

## Scottish Parliament Region: North East Scotland

### Case 200700254: The Robert Gordon University

#### Summary of Investigation

##### **Category**

Scottish Further and Higher Education: Higher Education; student discipline

##### **Overview**

The complainant (Mr C) was a student at The Robert Gordon University (the University) taking a course of professional study for a regulated health profession. The University took disciplinary action against him for supplying fraudulent evidence to mitigate the late submission of a piece of work on the grounds that this was a serious instance of non-academic misconduct. He was removed from his course.

##### **Specific complaint and conclusion**

The complaint which has been investigated is that the punishment for an incident of misconduct was disproportionate and prejudicial to Mr C's future career prospects (*not upheld*).

##### **Redress and recommendations**

The Ombudsman has no recommendations to make.

## **Main Investigation Report**

### **Introduction**

1. The complainant (Mr C) began a course of professional study to qualify as a regulated health professional in October 2003. His participation in this course entailed student membership of the relevant professional body. In his third year, in May 2006, he cited the death of a relative as mitigating circumstances for the late submission of coursework. When he was asked to provide evidence of this, he provided The Robert Gordon University (the University) with a letter purporting to be from the widow of the deceased relative. Staff at the University investigated this matter and found that Mr C had fabricated the letter, and that his relative had not died. Mr C admitted that he had provided a false excuse and disciplinary action was initiated. The University wrote to Mr C on 4 July 2006 advising him that the outcome of the disciplinary proceedings was that he would be removed from his course. On the same day, Mr C's head of school (the Head of School) also wrote to the relevant professional body to report the misconduct, which she considered to constitute a breach of the body's code of discipline. Mr C appealed the decision and the penalty imposed, and a hearing was held on 25 August 2006. The hearing upheld the original decision and penalty. The Ombudsman received a complaint from Mr C on 25 April 2007.

2. The complaint from Mr C which I have investigated is that the punishment for an incident of misconduct was disproportionate and prejudicial to his future career prospects.

### **Investigation**

3. In order to investigate this complaint, I reviewed all the documentation submitted as part of the disciplinary process, as well as other correspondence between Mr C and the University. I made inquiry of the University on 27 July 2007 and received their detailed response on 22 August 2007.

4. 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.

**Complaint: The punishment for an incident of misconduct was disproportionate and prejudicial to Mr C's future career prospects**

5. On 5 March 2006, Mr C sought, and was denied, an extension to the deadline for the submission of two pieces of coursework. A friend of Mr C called his course leader (the Course Leader) on 21 April 2006 to say that he had suffered a family bereavement and was too distressed to speak in person. The Course Leader spoke by telephone with Mr C on 24 April 2006 and he confirmed what his friend had said. On 27 April 2006, the Course Leader wrote to Mr C to inform him that two pieces of coursework were overdue for submission and were being considered as second diet attempts. She informed him that this would only change if he was able to show evidence of mitigating circumstances.

6. The Course Leader received an undated letter which had apparently been written by the widow of Mr C's deceased relative. She had suspicions about this letter, which she shared with the Head of School, who then wrote to the relevant registrar of births, deaths and marriages on 23 May 2006 to seek confirmation of the death. The Course Leader wrote to Mr C on 1 June 2006 inviting him to a meeting to discuss her 'serious concerns with regard to the mitigating circumstances' he had claimed for his late submissions. Mr C and the Course Leader met on 5 June 2006 and Mr C followed up the meeting with an undated letter which expresses his regret for falsifying an excuse for his later submissions. The Head of School then invited Mr C to a further meeting with her and the Course Leader to discuss the incident as a potential breach of academic regulations concerning misconduct and this took place on 12 June 2006.

7. At the meeting, Mr C again expressed his deep regret for his actions. The Head of School and the Course Leader underlined the seriousness of what he had done in relation to expected standards of conduct for a professional in this field. They also referred to Mr C's previous failures to submit coursework and said that he had not modified his behaviour in the light of those experiences. They explained that the penalty recommended for his actions was 'permanent exclusion from studies'.

8. Following this meeting, the Head of School wrote to the Dean of the relevant faculty on 12 June 2006 with the recommendation that Mr C be withdrawn permanently from his course and excluded from the University. She also said that she would be writing to the appropriate professional body to

recommend Mr C's exclusion from that body. The Dean then wrote to the University's Principal on 22 June 2006 recommending that Mr C be disciplined for his conduct and that the penalty should be 'permanent removal from the course'.

9. The University's Principal wrote to Mr C on 4 July 2006 confirming that, under the Academic Regulation A3, it had been decided to remove him from the course. However, he offered Mr C the possibility of enrolling on a similar course which did not require membership of the professional body and which may allow him to resume study in the area of his original course at a later date. He also indicated Mr C's right to appeal in accordance with the Academic Regulations.

10. Mr C's solicitor (the Solicitor) wrote to the University on 14 July 2006 indicating his intention to appeal both the decision and the penalty imposed. The University replied, giving a date for a meeting of the University Student Disciplinary Appeals Committee (25 August 2006) and responding to the intention to appeal the decision. The University considered that, as Mr C had admitted the misconduct, no Investigating Committee had been set up and no decision made about whether or not misconduct had occurred. The purpose of the appeal, therefore, would be to review the penalty imposed. The Solicitor replied and stated that the reason he wished to appeal the decision was that, notwithstanding Mr C's admission, he considered that there was an element of unfairness in the University's response to the events.

11. At the meeting of the University Student Disciplinary Appeals Committee, the University set out their concerns about Mr C's behaviour before the incident of misconduct occurred. These included concerns about conduct on placement, poor attendance and a pattern of late submissions over a period of several months.

12. The Solicitor presented Mr C's concerns about the way the misconduct investigation had been conducted. The Solicitor considered that course staff had not been objective in their treatment of Mr C, had acted prematurely in reporting the incident to the professional body, were mistaken in deciding that the incident qualified as non-academic misconduct and had not taken positive aspects of Mr C's behaviour and performance into account. He also considered that the University had acted unfairly in not advising Mr C that he was under suspicion when they asked him for evidence of his mitigating circumstances.

13. The University Student Disciplinary Appeals Committee concluded that Mr C had not been treated unfairly but had received a considerable amount of support in his studies. They considered that the Head of School had acted reasonably in reporting Mr C to the professional body and that this body would, in any case, undertake its own investigation of the allegations. They also concluded that the incident had been correctly identified as non-academic misconduct in line with the Academic Regulations, which cite 'attempts to subvert University processes or procedures by means of false claims or fraudulent documents' as an example of such misconduct. Finally, they thought it reasonable for the Course Leader to seek evidence of the mitigating circumstances. The committee members were satisfied that the University Principal's decision and the reduced penalty he imposed were reasonable.

14. Following the decision of the Student Disciplinary Appeals Committee, Mr C sought entry to similar professional courses at other universities. The University's Principal offered his support to Mr C by writing references for these applications, but Mr C was not successful in his applications because of his misconduct. Mr C later enrolled successfully as a student on a course in a related discipline in another institution.

#### *Conclusion*

15. Mr C's complaint about the conduct of the disciplinary process is that its outcome unfairly prejudiced his future career options and that the penalty was unduly harsh. He admitted his error of judgement and his previous issues with poor attendance, conduct on placement and late submissions, but felt that he had demonstrated his ability to reflect on events and modify his behaviour. He also felt that the Head of School's decision to report him to the professional body was premature, given that the appeal process had not yet begun. These issues were all addressed by the University Student Disciplinary Appeals Committee, who concluded that the process had been fair and the outcome reasonable.

16. It is without doubt that the impact of the penalty for Mr C's misconduct on his career options has been considerable. The University were not in a position to provide assurances about Mr C's professional standards to other institutions in the wake of their conclusions about his misconduct. However, they did offer Mr C a chance to continue his studies at the University on a course that may have allowed him to establish his professionalism and then apply for post-graduate study for his chosen profession. I consider that this offer was an

appropriate change to the original proposal to remove Mr C from the University, giving him a chance to demonstrate his ability to meet the requirements of the profession.

17. At the same time, I consider that the penalty was also a reasonable recognition of a serious breach of conduct, involving deceit and showing poor judgement. It was not inappropriate for the University to consider Mr C's previous performance when making a judgement on his misconduct and I have not seen evidence to suggest that this was done in a prejudicial manner.

18. In relation to the Head of School's decision to report Mr C to the professional body, I consider that she acted on Mr C's admission of what he had done in good faith and in keeping with the demands placed on her as a member of that body. The body had its own investigative procedure to follow, and she was not prejudging the outcome of that investigation by reporting Mr C's behaviour when she did. Furthermore, Mr C was given a chance to respond to the allegations during the professional body's investigation.

19. With all of this in mind, I consider that the University conducted their disciplinary processes reasonably and do not uphold Mr C's complaint.

*Recommendation*

20. The Ombudsman makes no recommendations in this case.

**Explanation of abbreviations used**

Mr C	The complainant
The University	The Robert Gordon University
The Head of School	The member of staff in charge of the academic school in which Mr C's course was based
The Course Leader	The member of staff responsible for co-ordinating the course of professional study Mr C was undertaking
The Solicitor	Mr C's solicitor, who acted for him in his appeal

**List of legislation and policies considered**

The Robert Gordon University Academic Regulations