

Victimised Australian professor reinstated but placed on 'leave'

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Despite losing a Full Federal Court appeal over last year's illegal dismissal of biological sciences Associate Professor Ted Steele, the University of Wollongong hierarchy is still attempting to remove the victimised academic. In what has become an embarrassing standoff, the university has formally reinstated Steele, with back pay, but placed him on indefinite leave.

On March 28, a three-judge Federal Court panel unanimously rejected an appeal against a single judge's ruling last August that Steele's sacking in February 2001 without any hearing or notice breached the procedures set down in a union workplace agreement. Full legal costs, estimated to exceed \$100,000 were awarded against the university.

"Whatever might have been the position in bygone days, most contemporary employees enjoy a right to be notified of any allegation of misconduct, and an opportunity to answer the allegation, before disciplinary action is taken against them," the judgment declared. During the hearing, Justice Murray Wilcox used stronger language. "Even a murderer is entitled to be heard in their defence," he said. "The suggestion that an academic, whatever his or her offence, is not allowed to make a defence, for a university to put that proposition—well, I repeat, I just find that a shocking proposition."

Nevertheless, Vice-Chancellor Gerard Sutton remains determined not to back down. He initially dismissed Steele, a tenured professor with 16 years' service at Wollongong, for speaking to the media about pressure to upgrade students' marks in order to boost fee-paying enrolments. Seizing upon an instant termination clause in the workplace agreement, Sutton claimed that Steele had engaged in "serious misconduct" that "caused serious risk" to the university's reputation.

A week after losing the Federal Court appeal, Sutton announced that Steele would be reinstated on April 22, with back pay. However, he demanded that Steele go on trial, either before a university misconduct committee or a so-called independent arbitrator, on fresh charges of making false allegations against the university.

Sutton declared that Steele would have to answer complaints against him by the Dean of the Science Faculty, the Head of the Biological Sciences Department and other members of the department. Simultaneously, these staff members publicly stated their refusal to work with Steele. The management clearly encouraged this stance in an effort to pressure Steele into relinquishing his post, perhaps in return for a token monetary

settlement.

Steele, however, rejected Sutton's ultimatum, branding it as a case of "double jeopardy of the worst kind" with a pre-determined outcome—dismissal for the second time. "There has been no attempt to repair the very real damage to my professional reputation and the enormous personal and financial costs," he said. "Instead, they're saying that after a year of hardship, I've now got to go before a kangaroo court."

"I am refusing to take part in any form of internal inquiry," he told WWSW. "After my damaging experiences of the past 15 months I am insisting that if they want to try me again, it must be in a real court of law. My position on this is non-negotiable."

Faced by Steele's intransigence, on April 18 university management instructed him to resume a six-month period of study leave that he had commenced before he was sacked. At the same time, it refused to say how long this leave would last, leaving Steele in limbo. While he is on full pay, he still has no access to his laboratory and other research facilities. Sutton apparently hopes to utilise this period to negotiate a face-saving settlement.

As the latest twist in the university's tactics unfolded, it was working to bury detailed allegations by another academic about similar incidents of being pressured into "soft marking". Henry Collier, a senior lecturer in the Faculty of Commerce, sent a letter to Sutton stating that he had specific evidence of marks being "changed or massaged". In his letter, leaked to the media, Collier also referred to pressures to pass fee-paying post-graduate students and to "measurement problems" in assessing full fee-paying overseas students.

Collier, who previously taught in the United States, has worked at Wollongong for 11 years. He told a reporter that lecturers "are under increased pressure to retain students—even though they might not be making satisfactory progress towards their degree. We are also constantly reminded that international students provide funding for research, travel, conference attendance and so on." He cited two specific instances where students who had failed were awarded pass marks.

Besides corroborating Steele's concerns, Collier emphasised that "soft marking" and bowing to commercial interests are widespread in Australian and international universities. "It is not unique to universities in Australia—I think it happens everywhere. I know it happens in the US. The process, which has commonly been referred to as 'dumbing down,' points to a slow but steady decline in standards at universities. It comes down to money. To get more

money, universities need to get more students and to retain students, they have to lower standards.”

A former materials engineering senior lecturer at Wollongong, Masoud Samadi, also came forward to back Steele’s refusal to stand trial before a university inquiry. Samadi revealed that he had been charged with misconduct, subjected to an internal inquiry and forced to resign in 1999 after making allegations of plagiarism against his head of department. In addition, he gave details of favourable treatment given to two PhD students—a senior manager of BHP Steel, one of the university’s big business sponsors, and the BHP manager’s wife.

On April 12, the university’s governing council, which includes representatives of the NSW state Labor government, tried to cover-up the issue of “soft marking” by referring it to the university’s academic senate for review. Steele immediately rejected the internal review, demanding an independent, external inquiry instead.

The National Tertiary Education Union (NTEU) hailed the final Federal Court ruling in Steele’s favour as “a massive win for the protection of all workers under enterprise agreements as well as a strong affirmation of intellectual freedom”. This is a travesty. Sutton has been able to remain defiant throughout the Steele affair precisely because the NTEU actively undermined the opposition of academics, students and others to the university’s flagrant assault on free speech.

From the outset, Steele’s sacking was a test case for academic freedom. Thousands of university staff across Australia and internationally condemned his dismissal. Yet, the union initially rejected any defence of Steele at all and then, under pressure from its members, initiated a campaign aimed at diverting them from the crucial issues at stake.

The NTEU leaders refused to demand his unconditional reinstatement, opposed calls for industrial action and said absolutely nothing in defence of the fundamental right of academics to speak out against official policy and the sacrificing of university standards for commercial reasons. They remained equally silent about the cases of Collier and Samadi, not to speak of other instances where university lecturers have been victimised.

Instead, they simply objected to the manner in which Steele was sacked. After weeks of delay, the union went to the Federal Court to argue a breach of the union’s workplace agreement. This allowed the university to drag the case out for 14 months, while Steele remained unemployed.

Sutton, on the other hand, enjoyed warm support from the local media, as well as the state and federal governments. Interviewed sympathetically by the daily *Illawarra Mercury* after announcing Steele’s conditional reinstatement, Sutton defended his role in sacking Steele, dismissed student demands for his resignation and declared that he “would do what I did again”.

Just before the final Federal Court ruling, Sutton played his trump card. NSW Premier Bob Carr announced funding for a \$110 million technology precinct adjacent to the university, jointly funded by the government, BHP, other corporate giants, hotel developers and the university. Carr claimed that the project confirmed “Wollongong’s status as the city of innovation,” featuring “one of the nation’s most innovative universities”. The

story was splashed over the front page of the *Mercury*, under the headline: “Our good news week”.

Wollongong, for decades a steel city dominated by BHP, has one of the highest unemployment rates in the country. Even if the technology precinct is built over the next 10 years as scheduled, its sponsors estimate it will create only 3,000 jobs, far less than the jobs destroyed by BHP as it slowly closes down its steel plant.

But Carr’s enthusiasm for Sutton’s management points to the underlying process driving the Steele case: the growing commercialisation of the universities. Starved of operating and research funds by the federal government, Australia’s universities have turned to corporate sponsorship and the luring of fee-paying overseas and post-graduate students. Both teaching and research have been tailored increasingly to attracting business grants and investment, servicing corporate clients and satisfying student “customers”.

Federal Education Minister Brendan Nelson has made it clear that the Howard government intends to accelerate these trends. He has signalled further spending cuts in next month’s budget, declared his preference for universities generating commercial revenue and instigated an inquiry into restructuring tertiary education accordingly.

Subordinating universities to business inevitably involves them protecting their marketing images, silencing dissent and suffocating intellectual freedom, which requires genuine independence of discussion, research and teaching, free from official and corporate dictates. An Australia Institute survey of lecturers last year found that nearly three-quarters thought that academic freedom had deteriorated under these pressures.

It was this survey that Steele first commented upon in the media, incurring the university’s wrath. Now, after more than a year of financial hardship and personal stress, he has been reinstated formally but is unlikely to ever return to his post at Wollongong.

The NTEU leadership has remained silent on the political and big business pressures behind Steele’s sacking because it has no disagreements with the official agenda. Instead, the union has collaborated in it by signing workplace agreements that not only allow the dismissal of tenured staff, provided an internal hearing is held, but also facilitate the increasing restructuring of universities along corporate lines.



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