

Angela's appeal (I)

'I want to know, how is your baby?'

I

Dear Mr Wakeford

I hope you don't mind me contacting you out of the blue like this. I came across your name in a number of articles in relation to PhD studies and viva examinations on the Guardian newspaper website and was wondering if I could ask for your brief advice.

I am a doctoral student at CRS, University of London and have recently had a viva examination for my thesis, which I completed last April. I had the full support of my supervisor throughout the research process, and she and I fully expected to pass the viva without significant problems. Parts of my thesis had been read by other experts in the field, who agreed and supported my decision to submit. The result of the viva was 'major revisions' which was a huge shock. Both my supervisor and I feel there are significant grounds to appeal on the basis of inadequate assessment and procedural errors. There are serious questions over the line of questioning taken by the internal examiner for example.

I am keen to appeal the decision of the viva examination but would like to take legal advice on the matter. I was hoping that you might be able to point me in the right direction to find a legal firm, which might specialize in academic appeals. Looking at the work of the Missenden Centre, I realize that recommending academic solicitors is perhaps not within the normal range of work that you do - but I hope you don't mind advising me on how to go about finding a specialist in this field.

Kind regards,

Angela

Q: discuss how you would respond to Angela's query

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John replies:

Dear Angela,

Very sorry to hear of your experience. I can suggest one or two lawyers, but before doing that, I think you can do one or two things in advance:

1. Be clear of your objective
2. Read the regulations on appeals at CRS (or is it still University of London?) very carefully. In particular the grounds for appeal available to you and whether you can appeal against a recommendation to resubmit.
3. With these in mind, send me a short summary of the grounds that apply in your case - e.g. clear evidence you have of inadequate assessment and procedural errors in the examination of your doctorate. You should note that your supervisor's view of the quality of your work is not grounds for appeal.
4. In the light of the above, I will suggest a way forward - which may not need to involve paying a lawyer.

Best wishes

John

Q: any comments on John's reply?

3.

Angela sends John her draft appeal

Angela S....

CRS Dept. History and Anthropology

I wish to lodge an appeal against the result of my PhD viva examination, which took place at CRS on 9th November 2010. I was asked to re-present my thesis within a period of 18 months with major revisions.

My objective now is for the thesis to be re-examined by examiners who were not part of the original process, as stated in Regulation 1 Annex 4 13.3:

'to determine that the original examination be cancelled and that a new examination be conducted. The new examination shall be conducted by examiners who did not take part in the original examination and were not involved in the appeal.'

I am appealing on three points as detailed in italics below, according to two grounds for appeal, as stated in Regulation 1 Annex 4 Paragraph 3 of the University of London Regulations.

First Ground for Appeal: Inadequate Assessment – evidence of bias on the part of the internal examiner (a retired anthropologist linked as 'Honorary Associate' to Capital College, University of London).

University of London Regulation 1 Annex 4; 3.2: *'that there is evidence of prejudice or of bias or of inadequate assessment on the part of one or more of the examiners such that the result of the examination should not be allowed to stand'.*

The internal was appointed by the university on the basis of his familiarity with anthropology and in the expectation that he could examine a thesis in the field of history even though he has no professional qualification in this area.

The viva was dominated by this internal examiner who took the view that the absence of his anthropological perspective on several of the findings in the thesis invalidated them. Since he seemed quite unfamiliar with the norms of history, he should not be adjudicating in this case.

Evidence:

Questioning during the viva examination was led by the internal examiner who focused almost exclusively on anthropological issues. The candidate was several times questioned on issues of anthropology which she could not have been expected to address.

The examiner persisted in raising these questions related to his own discipline of anthropology, even though he acknowledged to his fellow examiner and to the candidate that 'I know this is not an anthropological discipline, but ...'.

In addition, he made several lengthy pronouncements in somewhat contemptuous tone, still on the subject of anthropology which were very off-putting for the candidate, followed by an apology ‘I’m afraid I’ve gone way off the point here haven’t I’.

No mention (praise or criticism) was made of significant parts of the thesis such as the chapter which dealt with theoretical issues and historical approaches. The large chapter of historical analysis was skirted over and barely discussed.

Second Ground for Appeal: Inadequate Assessment – *evidence of prejudice on the part of both examiners.*

The examiners took into consideration the private, personal situation of the candidate when deciding the result of the examination.

Evidence:

During the examination, before the candidate left the room towards the end of the session, the internal examiner asked ‘I want to know how is your baby?’ It was clear that this was not just a friendly query but a quite inappropriate probing into the private life of the candidate. Following the examination, while the candidate was awaiting the examiners’ decision, the supervisor questioned the examiners whether corrections could not be completed within three months instead of eighteen. She was told that ‘given the candidate’s personal family situation’ they felt that the full eighteen months were needed.

It was inappropriate to discuss the personal situation of the candidate during a formal viva examination. It was a serious error to suggest that the personal situation of the candidate should have any bearing on the result of the examination or on the appropriate conditions to attach to a decision to require resubmission of the thesis.

Third Ground for Appeal: Procedural Error

University of London Regulation I Annex 4; 3.3: ‘that there were procedural irregularities in the conduct of the examination (including any instance of administrative error) of such a nature as to cause reasonable doubt as to whether the result of the examination would have been the same if they had not occurred.’

Evidence:

Regulation I Section D 82 p.20 of the University of London regulations states that there is ‘a requirement for examiners to prepare independent preliminary written reports on the thesis prior to the oral examination’.

The preliminary report of the external examiner is signed three days after the date of the viva examination. This suggests that it was not written until *after* the viva examination. This procedural error adds to the air of boredom and detachment displayed during the viva by the external examiner whose professional qualifications made him central to the examination and who was expected to take the lead in assessing the work.

He seemed distracted, looking out the window and yawning several times. He was short tempered and rude - at the end of the examination he gestured to the candidate's thesis on the desk and remarked 'what do you want us to do with this thing?'. The candidate's supervisor, who sat in on the examination, felt that the viva was 'disgraceful', that it was conducted 'without courtesy or humanity', and she was very shocked by the strange behaviour of this external examiner, whom she had met previously on many occasions.

The external contributed very little to the proceedings, asking only a few questions during the two and a half hour examination. He seemed unfamiliar with the content of the thesis – for example he suggested the candidate did not engage with a particular historical tradition in the thesis. The candidate pointed out however that these issues were considered in the thesis (eg. pp.321, 346, 398-399). If he had *disagreed* with the candidate's approach, this would be a different matter, one of academic judgment. But his suggestion that the candidate had *failed to engage* with this tradition demonstrates a lack of familiarity with the content of the thesis and a distressing lack of interest in the whole procedure.

Q:

- 1. discuss which elements of this appeal might be of significance**
- 2. would you suggest any changes?**

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Dear John

Thank you very much for your reply and for your help regarding my appeal case. I'm looking into the UoL regs - as you suggested, they are not clear at all about whether you can appeal against a proposal to resubmit. I am trying to clarify things with the CRS registry but they don't seem to be certain about it themselves. I may need legal advice on this matter if I can't get a clear answer from CRS. Did it work in the other case you mentioned? I have asked my supervisor to write a supportive note to go alongside my report as you suggested.

I wonder could I ask you for the name of a lawyer who might be experienced (and successful!) in this sort of case. While I could, as you suggest, send the appeal in as it stands with your suggested corrections, I'm very aware that one only has one chance to appeal and am anxious that my case is made as strong as possible from the outset.

I will of course keep you updated with the process. Thanks again for your help, it really has been very useful.

Angela

Q:

- 1. in your institution, can a candidate appeal against the examiners' recommendation that the candidate resubmit?**
- 2. Taking this into account, how would you reply to Angela?**

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Dear Angela,

CRS registry won't be able to help much - nor give authoritative answer - as it is the UoL exam office that are responsible for examination and appeals. So you should contact them direct. Let me know what they say. It should be absolutely clear, as it will not be the first time it has arisen.

In the other case I mentioned the issue was just that the student and supervisor felt the judgment, although carried out under the regulations, was wrong. After considerable hassle the student agreed to rewrite thesis with independent guidance. In your case there is clear evidence that the examination has not been carried out correctly and that new examiners need to be appointed.

However, if you want to go to a lawyer, my first suggestion would be AB at XYZ. Mention my name and he will probably give you a short session for free and then a quote for their services. I do have other names if that doesn't work for any reason.

Check too that you are within the time limit. If it's tight, send them notice you are appealing and that docs are being prepared.

Best
John

Q: any comments on John's response?

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Dear John

Thank you for this. I will get in touch with (the lawyer) today.

Just to let you know, I spoke to the UoL exam office today about the regulations for appeal. It was explained to me that you can appeal against a decision to refer the thesis, which counts as the degree not being awarded (see *Reg. 1 Annex 4; 2: The procedure applies to candidates for the following degrees for whom the result of the examination was that the degree was not awarded*). So you can appeal a referred thesis (in my case) - or of course you can appeal a failed thesis or an MPhil award. You cannot appeal against advice to submit with 'minor corrections'.

My time limit is two months from advice of the result of the viva, so given that Christmas will be in the way, I'm anxious to get the appeal in as soon as possible.

All the best

Angela