

## **Report to membership on the question of the AAS Code of Ethics**

### **Resolution passed at 2008 AAS AGM:**

‘That the incoming AAS executive report to AAs members by 30<sup>th</sup> of June 2009 on the advisability and viability of procedures for investigating alleged breaches of the AAS Code of Professional Ethics.’

### **Summary of findings:**

- The AAS’s current Code of Ethics serves educative and integrative functions. It does not serve a regulatory function.
- This current arrangement is the most advisable and viable for the AAS.
- This current arrangement is in line with comparable associations (other national anthropological associations).
- Implementing and maintaining a regulative function is beyond the aims and capacities of the AAS, especially given our modest budget and reliance on volunteers.

### **Report from Executive:**

The AAS is a voluntary learned society. The objectives of the Society are listed in our constitution:

The Society represents the profession of anthropology in Australia. The objectives of the Society are:

- a) to advance anthropology as a professional discipline grounded in the systematic pursuit of knowledge and to promote its responsible use in the service of humankind;
- b) to promote professional training and practice in anthropology.

Members of the Society hold at least Honours in anthropology (or equivalent). The Accreditation Committee views degree transcripts or other documentation of applicants for membership of the Society. The Committee does not investigate the professional conduct of applicants or members, nor does the Society have any other procedure for doing so. Indeed, its Code of Ethics explicitly states that ‘The Australian Anthropological Society cannot investigate or adjudicate allegations about unethical behaviour.’ Is this consistent with the Society’s objectives? What would be the advantages and possible disadvantages of instituting procedures for investigating alleged breaches of our Code of Ethics? In order to help us consider these questions the Executive commissioned a report from Andrew Alexandra, who is a Senior Lecturer in Ethics and Social Philosophy at the University of Melbourne, and who specializes in business and professional ethics. This report is available on the AAS website, at <http://www.aas.asn.au/docs/Alexandra%20-%20AAS%20Ethics%20report.pdf> The report helps us think about the nature of professional codes of ethics by making a useful distinction among three different kinds of functions that they serve:

Codes are **educative** in as much as they help members become clearer and more reflective about such matters as the basic ends of an occupation, the rights and duties

of the members of the occupation, the constraints on their activity, the rights of clients and so on. They are **integrative** in as much as they help form and perpetuate a self-conscious community of practitioners, through the process of discussion, debate etc out of which codes arise and are revised, and through the individual and collective commitment to a common set of ideals and principles. Codes are **regulatory** in as much as they influence and constrain the behaviour of the members of the association, and the expectations of other stakeholders about that behaviour.

In these terms, the AAS code of ethics currently serves educative and integrative functions, but not regulatory ones. Alexandra's report gives detailed consideration to the question of whether professional codes of ethics should also serve regulatory functions, presenting cogent arguments both for and against the introduction of a 'complaints and discipline system'. His own conclusion is that 'other things being equal, the Society should put in place such a system'. As suggested by the phrase 'other things being equal', Alexandra's arguments are based more on general principle than any detailed knowledge of AAS, which he does not claim to have. Furthermore he does not distinguish in principle between professional organizations which are 'grounded in the systematic pursuit of knowledge' (as our constitution puts it) and other more exclusively service-oriented ones such as the Institute of Chartered Accountants, Engineers Australia, Australian Valuers Institute and the Safety Institute of Australia, which are the organizations he names at the end of his report as the ones whose complaints-and-discipline-systems he has taken as models for the one he proposes for AAS.

While we see the merit in Alexandra's arguments in favour of such systems for professional associations in general, in our view 'other things are not equal', and, in the case of AAS, the practical difficulties of instituting such a system would be prohibitive. Some of these difficulties are well canvassed in section 2 of Alexandra's report. In order to give fuller consideration to them, we sought comparative data on other associations besides the ones referred to in that report. This was also done in order to address one of the arguments raised in the original version the AGM motion that we are responding to.

In the supporting statement for that motion that was circulated prior the AGM, it was claimed that the fact that AAS cannot investigate or adjudicate allegations about unethical behaviour puts it 'seriously out of step with several analogous professional associations ...which currently have far more robust procedures for dealing with such matters'. Four organizations are referred to as contrasting cases: The Anthropological Society of Western Australia, Australian Rock Art Research Association, Australian Archaeological Association, and Australian Association of Consulting Archaeologists. In order to provide a broader comparative sample, we had a research assistant compile information on these and other societies who are members of the World Council of Anthropological Societies (as listed at <http://www.wcaanet.org/members/>), as well as other Archaeological Associations (World Archeological Congress, New Zealand Archaeological Association, Archaeological Institute of America, Register of Professional Archaeologists, Register of Professional Archaeologists), and the Society for Applied Anthropology. The results of this survey are shown in the document 'Australian Anthropological Society Ethics Accountability and Procedures Review' which has been posted on the AAS website at <http://www.aas.asn.au/docs/Anthropological%20Ethics%20Review%20doc.pdf> along with an accompanying 'Annex' showing the relevant sections of the associations' constitutions, at <http://www.aas.asn.au/docs/Ethics%20annexes.pdf>

Of this sample of 16 associations, we found that AAS was not at all out of step with most of them in regard to provisions for the enforcement of their codes of ethics. The only ones that have such procedures are the four cited above from the motion. A fifth, The Register of Professional Archaeologists, has a 'Grievance Coordinator' and a 'Standards Board', but their powers and the possible sanctions they can impose are unclear from association's constitution. The other eleven bodies have no such procedures.

As for 'analogous professional associations' it could reasonably be argued that the most directly comparable associations to AAS are national professional associations of anthropology per se (rather than a particular variety of it such as applied anthropology). There are seven organizations of that kind within the sample, including the world's largest: American Anthropological Association, Anthropology Southern Africa, Association of Social Anthropologists of the U. K. and the Commonwealth (ASA), Brazilian Association of Anthropology, Canadian Anthropology Society, German Anthropology Society, Association of Social Anthropologists of Aotearoa/ New Zealand. Of these seven organizations, not a single one has provisions in its constitution for enforcing its code of ethics. Nor can this be taken to be a matter of mere oversight.

Indeed, the code of ethics in the constitution of the American Anthropological Association --- like that of AAS --- explicitly states that "the American Anthropological Association (AAA) does not adjudicate claims for unethical behavior." As described in our online review documents, this clause was added to the American Anthropological Association's constitution in 1995, prior to which the AAA *had* had such powers. They were removed after an extensive review process in which it was found that AAA lacked the resources and expertise to implement them properly, and it was decided that in that case it was better not to have them at all. Given that AAS has far less of the relevant resources at its disposal than AAA, we believe that the same rationale applies even more strongly in our case.

The resources and the expertise required to appropriately manage a process to deal with allegations of unethical behaviour through an internal tribunal process are substantial. Our present President, Linda Connor, has had extensive experience in a complaints tribunal setting, sitting from 2003 to 2008 as Chair of the Student Discipline Committee at The University of Newcastle. This body heard between 15 and 25 cases per year of alleged student misconduct of all kinds. While an AAS tribunal would not encounter so many cases, it is worth pointing out that the resources to deal with even one case are considerable. In the first place, there must be a clear set of rules and procedures formulated for the tribunal. The process also requires a pool of appropriately trained people from which Committee members can be drawn. The University organised induction and training sessions for these people, which were conducted by the Chair, the University's Legal Counsel, and the Head of Corporate Governance.

Hearings have to be carried out in a timely manner. Each individual case requires prompt and ongoing assistance from an experienced administrative officer. At the UoN, Connor was assisted by a high-level officer (HEO 9/10) from the Corporate Governance section. This person received the complaint referral (from the appropriate person/s under the Rules); advised her and conferred with Legal Counsel on drawing up the Terms of Reference for the Committee; communicated with the person against whom the complaint had been made; collated the necessary materials, usually from several different sources; identified appropriate members from the pool of committee members; scheduled the hearing; conferred with me and

the person against whom the complaint was made regarding the calling of witnesses, appropriate support person, and other matters; liaised with and timetabled the appearance of any witnesses; distributed the agenda and supporting documentation to the student and Committee members; attended and took notes at the hearing; obtained extra information requested by the Committee during the hearing; organised conference calls and international calls that often took place during the hearings; organised refreshments and meals for lengthy hearings; organised all formal correspondence and communications arising from the hearing; typed up a confidential formal record of the hearing; dealt with the confidential filing of the paperwork. The workload was between 15 and 80 hours, depending on the complexity of the case, and sometimes required the assistance of a junior administrative officer. In complex cases, an outside legal consultant was also employed.

These are the generic features of an internal tribunal process that would be similar to an AAS process for dealing with allegations of ethical misconduct. In essence, a secretariat has to be maintained to ensure the consistency, quality and integrity of tribunal processes and records. A substantial expenses fund is also necessary to support the process. The AAS is not in a position to muster such resources, or even a slight imitation of them.

It also should be noted that anthropologists working in universities and many other research institutions are bound to the National Statement on Ethical Conduct in Human Research (2007) [http://www.nhmrc.gov.au/PUBLICATIONS/ethics/2007\\_humans/contents.htm](http://www.nhmrc.gov.au/PUBLICATIONS/ethics/2007_humans/contents.htm) These principles are administered through approved institutional Human Research Ethics Committees that have procedures for ethics clearances, monitoring, and dealing with complaints. These nationally endorsed processes and bodies would override investigations of research-related complaints by scholarly associations.

In conclusion, it is the opinion of the Executive that AAS's current constitutional provisions regarding professional ethics are appropriate for an association of our aims, scope and resources. We recommend that the regulatory potentials of the Code of Ethics not be pursued by the Society.