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Suing your university over your results

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Recent challenges brought by students against their universities have highlighted not only the legal difficulties in obtaining damages through a court award, but also the financial and other implications of long-drawn litigation. In a recent case (Siddiqui v University of Oxford [2018] EWHC 184 (QB)) Mr Siddiqui had alleged that "negligently inadequate" tuition lead him to achieve a 2:1 degree grade, which ultimately cost him a career as a high-flying lawyer. The Judge acknowledged that, as students are incurring substantial debts to pursue their degrees, the quality of education will come under greater scrutiny. However, the Judge failed to be persuaded by Mr Siddiqui and warned that claims alleging inadequate tuition would only rarely succeed. The Judge also questioned whether litigation was the best way of dealing with complaints such as Mr Siddiqui's.

Recently, a Ms Pok Wong sued Anglia Ruskin University over what was described as a "Mickey Mouse degree". Ms Wong's complaint was centred on the university "fraudulently misrepresenting" a business course. She alleged that claims in the prospectus that Anglia Ruskin was a 'renowned centre of excellence' and 'high quality teaching' were untrue. According to press statements, the claim settled out of court with a £61,000 pay-out to Ms Wong - £15,000 in settlement of the claim plus her legal costs. The university maintained that Ms Wong's claims were without merit and that the dispute was settled to draw a line under matters and prevent a further escalation of costs. The offer was made by the university's insurers, apparently without the university's support.

The relationship between students and their universities is contractual: a student is a consumer contracting for the supply of a service. As fees increase there will be a greater willingness to complain if the provision of the educational service falls short of the student's expectations, however unrealistic or unreasonable they may be.

Analogies may be drawn with package holidays and the associated danger of misrepresentations in brochures, or with private medical care - offering a complex package of treatment but no guarantee of a cure. Universities should be careful in ensuring that the sales pitch in their brochures does not give rise to claims in misrepresentation. Conversely, students need to be aware that the law recognises that universities will often avail themselves of 'advertising puff', the practice of making exaggerated statements which are not meant to be taken literally and do not amount to misrepresentations in law.

Mr Siddiqui's case demonstrates that complaints by students of sub-standard tuition are difficult to advance to the point where a court will order compensation in damages. Such educational malpractice claims are based on legal principles drawn from the tort of negligence. The court will judge the allegedly incompetent university or tutor by the putative standard of what a 'reasonably competent' university or tutor would provide. In practice this is a relatively low threshold for a university or tutor to meet, given the generally high level of training of academic staff. This means that students are unlikely to succeed save in the most extreme cases (e.g where the wrong syllabus has been taught, lectures are repeatedly cancelled or the university has demonstrably under-resourced facilities).

Clearly there is a climate for complaints by disaffected students against their higher education provider. The law offers possible routes to formalise a complaint through legal proceedings, but litigation is not always a panacea to resolve such grievances. High legal costs, the investment of time and emotion need to be relevant considerations when embarking on any court action. That said, litigation (threatened or actual) can have the effect of focusing the parties' minds. Once the complaint has been clearly articulated, it may be possible to achieve a resolution out of court, be it through negotiation or mediation.