

The Academic Registrar
Barchester University

21 APRIL 2011

Dear Sirs

**Appeal against the result of a PhD examination
Dr Alfredo Amato**

I write pursuant to Regulation xy of the Regulations for Research Degrees of the University as updated in July 2010 (**Regulations**) to appeal against the result of my PhD examination.

I set out my appeal submission in numbered paragraphs for ease of reference.

Background

1. I registered for a PhD with the former School of Management at the University in September 2000. In 2004 I registered as a part-time student and continued to be based in Italy for the duration of my programme of study.
2. I submitted my thesis for examination in June 2008 and the *viva voce* examination was scheduled for 4 July 2008 (**Viva**). The internal examiner was to be Professor Gavin Brennan and the external examiner was to be Professor Clive Richards of the University of Canford: together "**the Examiners**".
3. I arrived in London on 3 July 2008 and spoke to my supervisor, Matthew Banham who informed me that the Examiners had told him that they did not think my thesis was of the appropriate standard to be awarded the degree of PhD but that they would make suggestions for appropriate revisions to the thesis.
4. At the outset of the Viva on 4 July I was informed by the Examiners that I would not be awarded the PhD on the basis of my submitted thesis but that I would be given the opportunity to resubmit.
5. The Viva consisted of a discussion of the thesis with suggestions made for its improvement. The Viva lasted for approximately two hours.
6. I was formally advised of the Examiners' decision by receipt of the Examiners' joint report dated 11 July 2008 (**2008 Joint Report**). I was also provided with copies of the Examiners' preliminary reports: Professor Richard's dated 29 June 2008 (**Richards Preliminary Report**) and Professor Brennan's dated 3 July 2008 (**Brennan Preliminary Report**).
7. I also received the Examiners' Report Form dated 4 July 2008 (**2008 Report Form**) which confirmed the outcome and noted that my thesis was to be revised and resubmitted within eighteen months.
8. I revised my thesis, with the close advice of my supervisor, and resubmitted the thesis on 24 September 2010; an extension having been granted by the Examiners.
9. In early March 2011 I received an email (**March Email**) from my supervisor indicating that he had been informed by Professor Brennan that the thesis was still not satisfactory.

10. Finally on 17 March I received a letter (**March Letter**) from the Research Degrees Manager at the University enclosing the Examiners' joint report dated 16 March 2011 (**2011 Joint Report**) and an Examiners' Report Form dated 16 March 2011 (**2011 Report Form**).

Documents

11. I enclose with this submission the following documents:
- i) 2008 Joint Report;
 - ii) 2008 Report Form;
 - iii) Brennan Preliminary Report;
 - iv) Richards Preliminary Report;
 - v) 2011 Joint Report;
 - vi) 2011 Report Form;
 - vii) March Email;
 - viii) March Letter;
 - ix) Email exchange with the Research Degrees Manager 18 March 2011 to 1 April 2011 (**March-April Emails**)

Grounds of appeal

12. I wish to appeal against the result of my PhD examination on the following grounds:

Ground 1 – Inadequate Assessment

- 12.1 There was inadequate assessment (Regulation xyz(b)) on the part of the Examiners. I was not given the opportunity to defend my thesis by way of oral examination in accordance with Regulations 38 in that:

- a) the Viva failed to meet the requirements of guideline xy of the Guidelines for the Conduct of MPhil and PhD oral examinations (**Guidelines**) as I was not given adequate opportunity, encouragement and time to defend the thesis and was therefore not a valid oral examination;
- b) the Examiners reached their decision in March 2011 without first affording me an opportunity to defend my thesis by oral examination as required by the Regulations and Guideline xy.

Ground 2 - Prejudice

- 12.2 The Examiners' decision in advance of the Viva was in breach of Guideline xy and prejudiced their assessment of my thesis contrary to Regulation xyz (b).

- 12.3 The failure to provide preliminary reports relating to the decision making process before the production of the 2011 Joint Report gives rise to a suspicion of prejudice in the examination of the thesis.

Ground 3 – Procedural Irregularity

- 12.4 There were procedural irregularities in the conduct of the examination sufficient to cause reasonable doubt as to whether the result of the examination would

have been the same if they had not occurred (Regulation xyz(c)) in that the Examiners:

- a) failed to give me the opportunity to defend my thesis in oral examination in breach of Regulation xy;
- b) informed me of the outcome of the Viva before the examination in breach of Guideline xy;
- c) failed to allow me the opportunity to resubmit in breach of Regulation xy;
- d) were late in preparing their preliminary reports in advance of the Viva;
- e) failed to prepare or to make available to me examiners' preliminary reports in relation to my resubmitted thesis in breach of Regulation xy and Guideline xy.

Detailed Grounds

Ground 1 - Inadequate assessment

13. I have been denied the opportunity to defend my thesis orally.
14. The relevant Regulations are Regulations xy and xyz:
 - 14.1 Regulation xy provides that assessment of the PhD will consist of submission of the thesis and an oral examination;
 - 14.2 Regulation xy provides:

The examiners have the right to reject a thesis which they consider to be incomplete or unacceptable without conducting an examination. This does not preclude the candidate from submitting the thesis for examination again later.
15. The relevant Guidelines are Guidelines xy and xyz:
 - 15.1 Guideline xy provides that an oral examination must be held except where provision is made in the Regulations.
 - 15.2 Guideline xy provides:

There are no set requirements about the conduct of oral examinations, nor about their duration, but they should be conducted in such a way that the candidate has adequate opportunity, encouragement and time to explain his or her research and to defend the thesis...
16. It is clear following Guideline xy that, except in exceptional circumstances, an oral examination must be held as a part of the assessment process. The oral examination must provide a candidate with adequate opportunity, encouragement and time to defend their thesis.

The Viva

17. As I note above in the 'Background' I was told the night before the Viva that I was not going to be awarded the PhD. The Viva itself was held but it did not comply with the requirements of Guideline xy as referred to above. I was not given the opportunity to defend my thesis but was instead told that the thesis did not meet

the relevant requirements. Having prepared myself to defend the thesis, and expecting to do so I was not prepared for this course of events.

18. The Brennan Preliminary Report and the Richards Preliminary Report identify weaknesses in my thesis and I would have expected to have had the opportunity to respond to these concerns in the Viva; instead the Examiners led a discussion of how the thesis could be improved. This may have been intended to be helpful to me however the effect was to make it impossible for me to defend the work I had submitted as I would have liked to have done. In reality I found the course of events extremely disorienting and this affected my ability to put my case.
19. The Viva was not therefore an oral examination as required by the Regulations and the Guidelines.

The resubmission

20. On resubmission the Examiners made their decision without affording me an oral examination. Having submitted my revised thesis on 24 September 2010 I did not hear from the Examiners until 1 March 2011 when I was advised in an email from my supervisor that he had spoken to the Examiners and that their decision was going to be to fail my thesis. I did not receive the final decision until 18 March 2011 almost six months after resubmission. That decision, as stated in the 2011 Examiners' Report Form, is that I should be allowed to re-present the thesis in revised form for the degree of MPhil.
21. Regulation xy allows examiners to reject a thesis as incomplete or unacceptable but in such circumstances also allows an opportunity for resubmission. No such opportunity was provided on my resubmission.
22. I was never afforded the opportunity (neither on initial submission nor on resubmission) to defend my research in an oral examination and assessment of my thesis did not comply with Regulation xy and was therefore inadequate.

Ground 2 – Prejudice

23. The Examiners reached their decision on the outcome of the examination before the Viva. The effect of this decision was to prejudice the Examiners such that they were unable to allow me an adequate opportunity to defend my thesis. Following resubmission the Examiners either did not prepare preliminary reports or have declined to make those reports available to me. It is thus unclear how the Examiners' final submission was reached giving rise to a suspicion of bias and or prejudice.
24. Regulation xy provides:

Normally one week before the examination the examiners will prepare and exchange independent preliminary reports on the thesis to assist in conducting the oral examination (or the preparation of the joint report in those cases where no oral examination is held).
25. Guideline xy states that each examiner is asked to write an 'independent preliminary report' on the thesis and in those reports examiners may wish to make a tentative recommendation for the result of the examination. The Guideline states:

Tentative recommendations should not be indicated to the candidate in advance of the oral, which is an integral component of the examination.

26. Guideline xy also states that the independent preliminary reports will be written after reading the thesis but before discussing the thesis with the co-examiner.
27. Guideline xy indicates that in addition to exchanging their reports 'in good time' before conducting the oral examination examiners must submit their preliminary reports to the University at the end of the examination process.

The Viva

28. The Examiners went far beyond a tentative recommendation as they made their decision before the Viva. In telling me the outcome, via my supervisor, the day before the examination the Examiners were in breach of Guideline xy.
29. A breach of Guideline xy is not merely a technical matter. The mischief aimed at by the Guideline is precisely the taking of premature decisions before the candidate has had the opportunity to present their research. The Examiners did not come to the Viva with an open mind and were prejudiced by their own prior decision. As a result I was not given an adequate opportunity to defend my thesis. Had I been given the opportunity to defend my thesis, in the absence of the certain knowledge of their predetermined decision, I might have been able to persuade the Examiners of the strengths of my research.

The resubmission

30. The 2011 Report Form indicates at point 2 that the Examiners 'do not wish for the candidate to receive copies of our preliminary reports'. I subsequently corresponded with the Research Degrees Manager, as evidenced by the March-April Emails, and it appears that no such reports were prepared on my resubmission.
31. It is clear from Guidelines xy and xy that the purpose of the preliminary reports is to give an indication of each examiner's views before conferring with the other examiner and before the oral examination. As such the reports demonstrate the progression of the examiners' thinking and should support the conclusions eventually reached. The preliminary reports are not normally provided to candidates unless the examiners so request or the candidate appeals the examiners' decision (Guideline xy). A purpose of the preliminary reports is therefore to dispel any concerns as to inadequate assessment or bias.
32. It seems strange that the preliminary reports in relation to resubmission have either not been written or have not been disclosed. Given the proceedings at the Viva the absence of preliminary reports gives rise to the suspicion that the Examiners were again prejudiced in reaching their decision. They have not come to the thesis from an open-minded perspective and have dismissed my thesis without giving it the proper consideration due.

Ground 3 - Procedural irregularity

33. The following procedural irregularities in the conduct of the examination are described in the paragraphs above:

- 33.1 failing to give me the opportunity to defend my thesis in oral examination in breach of Regulation xy (see paragraphs x to y1322);
 - 33.2 informing me of the outcome of the Viva before the examination in breach of Guideline xy (see paragraph x17);
 - 33.3 failing to allow me the opportunity to resubmit in breach of Regulation 41 (see paragraphs20 x and y 21);
 - 33.4 failing to prepare or to make available to me examiners' preliminary reports in breach of Regulation xy and Guideline z (see paragraphs x30 and y31).
34. In addition the Examiners were late in preparing their preliminary reports for the 2008 Viva in breach of Guideline xy. The Brennan Preliminary Report was produced on 9 July 2008, only one day before the Viva. This left little or no time for proper preparation for the Viva and was certainly not prepared and exchanged 'in good time before conducting the oral examination' as required by Guideline xy.
35. Taken individually the procedural irregularities are sufficient to cast doubt on the outcome of the examination process. Taken cumulatively the irregularities are such that the examination result cannot stand and a new examination should be ordered.

Conclusion

36. I have not had a proper opportunity to present and defend my research as a result of the factors set out above. My assessment has clearly been inadequate and I request that the Appeals Committee determine, pursuant to Regulation xyz(c) that the original examination be cancelled and a new examination be held by examiners who did not take part in the original examination and were not involved in the appeal.

Yours faithfully

Alfredo Amato