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Professional Conduct and public trust

A case considered by the High Court considered the high standards of personal conduct expected of students who are training for professional roles.

The case was brought by a medical student who was expelled from his course for sending threatening and offensive content via Facebook. He complained to the OIA about the process followed by the University and about its decision to expel him.

Whether a student is fit to practise in a particular profession is fundamentally a matter of professional judgment with which the OIA will not interfere unless there is evidence of bias, procedural irregularity or unfairness in the decision making process. In this case the University had concluded that the student's behaviour was fundamentally incompatible with practising as a doctor.

The OIA found no unfairness, bias or irregularity in the way that the University had followed its fitness to practise and subsequent appeal procedures. We concluded that the University was entitled to apply an objective test to the student's behaviour to determine whether it was likely to undermine the trust of a reasonable member of the public in the profession, and that the penalty applied was reasonable in the circumstances. We found the complaint Not Justified. The student sought Judicial Review of our decision.

The court dismissed the claim. Giving judgment His Honour Judge Milwyn Jarman QC said:

"The test I must apply is whether the decision is one to which no reasonable decision maker possessed of expertise reasonably to be expected of [the OIA] could have come. I cannot be satisfied that that high hurdle has been reached in this case, particularly as it involves professional judgement as to fitness to practise medicine."

Commenting on the case, Felicity Mitchell, Deputy Adjudicator at the OIA, said:

'Fitness to Practise procedures exist for a reason, to make sure that students can be clear about expectations on them, and to help maintain trust in professions such as medicine, nursing, law, teaching and social work. Misconduct can have far reaching consequences for students on professional courses. The OIA's role is to ensure that higher education providers follow fair processes and reach reasonable decisions. The professional judgment about whether the student is fit to practise their profession properly sits with the provider.'

ENDS



Notes to Editors

1. The approved judgment R (Thilakawardhana) v the Office of the Independent Adjudicator [2015] EWHC 3285 (Admin) can be found on the [OIA website](#).
2. The OIA is the designated operator of the student complaints scheme in England and Wales, under the Higher Education Act 2004 as amended. To date it has reviewed around 15,000 cases.
3. OIA decisions are subject to Judicial Review.
4. For further information please contact Jane Clarkson, Policy and Communications Manager jane.clarkson@oiahe.org.uk.