

Stewarts' appeal

Dear John

A good friend of mine recommended that I get in touch with you about my ongoing situation at Barchester University.

For the past 7 years I have been a part-time PhD research student at Barchester.

I am currently appealing the decision of the examiners to award an MPhil with minor corrections instead of a PhD. The hearing takes place in three weeks. I have to make a written submission in a fortnight.

Basically, there has been a catalogue of errors and I feel that I have not been treated fairly.

The first viva was a horrendous experience. The external examiner failed to bring the criticism from his external report to the viva table. He failed to be constructive and helpful in his criticisms. And he did not directly communicate his misgivings during the first oral examination. This left me in a position of being unclear as to what he was asking me to do in terms of a major revision.

The first oral examination lasted approximately 2 hours after which, I was sent away from the examination building. I was told by the Chairperson of the examination that I would be contacted and called back once the examiners had reached their decision.

An hour and forty minutes passed before I was phoned. For that extraordinary length of time, I was left wondering what on earth was going on. Then when word came through, I was simply told the result over the phone - that the thesis be resubmitted after major revision - and I was not afforded the opportunity of returning to the examination building to receive an explanation of this result. This meant that the examiners did not explain to me in person why they felt the need for a major revision, nor did they make clear what needed to be done in order to make the grade. This was a bewildering experience for me.

That evening I emailed my supervisor to say that I felt "aggrieved". I shared my concern with him about how things

were handled on the day and the fact that I did not get to receive the result in person, nor clear guidance on the revision. I wrote

To not hear why they didn't award is unsatisfactory and leaves us completely in the dark. Hardly transparent. I can only guess that the house was divided with one saying yay and the other saying nay. An hour and forty minutes was an awfully long time for them to reach a decision. I'm left puzzled.

The following day I communicated my concern to my supervisor that the external examiner's personal problems, which are widely known, might explain his inadequate assessment and strange behaviour. My supervisor said that it might explain "the external examiner's negativity." He said that he did not think there was much we could do about it.

The following week I communicated my fear and concern to my supervisor that despite a lengthy revision, the external examiner will remain unconvinced based on his behaviour during the first examination process.

A month later I finally received the reports from the first oral examination (which I should have received this within two weeks of the oral examination). The delay meant that I did not receive the Joint Examiners' report until a fortnight later.

I communicated my concern and confusion to my supervisor about the fact that the external examiner did not give me the opportunity of responding to his criticisms during the first oral examination. I also shared my concern that the external examiner was not giving me clear guidance about what was required of me during the revision in order to make the grade. I wrote that I was bewildered and confused by the whole episode, with lots of questions and concerns. It seemed to me that the external examiner had overreacted and been overcritical. He describes my work as the worst he has ever examined. Is it really that bad? He ends his report by saying that he "looked forward to raising these issues in a viva voce" but he failed to do so. Why did he not afford me the opportunity to respond to his criticisms at the viva table? (The internal examiner) seemed balanced and fair in his approach, providing room for revision and a response by the candidate, whereas the external) does not. I quite simply did not know where to go from here.

In response to this email, my supervisor said that he felt that the external examiner's remarks were "over the top". He thought that it was strange that the external examiner did not raise his misgivings more directly during the viva. He informed me that the internal

examiner and chairperson found this “extremely puzzling.”

In a follow up email, I raised further questions, which remain unanswered:

1. When was the joint examiners' report actually signed off by each examiner? On the day of the viva as indicated or at a later date as suspected?
2. Why was the recommendation on the External examiner's report changed from (e) to (f) with the comment possibly "possibly (c)"?
3. Why was the recommendation on the Internal examiner's report changed from (b) to (c)?"

It's quite clear to me that from the report, that changes were made to both internal reports after they had been submitted. The external examiner originally decided that the degree of MPhil be awarded with minor modifications. This was then changed to a revision and resubmission for the degree of MPhil. In brackets, the possibility of a revision and resubmission for the degree of PhD is noted. The internal examiner has originally ticked that the degree of PhD should be awarded with modifications, but this is then changed to a revision and resubmission for the degree of PhD.

My supervisor advised me against objecting on technical grounds – the dating of the report – and to keep the good will of those in the Institute.

Under Barchester University regulations, I should have been notified in writing of the major revisions required in order to make the thesis acceptable. And this should have taken place within two weeks of the oral examination. This did not happen. I was left without clear guidance from the examiners. I subsequently learnt that the internal examiner should have filled in an official 'Amendments Report', which should have been sent to the School and student.

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After a major revision, I resubmitted. My second viva did not take place for nearly 6 months. This lengthy wait meant that thesis was not as fresh in my mind as it would have been if the second viva had have taken place within the normal and expected time frame. The normal period of time for examination is within 6 weeks. On top of this, the School did not confirm the date of the second viva, nor did they confirm the presence of the existing examiners, as they are required to.

Then there is the issue of the external examiner being 40 minutes late to the second viva, which was unsettling and off putting for me as a candidate.

The examiners' decision to award a MPhil with minor corrections was based on the fact that they believed that I had not done enough to meet their revision requirements. My argument is that because of the issues raised above and the inadequate assessment of the examiners, I was not in a position to know exactly what they required of me. An email from the internal examiner dated one day after the 2nd viva, seeks to provide clarity as to their decision. The fact that the internal examiner wrote to me seeking to give clarity after the 2nd viva shows that he felt the need to provide clarification about their decision. If clarification had been given on the day of the 1st viva, or within 2 weeks as required, then I would have been in a position to respond adequately to the examiners request.

Academic Affairs at Barchester believe that I have grounds for an appeal and they are currently making preparations for the hearing.

Yesterday, my supervisor phoned to ask me to make contact with the internal examiner about the appeal, I was unsure what to do. He put me in a very awkward position, especially when he said that the internal examiner felt that I was questioning his personal integrity and creating problems for myself. I suspected that it could be interference with due process so I contacted Academic Affairs for their advice. They agreed and advised against any contact with the internal examiner.

In short, I find myself completely dissatisfied by the whole process. I would appreciate any help or guidance from yourself. From reading your articles, it seems that I am not alone in finding the whole PhD



process unsatisfactory.
Yours gratefully, Stewart

Q: how would you respond to Stewart's email?

John's response:

Dear Stewart,

In the light of the time available, I have taken a quick look at your situation. It appears you have a strong case, but it needs to be formulated clearly. I suggest you obtain all the documents you can - exam regulations, instructions to examiners etc and every document about your examination - all should be available to you - if you have not got them already - under data protection legislation. If there is a delay on this, you should request a deferral of the appeal hearing. Scrutinise them carefully.

Go through them line by line and extract those regs which were not followed, irrespective of the personal situation of the external examiner etc

If you can afford legal advice, you should take it. Your future is at stake. I attach a successful appeal to illustrate how it should appear.

I will check on emails when I can...

Best wishes

John

Dear John,

Thank you for such a prompt response. I am greatly encouraged by your comments and grateful for your advice.

I made a freedom of information request and a data access request yesterday. I will do as you say and request a deferral of the appeal hearing if they don't provide me with the information in time.

I have a good friend who has a degree in law and is currently a postgraduate law student. He has agreed to accompany me to the hearing. Unfortunately, under the rules I cannot bring legal representation to the hearing so he's the next best thing.

Thank you for attaching a copy of a successful appeal. That's a great help.

I'm sure that many students tell you that this type of thing is a lonely experience. That's why it's so encouraging to have someone like you there who cares.

Thanks John. I really appreciate it.

Stewart

Dear John,

Thank you for your continued help and support. It means a lot to me to know that there is someone experienced in these matters looking at my appeal, and genuinely interested and concerned.

I have attached a number of documents from Barchester University for your attention. They are the various guidelines and regulations for the university. I have also attached a draft written submission. Please feel free to amend and suggest changes.

I haven't had a chance to get my law student friend's opinion on it as yet (copied in on this email - JM LLB). We hope to meet up sometime this week to look at it.

Thank you again for the sample appeal. I would like to have a similar structure to my submission.

The more I look about the whole process, the more problems emerge. It really is a catalogue of errors. I just hope there isn't a whitewash.

Thanks again!
Warm regards,
Stewart

Dear Stewart,

Only had time to glance through the appeal. Looks strong case. I wonder whether you ought to focus more on the major grounds, putting the minor ones like delays at the end in a separate paragraph?

I will try and return to it later in the week.

bw
John

Dear John,

....

Yes, I see what you mean. I need to highlight the major grounds. They will make or break it. The minor grounds show that it was one mistake after another.

I will revise the draft submission and send it to you for comment.

Thanks John.

John wrote:

I think the grounds will say somewhere that the errors must be serious enough so that if they had not taken place the result would have been substantially different...

John,

Yes I think you are right. That will be key.

The internal examiner's error of not filling in the Amendments Report and thereby not giving me sufficient guidance for the major revision must be serious enough.

S

...

Dear John,

Please find attached documents relating to my appeal.

...

I make it clear in my submission that I reserve the right to submit further evidence when it becomes available.

I would appreciate any help or advice you can give me in preparation for the appeal.

...

Dear John,

I thought I'd bring you up to speed on yesterday's hearing. It was a lengthy hearing, lasting 2 hours, with no decision communicated.

The School attempted a whitewash by saying that the internal examiner and the chairperson of the first viva did not find the behaviour of the external examiner strange, that the external examiner acted normally, and that there was no difference of opinion between the internal and external. The email from my supervisor about what the internal and chair said informally to him after the viva seriously undermined their position, and under questioning the internal did admit that there was some strangeness in the external examiner's behaviour.

The School said that the thesis was not of PhD standard and that they were content that the examination process was fair and above board. I asked them questions about the procedures and the internal admitted that he "may not have kept" to the regulations. When I said that he didn't keep to the regulations, he didn't defend himself.

On the issue of a second supervisor, the School admitted that I did not have a second supervisor. They tried to get out of it by saying that this requirement came in after I started my PhD. The Committee seemed to find this unsatisfactory and questioned them about the provision of second supervisors for PhD students. The School admitted that this is something they struggled with. My supervisor admitted that his judgment and advice to me after the first viva and throughout the process may not have been satisfactory.

On the issue of conflict of interest on the part of the external examiner, the School said that they were not aware of the links between the external examiner and myself (considering a job application from me) and that if they had been made aware of them then this would have caused them concern. The Committee asked me why I didn't raise my concerns with the School. I said that the guidelines state that it's the responsibility of the external examiner to raise it and that I had informed my supervisor, who is a member of the School, about my concerns. My supervisor said that the student did communicate concerns about the objectivity of the external examiner.

The Committee in their questioning of me, tried to say that I had sufficient material in the examination reports and that there was adequate assessment. I did my best to refute this. But I am worried that they will say that although procedures were not followed, there was adequate assessment and that the result stands.

I made it clear that this wasn't going away and that I had sought legal advice and the advice of an expert in this field, and that I was reserving the right to petition the Senate and make a complaint to the Independent Adjudicator.

The Chair of the Appeals Committee said that because the Freedom of Information requests were still pending that any decision they make would be a holding decision, and that I would receive their decision within 5 days.

A number of things concerned me yesterday. I have included those concerns in an email to the Committee this morning. See below.

Basically, I feel I landed a few punches, but at some points I felt the full weight of the University coming down on me. It's hard to gauge what they will do. It hangs in the balance.

To the Chairperson of the Appeals Committee

Dear Professor .. and Committee members,

1. I am writing to complain about the actions of the internal examiner in the appeals process. He has admitted in a written submission to the Committee that he made contact with me through my supervisor, and he acknowledged that any contact with me would be "out of the question" and interference with the formal appeals process. His actions cause me great concern and distress.

2. I want to thank the Chairperson for his assurance that the Committee are fully aware of the grounds of my appeal, namely 1. There is procedural irregularity; and 2. There is inadequate assessment on the part of one or more of the examiners. I was very concerned when deep into the hearing the Chair suggested that I had only cited one ground for the appeal. I am satisfied that this was cleared up sufficiently. However, I have concerns that the discussion on procedural irregularity was not proportionate to that of inadequate assessment.

3. I want to complain about the lack of order and structure at the hearing. I was informed prior to the hearing that I would be invited to make an opening statement, then the School would be given the opportunity to respond. Then the School would make a statement, and I would be given the opportunity to respond. I accept the Chairperson's personal apology for not allowing me to make an opening statement at the start of the hearing. And I acknowledge that I was permitted by the Chairperson to make this statement in the middle of the hearing. That being said, I think a clear order and structure to the hearing would have allowed a more orderly, fair, and structured discussion of the issues. It also would have allowed my student representative to have a fuller say.

4. I was concerned to hear about the lack of progress the School was making on the Freedom of Information requests, and I would like you to remind the School that the staff in question are Officers of the University and are duty bound to comply with the University regulations and the law of the land.

5. I also want to reiterate my concern that I was not allowed legal representation at yesterday's hearing. This may be in breach of my basic human rights.

6. Finally, I would like assurances that I received copies of all the correspondence relating to my case, and any written evidence from the School or other witnesses, which the Committee has, as is my entitlement under section 8.9 of the Study Regulations.

Thank you for your time.
Stewart

John

Email just in from Barchester..

They decided to defer their decision until December whenever the Freedom of Information Request has been met.

The Appeals committee will reconvene and come to a final decision.

....

Stewart's response:

Dear Chairperson and Committee members,

Thank you for your letter dated 16th November 2012, where you state that the Committee have agreed "to defer the decision of the appeal and reconvene in December with expectation of reaching a final decision." Under what rules has the Committee taken this decision?

I also note the Committee's commitment "to liaise with the Institute to expedite the process of addressing" my Freedom of Information request "within the required timescale".

My Freedom of Information request was received by the University on 26th October 2012. If this request is not met within 20 working days as required by law, then I would ask the Committee to draw adverse inferences from this. None of the part 2 exemptions of the Freedom of Information Act apply in my case. If it is not met within the required timescale, I will be making a complaint to the Information Commissioner's Office.

Finally, I would like the minutes of the meeting that took place on Wednesday 14th November 2012.

Many thanks,

Dear John,

Please find attached the response of the University to my letter dated 21st October.

They are saying that because its personal information they have 40 days under the Data Protection Act.

I have also attached my Data Access request and Freedom of Information request, and the follow up emails from the University.

Thanks for your continued help and support.

John replied

mmm. Your lawyer friend may be able to advise, but I imagine that you could narrow down the scope of the enquiry a little?

John

22nd November

Thanks John. I might just make a few more Freedom of Information requests asking about the success rate of the School in question when it comes to PhD students, and indeed my own supervisor. Over the years, I have met other PhD students at the Institute who were there one day and gone the next.

John wrote

Be clear in your mind on exactly why each bit of info is relevant to your case?

J

OK thanks John. I'll think along those lines. S

11th December

Dear John,

How are you? Thank you for your continued help and support in all of this.

I made another submission today in light of the Freedom of Information material. Please see attached.

I would like to have consulted with you prior to making the submission but with the demands of ministry on the run up to Christmas, I have found myself squeezed for time. The Appeal's committee meet this afternoon, so they should be nearing a decision.

...

13th December

Great news John! Although my appeal was not upheld on the ground of inadequate assessment, it was upheld on the grounds of procedural irregularities and inadequate supervision!* Absolutely thrilled! You were right. Point 11 of the second submission was telling.

Thank you so much for all of your help and support over the past few months. It really has been incredible. I greatly appreciate it and I am forever in your debt. Feel free to use my case for your seminars.

- The principal irregularities mentioned were that the candidate had significant link with the examiner and that the examiner had sent his initial thoughts to the external examiner before receiving his report.
- Inadequate supervision was established because the university had not followed its procedures in appointing a second examiner.

John replied

Congratulations . Thoroughly deserved, given the scholarly way you went about the appeal. You now have the advantage of time and advice - and supervision - which should mean that you can actually present an improved version to the new examiners. Meanwhile, I will prepare an anonymised summary for you to approve. If you do so, I am happy to offer £50 for the copyright to add to my diaries.

Keep in touch.

Best wishes

John

11th February

Dear John,

Where does the time go? I hope you are well.

Since we last communicated, I had meetings with the School about getting back on track.

There have been a number of issues.

1. Enhanced supervision. My principal supervisor, Dr. RC has suggested a second

supervisor for the enhanced supervision as required by the successful appeal. My problem is that who he has suggested - Dr MD- is now retired and is not active at the University. I have raised this with my supervisor and asked him if there is anyone else and he has said that there isn't. So I've got a choice of one! The three of us are meeting on 25th February to discuss this matter.

The basic problem seems to be that the College ... doesn't have any other staff that make the grade. They have turned to MD as a former lecturer at (another) College to act as a second supervisor.

2. List of Amendments. The School are saying that I will only get a rehash of the independent and joint reports. In other words, I'll get what I already have. The problem seems to be asking and paying the internal examiner to produce a list of amendments after the event of the examination.

On the subject of money, they have agreed to set my future academic fees to the side. Should I be asking for compensation? I have spent a lot of my own money on this PhD and I did not get what I should have got in terms of supervision and fair treatment. What do you think?

Hi Stewart,
Thanks for news. One or two points:

Second supervisor: why not contact him informally yourself in a positive frame of mind and suggest regular meetings and a timetable for feedback on chapters? Give him the chance of showing enthusiasm, but if he is reluctant to provide the support you might expect then you have evidence to take back to the department.

Amendments: what do the regs on examining expect of examiners? whoever produces them you should have a full account of the examiners' requirements.

Compensation: this is entirely up to you. If getting the doctorate is your main objective, time spent on this would take from time spent on getting the degree. Barchester would claim that waiving fees was sufficient compensation...

PS just looked at regs. It says the internal examiner should 'normally' provide list of what is required...

J

Team task:
What lessons are there here for candidates, supervisors and institutions?



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CENTRE