



# Essay Mills and the Case for Legislation

## Introduction

This paper sets out proposals and considerations for introducing legislation with the intention of making financial gain through providing contract cheating services, a criminal offence.

Contract cheating is a term first coined in 2006 by Clarke and Lancaster. They defined contract cheating as occurring when students employ or use a third party to undertake their assessed work for them; these third parties may include essay writing services, friends, family or other students, private tutors and copyediting services.

In recent years, contract cheating has been typified through the media and in public policy debate through the operation of essay mills. These are organisations or individuals, usually with a web presence, that contract to complete an assignment or assignments for a student for a fee. Typically, the student will pay the essay mill company to write a piece of work that they have been set for assessment. They will then submit that work as their own.

The legislative proposals in this paper are not specific to essay mills and legislation specifically referring to essay mills would be difficult to effectively define. While essay mills are a manifestation of contract cheating, other forms of contract cheating exist. These include, for example, individual payments made by a student to write assessment material for them but not using an essay mill company. Because of this, the approach taken in this paper is to focus the policy consideration arguments on the use of essay mills, but to use a more general term of 'providing or advertising cheating services' in the legislative proposals.

This paper draws on work on legislative reform previously undertaken by Professor Michael Draper and Professor Phil Newton from Swansea University in their research paper - *A legal approach to tackling contract cheating*.<sup>1</sup> It assumes a level of knowledge about contract cheating and essay mills and is not intended to provide detailed background explanatory information. More comprehensive analysis and information about current guidance is available from the QAA publications: *Plagiarism in Higher Education - Custom essay writing services: an exploration and next steps for the UK higher education sector* and *Contracting to Cheat in Higher Education - How to Address Essay Mills and Contract Cheating*.<sup>2</sup>

## Is criminalisation justified?

Before any consideration of potential legislative action, the fundamental question needing to be addressed is whether legislation to combat contract cheating and essay mills is justified.

Unless limited to financial penalty only, criminal sanction carries the potential for deprivation of liberty, and should only be considered if there is a societal need and a public interest to be served through criminalisation.

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<sup>1</sup> <https://edintegrity.biomedcentral.com/articles/10.1007/s40979-017-0022-5>

<sup>2</sup> [www.qaa.ac.uk/about-us/what-we-do/academic-integrity](http://www.qaa.ac.uk/about-us/what-we-do/academic-integrity)

Any form of academic misconduct or cheating poses a threat to the academic standards of UK higher education, and therefore to the reputation of UK higher education as a whole, and to the integrity of qualifications awarded to the vast majority of students who achieve their qualification entirely by legitimate means.

This, in itself, does not merit sanction through criminal law as typically a new criminal offence would be considered only when necessary to restrict an activity that endangers public safety, property, moral welfare or health. The current Government has previously considered whether criminal sanction might be justified. During debate on the Higher Education and Research Bill, an amendment was tabled by the Liberal Democrat Peer, Lord Storey, seeking to make it an offence to provide or advertise cheating services. Speaking for the Government, Baroness Goldie said that although the Government 'share the general intent, we are keen to ensure that non-legislative methods have been as effective as they can before resorting to creating new criminal offences'.<sup>3</sup>

Adopting a similar tone when writing to QAA in 2017 to commission guidance to help higher education institutions combat contract cheating, Jo Johnson MP - the then Minister of State for Universities, Science, Research and Innovation - stated, 'I believe the best approach is a non-legislative initiative in the first instance, but we remain open to legislation in the future should the steps we are taking prove insufficient.'

We would argue that the need for legislation is now justified because of the following points:

## **1 Other steps, while effective, have not prevented the growth of essay mills**

A raft of activity has been undertaken to combat essay mills. These include the following:

- Guidance published by QAA to support higher education institutions in combatting contract cheating via education, prevention, detection and by providing guidance on institutional processes and policies.
- Guidance published by the National Union of Students to make students aware of the consequences of contract cheating.
- Three complaints against the advertising used by essay mill companies to the Advertising Standard Authority.
- High profile campaigns targeting essay mill advertising, including an intervention by the Education Minister, Damian Hinds MP, requesting the online payment company PayPal to stop essay mills using their services.
- The introduction of new generation plagiarism detection software focused on authorship investigation.
- Sector and UK-wide coordination, including the establishment of an Academic Integrity Advisory Group.

Despite these interventions, the use of essay mills does not appear to be diminishing.

Due to the nature of cheating, it is impossible to say with certainty how many students are submitting work provided by essay mills as their own. However, research demonstrates a widespread phenomenon. In August 2018, research published by Professor Phil Newton

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<sup>3</sup> <https://hansard.parliament.uk/lords/2017-01-25/debates/B510EEDD-43EC-4FA9-8222-865249D8A3D2/HigherEducationAndResearchBill>

indicated that as many as one in seven recent graduates internationally may have paid someone to undertake their assignment for them, potentially representing 31 million students across the globe.<sup>4</sup> In May 2019, a Channel 4 Factcheck concluded that large numbers of students in the UK had used essay writing services and that higher education institutions were only identifying a small number of these.<sup>5</sup>

While these, and other figures, can only be estimates, they demonstrate the significant, and potentially increasing scale of essay mill use. This is clearly the feeling within many higher education institutions - evidenced by 45 Vice-Chancellors and sector leaders representing institutions across the UK writing to the Education Minister in September 2018, asking for action to be taken, including the introduction of legislation. The university sector is calling for legislative intervention to avoid a similar scandal that erupted into the public consciousness in 2014-15 in Australia with the MyMaster scandal referred to below.

## **2 Criminal sanctions to combat contract cheating have been, or are being, introduced in other jurisdictions**

The fact that offences are being introduced in non-UK jurisdictions is not, of itself, a justification for criminal sanction to be introduced in the UK. It is, however, evidence of a developing trend to see criminalisation as a legitimate means to deal with a developing societal threat.

- Legislation was introduced in New Zealand in 2011 to make it illegal to advertise or provide third-party assistance to cheat. Powers were given to the New Zealand Qualifications Authority (NZQA) to prosecute anyone providing or advertising such services.
- In the USA, 17 states have some form of law addressing custom essay writing services.
- In the Republic of Ireland, legislation is currently being considered by the Oireachtas as part of the Qualifications and Quality Assurance (Education and Training) (Amendment) Bill 2018. The new offence is modelled on the New Zealand legislation.
- The Australian Government announced in December 2018 that it was 'currently drafting legislation that would make it an offence to provide or advertise cheating services in higher education in Australia.' A key driver for legislation was the scandal in 2014-15 that revealed up to 1,000 students from 16 Australian universities had hired the Sydney-based essay mill, MyMaster, with significant associated public outrage.

As mentioned above, Lord Storey introduced an amendment to the Higher Education and Research Bill that would have created an offence to provide or advertise cheating services. A similar offence is currently being proposed as a Private Members Bill by Lord Storey.

It should be stressed that the drafting of legislation is critical. As will be considered in greater detail below, the New Zealand model has raised issues around appropriate use and application, and a variation on this might be more suitable for introduction in the UK.

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<sup>4</sup> [www.swansea.ac.uk/press-office/latest-research/lateststudyrevealssharpiseinessaycheatinggloballywithmillionsofstudentsinvolved.php](http://www.swansea.ac.uk/press-office/latest-research/lateststudyrevealssharpiseinessaycheatinggloballywithmillionsofstudentsinvolved.php)

<sup>5</sup> [www.channel4.com/news/factcheck/factcheck-universities-catch-less-than-one-per-cent-of-bought-in-essays-own-records-suggest](http://www.channel4.com/news/factcheck/factcheck-universities-catch-less-than-one-per-cent-of-bought-in-essays-own-records-suggest)

Contract cheating is, of course, a global issue. Many essay mill companies are located outside of the UK. For the UK to adopt a legislative approach in line with that being taken in an increasing number of jurisdictions will help underpin an international response to the problem.

A final point to consider is whether civil sanction would be sufficient. In summary, given the number of essay mills in operation in the UK, the costs involved in bringing civil actions, the lack of significant deterrent to companies that would result in a civil penalty, and the legal issues that would arise from the disclaimers commonly used by essay mill companies, we do not see that civil recourse would have significant impact.

Connected to this is the message that criminalisation would give to students. One common theme raised by higher education institutions is that when students are told they should not use essay mill services, they will frequently ask if they are illegal. This can place institution staff in a difficult position, explaining that the services they prohibit are perfectly legal. Indeed, many UK-based essay mill companies will use marketing techniques stressing they operate as 'legitimate' businesses. For example, on its website UK Essays states 'UK Essays prides itself on being a fully registered UK company'.

While criminal law should never be introduced simply to send a message, criminalisation would allow institutions to make clear that essay mills are prohibited. This would also help in relation to the many overseas based companies, who would be unaffected by UK legislation, but whose use students would know is prohibited in the UK.

### **3 There is a societal need for criminalisation**

Essay mills and contract cheating are not simply a higher education issue - they are also a societal issue. Graduates who use them will enter the workforce without the skills, training and knowledge necessary to effectively enter the workforce.

While all professions and forms of employment need properly qualified practitioners, many will raise significant public health concerns through having unqualified staff. For example, in 2016, *The Times* made Freedom of Information requests identifying that from the 60 British universities responding to the request, 1,700 nursing students had been caught cheating over the previous three years.<sup>6</sup> In response to this, the Nursing and Midwifery Council (NMC) put out a statement that 'there is no place for cheats in nursing or midwifery. It is the responsibility of academic institutions to ensure individuals have legitimately passed all parts of their course before they are awarded a qualification and can apply for registration.'

While this paper is focused on higher education, it is clear that contract cheating services are also aimed at students in secondary education. In May 2018, a BBC investigation uncovered that a Ukrainian-based essay mill company, EduBirdie, was paying YouTube stars to market their services through their YouTube channels.<sup>7</sup> These videos are predominantly targeted at teenagers in secondary education. If cheating has become normalised for students while at school, then it will be more difficult to break these behaviours once they have entered higher or further education.

In addition, QAA is increasingly hearing reports of students being blackmailed. Once a student has submitted work provided by a third party as their own, they are vulnerable to further exploitation, potentially continuing following graduation. Typically, this will involve an

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<sup>6</sup> [www.independent.co.uk/student/student-life/Studies/thousands-of-nursing-students-caught-cheating-their-way-through-their-studies-in-the-last-3-years-a7146001.html](http://www.independent.co.uk/student/student-life/Studies/thousands-of-nursing-students-caught-cheating-their-way-through-their-studies-in-the-last-3-years-a7146001.html)

<sup>7</sup> [www.bbc.co.uk/news/education-43956001](http://www.bbc.co.uk/news/education-43956001) It should be noted that YouTube removed these videos once they have been notified of their existence

essay mill company threatening a customer to inform their institution of the fact that they have cheated. For example, in December 2018, Coventry University's Student Union's Vice-President for Education, Adedoyinsola Adebajo, said that several Coventry students had been blackmailed for up to £5,000 after using an essay-writing service.<sup>8</sup>

## Legislation

The combination of factors outlined above demonstrate not only the need for legislation, but also the developing support in the sector for criminalisation. This is important as for higher education institutions to acknowledge that they face a significant issue carrying reputational risk, not only for themselves but for UK higher education as a whole, demonstrates how seriously the issues now being taken. As Anthony McClaran, the CEO of the Tertiary Education Quality and Standards Agency - the body that regulates and assures tertiary education in Australia, has said, 'If an institution does not think it has a problem with academic integrity, it just has not detected it yet'.

Legislation alone will not end contract cheating in UK higher education institutions. Many contract cheating companies operate overseas, while typically in the UK they will market themselves as simply providing study aids, possibly offering essay-writing services in conjunction with legitimate services such as proofreading. However, the introduction of legislation, coupled with the ongoing measures referred to above and the introduction of new generation plagiarism software, can help create a hostile environment for essay mills in which to operate. These are commercial entities, motivated only by profit. If their operations are no longer financially sustainable, they will cease business.

If the case for legislation has been made on policy grounds, what form should it take? The next section considers some potential options and how they might be put into effect.

## Options

As explained above this section provides a summary of work undertaken by Professor Michael Draper and Philip Newton at Swansea University with some developments on the themes raised in their research. Three options are considered:

- use of the *Fraud Act 2006*
- enact legislation based around knowledge and consent
- enact legislation based on strict liability.

It is important to stress before consideration of these options that the policy objective in this paper is to criminalise essay mills, not students. The position of the Academic Integrity Advisory Group referred to above, and frequently reiterated across the sector, is that there is no public interest to be served through the potential criminalisation of thousands of students. If caught cheating, they will face sanction, including potential expulsion. However, the use of criminal law should focus solely on the supply side, namely the essay mills.

## The Fraud Act 2006

The purpose of this paper is to consider new legislation. However, it is also important to look at the existing criminal law to see if that has the potential for use. If there is potential, then it undermines the case for the introduction of new law.

In their article, 'Are Essay Mills committing fraud? An analysis of their behaviours vs the 2006 Fraud Act',<sup>9</sup> Draper, Ibezim and Newton demonstrated the difficulties of using Section

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<sup>8</sup> [www.bbc.co.uk/news/blogs-trending-46468389](http://www.bbc.co.uk/news/blogs-trending-46468389)

<sup>9</sup> <https://link.springer.com/article/10.1007/s40979-017-0014-5>

2 of the *Fraud Act 2006* (which in essence makes it an offence to commit fraud by false representation with the intention of making a gain) to take action against essay mills largely due to the terms and conditions used by essay mills and their impact on the tests for dishonesty, intention and knowledge necessary to establish liability under the Act.

Essay mills will typically use disclaimers on their websites stating that the work they provide should not be submitted as the students' own. For example, the FAQ page of the website of UK Essays states, 'The work we provide to you is a perfect model answer to help you to complete your own work. You should **not** submit it directly'.<sup>10</sup>

This would make application of the Fraud Act difficult. The test for dishonesty had been established in *R v Ghosh*<sup>11</sup> which created a two-part test: 1) that the defendant's behaviour would be regarded as dishonest by reasonable people, and 2) whether they were aware that their behaviour was dishonest and would be seen as such by reasonable people. This second subjective element would be very difficult to establish when the essay mill could point to its disclaimers.

However, since publication of the above article, the Supreme Court in *Ivey v Genting Casinos*<sup>12</sup> has almost certainly changed the test for dishonesty as relied on in the above publications. In that case, Lord Hughes approved the test of dishonesty established by Lord Hoffman in *Barlow Clowes International Ltd v Euro International* (a case relating to civil actions). In essence, the second part of the test in *Ghosh* has been changed so that there is now no requirement that the defendant must appreciate that what they have done is dishonest in the eyes of reasonable people. It is now primarily an objective test where the defendant cannot argue that they were not aware that their behaviour was dishonest.<sup>13</sup>

In addition, Section 7 of the Fraud Act makes it an offence to make, adapt, supply or offer to supply any article either *knowing* that it is designed or adapted for use in the course of fraud or *intending* it to be used in the course of fraud.

Both knowledge and intention present potential issues in application. Knowledge in criminal law is a complex concept, complicated by factors such as 'wilful blindness', essentially shutting one's eyes to the obvious. It is unclear what level of knowledge would be required to establish criminal liability, and whether the application of wilful blindness would be relevant. In practice, any prosecution would turn on its own facts and the interaction between essay mill and client.

Similar uncertainty arises in relation to question of intention. Intention means acting to bring about a particular result or acting in the face of virtual certainty that the result will come about. Once again, essay mill companies would refer to their disclaimers and much would depend on the interaction between essay mill and client.

At the heart of any consideration of the *Fraud Act 2006* is the question of who is to be criminalised. Section 7 is predicated upon the knowledge or intention that the article supplied is to be used for fraud. The implication from this is that the student submitting the essay would be committing a criminal act of fraud by submitting the work. As stated above, our belief is that while students should face sanction if caught cheating, including potential expulsion, there is no public interest to be served through the criminalisation of large numbers of students.

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<sup>10</sup> [www.ukessays.com/support/115002151369.php](http://www.ukessays.com/support/115002151369.php)

<sup>11</sup> [1982] Q.B.1053

<sup>12</sup> [www.bailii.org/uk/cases/UKSC/2017/67.html](http://www.bailii.org/uk/cases/UKSC/2017/67.html)

<sup>13</sup> It should be pointed out that the Supreme Court's decision has not yet been put to test in the Criminal Court of Appeal but it is very likely that they will approve it.

Consideration of the public interest is also central to the application of Section 2. Fraud would arise from the false representation for gain made by the essay mill company providing the work, but not by the student submitting it.

For any prosecution to take place, the Crown Prosecution Service must be satisfied, both that there is a reasonable prospect of conviction and that it is in the public interest to bring the case. Our belief is that, notwithstanding recent developments in case law, it would still be difficult to use the *Fraud Act 2006* in a manner that did not result in the potential criminalisation of many students. This would, in our view, run contrary to the public interest. As part of any consideration regarding the introduction of new legislation, the views of the Crown Prosecution Service (CPS) should be sought regarding the use of existing law.

### **Adoption of the New Zealand Legislative Model**

As mentioned above, New Zealand introduced an offence in 2011 to amend the New Zealand *Education Act 1989*.

'S. 292E Offence to provide or advertise cheating services

(1) A person commits an offence if the person provides any service specified in subsection (4) with the intention of giving a student an unfair advantage over other students.

(2) A person commits an offence if the person advertises any service described in subsection (4) knowing that the service has or would have the effect of giving a student an unfair advantage over other students.

(3) A person commits an offence who, without reasonable excuse, publishes an advertisement for any service described in subsection (4).

(4) The services referred to in subsections (1) to (3) are as follows:

(a) completing an assignment or any other work that a student is required to complete as part of a programme or training scheme:

(b) providing or arranging the provision of an assignment that a student is required to complete as part of a programme or training scheme:

(c) providing or arranging the provision of answers for an examination that a student is required to sit as part of a programme or training scheme:

(d) sitting an examination that a student is required to sit as part of a programme or training scheme or providing another person to sit the exam in place of the student.

(5) A person who commits an offence against this section is liable on conviction to a fine not exceeding \$10,000.'

It should be noted that there has only been one prosecution under the Act, although that case was finally settled under the *Criminal Proceeds (Recovery) Act 2009*.

This offence provides the model on which the offence currently being considered by the Oireachtas in the Republic of Ireland, and the offence proposed by Lord Storey as an amendment to the *Higher Education and Research Act 2017*.

Considering the amendment, Baroness Goldie, on behalf of the Government, raised the question of what would constitute an 'unfair advantage', saying:

'it may be difficult to prove that a provider intended to give an unfair advantage, or that an advertiser knew that an unfair advantage would be bestowed, and there is a risk of capturing legitimate services such as study guides under the same umbrella definition. What is an "unfair advantage"? On one view, a student who is able to afford a tutor when others cannot obtains an unfair advantage. That is surely not what this amendment is trying to catch. But can we be sure that it does not, and where do we draw the line instead? These are not things that can, or should, be rushed when the result is a criminal record.'

These comments do raise a potential issue with the introduction of an offence based on this model. The 'mens rea' - the mental element of an offence based on intent - is a key cornerstone of the criminal law in common law jurisdictions. As stated earlier in this paper, the criminal law allows for sanction against the individual including a potential loss of liberty. As a general rule, to be convicted of an offence, the defendant needs to intend to commit the offence.

This being the case, what is it that needs to be intended? As Baroness Goldie makes clear, an 'unfair advantage' is a difficult concept to allow a clear demarcation as to what should be within the realm of the criminal law, and what should not.

While this approach could have merit, this is a difficult hurdle to get over. The creation of a broadly defined offence, with subjective interpretation, is not an ideal approach to legislation. It can lead to a situation where the prosecuting authorities can consider a wide range of activity to be technically criminalised, and then being selective as to which instances to prosecute.

One approach that could get around these issues is to create a strict liability offence, while introducing safeguards that would overcome the concerns that the use of strict liability can involve.

### **A limited strict liability offence**

The concept of strict liability in criminal law is not unusual. In essence, it removes the requirement for intention referred to above. In road traffic offences, for example, it is common to see offences committed regardless of the intention of the driver. For example, there is strong public interest in ensuring that all drivers are insured and so it is not a sufficient legal defence to say 'I didn't mean to' when caught driving without insurance.

The argument expressed by Newton and Draper in their paper suggests the introduction of a strict liability offence<sup>14</sup> based on a strong public interest in ensuring that, for example, the doctor, engineer or lawyer has obtained their qualifications via learning they undertook themselves rather than bought from an essay mill. On that basis, it should not be a defence for essay mills to say, 'but the terms and conditions say students should only use our bespoke custom written plagiarism-free guaranteed grade assignments as a reference work'.

However, and as stated above, the presence of intent is rightly at the heart of most offences in criminal law, both in statute and at common law. Parliament has been loath to allow passing into statute new criminal offences that can see a person convicted regardless of their intention.

To counter this, the approach taken by Newton and Draper is to remove the need for intention but to place limitations on the application of the offence. Using the principle of strict liability, Draper and Newton propose that the following would be an offence:

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<sup>14</sup> Ibid 1 above



'completing in whole or in part an assignment or any other work that a student enrolled at a Higher Education provider is required to complete as part of a Higher Education course in their stead without authorisation from those making the requirement'.

They extend this principle to include the arrangement and advertising of such services. This proposed law thus reverses the burden of proof and places the costs of the defence on the essay mill - a much stronger deterrent and an easier route to prosecution.

The paper works through a number of potential side effects and consequences of a law against essay mills. One of these is the ability to distinguish between essay mills and legitimate study aids such as tutoring or proofreading services. As stated above, concerns about making such a distinction were cited by the Government in January 2017 when rejecting an attempt by Lord Storey to add an offence to the Higher Education and Research Bill.

Draper and Newton address this by stating that:

'a person commits an offence only if the assignment or work could not otherwise be reasonably considered to be that of the student concerned'.

This principle is at the heart of any judgement about academic misconduct - whose work is it? Incorporating this definition into the wording of any new law should protect legitimate providers and criminalise those who facilitate cheating. Reasonableness as a concept and its interpretation in any given circumstances would be a familiar exercise for a court.

In addition, a defence of due diligence would be available so that the essay mill company would not be guilty of the offence if they could demonstrate that they did not know and could not, with reasonable diligence, have ascertained that the services might or would be used for cheating.

The offence therefore proposed by Draper and Newton is set out below.

**'Offence to provide or advertise cheating services for Higher Education assessments**

(1) A person commits an offence if the person:

(a) provides any service specified in subsection (4), and

(b) receives (or reasonably expects to receive) a payment, financial reward or other financial benefit in connection with the provision of that service.

(2) A person commits an offence if the person advertises any service specified in subsection (4).

(3) A person commits an offence if that person, without reasonable excuse, publishes an advertisement for any service specified in subsection (4).

(4) The services referred to in subsections (1) to (3) are those provided to a student enrolled at a Higher Education provider in England which consist of:

(a) completing (in whole or in part) on behalf of the student an assignment, examination or any other work that the student is required to complete personally as part of a Higher Education course without authorisation from the person who imposed the requirement, such that the

assignment, examination or other work could not reasonably be considered that of the student, or

(b) arranging for another person to complete (in whole or in part) on behalf of the student an assignment, examination or any other work that the student is required to complete personally as part of a Higher Education course without authorisation from the person who imposed the requirement, such that the assignment, examination or other work could not reasonably be considered that of the student.

(5) A person shall not be guilty of an offence in subsection (1), (2) or (3) if they demonstrate that they did not know and could not with reasonable diligence know that the service might or would be used by a student enrolled on a Higher Education course to complete an assignment, examination or other work that the student is required to undertake personally as part of that course without authorisation from the person who imposed the requirement.

(6) Where a body corporate is guilty of an offence under this section and the offence is committed with the consent or connivance of, or attributable to neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or a person who was purporting to act in any such capacity, he or she, as well as the body corporate, is guilty of that offence and liable to be proceeded against and punished accordingly.'

## Conclusion

The purpose of this paper is twofold:

- to set out policy arguments supporting the criminalisation of contract cheating and essay mills
- to identify an effective legislative approach to criminalisation.

We believe that the policy arguments set out in the paper present a convincing case for criminalisation. This view is increasingly held within the sector, as is the belief that the issue presents a growing risk to the reputation of UK higher education.

In terms of how this could then be put into action:

- Despite recent case law developments, we believe there could be legal and public interest blocks to using the *Fraud Act 2006*, in particular a university would become a crime scene, and staff and students would be witnesses or defendants. However, the view of the CPS in relation to this would be valuable, in particular in relation to the question of whether students would be criminalised. The experience in Australia in the MyMaster essay-cheating scandal, where 1000 students from 16 universities were involved, provides a salutary lesson in this respect, not only in terms of mass criminalisation, but also in relation to the associated time and costs to staff and students.
- Adapting the New Zealand model has potential, although it might prove necessary to address issues as to the interpretation of 'unfair advantage' and 'intention' as the CPS would need to establish evidence such that it is in the public interest to bring a prosecution.

- A limited strict liability offence - which requires that the offence would only be committed if the assignment or work could not otherwise be reasonably considered to be that of the student concerned, and which creates a defence of due diligence - is a viable option and our preferred approach. The CPS would simply need to demonstrate that a qualifying essay had been sold and the essay mill would then have to establish by way of evidence, a defence of due diligence. The evidential burden and the associated costs would then fall on the essay mills and not the public purse.

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