

Scottish Parliament Region: North East Scotland

Case 200503430: University of Abertay Dundee

Summary of Investigation

Category

Scottish Higher Education: Academic appeal

Overview

The complainant (Ms C) claimed that she had been unfairly removed from her course at the University of Abertay Dundee (the University) and that the University had failed to follow procedures in removing her.

Specific complaint and conclusion

The complaint which has been investigated is that Ms C was unfairly withdrawn from her degree programme at the University and that there were procedural failings leading up to her withdrawal (*not upheld*).

Redress and recommendations

Although the complaint has not been upheld, the Ombudsman recommends, to ensure future continuing improvement, that the University:

- (i) consider that records should be made of meetings with students, especially failing students, who are being counselled on their academic performance and where there is a likelihood that they could be withdrawn;
- (ii) reflect on the wording of the standard resit letter to see if it is as clear as it could be; and
- (iii) consider whether final decision letters at the conclusion of an unsuccessful appeal should give a fuller explanation of why an appeal is not upheld, rather than simply saying there are 'no grounds' for an appeal – an explanation of why there are no grounds might be helpful for the appellant.

The University have accepted the recommendations and will act on them accordingly.

Main Investigation Report

Introduction

1. On 10 March 2006 the Ombudsman received a complaint from a member of the public (Ms C) who was a student at the University of Abertay Dundee (the University). Ms C claimed that she had been unfairly removed from her course at the University and that the University had failed to follow procedures in removing her.

2. The complaint from Ms C which I have investigated is that Ms C was unfairly withdrawn from her degree programme at the University and that there were procedural failings leading up to her withdrawal.

3. In making her complaint Ms C made allegations of discriminatory behaviour against University staff, and one member of staff in particular. In considering the evidence I took into account the conclusions of the Commission for Racial Equality (CRE)¹, to whom Ms C complained in January and February 2006. The CRE said that there was, as Ms C had herself admitted, insufficient evidence of discrimination against Ms C. On this basis the CRE did not offer Ms C assistance to pursue her complaint further. Considering this evidence, and the information supplied to me by both Ms C and the University, I did not include allegations of discriminatory behaviour in this investigation.

Investigation

4. It is important to make clear at the outset that it has not been my role to assess or challenge the academic judgement of University staff in relation to Ms C's work, as this is outside the Ombudsman's jurisdiction under Schedule 4, paragraph 10A of the Scottish Public Services Ombudsman Act 2002.

5. In considering the complaint under investigation I examined evidence provided by Ms C, as well as evidence provided by the University in response to my enquiries.

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

¹ On 1 October 2007 the CRE along with the Disability Rights Commission and the Equal Opportunities Commission merged into the new Equality and Human Rights Commission.

Complaint: Ms C was unfairly withdrawn from her degree programme at the University and that there were procedural failings leading up to her withdrawal

7. Ms C was an international student at the University studying for an undergraduate degree. She commenced her studies at the beginning of the academic year 2003/04 and continued into 2004/05. On 14 July 2005 she received a letter from the University informing her that she had been withdrawn from study due to academic failure. In her complaint to the Ombudsman, Ms C said that she had been withdrawn from the University because a member of academic staff (Lecturer 1) hated her for personal reasons. She said that some of her completed assessment work had been lost or not returned to her, and that she had not been given feedback on her assessments despite being required to resit some of her assessments three times. She also said that the letter of 14 July 2005 was a forgery and she had received no warning that she was about to be withdrawn.

8. Ms C supplied evidence in relation to a number of the modules she studied on her degree programme. In relation to Module 1, she said that she had passed it in January 2004 but that in July 2004 it was recorded as being a fail and that she had been made to resit the assessment. She was also unhappy that a letter sent to her in July 2004 notifying her of the need to resit the assessment was sent to her home address outside the UK, rather than her term-time address. Ms C also supplied an email from August 2004 to her from the University's Registry which said:

'Your student record shows that you have passed [Module 1] with a grade of 10.'

She also supplied a letter from the University, dated 7 September 2004, which said:

'There was no requirement for you to resit [Module 1] and this was clarified with you at a meeting with [another lecturer (Lecturer 2)] on 22 July 2004. Your first sit grade was a pass (grade 10).'

9. In relation to Module 2, she said that she had passed the module according to the Online Abertay Student Information System (OASIS) on 17 March 2005, but that on 30 March 2005 OASIS showed the module as a marginal fail, and that somehow the result had been changed after she had complained about another module (Module 3). In relation to Module 3, Ms C

said that she failed the module and was not allowed to see her completed and marked assessment papers nor was she given feedback. She also said that the module result went missing for about two months, and that in her second year she was made to study the entire module again despite it not being taught by the University. Ms C supplied a copy of a letter from another lecturer (Lecturer 3) to her, dated 6 September 2004, which advised her of the decision of the Course Board. Lecturer 3 said:

‘The decision of the Board ... was to proceed to year 2 and carry [Module 4] and [Module 3]. In both cases the modules are not being taught in session 2004/5 as a result of the revisions to the programme in line with the review of the modular scheme. In the case of [Module 4] the content will form part of [a] new double module ... and you will be able to attend lectures and tutorials in semester 2 ... In relation to [Module 3] there is no comparable module running and you will require to study this by yourself. You will be able to seek additional guidance from the module tutor. In addition to these modules you will of course require to undertake a full programme of level 2 modules.’

In addition to this Ms C provided a copy of a meeting agreement on a Semester 1 recovery plan signed by both her and Lecturer 2, which included a note that her resit on Module 3 would be deferred until August 2005. She also supplied email correspondence between University staff between 1 April 2005 and 4 April 2005 regarding a missing result for Module 3.

10. In relation to Module 4, Ms C said that parts of the portfolio assessment went missing in 2004 before the assessment diet, that in her second year she was made to study the entire module again despite it not being taught by the University, and that her portfolio assessment was destroyed in June 2005 before she was notified of her results. Ms C supplied an email of 2 June 2005 from the University to students on Module 4 advising that the:

‘... coursework is available for collection from the ... School Office ... You have up to ... 17 June to collect these or they will be shredded.’

The letter of 7 September 2004 from the University to Ms C (see paragraph 8) advised her that:

‘All items included in your [Module 4] portfolio at first sit were assessed. No items were, as you stated, mislaid, and the requirement for you to resit this unit of assessment was based on a complete set of item grades. I am in possession of a complete set of original grades for all six elements within

the portfolio, none of which are 18 (ie not submitted), with the overall average being a fail (grade 12).'

11. In relation to the letter of 14 July 2005 advising Ms C that she had been withdrawn from the University due to academic failure, Ms C said that:

'I was not given any warning that I would be withdrawn from the University and the reasons mentioned on the withdrawal letter are all false. The letter is a fraud, because it has different font and a copy signature that is not original.'

Ms C supplied a copy of the letter which was in the name of the University Registrar and said that Ms C had been withdrawn from the University on 1 June 2005. The reason for withdrawal was given as 'Academic Failure/Left in bad standing/not progress'. The letter went on to say that:

'The Programme Assessment Board [(PAB)], at its recent meeting, resolved that you be withdrawn from your studies for academic reasons. Your student record has been amended to reflect this decision.'

Attached to the letter was an academic transcript, dated 1 June 2005, which showed that Ms C was carrying the failed Module 3 and Module 4 from her first year, and that she had failed all of her modules in her second year, three of which she had failed at resit.

12. In response to my enquiries, the University provided information relating to the various aspects of Ms C's complaint. In relation to the handing in of assessments, the University said that in 2003/04 assessments were generally handed in during classes and receipts were not routinely given, though they could be requested. From 2004/05 students had to submit both a hard copy and an electronic copy by email, with the sent email acting as proof that an assignment had been submitted. In terms of feedback provided to students, the University said that a standard feedback form was used, and they provided me with copies of four such sheets (which had been submitted by Ms C as part of an academic appeal in September 2004) given to Ms C for Module 4. They also said that marked assignments were normally returned to students in class or were left at the School Office for students to collect. Students were told they could also arrange an appointment with academic staff for personal feedback on examination performance. In relation to obtaining marks from completed assessments, the University said students could access them on OASIS in three stages:

'Stage 1: Provisional module results were released as soon as the module tutor enters them on SITS [(Strategic Information Technology Systems)] record system. Stage 2: Confirmed module results were released as soon as they were processed following a subject assessment board (SAB) and before the programme assessment board (PAB). Stage 3: Confirmed programme board decisions and awards were released as soon as they were processed following the [PAB]. The OASIS system provides full notes to students with explanatory notes of decisions and grades.'

The University guide to using OASIS stated to students that:

'You should access OASIS on a regular basis to

- check your module registrations and enrolment details
- ensure your address is up to date
- check your assessment and examination results
- access important forms and information ...

It is your responsibility to ensure that your record correctly reflects your address so that we can contact you ... Results and programme assessment board decisions (that is, the decision on whether you are permitted to continue with your studies at the end of each academic session) are only issued via OASIS ... It is your responsibility to ensure that you have your login and password details to allow you to check your results and progression decision.'

13. In relation to the shredding of assessments that were not collected by students, the University advised me that this was standard practice, however, normally work could be retained until the end of the academic year, ie after resits had taken place. In relation to the marking of Ms C's work, the University said that all failed assessments were included in the sample of work sent to the External Examiner. I noted that the letter sent to Ms C in July 2004 stated that it provided a list of '... the module units in which you may be offered a further resit opportunity' and I queried whether it was clear to students what was required of them. The University was of the view that:

'The use of the word 'may' is not helpful, but it is reasonable to infer from the letter that the student was required to undertake re-assessment in the module units. The letter goes on to state 'if you are expecting to receive a particular piece of assessment, and it is not included in this pack, it is your responsibility to contact the School Office, who will investigate this' ...'

14. In relation to Module 1, the University explained that there had been a data input error which initially showed the grade as a pass, but that the error (which affected the whole class, not just Ms C) was identified and procedures followed to have the grade correctly input as a fail. Lecturer 3 wrote to Ms C on 24 March 2004 to advise her of this error and that:

‘After careful consideration of your case, it has been decided exceptionally to allow your grade to remain a grade 10 and therefore an overall pass.’

In addition, the University supplied a copy of an email of 22 July 2004 from Lecturer 2 to her colleagues explaining that:

‘... I have seen [Ms C] today, ostensibly re her [Module 4] portfolio. When she was here it transpired that she had not received her reassessment letter. This went to her ‘home’ address ... So I gave her another letter and copies of the courseworks ... It appeared from the reassessment letter that she had work to do for [Module 1], but there is a letter from [Lecturer 3] dated 24 March saying that she has a pass grade in [Module 1]. It looks as if this was not changed on SITS. After consulting ... we went with that letter and I advised her that she had nothing further to do for [Module 1] ... She said she would have no difficulty doing the [Module 4] and [Module 3] assessments by the due dates.’

A Notification of Changes to Assessment Data form recorded that the grade was corrected on 29 July 2004.

15. In relation to Module 3, the University supplied a fuller version of the email correspondence between staff (see paragraph 9). The emails show that Ms C approached the University’s Student Services Department for assistance in finding the module result. An email of 30 March 2005 from Student Services to a lecturer (Lecturer 4) said that:

‘I’ve checked her module registration and unfortunately, she hasn’t been registered for Sem[ester] 1 for this module (apparently it should’ve been transferred from Session 2003-4 to Session 2004-5). Could you please confirm with [the Senior Assistant Registrar] that this info is correct and thereafter [the Senior Assistant Registrar] will amend her record accordingly.’

16. I asked the University if and how Ms C had been counselled about her academic performance and if and how she had been warned that she could be withdrawn from the University. They advised that:

‘On a number of occasions, not specifically recorded, the student was advised that her performance was marginal, advised how to improve her performance, and warned that if her performance did not improve she was in danger of being withdrawn by the [PAB].’

However, Ms C has said that there were no such meetings to help her improve performance. In terms of the procedure used to withdraw Ms C, the University said that it was the decision of the June 2005 PAB to withdraw her, it was processed in line with the Procedures for Withdrawal from Study, and the information about her withdrawal made available on OASIS. The University also said that:

‘... after PABs, registry staff write to all withdrawn students (within three weeks) to confirm the PAB decision and provide a transcript of their results together with any award certificate that they may be eligible for. This student was not eligible for any award.’

The Procedures for Withdrawal from Study stated that:

‘Students who are withdrawn by a June course or [PAB] will be recorded as withdrawn on 1 June ... Students withdrawn by a course assessment board will be informed of the decision via OASIS. Registry will also write to these students, by no later than mid August (for the July boards) ...’

17. In relation to the use of home or term-time addresses for sending out resit notifications, the University said that when students register with the University they are required to provide a term-time and home address and they are:

‘... advised of the importance of ensuring that the University holds their correct address for correspondence during term-time and during the vacation.’

The University also said that students were able to manage their own home and term-time address details online using OASIS. Information was routinely sent to the term-time address during term-time, and the home address outside term-time, unless a student advised otherwise.

18. Ms C wrote a letter, addressed to the ‘Chancellor’, on 27 July 2005 to appeal her results. In her letter she referred to the amount of fees she had paid as an international student, and said ‘I do disagree to be made a failure of almost all my 2nd year modules ...’. In this letter she also said that the letter of 14 July 2005 notifying her of the withdrawal was a forgery, that she had not

received feedback on her assessment performance, and that she had been discriminated against. The University's Vice Principal wrote to Ms C on 2 August 2005 to acknowledge receipt of her appeal and advised that he was seeking a report on the matter which would include a recommendation from the School.

19. In responding to the issue of whether or not the letter of 14 July 2005 was a forgery, the University Registrar, whose electronic signature was on the letter, confirmed on 2 August 2005 that the letter was not a forgery but was a standard 'template' letter. The Head of School sent a report on Ms C's appeal to the Vice Principal on 19 August 2005. The Head of School said that:

'The student's performance at first attempt, and at second attempt ... is extremely poor across the board ... The PAB's decision [to withdraw Ms C] would have been entirely appropriate according to the regulations, had it been based on a series of single attempts failed, but in fact [Ms C] has had more than one attempt in almost every module prior to being withdrawn ... The PAB decision, in addition to being in line with the regulations, is well-founded on the evidence of the student's performance and engagement, neither of which suggest that she should continue to study on this programme.'

In terms of the shredding of coursework, the Head of School advised the Vice Principal that students were informed in Semester 1 that Semester 2 coursework would be retained in the School Office until a specified date and then shredded if not collected, and that the email that Ms C had supplied as evidence was a reminder of the deadline and not the first notification of shredding. The Head of School also confirmed that all work that received a fail grade was sent to the External Examiner for confirmation. The report also noted that in some classes Ms C's attendance was poor, that she had not availed herself of the opportunity to obtain feedback from academic staff, in particular on the portfolio for Module 4, and that she had returned to her home country for four weeks during Semester 2 of 2004/05 thereby missing classes and opportunities to obtain feedback. However, Ms C denies this and said that she was only absent for two weeks due to an emergency.

20. The Vice Principal wrote to Ms C on 22 August 2005 to advise that having reviewed the evidence he did not find that she had a basis for an appeal under the regulations. However, he also advised her that it was her decision whether or not to have her appeal considered by the Academic Appeal Committee (the

Committee). Ms C confirmed to the Vice Principal on 4 October 2005 that she wished to pursue her appeal. The Vice Principal acknowledged this on 12 October 2005 and said that he would make arrangements for a meeting of the Committee. He wrote again on 2 November 2005 to advise that the Committee would meet on 17 November 2005, and the Deputy University Secretary confirmed this meeting date to Ms C on 9 November 2005.

21. The University said that Ms C was present at the meeting of the Committee on 17 November 2005 and was accompanied by a friend. She tabled papers at the meeting, much of which made up her submission to the Ombudsman. The Committee agreed, exceptionally, to consider the tabled papers and report back to Ms C at a later date. Paragraph 10 of the Academic Appeals Procedures stated that:

‘Grounds of appeal or other information submitted after this period of time will only be considered by [the Committee] under exceptional circumstances.’

The Vice Principal wrote to Ms C on 21 November 2005 to confirm this and that he would contact her again as quickly as possible to advise her of the outcome of the appeal.

22. The additional evidence tabled by Ms C, as well as a response to it by the School, was sent to Committee members by the Deputy University Secretary on 2 December 2005 who asked for replies by 12 December 2005, on the basis of which the Committee Chair would make the final decision which was to be communicated to Ms C by the Vice Principal. In addition to information provided elsewhere by the School, the additional response from them said that in terms of Module 2, there was no change in the grade, rather Ms C had misread or misunderstood the different views on OASIS, with one view showing the results of individual assessment units (of which one was a pass and one a fail) and the other view showing the aggregate module grade (which was a pass). In terms of Module 4, the School said that no pieces of portfolio work went missing, and that:

‘The submission in May 2004 was a fail as was the resubmission in August. Each portfolio grade was confirmed by an internal moderator and, in addition, the resubmission grade was confirmed by the external examiner. [Ms C] repeated [Module 4] in 2004-05 ... She did not submit any portfolio items for formative feedback as she was supposed to (continuing the pattern from last year) and failed ... [The completed

portfolio] was not submitted until the end of week 12, and there was no opportunity to return it to the student ... The portfolio submission in May 2005 was not destroyed. It was sent to the external examiner after internal marking and moderation and the fail grade was confirmed. The completed assessed portfolio is still available for inspection.'

Committee members responded to the Deputy University Secretary with the view that, on the basis of all the evidence reviewed, there was no basis for the appeal within the regulations. The Vice Principal wrote to Ms C on 13 December 2005 to advise that:

'... the Committee decided not to uphold your appeal, considering that the information presented did not provide grounds for requiring the relevant Assessment Board to reconsider its decision.'

23. The Academic Appeals Procedures stated at paragraph 4 that:

'[The Committee] will not consider any appeal that is based solely on a request for the student to be given another opportunity to satisfy the Assessment Board. There is no right of appeal against a decision of an Assessment Board which requires that a reassessment be undertaken ...'

The Academic Appeals Procedures stated at paragraph 5 that:

'The functions of [the Committee] are to investigate cases in which it is claimed by a student that relevant evidence was not available to the Assessment Board at the time it reached its decision and to consider alleged instances of maladministration.'

The Academic Appeals Procedures stated at paragraph 8 that:

'Although [the Committee] may, if it so decides, require an Assessment Board to reconsider its decision, it does not make a recommendation as to the outcome of the Board's reconsideration and, in particular, it is not empowered to overturn a decision of an Assessment Board.'

Conclusion

24. Ms C has not supplied any evidence to support her allegation that Lecturer 1 hated her for personal reasons. In relation to Module 1, there was a data input error but this was rectified and Ms C did not have to resit it. Module 2 was a pass, but Ms C misread or misunderstood the unit assessment view, which showed one unit passed and one failed, and the assessment board decisions view which showed an overall pass for the module. The apparently missing grade for Module 3 was due to an administrative oversight that was remedied, and the University's view contrasts with Ms C's view in relation to feedback, in that the University have said that Ms C did not avail herself of opportunities to obtain feedback. In Module 4, the University have said that none of the portfolio work went missing, that Ms C did not seek feedback, and that the completed assessed portfolio was not shredded but was, in fact, available until the end of the academic appeal process. The University provided a reasonable explanation to Ms C as to why Module 3 and Module 4 were not running in 2004/05 and how she could obtain teaching and support for these modules where it was available. In addition, the OASIS guide made it clear that it was Ms C's responsibility to keep the University informed of her up-to-date address details, and there is no evidence that she did this, hence the resit letter was sent to her home address as it was sent outside term-time.

25. The OASIS guide also made it clear that the result of the PAB which decided Ms C's progression status was only on OASIS and, therefore, it was her responsibility to check it to find out whether or not she was to progress beyond second year. Since there is no evidence that she did this, the first intimation that she had been withdrawn was in the letter of 14 July 2005 from the University Registrar. Ms C claimed that the letter was a forgery, but having seen a copy of the letter and the University Registrar's comments on it, it is my opinion that the letter was genuine and was not a forgery.

26. The University have supplied me with evidence that Ms C was a failing student, as the recovery plan, the feedback sheets, OASIS print-outs and the transcript demonstrate. Much of Ms C's work was seen by the External Examiner, as all failed work was sent to them as a matter of course. In terms of following the relevant procedures, I am satisfied that the University complied with their Procedures for Withdrawal from Study and the Academic Appeals Procedures. In applying the Academic Appeals Procedures, the Committee took the decision to exceptionally consider Ms C's tabled evidence in fairness to her.

27. Ms C made the point in her complaint to the University that she had paid full fees as an international student. However, while such fees might be expensive for an individual student, payment does not confer any additional rights on a student beyond the provision of teaching and access to University facilities, and the expectation of reasonable and fair treatment within the University's rules. The evidence leads me to conclude that there were no procedural errors leading to her withdrawal from study by the University, and on this basis she was not unfairly withdrawn from her degree. Therefore, I do not uphold this complaint.

Recommendations

28. Although the complaint has not been upheld, the Ombudsman recommends, to ensure future continuing improvement, that the University:

- (i) consider that records should be made of meetings with students, especially failing students, who are being counselled on their academic performance and where there is a likelihood that they could be withdrawn;
- (ii) reflect on the wording of the standard resit letter to see if it is as clear as it could be; and
- (iii) consider whether final decision letters at the conclusion of an unsuccessful appeal should give a fuller explanation of why an appeal is not upheld, rather than simply saying there are 'no grounds' for an appeal – an explanation of why there are no grounds might be helpful for the appellant.

29. The University have accepted the recommendations and will act on them accordingly. The Ombudsman asks that the University notify her when the recommendations have been implemented.

Explanation of abbreviations used

Ms C	The complainant
The University	University of Abertay Dundee
CRE	Commission for Racial Equality
Lecturer 1	A member of academic staff at the University
Module 1	A module that formed part of Ms C's degree programme
Lecturer 2	A member of academic staff at the University
Module 2	A module that formed part of Ms C's degree programme
OASIS	Online Abertay Student Information System
Module 3	A module that formed part of Ms C's degree programme
Lecturer 3	A member of academic staff at the University
Module 4	A module that formed part of Ms C's degree programme
PAB	Programme Assessment Board
SITS	Strategic Information Technology Systems, a commercially available

student record system, now known as Tribal

Lecturer 4

A member of academic staff at the University

The Committee

The Academic Appeals Committee

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
External Examiner	An external examiner is a person from another institution or organisation who monitors the assessment process of an institution for fairness and academic standards
School	The part of the University in which Ms C was taught

List of legislation and policies considered

Scottish Public Services Ombudsman Act 2002

The University's Procedures for Withdrawal from Study

The University's Academic Appeals Procedures