

Case 200503073: Queen Margaret University¹

Summary of Investigation

Category

Scottish Higher Education: Disciplinary Procedure

Overview

The complainant (Mr C) raised a number of concerns about the conduct of disciplinary proceedings against him by Queen Margaret University College (the University College).

Specific complaints and conclusions

The complaints which have been investigated are that:

- (a) Mr C was not given specific details, before the Disciplinary Hearing (the Hearing), about the allegations made against him (*upheld*);
- (b) the evidence used against Mr C during the Hearing was not made available to him before the Hearing (*not upheld*);
- (c) the University College did not follow proper process in reaching its decision on the allegations against Mr C (*upheld*);
- (d) false evidence was given at the Hearing (*no finding*);
- (e) the University College inappropriately required Mr C to provide an Enhanced Disclosure from Disclosure Scotland (*upheld*);
- (f) Mr C did not have adequate time or resources to prepare for his examinations (*not upheld*); and
- (g) the University College took unnecessary amounts of time with the proceedings and correspondence relating to the hearings (*partially upheld*).

Other findings

Allegations against Mr C were upheld and he was expelled from the University College on the basis of flawed proceedings.

¹ Queen Margaret University College was officially granted University Status on 16 January 2007 when it received its official change of title from the Privy Council.

Redress and recommendations

The Director of Investigations recommends that the University College:

- (i) take steps to ensure that students accused of misconduct are formally notified of all allegations against them in accordance with their regulations and in sufficient detail to allow them to respond;
- (ii) review the standard of proof required by regulation 6.4 to decide whether it is appropriate for the purpose intended;
- (iii) remind relevant staff of the importance of following processes as laid down in their regulations;
- (iv) take steps to ensure that relevant members of staff are aware of, or have access to advice on, the circumstances in which it is appropriate to request the various types of Disclosure from Disclosure Scotland;
- (v) take steps to keep students adequately informed of the progress of any appeal; and
- (vi) apologise to Mr C for the failings identified in this report.

Main Investigation Report

Introduction

1. On 9 March 2006, the Ombudsman received a complaint from a man (referred to in this report as Mr C) about the conduct of disciplinary proceedings against him by Queen Margaret University College (the University College).

2. Mr C was a student at the University College. On 4 April 2005 the University College wrote to Mr C to say that they had received information that he had breached their Disciplinary Code. A meeting was held on 20 April 2005 during which it was decided that Mr C would be suspended and excluded from the University College. Mr C appealed this decision and an Appeal Hearing to consider the suspension and exclusion order was held on 13 May 2005. The Appeal Hearing decided that the University College had acted in accordance with their regulations. A Disciplinary Hearing (the Hearing) was held to consider allegations. Some of the allegations made against Mr C were upheld and it was decided to expel Mr C from the University College. Mr C appealed this decision on 10 August 2005. On 13 December 2005, the University College decided not to allow the appeal as there were no acceptable grounds for appeal in this case. Mr C was informed that, as the University College's internal procedures had been exhausted, he could complain to the Ombudsman's office.

3. The complaints from Mr C which I have investigated are that:

- (a) Mr C was not given specific details, before the Hearing, about the allegations made against him;
- (b) the evidence used against Mr C during the Hearing was not made available to him before the Hearing;
- (c) the University College did not follow proper process in reaching its decision on the allegations against Mr C;
- (d) false evidence was given at the Hearing;
- (e) the University College inappropriately required Mr C to provide an Enhanced Disclosure from Disclosure Scotland;
- (f) Mr C did not have adequate time or resources to prepare for his examinations; and
- (g) the University College took unnecessary amounts of time with the proceedings and correspondence relating to the hearings.

Investigation

4. The purpose of this investigation is to determine whether the University College followed proper procedures during the course of the disciplinary proceedings against Mr C. It is not the purpose of this investigation to reach a determination on the allegations of misconduct made against Mr C.

5. My investigation is based on the documentation provided to me by Mr C and the University College. This includes correspondence between Mr C and the University College, the reports on the decisions made at the hearings and the University College's internal notes on this matter. I have also reviewed the University College's Student Regulations and obtained information from Disclosure Scotland on levels of Disclosure available. I have considered the Rehabilitation of Offenders Act 1974. I additionally met with a representative of the University College to discuss this complaint. I have also taken legal advice on certain aspects of this case.

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

(a) Mr C was not given specific details, before the Hearing, about the allegations made against him; (b) the evidence used against Mr C during the Hearing was not made available to him before the Hearing; (c) the University College did not follow proper process in reaching its decision on the allegations against Mr C; and (d) false evidence was given at the Hearing

7. On 4 April 2005, the University College wrote to Mr C to advise him that they had received information alleging that he had been in possession of Class A drugs with intent to supply within the University College's Halls of Residence, and also for his own personal use. No other allegations were referred to. The letter told Mr C that the alleged behaviour would constitute gross misconduct under their regulations. Mr C was advised that this would be dealt with summarily by the Dean of Faculty but that if there was a possibility of suspension or exclusion, the case would be heard at a Disciplinary Hearing.

8. The University College reported these allegations to the Police. On 26 May 2005, the University College was informed that Mr C would not be prosecuted. The Police said that they did not have sufficient corroborated evidence to justify proceeding with prosecution of Mr C.

9. A meeting was held on 20 April 2005 in which the Dean of Faculty explained to Mr C that he was conducting a Disciplinary Investigation into allegations which had been made about him and reiterated the allegations as detailed in the letter of 4 April 2005. The Dean of Faculty stated that, whilst the investigation into the allegations was being carried out, Mr C would be suspended from the University College, in accordance with paragraph 4.1 of their regulations. He also stated that Mr C was being excluded from the University College's Halls of Residence. He informed Mr C that he would have an opportunity to respond at the Hearing.

10. During the meeting of 20 April 2005, Mr C stated that he wished to see the allegations which had been made against him so that he could respond to them and defend himself. He asked to be given a date and time when he was alleged to have committed the offences. The Dean of Faculty stated that he was not at liberty to disclose any further information at that stage in the investigation.

11. Mr C was informed in a letter of 10 May 2005 that a Disciplinary Committee (the Committee) would hold the Hearing on 17 May 2005. The letter said that the Hearing would consider allegations that Mr C:

'had been in possession of Class A drugs with intent to supply within [the University College] halls of residence, and also for [his] own personal use, in contravention of the Misuse of Drugs Act 1971'.

The letter also stated that the circumstances surrounding the Disciplinary Investigation had justified a further investigation into the information provided by Mr C on his application form. The letter explained that he had been requested to provide independent evidence of all unspent convictions at the time of his application and had been informed that failure to provide the information requested may be regarded as a disciplinary breach under their regulations. The letter stated that, as Mr C had failed to provide that information, the matter would be considered by the Committee.

12. There were subsequent letters and telephone conversations about the Hearing. In particular Mr C was told in a letter of 12 May 2005 that the reason why he had not been given any copies of witness statements was because:

'quoting from regulation 6.7 of the Student Regulations and Policies, 'The evidence presented at the hearing will normally be given by the witnesses

in person.' That is the procedure the Committee intends to follow in this case'.

13. The University College informed me that Mr C had written to them stating that he would not attend the Hearing; I have not had sight of this letter. The letter of 12 May 2005 suggested that Mr C might wish to change his decision not to attend the Hearing and asked him to confirm the position in writing not later than the next afternoon. Mr C told me that he had informed the University College that he could not attend the Hearing of 17 May 2005 and had asked that it be delayed a week. Mr C stated that the University College refused his request and decided to proceed in his absence. I could find no evidence of this in the documentation.

14. The Committee was provided with a brief summary paper of action already taken in the context of the disciplinary process, a note of the meeting held on 20 April 2005 (see paragraphs 9 and 10), and a copy of the Disciplinary Code. None of these papers gave any details about the times and places of the alleged incidents.

15. During the Hearing of 17 May 2005, only the evidence against Mr C was heard. None of the people who had made the original allegations about Mr C's behaviour (referred to as primary witnesses) were willing to make statements in person to the Committee or to have their identity revealed to Mr C because they feared retribution. For this reason, the Committee agreed to hear statements from other individuals (referred to as secondary witnesses) who had either received the original allegations or who had met with the primary witnesses making the allegations. The Committee heard this evidence from four members of staff and from the Student President.

16. The University College stated that all of the primary witnesses had expressed concern that Mr C should not learn their identity. Two of these witnesses said they had moved from University College Halls of Residence because of their fear of Mr C. The University College stated that one of the primary witnesses withdrew their detailed written statement, which was destroyed at the request of their family on the basis that they feared Mr C. They stated that a further primary witness was prevented from attending by their family, also on the basis that they feared Mr C. They also informed me that one primary witness concerned was sufficiently distressed and continued to be so

distressed as to have to attend the University College's Medical and Counselling Service.

17. After the Hearing on 17 May 2005, an interim report (the Interim Report) was prepared summarising the evidence and allegations heard. The Interim Report was sent to Mr C on 26 May 2005 and the Hearing resumed on 15 June 2005 to hear statements in support of Mr C.

18. Before sending the Interim Report to Mr C, the University College received advice from a solicitor about how much detail of events should be included. The solicitor's advice was that the Interim Report should include as much detail as possible without identifying the people who had made the allegations about Mr C. This advice was received on 26 May 2005, and the Interim Report was sent to Mr C the same day.

19. The Interim Report briefly summarises the statements made by the secondary witnesses. References to times and places are vague. There are references to incidents occurring in 'early March' and 'mid-April', to an allegation being made 'on a Friday in March'; and to intimidation of primary witnesses escalating following written confirmation from the University College on 4 April 2005 that the allegations of drug misuse were being pursued by them. There are no other references to times or dates when incidents occurred. The University College later informed me that some of the secondary witnesses had specified to the Committee the date in March when a primary witness had presented in a state of distress to a secondary witness.

20. The Interim Report states:

'the demeanour and actions of the [primary] witnesses had provided those interviewed by the Committee [secondary witnesses] with sufficient and compelling evidence that those [primary] witnesses had provided truthful accounts of the drug use and supply and were now in genuine fear that any information that they provided would lead to recriminatory action by Mr C'.

21. At the Hearing on 15 June 2005, Mr C responded in person to the allegations made against him. The Committee also heard statements from Mr C's girlfriend and from a representative. The report summarising this Hearing records that Mr C stated that the allegations were false and that he had never been in possession of, or sold Class A drugs at the University College;

that he had never attempted to obstruct the investigation or intimidate students; that throughout the times concerned he had been continuously with his girlfriend except when they went to different lectures; and that he believed all the allegations made against him were malicious and that they had been made by people to whom he had divulged details of his past in confidence.

22. During the Hearing, Mr C stated that he felt that because the University College had not given details of when and where the alleged offences had occurred, he had not been given an opportunity to defend himself properly. He also stated that he had not been given the opportunity to cross-examine the witnesses and that the only evidence which the University College had against him was hearsay and that nobody had ever seen him in possession of any drugs. Mr C stated that if the University College confirmed where and when the alleged offences had happened, then he would be able to provide an alibi. He also stated that he had been unable to attend the earlier meeting of the Committee due to being on holiday and that he had not responded to their letters as he had been out of the country. Mr C accepted that he had not made it clear to the University College that he would be unable to attend the earlier meeting due to being out of the country.

23. The Committee sent a copy of its final report (the Final Report) and findings to Mr C on 22 July 2005. The Committee did not uphold the allegation of dealing Class A drugs on campus on the basis of insufficient evidence but upheld allegations of possession of a Class C drug and of the obstruction of the University College's investigation into allegations of drugs misuse through intimidation of witnesses. It also upheld the allegation that Mr C had failed to provide information by refusing to complete an Enhanced Disclosure.

24. The University College's Student Regulations governing discipline set out the procedure to be followed by the Committee and also provide the test to be applied in deciding whether there has been misconduct on the part of an individual student. The particular test is contained in regulation 6.4 and provides that 'the Committee will find a student guilty of misconduct only if, on the evidence before it, it is satisfied beyond reasonable doubt of the student's guilt'.

25. The Final Report stated that the Committee had based its decision on the balance of evidence before it and that, in so doing, 'it applied a test of 'reasonableness' i.e. what judgement would a reasonable person arrive at,

having heard the allegations and evidence presented before them'. On this basis, the Committee was unanimous in its decision that Mr C be expelled from the University College.

26. The University College informed me that, following my request for information on this complaint, they had consulted with members of the Committee who had confirmed that the test they based their decision on was one of 'beyond reasonable doubt'. The University College further clarified that, in applying this test, the Committee considered what the 'reasonable man' would do in these circumstances. They stated that it was entirely appropriate for the Committee to make such considerations in assessing whether this standard of proof had been met. The University College stated that the Committee members were not making their decision on the basis that the standard of proof was one of 'reasonableness'. They were applying their minds to what was 'reasonable' as part of their assessment as to whether the individual was guilty 'beyond reasonable doubt'. The University College also stated that, as these were not criminal proceedings against Mr C but internal proceedings in relation to his misconduct, the assessment of the definition of the standard of proof being the same as that applied in criminal cases would be inaccurate.

27. I took legal advice on the definition and use of the expression 'beyond reasonable doubt'. I was advised that the term has a recognised meaning, namely that which is attached to it in the criminal context. I was also advised that it was not open to a disciplinary body to put a different interpretation on the term, although it could, if it wished and if this was in accordance with its regulations, apply the civil standard of 'on the balance of probabilities' or any other standard it considered appropriate. In their response to the draft of this report, the University College accepted this position.

(a) Conclusion

28. This case put the University College in a difficult situation. They had to consider the interests of all involved, including the primary witnesses and Mr C.

29. The University College has a duty to try to ensure the safety of students. There were legitimate concerns about the safety of the primary witnesses and about drug dealing and drug use on their premises. It is clear that the University College took very seriously its duty of care to the primary witnesses. They clearly believed that these witnesses were at risk from Mr C.

30. The University College also had to consider the interests of Mr C. He had the right to a fair hearing. It is a principle of natural justice and procedural fairness that an accused party should be informed promptly and in detail of the nature of the accusations made against them and should also be given the opportunity to test the evidence against them. I could, however, find no evidence that the University College had given consideration to Mr C's rights and interests.

31. Regulation 6.8 states that the Academic Registrar will set out the allegations in writing in advance of the Hearing, and that a copy should be sent to the accused at least two weeks before the Hearing.

32. The University College only gave Mr C very general information about allegations made against him (see paragraph 19). When Mr C was told about the allegations against him, not only were the identities of the people who had made the allegations withheld, but also the dates and times of the alleged incidents. He was consequently unable to defend himself properly against the allegations which had been made or to properly test the evidence available. The University College also decided not to include in the Interim Report, the specific date on which one of the allegations was made although this was given as part of the evidence of two of the secondary witnesses.

33. The University College did not properly consider whether they gave Mr C enough information for him to have a fair hearing nor did they supply enough information for this purpose. I uphold the complaint.

(a) Recommendations

34. The Director of Investigations recommends that the University College take steps to ensure that students accused of misconduct are formally notified of all allegations against them in accordance with their regulations and in sufficient detail to allow them to respond.

(b) Conclusion

35. The evidence considered by the Committee consisted of the oral statements of the secondary witnesses. This was in accordance with their regulations and Mr C was told this would be the case. I do not uphold the complaint.

(c) *Conclusion*

36. The University College's Student Regulations state that the Committee 'will only find a student guilty of misconduct if, on the evidence before it, it is satisfied beyond reasonable doubt of the student's guilt'. Proper process would require the University College to follow their regulations.

37. The Committee, in the Final Report, stated that they 'applied a test of reasonableness i.e. what judgement would a reasonable person arrive at having heard the allegations and evidence presented before them'. The University College argued that this meets the standard of proof set out in their regulations because the Hearing was not a criminal court. The University College later accepted that 'beyond reasonable doubt' has a recognised meaning – that which attaches to it in the criminal context.

38. The University College told me that members of the Committee had, in response to my investigation, stated that they had applied the test of 'beyond reasonable doubt'. However, the Committee, in their Final Report, were quite clear that they had applied 'a test of reasonableness' and made no mention of the test of 'beyond reasonable doubt'. I consider that the Final Report is the official record of the Committee's decision-making process and, having considered the arguments, I do not accept that they applied the test of 'beyond reasonable doubt'.

39. My view is that the meaning of 'beyond reasonable doubt' is quite clear, and means that if there is any doubt at all which is reasonable then an allegation cannot be upheld. This view has been supported by the legal advice I received.

40. The evidence before the Committee, as detailed in the Interim Report and Final Report, has already been referred to. Given the lack of detail in this evidence and the fact that it was given to the Committee indirectly by the secondary witnesses, my view is that it is possible to have reasonable doubts about Mr C's guilt.

41. Having examined the evidence, I consider that the Committee did not apply the correct standard of proof. I, therefore, uphold the complaint. Furthermore, my view is that there was not enough evidence for the Committee to uphold the allegations if the correct standard had been applied.

(c) Recommendations

42. The Director of Investigations recommends that the University College review the standard of proof required by regulation 6.4 to decide whether it is appropriate for the purpose intended. He also recommends that the University College remind relevant staff of the importance of following processes as laid down in their regulations.

(d) Conclusion

43. The role of the Ombudsman is to consider whether there was any maladministration or service failure in the way the University College reached its decisions about the allegations made about Mr C. It is not the role of the Ombudsman to decide whether the evidence was false or not. I make no finding on this complaint.

(e) The University College inappropriately required Mr C to provide an Enhanced Disclosure from Disclosure Scotland

44. Information on the types of Disclosure available from Disclosure Scotland is given in Annex 2 of this report.

45. A student alleged to the University College that Mr C had lied on his application form and that he had been in prison more than once.

46. At the meeting on 20 April 2005, the Dean of Faculty said that the University College had strong evidence that Mr C had convictions which he had not declared upon his application to the University College. He said that because of this, Mr C would be required to complete an Enhanced Disclosure.

47. Mr C said that he had some spent convictions, but he had been advised that he did not need to disclose these when he applied to the University College.

48. The University College wrote to Mr C on 27 April 2005. They stated that the purpose of the letter was to repeat and clarify the request for an Enhanced Disclosure. It confirmed that they had no interest in spent convictions. The letter stated that any failure to provide the information requested might be regarded as a disciplinary offence in terms of rule 2.3(n) of their regulations.

49. Mr C stated that he would not fill in an Enhanced Disclosure as his previous convictions were irrelevant in relation to the Rehabilitation of Offenders Act 1974 and his particular course of study.

50. The University College upheld an allegation of misconduct against Mr C on the basis that Mr C had failed to provide information in response to a reasonable request, namely refusal to complete an Enhanced Disclosure form.

51. I confirmed with Disclosure Scotland that the University College would not have been entitled, even with Mr C's consent, to request a Standard or Enhanced Disclosure in this situation as Mr C did not fall within the relevant categories for these types of Disclosure. Their only option would have been to request that Mr C obtain a Basic Disclosure and share the results of this with them.

52. I do not know whether Mr C had any unspent convictions at the time of his application.

(e) Conclusion

53. It was entirely reasonable for the University College to want to satisfy themselves that the application form was correctly completed. They had evidence that could indicate that Mr C may not have declared all his unspent convictions on that form.

54. Although the University College's reasons for seeking the Disclosure were reasonable, it was inappropriate for them to require Mr C to complete an Enhanced Disclosure as neither he nor the University College were entitled to request this. In these circumstances, I do not consider that the University College could reasonably uphold an allegation on the basis that Mr C had refused to complete an Enhanced Disclosure. I, therefore, uphold this complaint.

(e) Recommendations

55. The Director of Investigations recommends that the University College take steps to ensure that relevant members of staff are aware of, or have access to advice on, the circumstances in which it is appropriate to request the various types of Disclosure from Disclosure Scotland.

(f) Mr C did not have adequate time or resources to prepare for his examinations

56. During the initial meeting which was held with Mr C on 20 April 2005, the Dean of Faculty told Mr C that, under paragraph 4.2 of their regulations, Mr C was entitled to take any outstanding examinations and that he would be contacted in writing with details of the arrangements for these. The University College wrote to Mr C on 27 April 2005 to confirm the details of the Suspension and Exclusion Order which had been made against him. The letter stated that, under the terms of the suspension, Mr C would not be allowed to attend or participate in any University College activities other than sitting examinations during the period of suspension. The terms of the exclusion were that Mr C would not be allowed to enter or remain in any part of the University College campuses during the period of exclusion. It was explained that arrangements would be made for Mr C to attend campus to sit examinations and that he would be advised of these. The University College wrote to Mr C on 3 May 2005 to inform him of the examination arrangements for the 11 and 12 May 2005.

57. The University College informed me that examination dates and times are published early in the semester so Mr C would have already been aware of the examination dates prior to the disciplinary issues being raised. The examination dates for semester 2 of 2005 were published to all students on 9 March 2005, two months before Mr C was required to sit his examinations on 11 and 12 May 2005. The University College's Student Regulations state that a student has a duty to familiarise themselves with the published time-table of examinations. In addition to this, a letter was sent to Mr C on 3 May 2005 to confirm examination arrangements.

58. During the Hearing on 15 June 2005, Mr C stated that, when the University College had told him that alternative arrangements would be made for him to undertake his examinations; he had taken this to mean that he would undertake the examinations once the investigations had concluded. When informed by the University College that he could undertake his examinations at the scheduled time, he was surprised and felt that he had wasted a week of study time. He stated that he had been unable to get access to the full range of library books or a computer which he felt was detrimental to his studies. During consideration of an appeal against Mr C's exclusion, Mr C's representative from the Students' Union agreed that provision had been made for Mr C to borrow books from the library.

(f) Conclusion

59. During the meeting on 20 April 2005, Mr C was informed by the Dean of Faculty that he would be entitled to take any outstanding examinations and this was reiterated in a letter of 20 April 2005. Mr C was informed of the arrangements for him to sit his examinations on 3 May 2005. I consider that Mr C was given adequate notice that he would be able to sit his examinations. I do not accept Mr C's claim that he understood he would be able to take them after the investigations had concluded. Provisions were made for Mr C to borrow books from the library. Furthermore, he should have been in possession of his own lecture notes and would have been able to use a public library if he had needed to use a computer. Mr C had been excluded from the University College campuses following the correct procedure. I, therefore, do not uphold this complaint.

(g) The University College took unnecessary amounts of time with the proceedings and correspondence relating to the hearings

60. Mr C was advised by letter of 4 April 2005 that the University College had received information that he had breached the Disciplinary Code. Mr C was informed by letter dated 12 April 2005 that a meeting had been arranged on the 20 April 2005.

61. Mr C wrote on 21 April 2005 to appeal the decision to suspend and exclude him. The Committee convened on 17 May 2005 to consider the allegations against Mr C and he was also told that the Committee would reconvene on 15 June 2005 in order to give Mr C the opportunity to appear in person. Mr C received the decision from the Committee on 22 June 2005 and submitted a further appeal on 10 August 2005.

62. There were a number of letters between Mr C, the Students' Union, Mr C's solicitors and the University College. I have chosen not to detail these but have reviewed them all. The University College consistently provided timely responses to Mr C's letters and kept him updated on the progress of the disciplinary action being taken against him.

63. The final decision on whether to allow Mr C's appeal was made on 13 December 2005. The University College wrote to Mr C's solicitor three times (on 15 September 2005, 11 October 2005 and 18 October 2005) between receiving the appeal on 10 August 2005 and making a determination on whether to allow it. The University College sought the name of a specific

contact within the solicitors' office to whom they could address correspondence. This request was not answered. They did not have any other contact address for Mr C. In their letters to Mr C's solicitor, they also advised that Mr C's appeal was still under consideration.

(g) Conclusion

64. The University College were prompt in processing the disciplinary action against Mr C and in responding to his correspondence timeously until the point when they received Mr C's appeal on 10 August 2005.

65. Subsequent to Mr C's appeal, there was no communication between the 18 October 2005 and the date the University College's response was given, namely 13 December 2005. The University College should have kept Mr C informed on the progress of their work on this appeal and I consider two months without communication or indication of when the decision would be issued was too long. I acknowledge that the University College was not given a specific contact to write to at the solicitors' office and did not have Mr C's home address but I do not consider that this prevented them from corresponding with the solicitors. If the University College no longer considered it appropriate to correspond with the solicitors about Mr C, they should have informed the solicitor that this was the case before ceasing to correspond with them. To the extent of the lack of communication after 18 October 2005, I partially uphold this complaint.

(g) Recommendation

66. The University College should take steps to ensure students are adequately informed of the process of any appeal. If the consideration of the appeal is taking longer than usual, the University College should ensure that the student is given a timescale within which they can expect to hear from the University with an update on their appeal.

Further recommendation

67. Allegations against Mr C were upheld and he was expelled from the University College on the basis of flawed proceedings. The Director of Investigations recommends that the University College apologise to Mr C for the failings identified in this report.

68. The Director of Investigations asks that Queen Margaret University notify him when the recommendations have been implemented.

Explanation of abbreviations used

Mr C	The complainant
The University College	Queen Margaret University College
The Committee	The Disciplinary Committee
The Hearing	The Disciplinary Hearing
The Interim Report	The report produced summarising the Hearing of 17 May 2005
The Final Report	The Committee's report and findings

List of legislation and policies considered

Relevant extracts from the University College's Student Regulations

Misconduct

2.3 The following shall constitute misconduct, whether occurring in University College premises or elsewhere:

- (n) Failure to disclose personal details to a member of staff of the University College in circumstances in which it is reasonable to require that such information is given.

Suspension or Exclusion

4.1 A student who is the subject of a complaint of misconduct (...) may be suspended or excluded from the University College (...) pending Disciplinary Hearing.

4.2 A student is prohibited from entering University College premises and from participating in University College activities. Suspension may be subject to qualification, such as permission to take an examination. The terms of the suspension will be notified in writing to the student.

4.8 A student may appeal against an order of suspension or exclusion.

Disciplinary Committee

6.15 The Committee shall have power to adjourn a Hearing to another date, as it thinks fit.

6.4 The Committee will find a student guilty of misconduct only if, on the evidence before it, it is satisfied beyond reasonable doubt of the student's guilt.

6.7 The evidence presented at the Hearing will normally be oral evidence, given by witnesses appearing in person. The Committee may accept a witness' written statement in evidence where the student agrees that the witness need not attend, or where it is impracticable for the witness to attend, or where in the opinion of the Committee it is for other reason in the interests of justice to do so.

Types of Disclosure available from Disclosure Scotland

Basic Disclosure

A Basic Disclosure is the lowest level of Disclosure. It contains details of convictions considered unspent under the Rehabilitation of Offenders Act 1974 or states that there are no such convictions. This type of Disclosure is only issued to the applicant.

Standard Disclosure

This is the intermediate level of Disclosure and includes convictions held on central records and records both spent and unspent convictions. This means that even minor convictions, perhaps dating from years ago, are included on the Disclosure. The Standard Disclosure is available subject to the application first being countersigned by a registered person. This type of Disclosure is only available when the applicant falls within certain specific categories. The main categories are

- those involving regular contact with children and adults at risk;
- those involved in the administration of law;
- those applying for firearms; explosives or gaming licences;
- professional groups in health, pharmacy and law; and
- senior managers in banking and financial services.

A Standard Disclosure is sent to the applicant and a copy is also sent to the person who countersigned the application on behalf of the Registered Body.

Enhanced Disclosure

This is the highest level of Disclosure. In addition to the details included in Standard Disclosures, Enhanced Disclosures may contain non-conviction information which a Chief Officer or Chief Constable may choose to disclose if they believe it to be relevant to the position in question. This type of Disclosure is available to

- those who apply for work that regularly involves caring for, training, supervising or being in sole charge of children or adults at risk;
- applicants for various gaming and lottery licences;
- those seeking judicial appointment; and
- applicants registering for child minding, day care and to act as foster parents or carers.

The University College explained that Enhanced Disclosures are available to them where they are admitting students undertaking the types of work set out in the first bullet point above as part of their course.