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Higher and further education institution policies on student and staff involvement in commercial sex

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This paper concerns higher and further education institutions' policies as they relate to the interactions of their staff and students with the sex industry. In Scotland and England, consenting adults may legally buy and sell sex and commercial sexual entertainment, such as erotic dance and phone sex, provided that they do not do so in a public place. The indoor commercial sex sector is legally staffed and patronised by a wide variety of individuals, yet newspapers publish articles for salacious appeal exposing their involvement. A Freedom of Information enquiry found that although no institution had a policy prohibiting staff or student involvement in commercial sex, unwritten assumptions could be used to penalise legal but stigmatised sexual behaviour. The paper considers how institutions might respond to allegations of disreputable behaviour.

Keywords: higher and further education; policy; sex work; staff; student

Introduction

In the recent court case of *Mosley v. News Group Newspapers Ltd* [2008] EWHC 1777 (QB), the *News of the World* newspaper was judged to have breached the right to privacy of the president of the International Automobile Federation by reporting his enjoyment of sadomasochism with commercial sex workers. Mr Mosley thus retained his position as head of Formula One Racing, which had been threatened as a result of the report. It will be interesting to note the impact of this court ruling on newspaper decisions to publish salacious stories about wealthy individuals who might sue. Students are also particularly popular targets for reports exposing their involvement in commercial sex and implying that their institution will penalise them. The media has no legitimate role in setting benchmarks for acceptable behaviour within the academy; yet, if institutions penalise student (and staff) involvement in commercial sex subsequent to such reports, then the media has a profound effect via elite decision makers within institutions. This paper reports the results of a small study to investigate policies on commercial sex of higher and further education institutions (hereafter referred to as institutions) and to consider how these might be legitimately influenced and how institutions might respond to allegations of disreputable behaviour.

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Background

Media attention to sex work in higher and further education institutions

It is certainly not ‘news’ to report that ordinary people, including staff and students in institutions, buy or sell sex or are paid and pay for other types of sexual entertainment. The academic literature has long established that a wide range of individuals is involved in commercial sex as clients and as workers (Earls & David, 1989; Minichiello et al., 1999; Romans et al., 2001). The only worth of such ‘news’ appears therefore to rest in the scandal of privacy invasion that is achieved when the media reports that a respectable person has paid/been paid for sex. Recent examples include articles alleging:

- Cambridge University students selling sex as part time ‘call girls’ (*BBC News*, 11 October 2007)
- an associate professor and a student of The University of New Mexico working from home as phone sex operators (*The Daily Lobo*, 2008; Dankprofessor, 2008; Sex in the Public Square, 2008)
- a research assistant at The University of Glasgow working as a transvestite prostitute (Alexander, 2008)
- a professor at The University of Ottawa working as a prostitute (Laucius, 2008).

None of these reports suggests that anything illegal or non-consensual had taken place but the consistent assumption within these reports is that staff and students will somehow be in trouble at their institutions for participating in commercial sex that is both legal and consensual.

Sex work and the law in Britain

In recent years there have been significant reviews of legislation on prostitution by both The Home Office for England (Home Office, 2004, 2008) and The Scottish Executive for Scotland (Scottish Government, 2008). Although the details of the new legislation and guidance vary between home nations, the main conclusions and approaches are similar (Home Office, 2006; Prostitution (Public Places) Scotland Act 2007). Briefly, prostitution remains legal; soliciting in a public place for the purposes of prostitution remains illegal; and prostitutes’ clients will now be committing an offence if they pay for or seek to pay for a prostitute’s services in a public place. No legislative or policing changes have been proposed for the major markets in indoor prostitution (e.g. saunas, brothels, flats, escort agencies) or in the many other forms of commercial sex (e.g. phone sex lines, erotic dancing, stripping, pornography, Web cams, role play fantasy). It remains legal for adults to sell or pay for sex in a private place, via an agency or in a brothel.

Aim of this study

This paper reports on an investigation of whether institutions prohibit staff or students from participating in commercial sex. For institutions, it also raises questions about policy creation, the use of disciplinary procedures in the absence of specific policies and the extent of their duty to protect staff and students from media intrusion or to restrict their private lives. Following Morrison (2006), it questions the sincerity of policies on diversity, discrimination, harassment and bullying.

Literature review on student involvement in sex work

Some institutions have reported students selling sex but the figures are varied. Westminster University research estimates 3–4% of indebted students earn money in the sex industry (Plomin, 2001). Leeds University Student Union gathered evidence from sex worker support services and estimate 60% of sex workers in Leeds are students (*Times Higher Education*, 2001). Roberts, Bergström and La Rooy (2007a) found that 10% of a sample of undergraduates knew students who are involved in sex work, which was defined as prostitution, escorting, lap dancing or stripping. In a recent survey of over 300 students, Roberts et al. (in press) found 21% would be willing to undertake some form of sex work to pay for their education. Anecdotal evidence from Sedgman (2004) suggested that approximately half of all brothel workers in Melbourne, Australia, could be students. Furthermore, Roberts, Bergström and La Rooy (2007b) investigated a Web site where clients post reviews of UK sex workers who work from home, massage parlours, saunas or as escorts. He found that clients considered ‘student status’ to be an attractive characteristic. MacWilliams (2002) also details Web sites advertising sex services that mention student status as a specific attraction. Irrespective of any added attraction of the student status, commercial sex is established as relatively well paid (Lantz, 2003; Moffat & Peters, 2004) and likely to leave students with more money and time for studies than the poorly paid jobs usually available to them.

Literature review on institutional responses to staff/student involvement with sex work

As background to this study, a rudimentary search of newspaper and blog articles uncovered a small number of cases in which staff and students have faced disciplinary action with respect to their involvement with commercial sex, which like abortion and homosexuality, is legal but considered ‘deviant’ by some. It is unclear whether such institutional responses are motivated by intolerance of ‘deviance’ or concern to ‘rescue the fallen’ (Agustin, 2007). With respect to student sex workers, academic discussion often is presented from a paternalistic perspective with a focus on hardship and the tuition fee system as an explanation for their involvement (Roberts, Bergström and La Rooy, 2007a; Roberts et al., in press). The usual format of these discussions is to remind us that prostitution is associated with violence and that when condoms are not used in penetrative sex there is an increased risk of STIs (Roper, Peterson & Curran, 1993). First, violence is principally associated with street-based sex markets (Church et al., 2001; Sanders & Campbell, 2007). Second, in the UK, Western Europe, Australia and New Zealand, reported condom use is high in commercial sex, with rates for penetrative sex consistently reported above 90% for street-based sex work and higher in indoor sex markets (Choi & Holroyd, 2007; McVerry & Lindop, 2005; Ward et al., 2004). Therefore, the often-repeated warnings about risk to health and safety seem to be rather overstated or to have little relevance for the staff and clients of indoor sex markets that have been associated with students and staff of institutions: the indoor saunas, escort markets, lap dancing venues and phone sex services. Alternative interpretations of commercial sex as potentially empowering and a positive experience for both parties (Chuen-Juei Ho, 2000; Manopaiboon et al., 2003; O’Connell Davidson, 1998; Sanders, 2005) are seldom aired.

Research: Gaps and resistance

Taken together, the aforementioned studies and news articles indicate that there are staff and student sex workers and clients, but no research council or other well-funded national

survey has ever been undertaken to look at the social composition of the UK's sex workers, and research on clients is even rarer. Indeed, as market forces sweep through the education landscape and corporate concern with protecting 'brand image' takes root, academic research in this area has become fraught with difficulties. Roberts, Bergström and La Rooy (2007b, p. 144) describe some of these, which include instances in which ethical permission to repeat work sanctioned previously that revealed the existence of student sex workers in an institution has been refused on the purported grounds that asking questions about people's sex lives is 'too sensitive an area'. When ethical permission to conduct research has been obtained, constraints have been put in place to prevent researchers contacting and interviewing sex workers who study at the institution granting ethical approval. Media attention has led to attempts by university managers to block research, restrict press contact with researchers, misrepresent the work to outside parties, dissociate researchers from their institution and warn of potential damage to career prospects should the research continue. A local student newspaper reported attempts by University sources to silence discussion on the topic (Cole, Mansel & Mansell, 2006). It is not just institutions that are unhappy with the prospect of research casting light on student participation in commercial sex. The National Union of Students has also sought to downplay the issue and withdrew from one study without explanation. For their part, the institutions tend to say very little on the topic. Indeed, institutional silence on this issue is a necessary condition for the creation of a 'vulnerability of uncertainty', which is used against sex workers and their clients each time a news report exposes their involvement in commercial sex. It is hoped that this paper will encourage discussion of the ethics and policy issues involved.

Methods

Gathering of data

Having gained ethical approval for the conduct of the study from the University of Strathclyde Ethics Committee, in January 2008 Strathclyde researchers, working in partnership with colleagues from University of the West of Scotland and Kingston University, sent Freedom of Information requests to all 326 higher (HEIs) and further education institutions (FEIs) as listed by The Higher Education Funding Council for England and the Scottish Funding Council. Together, these institutions provide England and Scotland's post-compulsory, post-school education for academic (mainly HEIs) and vocational (mainly FEIs) learning. Letters were addressed to Human Resources and Staff or Student Welfare Offices. They asked whether the institution had any policies on staff or student involvement in commercial sex. For clarification, the letter provided brief notes on the legal position and various types of commercial sex, and stressed that information was sought on policies and procedures pertaining to student and/or staff involvement in commercial sex as either clients or workers. Copies of any relevant policy statements were requested. An Excel spreadsheet was used to record responses and hard copies of respondents' letters and policy statements were kept in a locked cabinet.

Data analysis

Policy statements were coded and categorised in two sweeps to give batched notes on the types of policy prevailing at each institution with notes on whether these pertained to staff, students, clients or sex workers. A first sweep was carried out to provide descriptive categories of written responses and so reveal basic findings, such as the existence or non-existence

of specific policies. A second sweep was carried out to provide a closer content analysis of response foci. Finally, an interpretative analysis was carried out to give insight and understanding of the policy statements provided by the responding institutions. This analysis was undertaken in consultation with specialist Human Resources staff from one of the investigating institutions whose remit in Human Resources Policy and knowledge of contractual and conduct issues provided additional context for interpreting institutional responses in relation to employees.

Findings

Response to Freedom of Information enquiry

Of the 326 institutions written to, 236 responded. At 72%, this response rate is higher than might have been expected had our enquiry not been made under the Freedom of Information Acts (2000; and Scotland 2002). For example, Asch, Jedrzejewski and Christakis (1997) found the mean response rate among mail surveys published in medical journals to be 60%. Several institutions complained that the request had been made as a Freedom of Information enquiry. On the other hand, several offered to provide further information on request should we need this and four institutions requested feedback on the study's findings for their guidance in this area.

The college would be interested in receiving any information, as part of your research and findings, which would inform us and assist in ensuring the development and well-being of our student body. (FEI, England)

Written response content

No institution reported having a policy on staff or student involvement in commercial sex and none suggested that they had any concerns in this area. First-level coding found three types of written response, which were labelled:

1. 'No policy'
2. 'No policy, however . . .'
3. Health and welfare

Descriptive details of these categories are given below.

'No policy' (n = 147, 62%)

A total of 147 responding institutions sent brief letters stating simply that they had 'no policy', 'no specific policy' or 'no information' on the issue. Of these, two institutions further stated that they did have wider policies, but that these were not relevant to commercial sex.

We do not traditionally apply [these policies] to non-campus activities which do not impact directly on the University's operations. (HEI, Scotland)

***'No policy, however . . .'* (n = 85, 36%)**

A further 85 institutions reported having 'no policy' or 'no specific policy' but, nevertheless, referred to or simply enclosed copies of general policies without commenting on their

relevance. At analysis of written response content, these were labelled as ‘however’ to reflect their typical form:

There are no specific policies related to the sexual behaviour of students but there is a policy on consensual relations between staff and students which has been included with this letter. (FEI, Scotland)

For a great majority of institutions in this category, there was only implied linkage between their references to general policies and their applicability to staff/student involvement in commercial sex. These responses suggested that general policies might be applicable to commercial sex involvement but, nevertheless, avoided explicitly linking the two. For example, the quote below relies on the reader assuming that the involvement in commercial sex might bring the institution into disrepute.

I can confirm that XYZ College has no policies or procedures specifically pertaining to staff or student involvement in commercial sex. The College has a Code of Conduct for staff that outlines the professional responsibilities of its staff including the responsibility to ‘promote a positive image of the College and avoid activities that might bring the College into disrepute’. (FEI, England)

Only five institutions (2%) directly indicated that their wider policies might apply to staff or student involvement in commercial sex. Nevertheless, even these firmer statements were quite moderately phrased and none specified the type of involvement in commercial sex to which the policies might apply. The quote below gives an example of this ‘slightly firmer type’ of statement.

The University does not, as such, have any specific guidelines in this area but such activity *would be* covered under existing policies. (HEI, England) [emphasis added].

There may be no real difference in policy or position between the five institutions that made these ‘firmer’ statements and the others in this category, whose statements merely implied policy relevance. Certainly, it would be incorrect to assume that a harsher position was indicated by firmer wording. Referring to their Code of Conduct and Integrity for Employees regarding activities that might bring the institution into disrepute, one institution wrote that they ‘may consider that involvement in commercial sex would fall into this category’. They note that this would also apply to students, but that:

[S]hould we become aware of staff or student involvement in commercial sex we would be primarily concerned with understanding the circumstances of the individual(s) involved and in taking a supportive rather than a punitive approach in the first instance. (HEI, England)

The letter requesting information asked institutions ‘to tell us whether (name of institution) has any policy or procedure pertaining to staff or student involvement in commercial sex. This may include specific items on this issue or other policies on staff or student employment outside the university or other policies *related to* the sexual behaviour of staff or students. Please include all *relevant* policy statements, documents or procedures’ [emphasis added]. Although none of the responding institutions explained the relevance of them, they referred to the following types of policy:

- disciplinary regulations/code of conduct; or referencing misconduct/bringing institution into disrepute (referred to by 56 institutions)

- other employment (46)
- sexual behaviour between staff and students (13)
- employment requirements on disclosure of convictions/procedures regarding illegal behaviour (10)
- harassment/bullying (10)
- child protection/vulnerable adult protection (5)
- career services (4)
- computer use (2)
- health/welfare (2)
- student residences (2)
- attendance and admissions (1).

Although no institution had a policy on staff/student involvement in commercial sex, all of these responses implied that the institution concerned viewed such involvement with ‘taken for granted’ disapproval. It is also clear from the dominance of discussion about disciplinary procedures and behaviour bringing institutions into disrepute that staff/student participation in commercial sex is widely perceived as some kind of institutional threat.

Any member of staff engaged in an act of sexual impropriety or criminality, whether or not conducted at their place of work or during working hours, shall be considered to have engaged in an act of gross misconduct and shall be subject to the University’s disciplinary procedures. (HEI, England).

The University has no policies that explicitly deal with sex work but does have an expectation that staff and students will do nothing that may jeopardise the University’s reputation or position. (HEI, England)

As with all responses in this category, institutional letters referring to policies on harassment or bullying did not give any information on why these policies might be relevant. This is interesting because, whereas the tone of these letters again suggested an intolerant view or punitive response, the harassment and bullying policies support individual privacy. Certainly, unwanted enquiries about one’s personal or sex life are described as harassment and the person making remarks or asking such questions would fit the descriptions of harasser as set out in the submitted policy documents. Hence, any institutional enquiry into the circumstances of staff/student involvement in commercial sex would itself be prohibited under these harassment and bullying policies.

Of further interest, many responding institutions invited on-line examination of their full range of policies, yet only three response letters mentioned the existence of policies on discrimination, diversity, dignity or equality that do appear to be relevant. Examples include mission statements and policy principles against discrimination on the basis of sexuality or marital status, the valuing of diversity and respect for human dignity and support for balanced work–home lives. By contrast, the items that institutions highlighted as being relevant were relatively minor clauses and subclauses of general contractual policies or distantly related issues, such as sexual relations between staff and students. The impression gained from reading the range of institutional responses in this category was therefore that a great deal of ‘scrabbling about’ had been done to find policies that might be relevant as a punitive response to staff/student involvement in commercial sex. That enquiries were made under Freedom of Information Acts may have had some bearing on this ‘scrabbling about’ to find relevant clauses, but this would not explain the omission of relevant mission and policy statements supporting private freedoms and diversity or prohibiting discrimination

on the basis of sexuality. Therefore, this evidence suggests that other undeclared moral judgements underlie the selection of policies considered relevant to our enquiry and were submitted to reflect unwritten institutional positions.

'Health and welfare policy' (n = 4, 1.7%)

The remaining four institutions referred to policies on staff/student welfare or health or stated that these issues would be the principal concern for the institution with respect to staff/student involvement in commercial sex. An assistant principal at one of these institutions wrote that because the issue had come to his attention through this study, he would 'give serious consideration as to whether [he] should be recommending a policy to our Board of Management and what that policy might say' (FEI, Scotland).

Written response foci

The letter requesting information from institutions noted, 'in all instances, we are equally interested in policy and procedures related to the buying and selling of sex services and to policy and procedure related to men and women'. Second-level coding and content analysis showed that responses focused strongly on sex workers, ignored clients entirely and focused more on staff than on students. There was no evidence of direct gender bias in that no institution reported having policies that applied differently to men and women. However, given the predominant gender format in commercial sex, whereby service providers are more often women and clients more often men, the net impact of a differential focus on the service provider means that the punitive policies considered relevant by the responding institutions are de facto, punitive and restricting mainly to women.

Discussion

There is widespread confusion about commercial sex and how to respond to it. Despite recent reviews of legislation in Scotland and in England and Wales, subsequent strategies and legislation (Home Office, 2006; Prostitution (Public Places) Scotland Act 2007), and documents giving implementation guidance for local authorities and partner agencies (Scottish Executive, 2007), the debate goes on. In January 2008, The Home Office launched a review of client demand for prostitution and the Scottish Government has still to undertake the second and third parts of their three-part review – these to focus, respectively, on indoor sex work and male service providers (Scottish Government, 2008). In this context, it is no wonder that institutions lack worked-out policies or procedures, and in this policy vacuum newspaper scandal stories assume and reinforce the idea that sexual behaviour is to be denounced.

Further study might be undertaken to discover whether assumptions made by human resources and student welfare staff may be impacted by a media effect, especially on 'elite decision makers' (Davis, 2006). Policies with little apparent relevance were referred to without explanation of that relevance, and 36% of responding institutions assumed and implied that disciplinary action would be taken against a member of staff or student who worked in or was a client of commercial sex. The paper concludes that this is an area in need of careful management because in the absence of institutional policy, unwritten assumptions may be used to penalise legal but stigmatised sexual behaviour.

In considering an appropriate response to commercial sex, a distinction may be made between criminal and non-criminal acts. Legislation on commercial sex is poorly understood

and it is commonly thought that paying for or taking money for sex (prostitution) is illegal. Prostitution is not illegal in Britain and, although the topic has been in near constant parliamentary debate for four years, no proposal has been made to change this. There are laws prohibiting soliciting in a public place and a variety of activities connected with organising commercial sex. However, legislation prohibiting prostitution has always been resisted, not least because it is indistinguishable from other relationships in which there is a financial understanding. Furthermore, if in legal terms, behaviour is acceptable, then it is acceptable irrespective of the motivations for it. An employer or institution might therefore be guided by the law and implement policy on staff/student involvement in commercial sex on the same basis as other policies regarding criminal behaviour.

Another point to consider would be the effect of involvement in commercial sex on an employee's ability to carry out his/her duties. As no institution was found to have a policy on commercial sex, presumably they would not have a policy to prevent employment in commercial sex over and above the considerations that pertain to other types of work. Here, permission to work in additional roles is not usually withheld provided the institution is satisfied that the second job does not interfere with capacity for work because of tiredness, overlapping time requirements or conflict of interest. If the institution was concerned that employee or student 'work time' was being eroded by involvement in commercial sex, then the same guidance as that used for involvement in other extra-curricular or additional jobs might be applied. Certainly, involvement in commercial sex, being time limited by definition, would demand less time than other non-commercial sex relationships.

For those considering developing a wider staff/student or other internal policy on commercial sex, the key things to remember are that the exchange of sex and money is not illegal and that most adults have sex in relationships in which both sex and money feature. Like the law on this point, human resources and student welfare policies could therefore be drafted to recognise that for those behaviours which cannot be distinguished one from the other, there is no basis for sanctioning some and penalising others.

Another concern for employers may centre around the response of co-workers who might wish to distance themselves from the colleague to show their disapproval through rejecting the person at a collegiate and/or social level. Depending on the extent of rejection, this may amount to discrimination or bullying and would therefore need to be managed delicately but, in any case, this could occur only if the behaviour becomes known amongst colleagues – a consequence dependent on reportage of these cases, not the behaviour itself.

There is a clear distinction to be made between news that brings disrepute and behaviour that is private and disreputable only on disclosure. For these reasons we refer to our sex lives as our 'private lives' and employ discretion to maintain respectability. It is accurate in this regard to talk about *the reporting* as the behaviour that has the potential to bring a person into disrepute. When the reputation in question is sexual, the only 'good' sexual reputation for the individual is a private one. Any circulated information about it is, by definition, a breach of privacy and, by tradition, embarrassing and damaging to one's reputation. Thus, reporting the private affairs of an individual brings the person into disrepute and violates his/her human right to a private life. Should an institution follow a newspaper lead and leap to discipline the employee or student whose privacy has been violated by the media, this would surely constitute institutional bullying and harassment and, as such, be the only action with potential to bring the institution into disrepute.

To conclude, enlightened higher and further education institutional policies on staff and student involvement in commercial sex might emphasise the institution's concern to maintain the privacy of the individual and the reputation of the institution as non-discriminatory, tolerant of diversity and supportive of human rights.

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