

## Scottish Parliament Region: Central Scotland

### Case 200600107: Coatbridge College

#### Summary of Investigation

##### ***Category***

Scottish Higher and Further Education: Disciplinary procedures

##### ***Overview***

The complainant (Ms C) raised a number of concerns on behalf of her client (Mr A) in relation to Mr A's expulsion from Coatbridge College (the College). Ms C raised a variety of complaints, however, through the course of my investigation a number of points were discontinued following agreement with the complainant.

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

The complaint which has been investigated is that the College failed to apply their Disciplinary Procedure properly (*not upheld*).

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

The Ombudsman has no recommendations to make.

## **Main Investigation Report**

### **Introduction**

1. On 11 April 2006, the Ombudsman received a complaint from a woman, referred to in this report as Ms C, on behalf of her client, referred to as Mr A. An explanation of all abbreviations are provided at Annex 1. The complaint raised a number of issues, however, as my investigation progressed, I decided, following agreement with Ms C, that the investigation would focus only on Coatbridge College (the College)'s actions in dealing with Mr A under their Disciplinary Procedure (the Procedure).

2. The complaint stems from an incident which occurred on 3 October 2005 in the grounds of the College, where Mr A was a student. Following the incident, a fellow female student (Student 1) complained to the College that Mr A had acted inappropriately towards her and had threatened to carry out a sexual assault. As a result of the complaint, the College initiated the Procedure with the result that Mr A was expelled from the College. This decision was upheld following appeal.

3. The complaint from Ms C which I have investigated is that the College failed to apply the Procedure properly.

### **Investigation**

4. During the course of my investigation, I made written requests for evidence from the College. Ms C had already provided detailed evidence when submitting her complaint to the Ombudsman's office. I also examined:

- the Procedure;
- all relevant documentation relating to the initial stages of the Procedure, including minutes of meetings;
- all relevant documentation relating to the Appeal Hearing;
- the CCTV video and stills of the incident which were used in the determining of the case by the College; and
- the witness statements obtained by the College regarding the incident.

5. I reviewed all the relevant evidence in order to determine whether or the not the College had acted in accordance with the Procedure when handling this case. I would like to highlight at this juncture that it has not been my role to determine whether or not Mr A is guilty of the allegations made about him by Student 1. My role has been to determine whether or not the Procedure was

followed properly in the process leading up to the College taking their discretionary decision to exclude Mr A and in considering his subsequent appeal.

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 College were given an opportunity to comment on a draft of this report.

**Complaint: The College failed to apply the Procedure properly**

7. My investigation has focused on the College's actions in handling this case and whether or not their actions were reasonable under the Procedure. Prior to highlighting the actions that were taken by the College in handling this case, I shall provide a brief timeline of the key events:

- 3 October 2005 – incident where alleged threat was made
- 7 October 2005 – following the letter of complaint, College staff met with Mr A to discuss the issue and the potential ways forward
- 12 October 2005 – meeting held between Mr A, his parents and College staff to discuss outcome of internal investigation
- 13 October 2005 – formal notice of the decision to expel Mr A was communicated to him with information given regarding his right of appeal
- 28 November 2005 – Mr A lodged his formal appeal via Ms C
- 12 December 2005 – appeal hearing considered the case and upheld the decision to expel Mr A.

8. The College's actions in investigating the complaint made by Student 1 are summarised as detailed in paragraphs 9 to 11.

9. Following receipt of the letter of complaint about Mr A from Student 1, the College obtained evidence including CCTV footage of the incident, still photographs of the incident from the CCTV footage, witness statements and held a meeting with Mr A to discuss the allegations.

10. A second meeting was held once College staff had reviewed the evidence. Mr A, his parents and a representative from the Student Association were present. The aim of the meeting was to discuss the case and inform Mr A of the likely outcome of the investigation. Mr A, according to the minutes, was informed at the end of the meeting that the recommendation would be made to the Principal of the College that Mr A be expelled. Mr A was advised during the meeting of his right to appeal the decision.

11. Following Mr A's appeal, the College then revisited the evidence and also questioned the witnesses who had provided statements supporting Mr A's version of events. During this process, four witnesses who had supported Mr A earlier in the process then withdrew their statements and submitted new statements which effectively supported the original complaint made by Student 1. Following consideration of the case, the College upheld the decision to expel Mr A and communicated this decision to him.

12. Ms C has raised concerns with the evidence which was used in the consideration of the case by the College. Primarily, the fact that photographic stills were used at the appeal hearing instead of the actual CCTV footage. Furthermore, Ms C claims that the College did not provide relevant evidence when requested which impacted on Mr A's ability to properly present his case at the hearing.

*(a) Conclusion*

13. In arriving at my conclusions on this case, I have measured the actions of the College against the stipulations laid out in the Procedure which the College employed at the time of the incident. The sections of the Procedure most relevant to this case are sections 2.6, 2.7 and 3.2 (provided at annex 2). The evidence I have reviewed leads me to conclude that the actions of the College comply with the stipulations laid out under the Procedure. I am satisfied the College followed their normal process and procedure in investigating allegations against Mr A in conducting their investigation and in hearing his appeal. As a result, I do not uphold this complaint.

14. I do note that this was a very sensitive issue and I am satisfied that the College handled the case in a sensitive and proportionate manner, including the provision of requested information, given the circumstances, and for this I believe the College should be commended.

19 December 2007

**Explanation of abbreviations used**

Ms C	The complainant
Mr A	The aggrieved
The College	Coatbridge College
The Procedure	The College's Disciplinary Procedure
Student 1	The Student who lodged the complaint against Mr A

## **Extract of the disciplinary procedure**

### **2.6 Right to Exclude**

In cases of serious alleged misconduct involving bullying, harassment, alcohol, drugs, assault or behaviour which is dangerous to the physical well-being of staff or students, or is affecting College property, the Head of Department has the right to exclude students from the college until the case has been heard. In all cases the Head of Department must notify the Associate Principal within 24 hours.

### **2.7 Appeal against Expulsion**

An appeal against expulsion must be lodged in writing with the Principal within five working days of the delivery of the letter. The Principal will establish an Appeals Committee comprising:

- 2 Members of the Board of Management (or, nominees).
- Student Association President or the President's nominee.
- The Principal or his/her nominee (Adviser to the committee).

The Appeal will be conducted in accordance with the procedures of the original hearing within 10 working days of the appeal being lodged.

### **3.2 Fast Tracking Procedures**

In serious cases, steps 2.1, 2.2, 2.3 and/or 2.4 may be omitted and the procedure may commence at 2.4 or 2.5. Such a decision should be taken by the Head of Department, if necessary and where appropriate, after consultation with the Associate Principal.

**List of legislation and policies considered**

The Disciplinary Procedure employed by the College