

**NATIONAL UNIVERSITY OF SCIENCE AND TECHNOLOGY**

**FACULTY OF COMMERCE**

**DEPARTMENT OF BUSINESS MANAGEMENT**

**BUSINESS ETHICS AND CORPORATE GOVERNANCE – CBU 4203**

**FINAL EXAMINATION - MAY 2011 EXAMINATION**

**TIME ALLOWED: 3 HOURS 15 MINUTES**

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**INSTRUCTIONS TO CANDIDATES**

Answer question **One** in Section A and any other **three** questions from Section B.

**INFORMATION TO CANDIDATES**

- i) Section A carries **40** marks.
- ii) Each question in Section B carries **20** marks.
- iii) Questions may be answered in any order.
- iv) Credit will be given **for the use of appropriate examples**.
- v) This paper contains **seven** questions.

**SECTION A**

**David Shayler and whistleblowing on M15**

David Shayler is an ex-employee of M15. He alleged that the service had plotted to kill the President of Libya. Having made the allegations he fled to France where attempts by the British government to extradite him were unsuccessful. However, he decided to return to Britain where he was arrested and charged. As a member of M15 he had signed the Official Secrets Act of 1920 that banned him from revealing official secrets of life. The Public Interest Disclosure Act (seep.285), which gives some limited protection to whistleblowers, does not apply to the security services. Shayler's intention was to use the Human Rights Act 1998, which incorporated the European Convention on Human Rights into English law in his defence. The Act provides a right to freedom of expression and if a court makes a declaration of incompatibility between the Human Rights Act and a particular piece of legislation, such as the Official Secrets Act, the government would have to consider amending the law. Some of the issues are raised in the following leading article from the *Financial Times*.

Here's a paradox for Britain's spymasters. Three years ago, David Shayler, the former secret agent, fled to Paris after claiming that the security service had tried to kill President Muammar Gaddafi of Libya. Robin Cook, the foreign secretary, said the allegation was 'pure fantasy'. Yesterday on his return to Britain, Mr Shayler was arrested. But he would only be guilty in relation to the Gaddafi affair under the Official Secrets Act if what he said about his former employment was fact, not fiction.

The authorities seem to have avoided this difficulty by charging him with unauthorized disclosure related to his other allegations of mess-ups and impropriety in the service. Even so, the case shows up a huge problem for spymasters in dealing with former agents who talk too much. In James Bond's world, the solution was easy – perhaps something nasty with an exploding cigar, or a shark.

Outside spy fiction, the authorities face harder options. They may dismiss mud-slinging agents as mercenary fantasists. But then some of the mud may stick. If the authorities prosecute the agent for a serious disclosure, they risk giving credence to his allegations. If they bring charges for a technical breach, they look heavy handed. If they mount a full investigation into the agent's allegations, they risk further embarrassing revelations – even if the allegations prove false. If true, the agent faces huge difficulties in proving them in court.

Clearly, the secret service must be allowed to keep their secrets. But such secrecy is only tenable in peaceful democracies if the agencies are seen to act within the law and the principles of civil liberty. This requires a good deal more openness than they have shown in recent decades – and more vigorous scrutiny by the parliamentary committee set up to watch over them 11 years ago.

In the present case, the authorities must show that they have not done a shabby deal by promising to soft-pedal charges in exchange for silence. If Mr. Shayler has revealed important secrets – as the authorities appear to believe – he must be prosecuted vigorously, however embarrassing his defence might prove.

Equally, the police, who are now investigating his charges against the service, must find ways to demonstrate that they are doing the job properly. Mr. Shayler's accusations may be found eventually to be insubstantial or wildly exaggerated. But if the authorities take Mr Shayler seriously enough to prosecute him, there must be a presumption that his allegations against the service deserve, at least, serious investigation.

Shayler appeared in Court in August 2002 and was charged with passing on information without the consent of his employers. He pleaded not guilty but was found guilty and sentenced to six months in prison. He appealed on the grounds that he was acting in the public interest but he was denied this defence by the Court of Appeal and by the House of Lords

(Source: Leader: Spy Trap, *The Financial Times*, 22 August 2000, Copyright The Financial Times Ltd.)

## **QUESTION 1**

CASELET 'David Shayler and whistle blowing on MI5'  
Read the caselet carefully and answer all four questions on it.

### **Required**

- a) Identify and discuss ethical issues in this case. **[5 Marks]**
- b) Using the concept of the Semiotic Square how would you persuade Shayler to refrain from whistle blowing, assuming that whistle blowing is bad? **[15 Marks]**
- c) Was David Shayler's whistle blowing justified? **[5 Marks]**
- d) Were the British authorities acting in a socially responsible manner in choosing the offence David Shayler was charged with? **[15 Marks]**

## **SECTION B**

### **QUESTION 2**

Should private organisations behave in a socially responsible and moral way beyond the requirements of the law because it is the right thing to do or it pays them to do so? **[20 Marks]**

### **QUESTION 3**

Discuss the main ethical problems that arise in the area of corporate governance. **[20 Marks]**

### **QUESTION 4**

Assess the relative benefits and drawbacks of different approaches to ethics management. **[20 Marks]**

### **QUESTION 5**

Discuss any **four** types of Rokeach's values and illustrate how these can help people in organisations to observe ethical and moral requirements. **[20 Marks]**

### **QUESTION 6**

Under what circumstances might it be right to break the law in an effort to prevent a company behaving in a way that is legal but in the eyes of some, immoral?

**[20 Marks]**

### **QUESTION 7**

a) What range of factors might influence how a manager responds to an ethical situation at work? **[10 Marks]**

b) How important are cultural factors in relation to other influences?

**[10 Marks]**

**END OF EXAMINATION**