

PE1769/G

Minister for Further Education, Higher Education and Science submission of 28 October 2020

Introduction

1. The Scottish Government welcomes the opportunity to comment further on the above petition, and note the Committee's intention to also seek the view of the Scottish Funding Council.

Students' Rights

2. There is no distinct category of students' rights, since any rights that they hold are not exclusive to students. Students in this context have consumer rights that they can enforce. Our previous response to the petition emphasised that higher education institutions are autonomous bodies, with responsibility for their own complaints handling arrangements. Again, as already identified, if students (as consumers) are dissatisfied with the outcome they can refer the matter to the SPSO. If they remain dissatisfied, they have recourse to the courts. Whilst this petitioner highlights that there are financial implications inherent in litigation, that is nevertheless how consumer rights are enforced.

Scottish Government response to student complaints

3. We regret that in this case the petitioner's experience of her post-graduate course was not positive. It is not uncommon for dissatisfied students to write to Scottish Ministers asking the Scottish Government to intervene in their cases. In these instances, we advise correspondents to explore redress through the institution's own complaints procedures and, if they remain dissatisfied, to take up the matters with the Scottish Public Services Ombudsman or with the Quality Assurance Agency ("QAA"), if the matter relates to the quality of the qualification, or subject content, through the QAA Concerns Scheme.

Powers of the Scottish Public Services Ombudsman (SPSO)

4. Section 5 of the Scottish Public Services Ombudsman Act 2002 provides that the SPSO is entitled to investigate maladministration or service failures of public bodies. The Further and Higher Education (Scotland) Act 2005 extended the SPSO's remit to include fundable bodies (with the exception of the Open University and the Scottish Agricultural College). The remit does not apply to matters of "academic judgement relating to an educational or training matter". Given that universities are generally not public bodies, this is an important limitation which should be preserved. Furthermore, in relation to this particular petition, the SPSO herself stated that she saw "no compelling evidence that SPSO is unduly restricted by the limitation on academic judgement."

QAA

5. Under this scheme, and as indicated in our previous response, QAA is able to investigate concerns about academic standards and quality raised by students, staff and other parties. Where such concerns indicate serious systemic or procedural problems, QAA will conduct an investigation. QAA however does not resolve individual complaints against HEIs and is therefore unable to provide redress or compensation to any individual submitting a complaint.

Conclusion

6. When the Scottish Government reply to complainants as outlined above, we do not know what action the correspondent then takes, and whether they take up their grievance with the SPSO and/ or QAA. We therefore have no figures for how many of the complaints raised with the SPSO about higher education are upheld, and therefore no information on what corrective steps are then taken. What can be said is that the number of complaints we receive appears to be a very small proportion compared to the total number of students.

7. In the light of the above and, in particular, the fact that universities are not public bodies, it is not our intention at the present time to seek to extend the existing powers currently available to the SPSO.