



# Plagiarism – how to get it down

Adrian Slater, Solicitor and Head of Legal Services, University of Leeds

“Both good and original, but the part that is good is not original and the part that is original is not good” (Samuel Johnson)

These slides and related presentation do not constitute legal advice. Specific legal advice should be taken before acting on any topics covered.



# Is plagiarism on the up?

- ❖ How much going on in academe?
  - ❖ Main focus has been on student plagiarism
- ❖ Our personal experiences
- ❖ Chances of getting caught and “nudging” good practice



<http://www.uib.no/en/quality-in-studies/78186/movie-about-plagiarism-university-library>



# Why bother – the risks?

- ❖ Originality is king – one of core three ethical principles:
  - ❖ Fabrication
  - ❖ Falsification
  - ❖ Plagiarism
- ❖ Consequences of do **something** Vs do **nothing**
  - ❖ The case of *Michael Gunn*



# Defining plagiarism – can we agree?

- ❖ “Passing off someone else’s work as your own for your own benefit” (Carroll 2002)
- ❖ “Plagiarism is the verbatim used of another’s work as if it is the student’s own work” (the University of Sydney)
- ❖ “...to take and use as one’s own, thoughts or inventions of another” (Oxford English Dictionary)
- ❖ Most definitions have their problems
  - ❖ Need for editors to provide good definition with clear guidance (applicable to the discipline)



# What does plagiarism look like?

## ❖ Spot the difference – “cut and paste” mistake

Why the Media Refuses to Obey, by Raj Persaud,  
Progress in Neurology and Psychiatry, Vol 9, issue 2.

"Milgram's study demonstrated with brutal clarity that ordinary individuals could be induced to act destructively even in the absence of physical coercion, and humans need not be innately evil or aberrant to act in ways that are reprehensible and inhumane. While we would like to believe that when confronted with a moral dilemma we will act as our conscience dictates, Milgram's obedience experiments teach us that in a concrete situation with powerful social constraints, our moral sense can be all too easily overwhelmed."

Milgram's interest in the study of obedience partly emerged out of a deep concern with the suffering of fellow Jews at the hands of the Nazis and an attempt to fathom how the Holocaust could have happened.

The Man Who Shocked the World, by  
Professor Thomas Blass PhD, University of Maryland,  
in Psychology Today (March 2002)

"[The study] demonstrated with jarring clarity that ordinary individuals could be induced to act destructively even in the absence of physical coercion, and humans need not be innately evil or aberrant to act in ways that are reprehensible and inhumane. While we would like to believe that when confronted with a moral dilemma we will act as our conscience dictates, Milgram's obedience experiments teach us that in a concrete situation with powerful social constraints, our moral sense can easily be trampled."

Milgram's interest in the study of obedience also emerged out of a continuing identification with the suffering of fellow Jews at the hands of the Nazis and an attempt to fathom how the Holocaust could have happened.



# Top five tricky issues for editors investigating an allegation of plagiarism

1. Does there have to be intention to copy?
  - ❖ Not rewarding careless/reckless behaviour
  - ❖ Subconscious copying!
2. How similar does the text have to be?
  - ❖ None verbatim copying but the idea copied



# Top five tricky issues for editors investigating an allegation of plagiarism

## 3. Judgment

- ❖ Liability if you get it wrong? (No defence of academic judgment?)
  - ❖ “..the Court, for reasons which have been explained, will not involve itself with issues that involve making academic judgements” (Lord Wolfe, *Clark v The University of Lincolnshire & Humberside* (April 2000))
- ❖ Appointment of independent expert/s?





## Top five (cont'd)

### 4. The burden of proof

- ❖ Innocent until proven guilty?
- ❖ Prima facie the same or similar text moves the burden?

### 5. The evidential burden

- ❖ Balance of probabilities
- ❖ Beyond all reasonable doubt
- ❖ A reasonable decision based upon a reasonable assessment of the evidence



# Practical tips on solutions

- ❖ Keeping it informal and private
- ❖ Do you “play dumb”?
- ❖ Having a proper written process
- ❖ Having an applied discipline definition with guidance notes
- ❖ “Don’t touch if anything is hot” policy?



# Legal pointers

- ❖ Possible grounds for legal action
  - ❖ Breach of copyright
  - ❖ Defamation
  - ❖ Negligence
  - ❖ Breach of author's contract
- ❖ Use of indemnities and warranties from authors
- ❖ Personal liabilities for editors



# Practical tips on solutions

❖ COPE flowcharts

<http://publicationethics.org/resources/flowcharts>

❖ COPE Guidelines

❖ <http://publicationethics.org/resources/guidelines>