

University visitor challenge

A test case alleging that a university failed to deliver appropriate teaching and supervision facilities has been referred directly to the Court of Appeal because of the major issues involved. Could this move mark the end of the university visitor system? John Boardman, partner at Eversheds and joint head of its education group, talks to Hannah Giles...

A landmark High Court case brought by a former postgraduate student against a university has been referred directly to the Court of Appeal due to the major issues involved. The case alleges that Kevin Wilkinson failed to receive appropriate teaching and supervision while studying for a PhD at Birmingham's Aston University.

John Boardman, partner at Eversheds and joint head of its education group, says: 'It is quite hard to determine what exactly the case is about, but clearly the current system is flawed and all these kinds of things help to bring about change. We have been waiting for a test case in this area and it will be interesting to see how this one is viewed under the human rights legislation'.

One of the areas in which this case could potentially bring about change is that of the university visitor system. Currently, students at the old universities in England and Wales who wish to appeal against teaching standards or treatment by the university authorities can only do so through the university's visitor. The visitor can often be the Queen, acting via the Privy Council or a local bishop, the Duke of Edinburgh or a hereditary peer. Boardman says: 'There are mixed views of the visitor system; some do a good job and some do a bad job. They do like to be seen as being impartial and I think certain universities have them as they like to be seen as important.

However effectively individual visitors fulfil their duties, according to Boardman, reform of this antiquated system could be on the horizon: 'All these things will eventually have to change. At the moment, universities teach the courses and decide how to mark them. It is inevitable that people will bring challenges. In the USA, for example, there have been a number of cases brought in this area.'

The Wilkinson case challenges the visitor system under the Human Rights Act 1998 and if the challenge proves successful students will be able to sue their universities through the courts if they feel they have been unfairly treated. This is a change that Boardman feels is overdue, and he believes that preventing students pursuing complaints against their universities through the legal system 'would be like saying that people cannot sue solicitors because they are professionals and know what they are doing'.

One area in which the government has been pushing for change to the student appeals process is through the appointment of an independent adjudicator, as detailed in the forthcoming higher education bill. It is a move that Boardman welcomes: 'There is an inevitability of change and the setting up of an independent adjudicator is certainly part of the process.'

While progress so far has been slow, the government is now pressing for a temporary adjudicator to be in place as early as next month. While Boardman does not necessarily agree that the Wilkinson case will open up a floodgate of similar claims from disgruntled students, he does believe that it could bring about a different way of dealing with complaints.

With tuition fees likely to rise, the issue of students receiving value for money from their higher education provider will become even more relevant, as Boardman concludes: 'It is important that students are treated as consumers. They are, after all, buying a service and universities should give students what they are paying for.'

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