office of the independent adjudicator

POSITION PAPER 01:

Three cheers for Lord Leveson:
Independent self-regulation – newspapers and universities compared

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About the OIA

The OIA is the designated operator of the Scheme for reviewing student complaints in England and Wales, established under the Higher Education Act 2004. All publicly funded universities in England and Wales belong to the Scheme. Private and alternative providers may join by application to the OIA Board.

The OIA Scheme is free to students, and has been designed to be accessible to all students, without the need for legal representation.

The OIA has a wide remit to review student complaints about an 'act or omission' by HEIs in England and Wales. It does not review academic judgment or admissions issues. The Scheme Rules and all details related to OIA operations can be found at www.oiahe.org.uk.

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Introduction

Higher education has been on a long journey in the reform of its complaints and appeals mechanisms. Change and improvement were hard won and not easily implemented. There was no chimerical reading of the 'Philosopher's Stone'[1] moment, though perhaps Lord Dearing, the author of the 1997 Report of the National Committee of Inquiry in Higher Education, came close.

Before being reformed by legislation in 2004 complaints handling across universities lacked independence, consistency and transparency. Of 100 universities surveyed for the National Postgraduate Committee in 1998 more than a third had no formal complaints procedure. There was great disparity in the quality of procedures in those universities that had formal processes and no effective ways of publicising them. A 'head in the sand' attitude towards complaints was commonplace, with students unions criticising the lack of process and transparency: "Students are being denied access to even the basic rights of complaint and avenues of appeal. In too many cases the current systems of complaint in operation in modern universities belong in the Dark Ages."[2]

Complaints against older universities were heard ultimately by Visitors. This was a "bizarre, byzantine and archaic"[3] set of arrangements whereby the 'great and the good', including, for example, the Queen, the Duke of Kent, the Archbishops of Canterbury and York and the Master of the Rolls were appointed by universities to review complaints from students and staff when internal processes (where they existed) had been completed. These arrangements were characterised by Visitors delegating their duties to administrative functionaries, the absence of set procedures, no transparency or consistency and excessive delay including several cases which lasted in excess of five years.[4]

Once a new system, the Office of the Independent Adjudicator, was put in place, most Vice-Chancellors were content but a few were nervous. One Vice-Chancellor ruefully noted that his university's Visitor had been the Archbishop of Canterbury, and inquired what religious denomination the attendant Independent Adjudicator belonged to. The reply is not recorded but Disraeli's observation that he was 'the blank page between the Old Testament and the New' would have been apt.

What can be learned from Leveson?

The recent attempt at overhaul of press regulation has relevance for higher education. Debates about regulatory arrangements tend to go one of two ways. One is that they are sector-specific and exclude experience from other sectors (or countries). The alternative is that policy proposals are presented in giant baskets in which regulatory arrangements in one sector are proposed wholesale for those in another without due regard to institutional or cultural differences. Both variants are flawed. Comparative analysis is difficult but valuable. The newspaper industry and higher education share a conviction that each is a special case and that each requires, on 'public interest grounds', professional autonomy. In the newspaper industry this is called 'press freedom', and in higher education 'academic judgment'. Since effective regulation must pay regard to the characteristics of legitimate activity in the specific sector it is designed for it is unsurprising that press freedom and academic judgment are salient issues that require sensitive and expert handling.

But sensitive and expert handling is not the same thing as unthinking acceptance of the professional veto of the introduction of independent self-regulation. This dilemma is a feature of regulatory debates in both the newspaper industry and higher education. In this sense, each sector has something – however limited – to learn from the other. Lord Leveson proposed a system for the independent self-regulation of the newspaper industry in November 2012[5] not unlike the one used in higher education. The Leveson Report recommendations appear to have had strong public support but attracted criticism, even opprobrium, from the newspaper industry itself.[6]

The background to the creation of the Leveson Inquiry is revealing. There was a long delay between a phone-hacking scandal at the *News of the World* in 2005 and 2006 and the establishment of the Leveson Inquiry in July 2011. Along the way there was heated debate about the apparent reluctance of journalists and editors to investigate the story or treat it seriously. There were suggestions of politicians being too ready to accept reassurances about the probity of newspaper owners.[7] In addition, there were criticisms levied at the police for a failure to recognise the scale of the wrong-doing, and the complete failure of the Press Complaints Commission to act with impartiality or resolution once *the Guardian* had alleged a cover-up. The tipping point was exposure of the fact that the mobile phone of abducted schoolgirl, Milly Dowler, had been hacked by someone at the *News of the World*.

Some of the above lies beyond the scope of complaints handling. But the effectiveness of complaints handling and regulatory arrangements was part of the environment in which problems arose and took a long time to come to light, so they are important to consider.

The Press Complaints Commission and related cultural failures

According to Lord Leveson, the Press Complaints Commission proved to be a failure and "a new body is required." There were "numerous structural deficiencies" which had hamstrung the organisation. Foremost of these was a lack of independence: in the appointment of the PCC Chair, in the Editors' Code Committee and in the Press Standards Board of Finance ('PressBoF'), which controlled the PCC's finances. As a result: "In practice, the PCC has proved itself to be aligned with the interests of the press, effectively championing its interests." When it did investigate major issues it sought to head off or minimise criticism of the press. Its attempts to investigate phone hacking allegations lacked any credibility.[8]

In addition, its powers were inadequate, especially regarding the right to conduct an effective investigation: "the PCC is at the mercy of what it is told by those against whom complaint was made." Even where it had powers, these were under-utilised. And when complaints were upheld, the remedies at its disposal were "woefully inadequate" and enforceable only by persuasion.[9] The PCC had not monitored compliance with the Press Code and the statistics which it published lack transparency. There was a reluctance to deal with matters that were the subject of civil litigation. That high-profile complainants turned to the courts instead of using the PCC "speaks volumes." Financially, the PCC had been run on a tight budget and without the resources to do all that was needed.

Furthermore, "voluntary membership and the concentration of power in relatively few hands" resulted in less than universal coverage so that when Northern & Shell (including the *Daily Express* and *Sunday Express*, and the *Daily Star*) withdrew from PressBoF it was "a major blow to the purpose and credibility of the PCC."

In summary, Lord Leveson argued that the PCC had failed in its regulatory role. It had not monitored compliance with the Press Code nor given guidance in its adjudications about public interest in the context of the Code. The model for independent self-regulation he proposed required a successor body to be established with dual roles of promoting high standards of journalism and hearing individual complaints to protect the rights of individuals. As part of this it should encourage individual newspapers to embrace a more rigorous process for dealing with complaints internally and provide "a fair, quick and inexpensive arbitration service to deal with any civil law claims based upon its members publications."

Higher education by comparison

The recognition that effective complaints management in higher education was incompatible with unreformed self-regulation was a prolonged and incremental process. In public discourse, it began

with the Committee on Standards in Public Life reporting in 1996 that "Students in higher education institutions should be able to appeal to an independent body".[10] A year later, Lord Dearing recommended that universities review and amend complaints handling arrangements to ensure they: reflect principles of natural justice; are transparent and timely; include procedures for reconciliation and arbitration; and include an independent, external element.[11] It was only where the complaint was "particularly serious" that an independent individual should be drawn from outside the institution. And if such procedures were adopted throughout the sector "we think an 'ombuds-style function is not required."[12]

Preparation for legislation involved action on two fronts. The National Union of Students kept the Dearing recommendations in the public domain by monitoring and reporting on the slow progress made by universities in devising revised arrangements.[13] At the same time, a CVCP Working Party looked at ending the Visitorial system and the case for legislation and an independent review of complaints. Draft legislation was developed in 2003; a voluntary scheme was established in March 2004 before the Higher Education Bill was enacted later in the same year.

The OIA Scheme

The drafters of the 2004 legislation that established the Office of the Independent Adjudicator grappled elegantly with a challenge familiar to Lord Leveson – reconciling the need for an authoritative and effective national complaints handling scheme with the historic and much-vaunted independence of the 'industry' to be regulated.

The OIA oversees the national complaints handling Scheme for students (and former students) at universities in England and Wales. The Scheme is used where internal university complaints processes have been exhausted and the student remains unsatisfied. Under the terms of the 2004 Act, Visitors' jurisdiction over student complaints was ended. The OIA Scheme is required to be independent, free to student users, and focused on 'the acts and omissions of universities'. The Scheme cannot look at narrow academic judgments,[14] issues relating to admissions, employment matters, or matters before a Court. The tests of a complaint are whether or not a university has abided by its own regulations and/or whether or not the university has been reasonable in all the circumstances. Recent changes to the Scheme Rules have increased the possibilities of making the OIA final decisions more open to public scrutiny. By the end of 2012 the OIA had reviewed and adjudicated on around 10,000 complaints. Overall, the OIA has found around 20 per cent of cases Justified or Party Justified. It has recommended compensation to students of more than one million pounds.

The OIA has an independent oversight function and character. Universities are required to comply with the Scheme Rules but retain sovereignty not to comply with the OIA Final Decisions if they are prepared to put up with the public naming which follows. In practice Universities almost invariably comply. The independence of the OIA is central to its authority, and a critical ingredient enabling it to carry the broad confidence of both universities and students' unions.[15] Executive authority lies with the Independent Adjudicator and Chief Executive, appointed under Nolan Rules of fair and open competition, who in determining complaint outcomes must act independently of the Board, universities and complainants. The Board is required to preserve the independence of the Scheme and of the Independent Adjudicator. The Board itself has an independent majority of members from outside higher education.

This governance arrangement was at the core of a recent unsuccessful Judicial Review challenge in the Court of Appeal.[16] In the Judgment in the case of Mr Sandhar, a medical student at Manchester University, Lord Justice Longmore, noting the arrangements described above, commented that "There is no evidence that the Board has ever failed to live up to that responsibility [to preserve the OIA's independence]." He also saw nothing in the funding mechanism of the Scheme, where resource is levied from university subscriptions, to

tie a case-handler to a particular university. Lord Justice Longmore concluded, and the other Judges agreed: "I just do not see how it can be said that any fair-minded and informed observer could say that there was a real possibility that the OIA in general or its Independent Adjudicator or any individual case-handler was biased in favour of the HEI under scrutiny in any particular case or lacked independence in any way."[17]

The role of the OIA in investigating complaints is set out in the legislation, in the Scheme Rules and has been clarified by the Court of Appeal in a number of Judicial Review applications. Universities are required to cooperate in the investigation of complaints, and invariably do so. Lord Justice Pill in the Court of Appeal Judgment in the case of Siborurema noted that "Parliament has conferred on the designated operator a broad discretion. It is not prescriptive as to how complaints should be considered when making a decision whether they are justified. The OIA is able, both in defining its scheme and in deciding whether particular complaints are justified, to exercise a discretion in determining how to approach the particular complaint." Lord Justice Moore-Bick agreed and added "I do not accept that OIA is under a general obligation to rehear the merits of the case made to the HEI."[18]

Judges have pointed to the wide discretion available to the OIA in offering remedies. This allows for financial compensation, but the emphasis is on putting students back in the position they were in before a detriment occurred. At the same time, independent research conducted for the OIA in 2009 showed complainant perceptions that current financial awards did not reflect the seriousness of what had been endured.[19] This issue grows in importance in context of the steep rise of tuition fees in 2012.

As far as enforcement is concerned, the 2004 settlement relies on authority rather than (coercive) power. The declared intention of the OIA, set out in Scheme Rule 11, to publish details of a university's non-compliance in the Annual Report is the single 'lever' in the tool box. It is there to incentivise compliant behaviour by self-consciously sovereign universities. There is no point in the OIA complaints handler making Recommendations for changed regulations or behaviour if universities don't implement them. In the course of a year the OIA makes scores of formal Recommendations in its final decisions. On only on three occasions in the OIA history has a university failed to comply. The university is notified, and then the case summary and the university's name are put in the public domain. This happened twice in 2010, and the relevant universities complied quickly after being named.

The fact that public naming of universities for non-compliance is a rare occurrence reflects a disciplined record of compliance by universities. This approach has worked well in the context of higher education. It leads to the suggestion that enforcement may be less of a burning issue where the independence of the complaints handler is not disputed. Nevertheless, two notes of caution are necessary. First, even strong supporters of the OIA Scheme have questioned whether or not it might be improved by giving the OIA a regulatory power of being able to fine universities for non-compliance.[20] And second, authority has to be earned by concrete actions, it cannot simply be bestowed.

I was struck early on after joining OIA (in 2008) at the weakness of the publication arrangements in the Scheme Rules. They were less demanding than the rules for Scottish universities, or for other Ombudsman Schemes.[21] Following continued dialogue and two national consultations, the Scheme Rules were changed in December 2011. In September 2012, the OIA published an Annual Letter to each University setting out a full record of its complaints handling in the previous year and in a way which enabled comparison with universities with a similar number of enrolled students. The OIA has this year begun publishing, by name of University, summaries of complaints where there is a public interest in doing so. The public interest test is set out in Guidance.[22]

The OIA Scheme has grown prodigiously in its brief history. In 2005, only 531 complaints were received, since when the number of complaints received annually has quadrupled. In 2012 the Office received more than 2000 complaints, about one in six of all complaints and appeals that have been through a

full examination by universities in England and Wales. This growth has been accelerated by the related policy developments in England of doubling and trebling tuition fees, emphasising the centrality of the 'student experience' at university, and encouraging students to see themselves as consumers of services by universities. The rational behaviour of a consumer allegedly poorly served is to complain.

In these circumstances, the growth of complaints received by the OIA on an annual basis is likely to continue and accelerate in the foreseeable future. Unsurprisingly, in this context, funding to resource expansion of capacity has been a challenge for the OIA since inception. The initial financial model – charging Scheme members an annual subscription based on the enrolled number of students – was predicated on a steady state in terms of complaint volumes. In reality, from a very low base, volumes have increased substantially. Subscription increases have not been popular with universities from whom small numbers of complaints reach the OIA. Following two national consultation exercises the Scheme will move to a revised financial model from 2014.This supplements a core subscription with a case-fee element based on use of the Scheme.

The OIA in the higher education regulatory framework

Lord Leveson understood that regulation doesn't work without clear policy and practice. Everyone involved – regulators, regulated and scheme users - needed to be clear where responsibility lay for unacceptable behaviour. He also argued that behaviour should be defined through a sector-wide, good practice Code. But he was critical of the stranglehold newspaper editors and the newspaper industry had on the content of the Code and the appointment of the PCC Chair.

The regulatory arrangements for higher education are in flux and far from perfect, but they do contain the core ingredients recommended by Lord Leveson. In terms of political thought one can describe the Government's reform of higher education as Oakeshottian, Whig, or incremental. As Universities Minister David Willetts, described the reform programme "We cannot be certain about every step. But the journey will be worthwhile."[23]

The recent change cycle included the Browne Report,[24] with proposals for regulatory reform tagged on as fag-end of a Report into higher education finance. This would have rolled up the sector regulators and quasi-regulators, the Higher Education Funding Council for England (HEFCE), the Quality Assurance Agency (QAA) and the OIA with roles including funding, response to 'market failure', quality assurance and complaints handling into an uncosted, super-quango. The Coalition Government rightly stepped back from this 'big bang' scheme and in its Higher Education White Paper[25] advanced proposals for a joined-up regulatory framework, defined by legislation to oversee a level-playing field including private suppliers. This would be led by a re-engineered HEFCE as 'student champion'.

Following much technical consultation, the Government dropped its Bill, and with it the immediate prospects of a regulatory level-playing field for universities and private or alternative suppliers. This leaves alternative suppliers with a choice about whether or not to join the OIA Scheme, whereas universities are, under law, required to join and cannot leave it. It was, of course, "voluntary membership" to the Press Complaints Commission that Leveson criticised so severely, though the concentration of newspaper owner power "in relatively few hands" (not a feature at present of higher education) exacerbated the impact resulting from withdrawals from the PCC scheme.

The non-legislative integration of regulation in higher education is now being developed by the Regulatory Partnership Group (RPG), established in September 2011 by HEFCE and the Student Loans Company (SLC). Its membership is drawn from the public bodies, including the OIA, involved in implementing the changes to the funding and regulatory frameworks of English higher education, in line with a ministerial request.[26] A key early task is developing an operating framework for the sector and aligning the roles, responsibilities,

relationships and accountabilities of the various organisations involved in the regulation of higher education in England.

Within this context the OIA is now part of the Regulatory framework but not itself a Regulator. It retains its independence, it adjudicates on individual and group complaints, and promotes good practice in the handling of complaints and appeals. It obtains compliance without coercion and without undermining the status of universities as autonomous institutions. At the same time, and this is central to Leveson's critique of the PCC, the OIA has developed a clear understanding with its regulatory partners about who does what and when.

There are several features to this. First, where Leveson expressed disquiet at the Code used by the Press Complaints Commission having no independent guardian, the Quality Code for Higher Education is not constructed by universities but by the QAA, an independent body, a registered charity and a company limited by guarantee.[27]

Secondly, where Leveson berated the PCC for its failure either to monitor compliance with the PCC Code or to encourage newspapers to deal with complaints internally, the OIA uses the chapters of the Quality Code dealing with complaints and appeals as a benchmark against which to judge whether or not a university is being 'reasonable in all the circumstances'. The OIA has explicitly included the promotion of good practice as a cornerstone of its vision and mission.

Third, where there are overlaps or ambiguities in regulatory role, and in the real world they will exist, the Regulatory Partnership Group exists to share information, as a forum for discussion about appropriate boundaries, as a joined-up instrument for disseminating and receiving messages about quality standards and good practice, and as a vehicle for a risk-based approach to regulation.

Cultural issues in university sector after 2004

The three cultural issues in the newspaper industry, as identified by Lord Leveson, do not routinely exist in higher education in either kind or degree. First, there is no credible evidence of illegal or covert surveillance of students, though the OIA has received complaints alleging this.[28] Most universities have codes of practice on research ethics and some have general ethical Codes. The London School of Economics, for example, adopted an Ethics Code following Lord Woolf's review of the Gaddafi Affair.[29] The Code sign-posts a wide range of LSE policy guidance which underpins the 'ethical' approach.

On a sector-wide level, the UK Quality Code "gives all higher education providers a shared starting point for setting, describing and assuring the academic standards of their awards and programmes and the quality of the learning opportunities they provide. Providers use it to design their respective policies for maintaining academic standards and quality." Part B of the Quality Code is concerned with ensuring and enhancing 'academic quality'. Chapter B9 concerns Complaints and Appeals, setting out principles for addressing complaints on academic matters and appeals on academic matters by students in higher education institutions. The QAA Code has served the sector well.[30] Like its predecessor, it has been developed in consultation with the UK regulatory partners, and with all parts of the higher education sector.

As far as a cultural tendency to resist, dismiss or rubbish complainants almost as a matter of course, is concerned, the OIA exists to safeguard against such behavior. 106 submissions from Universities and students unions surveyed by the OIA in 2009 testified to the significant improvement in disposition and institutional approach in university complaints handling since the establishment of the OIA.[31]

In addition to this user (complainant) redress, the QAA operates a Concerns about Providers scheme. This scheme is designed "to provide a rapid and authoritative response to matters of concern about the

standards and quality of higher education, which may be raised by any individual or organisation or by QAA itself on the basis of its work in other areas (such as Institutional audit) or in response to public concerns."[32]

Independence is the key

Before Leveson, the need for independent self-regulation of the press had been a consistent theme of two previous enquiry reports. The 1990 Committee on Privacy and Related Matters recommended the introduction of a Press Complaints Commission, and one final chance to prove that voluntary self-regulation could work.[33] The Press Complaints Commission (PCC) was duly established in 1991, with the warning from the Home Office Minister that the press was "drinking at the last-chance saloon." In 1993 Sir David Calcutt returned to the issue and in the *Review of Press Self-Regulation* concluded that the PCC had not been "an effective regulator of the Press."[34] It did not operate a code of practice, or "hold the balance fairly between the press and the individual. It is not the truly independent body which it should be." Accordingly, Calcutt recommended the introduction of a statutory regime.[35]

In these circumstances Lord Leveson's Report conclusion that it was "essential that there should be legislation to underpin an independent self-regulatory system" was entirely unsurprising. It did, however, raise the considerable ire of the industry with its vocal parts being clear that press freedom was incompatible with legislation to underpin the arrangements. This resistance has pushed the Coalition Government down a substitute route of a Royal Charter. Flann O'Brien's classic novel, *The Third Policeman*, written in 1940, gives a flavour of the uncertainties and ironies associated with this progression.[36]

By contrast, the resistance of universities to independent self-regulation, backed by legislation, was more measured and nuanced, and ultimately overcome. Principally it took the form of scepticism and delay in the years leading up to the 2004 Act, tempering the enthusiasm of the National Union of Students and majoring on the inviolability of academic judgment. But any resistance has slowly transmuted into acquiescence, even support, and despite occasional grumbling, Vice-Chancellors have never collectively challenged the authority of the OIA Scheme.

There are a number of reasons for this. One is an extended period of enlightened sector leadership seeing value in an independent complaints handler as part of the regulatory framework. From one perspective, Universities UK has seen the utility of the OIA in relieving universities of the 'burden' of complainants for whom internal processes have been exhausted. In this sense the OIA fulfils the classic Ombudsman function of being complaints handler of last resort. The focus on tests of procedure and reasonableness, in combination with the exemption from scrutiny of narrow academic judgments, ensures that respect for institutional autonomy is built into the OIA's process.

From another perspective, the National Union of Students, a long-time proponent and supporter of the Scheme, has seen the OIA not only as a device to deliver individual redress but also as something of a bulwark against the impact of Government marketisation reforms.

But it is the independent element that is the golden thread underpinning the OIA's authority, and the characteristic which contextualises commentary on and opinion about the Scheme. This reflects general public insistence that in making a complaint against a professional "a fair system led by independent people" is the most important ingredient.[37] Of course, independence without competence and delivery is a wasted asset and can undermine public trust. It can result in delay in complaints resolution, and timely resolution is another key ingredient in the test of public satisfaction with ombudsman schemes.[38] As we learn from the history of the Press Complaints Commission the absence of independence generates unenquiring minds and uncritical support for entrenched vested interests. The OIA, whatever the constraints of the 2004 Act, has not had a problem in 'speaking truth unto power' in terms of final decisions in favour of students and rare (but important) findings of non-compliance by universities.

What counts is that student experience is manifestly safeguarded by the relevant ombudsman scheme without undermining the sovereignty of universities in terms of the autonomy of narrow academic judgments. The experience of the OIA Scheme over ten years suggests that the general thrust of what Lord Leveson proposed for the newspaper industry was not a 'leap in the dark' but a principled and pragmatic response to an untenable set of circumstances. The higher education sector should take confidence from the Leveson debates that – in essentials – its complaints handling arrangements are well-judged and in relatively good order.

Three cheers for Lord Leveson and 'long life' to independent self-regulation backed by legislation.

Rob Behrens

June 2013

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2 Don Staniford and Tim Brown, *Complaints in practice: complaints in crisis: a complaints survey carried out by the national postgraduate committee and the union of UEA students* (Troon: National Postgraduate Committee, 1998), p.12

3 General Secretary of National Postgraduate Committee quoted by John Crace, 'Just in Time', *The Guardian*, 5 September 2000

4 *Ibid*, and *Complaints in practice: complaints in crisis: a complaints survey carried out by the national postgraduate committee and the union of UEA students*, p.16

5 Rt Hon Leveson LJ, *An inquiry into the culture, practices and ethics of the press: HC 779* (The Stationery Office: 29 November 2012)

6 Report of YouGov poll commissioned by the Media Standards Trust, and conducted on 31 January to February 1 2013, with a poll of 2030 GB Adults (18+) found 74 per cent believed the Government should implement the Leveson recommendations and 73 per cent would have 'not much' or 'no' confidence in a new system of voluntary press regulation with no legal backing: http://mediastandardstrust.org/media-standards-trust-yougov-poll-february-2013/

7 This, it has been suggested, may have been a by-product of 'manipulative populism' i.e. 'Stories and narratives have been constructed through collaboration between government and media machine.' Leveson Inquiry, witness statement of Peter Oborne, (23 April 2012). See Peter Oborne, *The Triumph of the Political Class* (London: Simon & Schuster, 2007)

8 Leveson Inquiry Executive Summary, paras. 41, 45

9 *Ibid*, para 44. '... I do not consider that the power to issue adverse adjudications quite that fear that the editors suggest (save, perhaps, only to their pride). I have already referred to the lack of disciplinary action against journalists following criticism by the PCC but neither is there any comeback or criticism of the editors who are ultimately responsible for what is published.'

10 Committee on Standards in Public Life, *Local Public Spending Bodies*, CSPL Second Report, CM 3270, (London 1996), Recommendation 9

11 *Dearing Report of National Committee of Inquiry into Higher Education*, (1997), Recommendation 60

12 *Ibid*, para. 15.59

13 'Complaints boom is looming', *Times Higher Education*, 7 December 1998.

14 R (Mustafa) v Office of the Independent Adjudicator [2013] EWHC 1379

15 OIA, *The Pathway Report: Recommendations for the development of the OIA Scheme*, (February 2010), paras. 3.3 – 3.5 and 4.6 – 4.8

16 *R (Sandhar) v Office of the Independent Adjudicator for Higher Education* [2011] EWCA Civ 1614

17 *Ibid*, paras. 32, 33, 34

18 *R (Siborurema) v Office of the Independent Adjudicator for Higher Education* [2007] EWCA Civ 1365, paras. 53, 54

19 OIA, *The Pathway Report: Recommendations for the development of the OIA Scheme*, (February 2010), para. 10.11

20 BIS, *Government Response to Consultations on: 1. Students at the Heart of the System; 2. A new fit for purpose regulatory framework for the higher education sector*, (June 2012), Question 5, p. 40, para. 3: 'The responses in favour of retaining the current power as a recommendation acknowledged the good work that was carried out by the OIA and the high levels of compliance with recommendations, citing that the risk of reputational damage was sufficient to ensure continued high levels of compliance in the future in a more competitive higher education sector.'

21 OIA, *The Pathway Report: Recommendations for the development of the OIA Scheme*, (February 2010), p. 105, Table 22

22 Publication Guidance: http://oiahe.org.uk/media/45302/oia_memorandum_regarding_rule_amendments_and_publication_archived.pdf

23 'We cannot be certain about every step. But the journey will be worthwhile', *Times Higher Education*, 26 May 2011

24 *Securing a sustainable future for higher education: An Independent Review of Higher Education funding & student finance*, (12 October 2010), (www.independent.gov.uk/browne-report)

25 BIS, *Students at the Heart of the System*, CM 8122, (June 2011)

26 http://www.hefce.ac.uk/about/intro/wip/rpg/

27 http://www.qaa.ac.uk/AboutUs/Pages/default.aspx

28 http://wikispooks.com/wiki/Kevin_Galalae

29 *The Ethics Code and Ethical Guidelines*, produced by the Ethics Code Consultation Group with the participation of the LSE community, (June 2012), p.3: 'All members of the LSE community, including all students, staff, and governors, are expected to behave in line with the following principles: Responsibility and Accountability…; Integrity: we will demonstrate independence, consistency, honesty, and transparency in all our activities; Intellectual freedom…; Respect…; Collegiality…; Sustainability...'

30 OIA, *The Pathway Report: Recommendations for the development of the OIA Scheme*, (February 2010), para. 9.11

31 *Ibid*, Chapter 3 and Chapter 4

32 http://www.qaa.ac.uk/complaints/concerns/Pages/default.aspx

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34 Sir David Calcutt QC, *Review of Press Self-Regulation*, CM 2135, (January 1993), para. 5, p. xi

35 *Ibid*, paras. 5-9, pp. xi-xii

36 Flann O'Brien, *The Third Policeman* (London: Harper Perennial, 1967)

37 KRC Bar Standards Board Survey, 2009, p.3. Sample size 2044 aged 18 and over in Great Britain, nationally representative. Online Fieldwork 9-11 March 2009

38 *Ibid*, p.3

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