

## Scottish Parliament Region: North East Scotland

### Case 200502845: The Robert Gordon University

#### ***Summary of Investigation***

##### ***Category***

Scottish Higher Education: Appeals process

##### ***Overview***

The complaint concerned the alleged failure by The Robert Gordon University (the University) to follow procedures when considering an appeal, including failure to consider evidence and a lack of feedback.

##### ***Specific complaints and conclusions***

The complaints which have been investigated are:

- (a) failure to follow appeal procedures (*not upheld*);
- (b) failure to consider evidence (*not upheld*); and
- (c) lack of feedback (*not upheld*).

##### ***Redress and recommendation***

The Ombudsman makes the general recommendation that the University include, in the final letter issued to appellants by the Academic Registrar, an explanation of why a decision has been reached that there are no prima facie grounds for an appeal to proceed.

The University have accepted the recommendation.

## **Main Investigation Report**

### **Introduction**

1. In January 2006 the Ombudsman accepted a complaint from a person who is referred to in this report as Mr C. He complained that The Robert Gordon University (the University) failed to follow the relevant procedures when considering his appeal against the decision of an internal Assessment Board that he had failed a module. Mr C also complained that in dealing with his appeal the University failed to consider evidence and that there was a lack of feedback.

2. The complaints from Mr C which I have investigated are:

- (a) failure to follow appeal procedures;
- (b) failure to consider evidence; and
- (c) lack of feedback.

### **Investigation**

3. Mr C was an international student on a Masters course at the University in academic year 2004/05. Mr C commenced the course two weeks after the start date of 31 January 2005 due to the timescale for granting his visa at the British Embassy in his home country.

4. Records show that Mr C attended lectures and engaged with his work. The Masters Course Leader reported that Mr C 'had an excellent attitude'. However, at the first diet Assessment Board in June 2005, Mr C was reported as having failed assessments. The University acknowledged that the first transcript of marks issued to Mr C after the Board meeting contained an error, but this was identified and a revised transcript was issued to Mr C eight working days later.

5. In the evidence he supplied to the Ombudsman it was clear that Mr C had difficulty in coming to terms with the failed assessments and in tackling the resits required of him. However, records show that at the resit Assessment Board in September 2005 Mr C passed all but one module. At this point Mr C submitted a letter of appeal against the failed module result to the University that cited the following as mitigating factors in favour of his appeal: his late start to the course; a lack of knowledge of the University's library and IT facilities; a poor relationship with subject tutors; problems in adjusting to the local climate; confusion at having so many failed assessments to resit; loss of coursework

material during the resit period due to failure of the University laptop hard drive; and depression brought on by the preceding factors. The University procedures that applied in these circumstances were Regulation A3: Student Conduct, Appeals and Complaints and Regulation A4: Assessment and Recommendations of Assessment Boards.

6. A reconvened Assessment Board in September 2005 considered Mr C's appeal and rejected it on the grounds of insufficient evidence. Mr C was notified by the University that he could proceed with his appeal if he wished. Mr C submitted the next stage of his appeal in October 2005. Following an internal investigation this was rejected by the University as it was concluded that no prima facie grounds for appeal existed in this case. Mr C was notified of this decision and his right to approach the Ombudsman. Mr C wrote again to the University in December 2005 to submit a further appeal, but was advised that he had exhausted the University appeals process and that he could contact the Ombudsman.

7. Mr C supplied documentary evidence with his initial complaint to the Ombudsman and supplied further commentary in response to my enquiries. The University supplied comprehensive commentary and documentary evidence, including regulations and copy correspondence, in response to my detailed enquiries. I compared the evidence and accounts provided by both parties and used this to examine Mr C's grounds for appeal and the manner in which the University had dealt with the appeal and communicated with him.

8. The Scottish Public Services Ombudsman Act 2002 states at Schedule 4(10A) that the Ombudsman must not investigate:

'Action taken by or on behalf of any body ... in the exercise of academic judgement relating to an educational or training matter.'

The Ombudsman does not have the authority to change grades or award qualifications. However, I can consider complaints where there is alleged procedural failure, as in this case.

9. I have not included in this report every detail investigated but I am satisfied that no matter of significance has been overlooked. Mr C and the University were given an opportunity to comment on a draft of this report.

**(a) Failure to follow appeal procedures**

10. Mr C believed that the University failed to follow appeal procedures, primarily because he felt that the University should have organised a committee to speak to him before making a decision. Regulation A3: Student Conduct, Appeals and Complaints, at Paragraph 8 and Schedule 3.3, set out the stages of the appeals process. Mr C submitted appeals at each stage and the University followed the process as set down in Paragraph 8 and Schedule 3.3, considering the evidence Mr C provided and responding accordingly.

11. Mr C also complained that he was not adequately informed by the Student Association or the University about the appeal procedures. As noted in paragraph 6, the University wrote to Mr C after the reconvened Assessment Board that he could proceed with an appeal. In addition, the Course Leader sent an email to Mr C outlining the general grounds of appeal. The University's online Student Portal, where students access information including their assessment results, has a link to the Academic Regulations which contains the appeal procedures. When all students enrol they sign a form to say they agree to abide by the University Regulations and at that time they are provided with information on where the Regulations can be accessed.

12. The information provided by Mr C in support of his initial appeal consisted of a plea supported by a list of the problems he had experienced. There was no documentary evidence or corroborated testimony to support it. Consequently the reconvened Assessment Board rejected Mr C's appeal on the grounds of insufficient evidence.

13. Mr C's appeal at the next stage was a revised version of his first submission supported by copies of emails and correspondence, an undated chemist prescription from his home country and a copy coursework assignment. As required by Regulation A3 the Associate Dean of the Faculty assembled the relevant information and passed it to the Dean of Faculty and the Academic Registrar for a judgement on whether or not there was a prima facie case to support progression of the appeal. The Academic Registrar obtained an additional report from the Faculty Administrator and, with the Dean, on the basis of the evidence available considered that there was no prima facie case for an appeal. This decision was reached on the grounds that the evidence submitted by Mr C did not justify returning his case to the Assessment Board because he had received adequate academic support and extensions to deadlines had been provided to accommodate the late commencement of his programme and

the loss of data from the laptop computer (see paragraph 5). This was passed to the Principal for the final decision and he agreed that there was no prima facie case. Mr C's appeal was formally dismissed by the University and Mr C was advised in a letter from the Academic Registrar that he could contact the Ombudsman.

*(a) Conclusion*

14. As stated at paragraph 8, the Ombudsman cannot look at matters of academic judgement and is not empowered to change grades or award qualifications. In terms of how Mr C's appeal was conducted by the University it is clear from the evidence available that the appeal was conducted in line with the relevant University regulations and the Mr C had adequate access to the University Regulations which contain the appeal procedures. Mr C feels that he should have had the chance to meet with the University staff to explain his position but there is no such right under the regulations until after a prima facie case had been established - which it was not in this case. Therefore, I do not uphold this aspect of Mr C's complaint.

**(b) Failure to consider evidence**

15. In his complaint to the Ombudsman Mr C said that the University 'did not comply with [his] supporting evidence'. As has already been established (see paragraph 12), Mr C did not supply any supporting evidence in the submission that was considered by the reconvened Assessment Board in September 2005. Mr C did supply supporting evidence in his second appeal submission in October 2005. The information supplied to me by the University clearly demonstrated that Mr C's evidence, in addition to evidence gathered from the University's own records and staff, was considered by the Dean of Faculty and the Academic Registrar in considering whether or not there was a prima facie case for proceeding with an appeal.

16. I have examined the documents and correspondence detailing the University's internal investigation which supported the conclusion of no prima facie case, and the University's response to my enquiries summarised the position:

[The Dean of Faculty] and [the Academic Registrar] liaised on the case and after due consideration concluded the evidence submitted did not justify returning the case to the Board as [Mr C] had received adequate support and extensions had been provided to accommodate the late commencement of his course and the loss of data from the lap top. [The]

Principal and Vice-Chancellor confirmed his agreement with the recommendation.'

I will deal with the issue of adequate advice and support under heading (c).

17. Mr C submitted a further letter of appeal to the University in December 2005 and he argued that he had supplied new evidence. This letter was correctly disregarded by the University as the appeals process had been concluded and the next step was for Mr C to approach the Ombudsman. I have, therefore, considered this letter and the evidence supplied with it. The letter is a third revision of the letters Mr C submitted to the University in September and October 2005. The new evidence is a letter from Mr C's family doctor in his home country. This doctor's letter did not deal with Mr C's contemporaneous situation or the specific circumstances that he encountered during his time in Aberdeen, rather it is generic information on his general medical history and, therefore, would not have been relevant to Mr C's appeal even if the University had considered it.

*(b) Conclusion*

18. It is clear from the evidence referred to in paragraphs 15 and 16 that the University did consider the evidence in support of Mr C's appeal and the justification for dismissing his appeal was reasonable and appropriate within the appeals mechanism. On this basis I do not uphold this aspect of Mr C's complaint.

**(c) Lack of feedback**

19. Mr C has also complained about the lack of feedback in the response letter from the University. In examining this aspect of Mr C's complaint I have also looked at the interaction between the University and Mr C at his induction to the institution, during the resit period of summer 2005, and during and at the end of the appeals process. In his complaint Mr C said that he was unhappy with the induction he received at the University when he arrived and that he was not used to the method of study for a Masters course in Scotland. In his response to my enquiries Mr C explained that his home culture was very different from that at the University. In particular, he stressed that in his culture a student would not be expected to mention their personal problems to a member of staff such as a tutor.

20. The University has provided a copy of the induction pack that is given to

new students which contains information on accessing support for, amongst other things, 'Anxiety/Panic ... Homesickness ... Depression ... Academic concerns'. There is no evidence that Mr C tried to access the support available. The University have also provided information on the academic induction and advice that Mr C received when he started the course. A key part of this is stated on the first page of the Masters Course Handbook:

'The learning outcomes for the Masters courses emphasise autonomy in your learning. You are, therefore, encouraged to take responsibility for your learning on the course. The teaching programme can only be regarded as an agenda for your study. Your time in class, however, can be used to clarify understanding with your lecturers as you proceed through the course ... It is important that the management of your course is based on good and effective communication.'

21. Mr C claimed that he was not able to obtain advice and support from tutors during the resit period in summer 2005. To prove this, in his October 2005 appeal submission, Mr C provided a copy of email correspondence between him and the Masters Course Leader. I have read this correspondence and rather than supporting Mr C's contention, it demonstrated to me that the Course Leader was trying to advise Mr C on what his options were. Other copy correspondence supplied by the University showed that there was contact with relevant University staff in advance of the extended resit submission deadline.

22. Mr C felt that communication from the University during and at the end of the appeals process was unhelpful. The letters Mr C received were clear in explaining what decision had been reached and what next steps were available to him. The final letter of the process in November 2005 from the Academic Registrar stated under what regulation Mr C's grounds for appeal were considered, that it had been concluded that no prima facie grounds for appeal existed, that his appeal had been formally dismissed and that he could approach the Ombudsman. The letter did not explain why the conclusion on no prima facie grounds was reached. Mr C only received such an explanation through a meeting with the Associate Dean of Faculty and the Faculty Administrator, a meeting which Mr C initiated.

*(c) Conclusion*

23. Institutions must, of course, be sensitive to the different cultural circumstances from which their students come, especially international students. However, there is an obligation on students, in particular mature

students at postgraduate level, and as stated in the handbook extract (see paragraph 20), to try to adapt to the circumstances and expectations of the institution in which they are studying. The evidence available to me (see paragraph 21) suggests that the University staff did try to assist Mr C but he found the adjustment to the local climate in Aberdeen and the mode of study at the University too much to cope with. The evidence also demonstrates that the University made reasonable efforts to communicate with Mr C and feed back to him on relevant issues during his induction, the resit period and during the appeals process. The Academic Registrar wrote to Mr C to inform him that the Principal had dismissed the appeal as there were no prima facie grounds for it to proceed. On this basis I do not uphold this aspect of Mr C's complaint.

24. However, although the final letter from the Academic Registrar was technically accurate, it could have been more helpful and transparent by explaining the reasons for finding that Mr C had no prima facie grounds of appeal. In the event Mr C had to initiate a meeting with the University staff to get such an explanation. In light of this, while not upholding the complaint, the Ombudsman is of the view that this is an area for improvement.

*General recommendation*

25. The Ombudsman makes the general recommendation that University include, in the final letter issued to appellants by the Academic Registrar, an explanation of why a decision has been reached that there are no prima facie grounds for an appeal to proceed.

26. The University have accepted the recommendation and have confirmed that an explanation will be incorporated into future correspondence.

23 May 2007



**Explanation of abbreviations used**

Mr C

The complainant

The University

The Robert Gordon University,  
Aberdeen

**Glossary of terms**

Assessment Board

A meeting of academic staff to moderate and ratify student examination and assessment marks, in line with national quality assurance frameworks.

Prima facie

Sufficient to establish a fact or a case unless disproved

**List of legislation and policies considered**

Regulation A3: Student Conduct, Appeals and Complaints

Regulation A4: Assessment and Recommendations of Assessment Boards

Masters Student Handbook