

Mr Alastair Sim  
Director  
Universities Scotland  
Holyrood Park House  
106 Holyrood Road  
Edinburgh  
EH8 8AS

9 November 2012

Dear Mr Sim,

### **Annual letter 2011-12: complaints to SPSO about higher education**

This letter contains the SPSO's complaints statistics about the higher education sector for the 2011-12 financial year. It gives information about the numbers of complaints that we received and determined about higher education. It also highlights the number of premature complaints (those that came to us too early, before completing the organisation's complaints process). The letter also contains important information about the model complaints handling procedure for the higher education sector, which we will publish at the end of November.

### **Premature complaints**

The overall level of premature complaints received in my office for all sectors fell from 45% to 43%. The rate of premature complaints about higher education in 2010-11 was well below average, at 28%. For 2011-12, although still well under the average, it rose slightly to 30%. I note, of course, that this is on a relatively small number of complaints received overall.

### **Statistics**

Comprehensive statistical information about all the sectors under our remit is available at the following link: [www.spsso.org.uk/statistics](http://www.spsso.org.uk/statistics). In summary, in 2011-12, the SPSO:

- received **3,918** complaints (**12% more** than last year)
- received **93** complaints about higher education (**8% more** than last year)

Complaints about higher educational establishments comprised 2.4% of the complaints received in our office in 2011-12. The following pages provide more information about these complaints. The first table shows the main subjects of the complaints we received about higher education over the past two years. The second table shows the outcomes of the complaints we handled about higher education in the past two years. It also highlights the rate of premature and fully/partly upheld complaints and overall rates in the past two years. (The total of complaints received and determined are not normally the same, as we usually carry some cases over from one year to the next.) The upheld/partly upheld outcomes relate to complaints that were 'fit for SPSO' (i.e. valid for investigation by SPSO) and which were determined at the Early Resolution (ER) or Investigation (INV) 1 or 2 stages of our process. INV 1 is an investigation that concludes in a decision letter, and INV 2 concludes in a full investigation report.

### **Analysis of the figures**

We received two enquiries and 93 complaints about higher education in 2011-12. This represents a small increase on the five enquiries and 86 complaints we received the year before. The areas that people complained about most were policy and administration issues (26 complaints) academic appeals, exam results and degree classification (22 complaints) and teaching and supervision (12 complaints). The number of complaints about academic appeals, exam results and degree classifications dropped from 28 last year to 22 this year. We found this encouraging, as we cannot have a mark or assessment changed. What we can look at is the process that the university used when the mark was appealed, and see if that was correctly followed. We aim to convey this message about our remit clearly in our leaflets, on our website and in direct communication with students who contact us.

We determined a total of 80 complaints about universities in 2011-12. 30% of the complaints we received about higher education were not valid for us to look at, usually because they had not yet been through the complaints process of the university. In these cases, we will usually help the complainant find their way through the process, or signpost them to appropriate places where they can get support. We investigated sixteen cases in detail. We fully upheld two, partly upheld five and did not uphold eight. In one case we did not reach a decision as after bringing the matter to us the complainant decided to take legal action, which meant that we could not consider the complaint further.

Most of the cases we investigated ended with a decision being given by letter. We produced one public investigation report (case 201003198) in which we partly upheld a complaint about how a university dealt with admission, examinations, assessment for a learning

difficulty, and graduation. The student concerned also complained about the university's complaints handling. As explained above, we cannot investigate the quality of a student's work or the academic input of staff and so our investigation was into the administrative processes that the university used. We upheld the student's complaint that the university failed to consider her for an advanced entry place in second year, as there was no relevant formal process, and a member of staff did not respond when the student said she wanted to be considered for this. They also failed to tell her before the relevant deadline that she had to register for graduation and delayed in providing the documents that she needed to validate her qualification in her home country. Finally, they failed to assess her for a possible learning difficulty that one of her lecturers had asked them to consider. We did not uphold her complaints about examinations or complaints handling, as we did not find any evidence that the university did anything wrong in relation to these.

Of the complaints that we upheld, the main areas of complaint were about academic appeals, exam results and degree classification processes; and policy and administration issues. I note that we partly or fully upheld the complaint in 44% of the higher education cases that were appropriate for us to look at in detail. Although, again, this relates to small numbers of complaints, it is an increase on last year's figure of 38% of cases upheld. One of the main trends we found was in poor communication and/or direction through complaints or appeals processes. You can find details of most of the decisions we reached in the searchable 'Our findings' area of our website, at [www.spsa.org.uk/our-findings](http://www.spsa.org.uk/our-findings). I have, however, provided three examples of these below.

- *Complaints handling – Case 201004659* Mr C said that the university did not follow their complaints policy when considering his complaint. He said they delayed and, because he was not allowed to take it to the final stages of their complaints procedure, he was denied assistance from a student support service. He made eight complaints to the university. Because of the overlapping nature of the complaints and the huge amount of correspondence that Mr C sent, the university decided to deal with them all together through the student complaints procedure. They gave Mr C their decision just over four months later, telling him that their involvement in the matter was at an end and that he should complain to us if he was unhappy with their decision. Our investigation found that, although the university had been courteous and objective in the face of a huge flow of correspondence from Mr C, they had failed to follow their complaints procedure as they did not let him appeal their decision. We also found that the process was delayed and that, because the university refused to allow Mr C to appeal, the support service

withdrew their assistance to him. We made recommendations aimed at ensuring that the university follow their own policies correctly in future.

- *Coursework guidance; appeals – Case 201003827* Miss C complained that guidance on how to complete a piece of coursework was only made available to students after the date that it was due to be handed in. She also complained that the university failed to limit noise outside buildings during classes and exams. When Miss C was ultimately expelled from the university, she tried to appeal, in line with the disciplinary procedure, but received no response. We found that students on Miss C's course were potentially disadvantaged by the university's failure to provide coursework guidance before the hand-in date. We did not, however, consider that the university should have done any more to restrict the level of noise. Although we found no evidence that the university deliberately ignored Miss C's appeal, we did recommend that they consider clarifying their guidance on how to submit such an appeal.
- *Communication; changes to course – Case 201100552* Mr C was an international distance learning student on a postgraduate course. He complained that he was not told clearly about a change of assessment method (from the module being assessed 100% on coursework to 50% of it being assessed by examination, which distance learning students had themselves to arrange to sit locally) within a reasonable timescale. He also submitted a statement of his mitigating circumstances explaining why he would have difficulty with this change of assessment. The board accepted this, but did not tell him how the statement would be considered, what they decided about it or what that meant. Mr C also complained that the university's response to his request for an academic appeal was not reasonable, both in terms of content and response time. We found no evidence that the university told Mr C about the proposed change any earlier than an email sent eight weeks before the examination. Given his circumstances, we thought this was a tight timescale in which to expect him to arrange to sit the examination abroad. The university accepted that they could have contacted him more appropriately, and we upheld this complaint. We also found that Mr C had raised concerns about the effect of his mitigating circumstances statement. He also asked for clarification of the decision and what that meant for him, but the university missed the opportunity to direct him to the proper process or to clarify this. We did not uphold Mr C's complaint about the academic appeal. We said that the university should apologise to Mr C, and in future, write to students about proposed changes to assessment when formal proposals are made; and confirm these as soon as a decision has been taken. We also said they should clarify their guidance to students and staff on what the mitigating circumstances process can and cannot be used for.

Poor or slow communication with the person who has made the complaint or who - in academic cases - has sought to appeal is a very common problem. I would emphasise the need for all public bodies to ensure that enquiries or issues raised with them are handled properly and swiftly at the front line. If this does not resolve the matter and a complaint is made, bodies should ensure that they respond reasonably to all the points raised with them and must do so as quickly as possible. I would point out that in all of the cases we upheld in the higher education sector we upheld an element of the complaint that was about complaints handling or appeals processing. I expect universities to note this and take care to ensure that they properly follow processes in future.

I have also pointed out in my annual report that it is interesting to note that we received three complaints about special needs during the year, compared to only one in the previous year. One of these (case 201003198) - which involved failure to assess a student for possible learning difficulties – is described earlier in this letter.

### **The Complaints Standards Authority**

A strong focus of our work over the past year has been on improving standards of complaints handling, and taking forward the standardisation and simplification of public sector complaints handling procedures in line with the recommendations of the report from the Scottish Government's Fit-For-Purpose Complaints System Action Group (the Sinclair Report). The Public Services Reform (Scotland) Act 2010 gave the SPSO the authority to lead the development of model complaints handling procedures (model CHPs) across the public sector and to promote and monitor best practice in complaints handling. These duties are being undertaken by our Complaints Standards Authority (CSA). The emphasis of this work is on early resolution and we are now in the process of implementation for the housing and local authority sectors and will, by the end of 2012/13 have CHPs published for all sectors.

### **Developing the higher education Model CHP**

Since mid-2011 we have been working in partnership with higher education sector representatives from several universities, student bodies and Universities Scotland. This working group, under the auspices of the Universities Scotland Secretaries' Group, has developed a draft model CHP, which has been discussed by the Secretaries Group and was approved by Principals at a meeting held at the end of October. The higher education model CHP will be published in November. Under the terms of the SPSO Act 2002, each university will then be required to implement the model CHP and respond to the SPSO within 6 months

of publication with a copy of the approved CHP. Further detail on implementation will be provided on publication of the model CHP.

### **Overview of the higher education model CHP**

The purpose of the model CHP is to provide a standardised approach to dealing with complaints from students and members of the public across the higher education sector. In particular, the aim is to implement a consistent process for students and members of the public to follow which makes it simpler to complain, ensures staff and student confidence in complaints handling and encourages universities to make best use of the lessons that can be learned from complaints.

The higher education model CHP will have two stages for internal review of complaints, followed by a final stage of independent review by the SPSO. The model will emphasise the importance of resolving complaints as quickly as possible, and as close to the point of service delivery as possible. It will also highlight the importance of supporting staff at all levels to respond promptly and positively, and particularly to empower those closest to the point of service delivery in resolving complaints. This will be supported by information about the responsibilities of staff at various levels in relation to complaints. There will also be an emphasis on learning from complaints, and sharing this information with staff, students and the public. In all instances these requirements will be similar to those placed on other sectors, to maintain similar standards of service across all public services under our jurisdiction.

I would like to thank the working group for their input to the development of the higher education model CHP. The time and commitment from the group will mean that the final model CHP will be robust and user friendly, taking into account the needs of the higher education sector.

### **Using complaints information**

A key requirement of the model CHP will be a requirement on all higher education institutions to publish information on complaints regularly, including information on performance in complaints handling. We are developing a range of performance indicators which will form the basis of this information and will also encourage all organisations to self assess their complaints performance. These indicators will include information on volumes of complaints and timescales as well as how well the institution reviews and changes services on the basis of learning from complaints. This is an approach being taken across the public

sector and will help ensure a greater degree of transparency and a move towards a performance culture in complaints handling.

### **Support from the Scottish Funding Council**

The Scottish Funding Council (SFC) have given their support to this work, and are encouraging the move towards more transparent, standardised, streamlined complaints handling across the sector.

We will be exploring how institutions can use existing mechanisms by which they report to the SFC to also monitor compliance with the higher education model CHP. We are doing this to ensure that the requirement to report does not create any significant additional burden for universities.

As ever, I value feedback about our work and would welcome any comments about this summary or any other aspect of our service.

Yours sincerely

A handwritten signature in blue ink that reads "James B. Martin". The signature is written in a cursive style.

Jim Martin  
Ombudsman

*For queries about the statistics, please contact Annie White, Casework Knowledge Manager, at [awhite@spsoc.org.uk](mailto:awhite@spsoc.org.uk) or tel: 0131 240 8843.*

Scottish Higher Education Cases Received 2011-2012

Subject	Enquiry	Complaint	Total
Academic appeal/exam results/degree classification	1	22	23
Accommodation	0	1	1
Admissions	0	2	2
Complaints handling	0	7	7
Grants/allowances/bursaries	0	1	1
Other	0	1	1
Personnel matters	0	2	2
Plagiarism and intellectual property	0	2	2
Policy/administration	0	26	26
Property	0	1	1
Special needs - assessment and provision	1	3	4
Teaching and supervision	0	11	11
Welfare	0	1	1
Out Of Jurisdiction	0	1	1
Subject Unknown	0	12	12
Total	2	93	95

Scottish Higher Education Cases Received 2010-2011

Subject	Enquiry	Complaint	Total
Academic appeal/exam results/degree classification	4	28	32
Admissions	0	3	3
Complaints handling	0	7	7
Grants/allowances/bursaries	0	1	1
Personnel matters	0	1	1
Plagiarism and intellectual property	0	3	3
Policy/administration	1	24	25
Property	0	1	1
Special needs - assessment and provision	0	1	1
Teaching and supervision	0	8	8
Welfare	0	1	1
Out Of Jurisdiction	0	1	1
Subject Unknown	0	7	7
Total	5	86	91

Scottish Higher Education Cases Determined 2011-2012

Stage	Closure Category	HE Total
Advice	Premature	21
	Body Out of Jurisdiction	0
	Matter out of jurisdiction (discretionary)	3
	Matter out of jurisdiction (non-discretionary)	4
	No decision reached	13
	Outcome not achievable	1
	<b>Total</b>	<b>42</b>
Early Resolution 1	Premature	3
	Body Out of Jurisdiction	0
	Matter out of jurisdiction (discretionary)	4
	Matter out of jurisdiction (non-discretionary)	6
	Outcome not achievable	1
	No decision reached	8
	<b>Total</b>	<b>22</b>
Early Resolution 2	Outcome not achievable	0
	No decision reached	0
	Fully Upheld	1
	Partly Upheld	1
	Not Upheld	2
	<b>Total</b>	<b>4</b>
Investigation 1	Outcome not achievable	0
	No decision reached	1
	Fully Upheld	1
	Partly Upheld	3
	Not Upheld	6
	<b>Total</b>	<b>11</b>
Investigation 2	No decision reached	0
	Fully Upheld	0
	Partly Upheld	1
	Not Upheld	0
	<b>Total</b>	<b>1</b>
<b>Total complaints</b>		<b>80</b>

Premature total 24  
 Premature % 30%

Fit for SPSO (ER2, Inv 1 & 2) 16  
 Total Upholds / Partly Upholds 7  
 % Upholds / Partly Upholds of Fit for SPSO 44%

Scottish Higher Education Cases Determined 2010-2011

Stage	Closure Category	HE Total
Advice	Premature	24
	Body Out of Jurisdiction	0
	Out of Jurisdiction (Discretionary)	0
	Out of Jurisdiction (Non-Discretionary)	4
	Outcome Not Achievable	0
	No Decision Reached	19
	Other	0
	<b>Total</b>	<b>47</b>
Early Resolution 1	Premature	1
	Body Out of Jurisdiction	0
	Out of Jurisdiction (Discretionary)	1
	Out of Jurisdiction (Non-Discretionary)	4
	Outcome Not Achievable	7
	No Decision Reached	3
	<b>Total</b>	<b>16</b>
Early Resolution 2	Premature	0
	Out of Jurisdiction (Discretionary)	0
	Out of Jurisdiction (Non-Discretionary)	1
	Outcome Not Achievable	0
	No Decision Reached	1
	Fully Upheld	0
	Partly Upheld	2
	Not Upheld	5
<b>Total</b>	<b>9</b>	
Investigation 1	Outcome Not Achievable	1
	No Decision Reached	1
	Fully Upheld	0
	Partly Upheld	6
	Not Upheld	7
	<b>Total</b>	<b>15</b>
Investigation 2	No Decision Reached	0
	Fully Upheld	0
	Partly Upheld	1
	Not Upheld	0
	<b>Total</b>	<b>1</b>
<b>Total complaints</b>		<b>88</b>

Premature total 25  
 Premature % 28%

Fit for SPSO (ER2, Inv 1 & 2) 24  
 Total Upholds / Partly Upholds 9  
 % Upholds / Partly Upholds of Fit for SPSO 38%