by other studies. Nijhof *et al*. in their study of the municipality of Amsterdam reported that management acknowledged that employees "hardly ever read the code" (2003: 75) and Schwartz that "[m]ost respondents … had never taken the time to read the entire document. More often than not, they had skimmed through the document or had taken a quick look at the table of contents" (2001: 252). O'Dwyer & Madden (2006: 228) found that only 24% of the firms in their study reinforced the code regularly. Code revision has also been studied with O'Dwyer & Madden (2006: 228) finding that only 66% of non-multinationals and 68% of multinationals had amended their codes at some point.

In relation to institutional level support ethics personnel and ethics offices seem to be the most prevalent mechanisms. In Weaver *et al*.'s study 54% of firms reported a single officer specifically assigned to deal with ethics and conduct issues, and 30% of firms had specific departments or offices (1999: 288). Similarly, O'Dwyer & Madden found that 62% of firms in their study reported formal procedures for staff to seek advice, the most popular route utilised by 84% of these companies being dedicated personnel, with telephone hotlines being the next most popular channel (2006: 229). Weaver *et al*. also found 51% of firms had adopted some kind of telephone-based system (1999: 290). Nijhof *et al*. (2003: 74) report a "Bureau of Integrity" comprising 15 employees for a municipality with 22,000 employees. Ethics committees, which are included in the Guide, are not mentioned in most studies, but do find their place in an interesting description of implementing a student code of ethics in a U.S.A. Business School, the committee being entitled the "Integrity Standards Committee" (Weber 2006: 31). Training for employees is another issue, with Weaver *et al*. finding that, "[d]epending upon employee rank, fully one-fifth to one-third of employees receive no ethics training or education of any sort" (1999: 291). Other issues, relating to top management's continuing involvement, channels to report violations, investigation of alleged violations, disciplinary procedures and evaluations or assessments of the impact of codes also receive attention in this literature (Weaver *et al*. 1999, Nijhof *et al*. 2003, O'Dwyer & Madden 2006).

By way of summary, then, it is clear that the recommendations in the Guide are already in evidence in the corporate sphere and that implementing a code of ethics is a complex, time-consuming and difficult task. Interestingly, there are no studies which attempt either a cost analysis or, perhaps more importantly, a cost-benefit analysis of the code implementation. However, a number of studies do address issues of effectiveness in terms of behavioural outcomes, and it is to these that we now turn.

Behavioural effects

Since implementing a code of ethics is such a major undertaking, it is presumably because of its effectiveness in influencing behaviour that corporations have adopted them. Unfortunately, again, the evidence is unconvincing. Schwartz (2001) reviewed nineteen studies published between 1979 and 1998 in which empirical research had been undertaken to review code effectiveness. The findings showed that eight studies found a significant positive relationship, two a weak relationship and nine an insignificant relationship. Schwartz concluded that, "[a]lthough the … studies have moved theoretical and empirical research focusing on codes of ethics further, the research remains inconclusive regarding the impact of codes on behaviour" (2001: 249). In his own study "few respondents were able to provide specific examples of where they acted differently as a result of the code. The vast majority indicated that the code had not modified their behaviour …" (Schwartz 2001: 253). Having said that, there were some examples of behaviour modification and ethics officers "indicated that they had received numerous questions and queries regarding their codes" which "points to the code's influence in causing at least some employees to be concerned over appropriate behaviour" (2001: 253).

Marnburg (2000), in a study presumably not available to Schwartz, tested differences in ethical attitudes (attitudes being linked to behaviour) between employees in companies with and without codes. The study found no significant difference, thereby adding further to the inconclusive evidence. Marnburg logically asks "why so many companies use ethical codes, when their behavioural effect is missing".

Perhaps the classic case in the missing link between codes and their behavioural impact is Enron. Enron had an "image of being an excellent corporate citizen, with all the corporate social responsibility … and business ethics tools and status symbols in place", such that, "[a]ccording to the values statement in Enron's Code of Ethics and its annual report, the company maintains strong commitments to communication, respect, integrity and excellence" (Sims & Brinkman 2003: 254 and 249 respectively). Despite having in place what Sims & Brinkman refer to as a "well-filled CSR and business ethics toolbox" (2003: 253), it is clear that the leadership at Enron and the culture produced as a result meant that, not only was the company's code of ethics actually suspended at least twice in the Chief Financial Officer's dealing with the Board (Sims & Brinkmann 2003: 247), but in practice the code of ethics was in something like a state of suspended animation.

Further considerations

Sims & Brinkmann's (2003) article leads on to a number of other considerations which have arisen from reflections on the issues that codes raise. They themselves, drawing on Schein's work on organisational culture (Schein 1985), suggest that Schein would regard such tools as "secondary articulation and reinforcement mechanisms". If codes of ethics are secondary mechanisms then primary mechanisms are leadership and culture. In addition, the environment in which the firm operates, in particular the moral climate of the industry, may be a "mediating condition" (Brinkmann & Imms 2003: 269) which influences code effects in either a positive or negative manner. The points are simply that codes do not operate in isolation and that other factors – the environment, organisational culture and leadership – may be just as

important, if not more so, in determining the ethical behaviour of organisations and their members.

Brinkmann & Imms also raise the issue of the "ethicalness" of codes themselves. In a discussion of virtue ethics perspectives, where the focus is on the character of the actor rather than rules or institutional settings, they raise the question whether codes "assume pre-conventional or conventional morality and reproduce rather than transcend such morality" (2003: 267).[4] It seems likely, given also some of the responses to the introduction of codes that Schwartz (2001: 253) found – that respondents already knew what was right and wrong behaviour and that the code was merely common sense – that codes do little or nothing to promote moral imagination. MacIntyre similarly, in a discussion to which we shall return, noted that professions such as physicians, nurses, accountants, lawyers and corporate executives "cannot dispense with a code defining appropriate behaviour both between professional and client and between professional and professional" (1990: 226), but then bemoaned the fact that "… in the realm of professional practice matters which affect problems of immediate action cannot be allowed to go unsettled. One way or another codes must be formulated, choices made, dilemmas resolved, with or without rational justification" (226-227).

Summary

In summary, then, the evidence from over 25 years of research into codes of ethics in the corporate sphere is, as indicated at the outset of this section, hardly encouraging of the project that the Guide represents. Codes and their implementation are expensive, certainly in terms of the organisational resource they consume if not in direct expenditure, difficult to implement in a consistent manner, and their behavioural effects are inconclusive. Marnburg's comment that, "[i]t seems that ethical codes are an inferior document in most organisations; it does not really matter whether they exist or not" (2000: 208) may be a little strong, but there is certainly some significant evidence in support of it. It seems clear that other factors – the environment, organisational culture and leadership – may well be more important than a code in determining ethical behaviour.

A code of ethics may also reinforce a "conventional" level of morality amongst organisational members. In the corporate sphere it was noted that the primary motivation was one of protection of the corporation – an essentially negative reason, but one that perhaps fits with a corporate perspective in which employees are expected to comply rather than challenge. The introduction of codes in the corporate sphere probably also reflects a lack of any obvious alternative approaches and an element of herd mentality ("if they have one, so should we"). The lack of an alternative is something we will return to below.

One aspect is missing, however, from the above discussion and this is to do with the nature of the institution in which such codes are implemented. That it is missing is simply because it is assumed – the research is on codes of ethics in corporations and they are assumed to be a particular kind of institution, even if in practice there are differences due to institutional form or culture. But the proposal in the Guide, that codes be introduced into higher education in the U.K., raises precisely this question of institutional nature. It may be that not only is the introduction of a code problematic

in corporations, but that it is entirely inappropriate in universities. It is to this issue that we now turn.

The idea of a university

Space here precludes an extended discussion of this complex but important issue, so we can sketch only some of the significant issues. It is, first of all, important to note that the Guide does make some acknowledgement of this issue. The Foreword begins, "[d]eep and lasting values underpin our higher education institutions … Higher education is a public as well as a private good and ethical awareness and practice does and should inform everything our institutions are and do" (CIHE 2005: 6). But beyond this, the Guide assumes that codes of ethics (albeit adapted for HEIs and made their own by the development of "signature statements") are transferable from one kind of institution to another.

The "idea of a university" is, of course, taken from Cardinal Newman's series of lectures and essays under that title (Ker 1976), written to defend the founding of the new Catholic University of Ireland in the mid-nineteenth century. The dangers inherent in attempting to summarise this work in a few sentences are acknowledged, but the point made by Newman in the third of the Discourses is particularly pertinent: "all knowledge forms one whole, because its subject-matter is one; for the universe … is so intimately knit together, that we cannot separate off portion from portion, and operation from operation" except by "a mental abstraction" (cited in Ker 1999: 26). Cowton (1997: 18) reminds us that "the word university comes from the medieval latin expression '*universitas magistrorum et scholarum*'" meaning something like "the whole body of teachers and students pursuing, at a particular place, the higher branches of learning". Oakeshott makes a similar claim: "[f]irst, a university is an association of persons, locally situated, engaged in caring for and attending to the whole intellectual capital which composes a civilization" (1962: 310).

If this is so, the essence of a university might be neatly expressed in the phrase "thinking with each other" (Smith 2003), provided that this is understood to mean that students "are not merely to learn *about* a philosophy …: they are to live it, because immersed in it" (Smith 2003: 319). And it is in such a context that Newman criticises the secular University of London, whose proponents "consider it a sort of bazaar, or pantechnicon, in which wares of all kinds are heaped together for sale in stalls *independent of each other* … whereas, if we would rightly deem of it, a University is the home, it is the mansion house, of the goodly family of the Sciences, sisters all, and sisterly in their mutual dispositions" (cited in Ker 1999: 27, emphasis added).

All of this, a century and a half after Newman, may seem to be mildly anachronistic and we need to acknowledge the shift from an elite to a mass and potentially to a universal system of higher education as the Age Participation Index increases above 40% (Smith 1999: 152). We also need to acknowledge the incorporation of polytechnics as universities with their more vocational heritage, the separation of teaching from research and the "re-introduction of difference into higher education on an unprecedented scale" so that fragmentation of the sector is the order of the day (Smith 2003: 309-312). Nor can we ignore the increasing market orientation of higher education, noted above by way of commentary on the Guide.

But all of this is essentially descriptive of what HEIs have become or, perhaps, are in the process of becoming. The beginnings of a critique of this comes from an interesting source – a former minister (1987-1990) for health education and science at the U.K.'s then Department of Education and Science:

> "Universities should never think of themselves as agencies of government or departments of state, no matter how worthy the purposes of government may be thought to be. They should understand themselves above all as social institutions: as an essential part of the fabric of a vigorous and dynamic civil society, both contributing to the wider life of that society and at the same time open to the impulses and energies flowing from that wider life" (Jackson 1999: 105).

The parallels with the quotation from T.S. Eliot, with which this paper opened, are obvious. Jackson, however, insists that "being a social institution of this kind must mean being a market institution" (1999: 105), but one senses that he is with Langslow when she says that, "[u]niversities must be responsive to market forces *but not derivative of them*; they must interact with society *but from a position of differentiation*" (Langslow 1999: 178, emphases added).

But this raises the key question – what, exactly, is it that differentiates universities from society? What are universities for? The same question is put by MacIntyre – what is a university community to answer when asked to "justify itself by specifying what its peculiar and essential function is, that function which, were it not to exist, no other institution could discharge"? (MacIntyre 1990: 222). And MacIntyre's answer is this:

> "the response of this community ought to be that universities are places where conceptions of and standards of rational justification are elaborated, put to work in detailed practices of enquiry, and themselves rationally evaluated, so that only from the university can the wider society learn how to conduct its own debates, practical or theoretical, in a rationally defensible way" (222).

But to be such an institution, the university has to be "a place of constrained disagreement, of imposed participation in conflict, in which a central responsibility of higher education would be to initiate students into conflict" (231). And in order to achieve this academics would need both to advance their own views and also enter into controversy with other rival standpoints, *and* "be concerned to uphold and to order the ongoing conflicts, to provide institutionalised means for their expression … to ensure that rival voices were not illegitimately suppressed" (231). Again there are parallels here with Oakeshott's notion of language (a manner of thinking), which is what a university education should be about, compared with literature (what has been said from time to time in a language), which is the end of vocational education but only a means to the end of a university education (Oakeshott 1962: 308).

MacIntyre does not think such universities exist, but argues instead that they have and that they should (MacIntyre 1990: 232). But there seems to be here a general consensus that universities are, of their essence, very different kinds of institutions

from others in society (and notably from corporations). The universality of knowledge and its interconnections that should be represented and enabled within the university ("thinking with each other"), the social nature of the institution as both part of wider society and, in an important sense, distinct from it, and the institutionalisation of constrained conflict mean that universities are essentially unlike other institutions – and need to remain so if they are to fulfil their role, the role which, were they not to exist, no other institution could discharge.

It might, of course, be argued that the pure (and possibly applied) sciences are not in the same category as theology and philosophy – the disciplines that MacIntyre particularly has in mind (1990: 232) – or other disciplines in the arts and humanities. Kuhn's work on scientific paradigms (Kuhn 1996) and the increasingly obvious interconnectedness of everything with everything, however, serve to discourage the notion that parts of a university could claim exemption.

In this light, a code of ethics would seem to be the exact antithesis of how a university should go about "managing ethics". As noted above, a code tends to close down precisely the debate that should be at the core of what a university is about ("… in the realm of professional practice matters which affect problems of immediate action cannot be allowed to go unsettled. One way or another codes must be formulated, choices made, dilemmas resolved, with or without rational justification" (MacIntyre 1990: 226-227, cited above). The introduction of codes, then, might well have a significant and negative effect upon the very nature of the institutions they are attempting to assist.

An alternative suggestion

It is important to acknowledge that there was some discussion in the process of putting the Guide together about the nature of universities and "great resistance to [them] being approached in the same way as corporations – for example, the 'business case' for ethics was unpopular partly because the term 'business' was unpalatable if applied to HEIs".[5] But, as has been argued above, the outcome was nonetheless a proposal, endorsed by delegates at the June 2005 conference mentioned above, that HEIs should introduce what amounts to a code with all the attendant implementation measures. The assumption behind that proposal is that things that corporations do (apparently whether they work or not) are transferable to HEIs, and the prior assumption, as should now be clear, is that HEIs are not dissimilar in kind, as institutions, to corporations.

It is also interesting to note that the lack of an alternative comes into play at this point. In the process of putting together the Guide "other mechanisms were considered but the issue was what would happen without some kind of document? How would coherence and consistency be ensured? Would anything get done?".[6] Herein lies the difficulty – is it possible to rely, in effect, upon virtue, or is not some measure of governance necessary, with all the associated documentation, to ensure consistency and make sure something gets done?

Bird & Waters (1989) may have something to offer here. In noting the "moral muteness of managers" in business organisations, and analysing its reasons, they

offer some suggestions for how this may be overcome. They argue that the role of senior managers (the organisation's leaders)

> "in fostering … "good conversation" among managers in an organization cannot be overemphasised. If they seek to provide moral leadership to an organization, senior managers must not only signal the importance they place upon such conversations, but also demand that they take place. They need also to build such conversations into the fabric of organizational life through management mechanisms such as requiring that managers include in their annual plans a statement of steps they will take to ensure that questionable practices are reviewed …" (Bird & Waters 1989: 86).

While the language of "managers" and "annual plans" may be somewhat alien to HEIs, the concepts of fostering good conversations and embedding them in organisational mechanisms are not difficult to assimilate.

Here, then, is an alternative suggestion for how HEIs might "manage ethics":

1. Rely primarily upon, and encourage, the integrity of staff and students;
2. Reinforce among staff and students the institution's mission and values, ensuring that the latter includes a high level, aspirational statement about moral values as well as those to do more with 'what this organisation values' such as research or teaching or making a contribution to the local community;
3. Produce a statement which indicates that moral issues will inevitably arise in the course of everyone's (staff and students) daily work including, and perhaps particularly, in the work of committees, and that these issues are to be acknowledged and openly discussed with colleagues and, where appropriate, managers;
4. Expect senior and middle managers to 'walk the talk' by encouraging "good conversation";
5. Institutionalise this "thinking with each other" by expecting particular issues (including "questionable practices") to be addressed in the form of written guidance, but only on a local or specific basis – research ethics being an obvious case in point;
6. Occasionally audit current documentation to monitor what exists in this regard;
7. Appoint an ethics *advisory* committee, or widen the brief of an existing committee if necessary, to monitor and occasionally advise upon such specific issues;
8. Do not necessarily expect that all moral issues will be capable of mutually acceptable resolution, but accept that the "institutionalisation of constrained conflict" is fundamental to the nature of universities.

Conclusions

It has been argued that the Guide's proposal, that HEIs should, in effect, introduce a code of ethics with all the associated implementation measures, is not an appropriate way forward for HEIs. The evidence from the corporate sphere indicates that not only are such codes expensive and difficult to implement but that their effectiveness is

inconclusive. Why, therefore, should HEIs go down the corporate route? But more seriously, the introduction of such codes would undermine the very essence of such institutions, not only to their own detriment but also to that of society as a whole.

An alternative suggestion has been put forward, one that might be termed an embedded virtues approach, which relies primarily on the integrity of individuals while institutionalising such virtue in organisational mechanisms. This approach not only facilitates moral imagination and "good conversation", encouraging staff and students toward the postconventional level of moral development, it also underlines (rather than undermines) the essential nature of such institutions.

The fact that HEFCE has continued its funding of the project that led to the Guide, with five universities having received support to develop their response[7] (in effect, paying institutions to try it), and that CIHE is planning a review across the sector at the end of 2006,[8] indicates that the issue is unlikely to go away. Nor should it. But the evidence presented here suggests that all this work, particularly if adopted across the sector, will not have much practical effect other than producing a lot of documentation – and, of course, providing an opportunity for research on ethics codes in HEIs in a few years' time. An interesting piece of research, however, (and one that is also generally lacking in the corporate sphere) will be to compare those institutions which adopt codes with those that do not.

Footnotes

1. The information in this section is derived largely from interviews with Sophie Hooper Lea, Institute of Business Ethics, and Project Manager and primary author of the Guide on 8 March 2006, and Barbara Blake, Director of Programmes, CIHE on 13 March 2006. Their willingness to be interviewed "on the record" and their helpfulness in providing their views and additional information is duly acknowledged.
2. Brief details of the project can be found at http://hefce.ac.uk/lgm/build/lgmfund/projects/show.asp?id=18, accessed 20 April 2006.
3. The seven principles apply to all aspects of public life and are: selflessness, integrity, objectivity, accountability, openness, honesty and leadership. HMSO, 1995, 'First Report of the Committee on Standards in Public Life', London.
4. As Brinkmann & Imms (2003: 272) summarise, this is drawn from Kohlberg's (1973) well-known distinction between three major levels of moral development. At the preconventional level (stages 1 and 2) a person (normally an infant) reacts to punishment, pleasure or pain. At the conventional level (stages 3 and 4) a person reacts to the expectation of peers and conforms to norms and includes a "law and order" orientation. The postconventional level (stages 5 and 6) is the level of self-accepted moral principles where the person is capable of giving reasons and a rational defence of the moral principles that guide their actions.
5. Interview with Sophie Hooper Lea – see note 1.
6. Interview with Sophie Hooper Lea – see note 1.

7. Brief details of the project can be found at http://hefce.ac.uk/lgm/build/lgmfund/projects/show.asp?id=28, accessed 20 April 2006.
8. Interview with Barbara Blake – see note 1.

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