



## **Summary of Reports to Governing Body of London Metropolitan University**

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**Eversheds LLP**  
One Wood Street  
London  
EC2V 7WS

Tel 0845 497 9797  
Fax 0845 497 1900  
[www.eversheds.com](http://www.eversheds.com)

## A. Introduction

1. On 17th December 2009 a Joint Statement was issued by the Chief Executive of HEFCE, Sir Alan Langlands, and the then Chair of the Board of Governors of London Metropolitan University ("the University" or "LMU"), Peter Anwyl. This was followed the publication of reports by Deloitte and by Sir David Melville which investigated the circumstances and issues associated with the clawback of significant funds in 2009. The Joint Statement identified six separate points of action that the Board of Governors had agreed to take. The final one of those points read as follows:

*"The Board on the advice of the new Vice-Chancellor and utilising the required legal and professional advice will institute an investigation into the role of the senior staff mentioned in the Melville and Deloitte reports. Following such an investigation the Board together with the new Vice-Chancellor will decide what action, if any, to take."*

Eversheds were asked to undertake that investigation and this report summarises the result of our investigation.

Our remit was developed further at a meeting we conducted with the Vice-Chancellor and Mr Anwyl. The Vice-Chancellor explained to us that the reports referred to above, and in particular the Melville report, raised a number of questions about the role of certain senior individuals, and that it was appropriate to look further into these matters. We were not asked to consider the role of either former employees, or current or former Governors.

The Vice-Chancellor emphasised that he was concerned to further the best interests of the institution, and so would want to be clear whether there was a case for any member of the senior staff to answer.

A key issue on which we have advised is whether there may be grounds for taking disciplinary action against any of the current senior employees of the University identified in the Melville and Deloitte reports.

2. Our investigation broadened, with the approval of the Board of the University, into investigations into the senior staff named in the Melville and Deloitte reports and all other relevant senior staff of the University.

Readers should note the following:

- We interviewed a limited number of persons and received a limited number of documents.
- We were not afforded the opportunity to see the notes prepared by either Deloitte or by Sir David Melville of the interviews which they conducted for the purposes of their reports.

- We were not afforded the opportunity to see the submissions made in writing to Sir David Melville from employees and trade unions at the University. These were submitted to him in confidence, and he felt that to disclose them to us would be to breach that confidence.
- We were provided by Deloitte with the packs of materials which they were provided with by the University. However, these may not contain the entirety of the documentation that we might have found useful; for example meeting notes were not released to us by Deloitte.
- We have not reviewed the Audit Committee meeting minutes or other documents presented to the Audit Committee except where otherwise stated since they would have been extensive and so time consuming and expensive to review without any certainty that anything illuminating would have been revealed.

## **B. Student Records Systems**

In order to look into the roles of individuals it is necessary to consider the set up and operation of the student records system at the University since data extracted from that records system was used to populate incorrect returns (both HESES and HESA returns) to the Higher Education Funding Council for England ("HEFCE").

### HESES and HESA returns

In each year two student returns had and still have to be submitted for HEFCE use. One is a Higher Education Students Early Statistics ("HESES") return. HESES is a report on projected student numbers in the current academic year and includes a forecast of the number of students who are likely to be studying on courses from the point at which the return is submitted to the end of the academic year (31 July). The submission date is in January using a census date of 1st December. The other is a Higher Education Statistics Agency ("HESA") return which has to be submitted by 30th October in each year. The HESA return provides a retrospective report for the prior academic year on the actual student population including their completion status for funding purposes. The HESA return thus reconciles the information in the HESES return by providing final data and thereby confirms the non completion rate of students at the University during that year (see section on the definition of completion below).

The HESES return is spreadsheet based covering all students on a group basis whereas the HESA return is on an individual student basis so that for every student an individual HESA return has to be made.

These returns are used by HEFCE to calculate and pay to the University teaching related grants.

The University has suffered clawback as a result of incorrect HESES and HESA returns being submitted for the University's financial years 1st August 2005 to 31st July 2008 (i.e. financial years 2005/06, 2006/07 and 2007/08).

### Set up of records system

The University was formed by the merger, on 1st August 2002, of two predecessor universities, The University of North London ("UNL") and London Guildhall University ("LGU"). Each predecessor university operated the same student records systems from the same supplier but with their own databases. By coincidence both UNL and LGU had systems supplied by the same software vendor, which we understand supplies around 80 HEIs with such a system.

The former systems of UNL and LGU which were merged to become one system on 2nd June 2003; this was achieved by the merger of the databases of the predecessor institutions.

We are told that the system comes as standard with two additional functionality features built in which is to allow the HESES and HESA returns to be submitted using data extracted from the records system.

The University (and the predecessors UNL and LGU ) have never used the HESES functionality embedded in the system since, LMU (like UNL and LGU) prefers to use its own functionality. However LMU did, and continues to, use the HESA functionality supplied as part of the system.

At the core of the HESES and HESA returns is the requirement that only students who are able to complete or have completed that year (under the HEFCE definition commonly known as "funding complete") should be included on those returns as funding complete.

#### Differing definitions of completion

In essence (and subject to some exceptions) the HEFCE definition of "funding complete", for a university (such as LMU) offering modular courses, requires 8 of the 24 modules comprising an undergraduate degree programme to be taken by the student and assessed every year.

However it is possible, and has been possible since the University was formed, for a student to be regarded as progressing under the University's academic regulations but not completing under HEFCE's funding complete regulations. There is no requirement for a university's academic regulations to mirror the financial regulations of HEFCE; so a university can use in its academic regulations a definition of progression for academic purposes which is different from the HEFCE funding complete definition.

In the case of LMU, its academic regulations allow flexibility over the number of modules taken by a student in an academic year; so that there is, for example, no requirement for there to be 8 modules taken in an academic year. This is different to the HEFCE funding complete definition which, generally, does require 8 modules to be completed in each academic year.

Under the HEFCE completion definition it is, effectively, not generally possible to complete a modular degree at the University (and receive full funding for it) unless that degree is completed in three years in equal number of modules.

#### University process of completing HESES and HESA returns

The University's student records system, we understand, received and continues to receive data inputted from the various University departments which data was and is returned in accordance with the academic regulations of the University from time to time. That data sometimes depends on inputs from students and others.

The HESES and HESA returns for the years that triggered the clawback simply used as a completion for the purposes of the HEFCE definition (and hence triggered a funding

payment from HEFCE) the University's definition of progression under its academic regulations although the two were not the same. At the heart of all the investigations is how and why this happened.

We understand that the HESES return was submitted electronically but that the HESA return was signed off by the Vice Chancellor or whoever the HEFCE designated officer was at the time. Whilst now the designated officer must, under HEFCE guidance, be the Vice-Chancellor that is a recent requirement and for some of the years in question the designated officer at the University was not the Vice Chancellor but the Chief Executive Officer- a title and post no longer used by the University. The person occupying those roles was, however, in fact the same individual.

We are told that in each of the years covered by the clawback those HESES and HESA returns would have gone to the Vice Chancellor (or Chief Executive Officer) for approval and in all relevant years they were submitted to him by a senior member of staff who compiled the returns from information he received from more junior employees at the University. That information was extracted by junior members of the team from the student records system using the HESES and HESA functionalities built in to or developed for the system.

We are told that the inbuilt system vendor HESA function, did not, during the period that led to the clawbacks, include any element allowing checks to be made as to whether the final of the 8 assessment modules was completed by the students in the year (which triggers the HEFCE funding complete definition).

Of the two returns the HESA one is the key one since it updates the non-completions estimates made in the HESES return.

Our investigations showed that for all financial periods of the University until the clawback issue came to light that the standard functionality for the HESA return supplied by the software vendor and used by the University always automatically set the HESA funding completion field value from the progression code allocated to each student. All but one of the progression codes on the system had the funding completion value automatically set to successful completion. The one progression code that was set to non-completion was "DW" (deemed withdrawn), which we understand was a code that was sometimes used by those responsible for making progression decisions to indicate that the student had withdrawn.

The University's software coding was set up to support the University's definition of progression under its academic regulations. We have seen no evidence that any thought was given to the mismatch of the University and HEFCE's definitions of progression and completion respectively and its impact on the coding of the systems or the submission of the HESES or HESA returns.

In addition there is a 2007 email exchange relating to an incorrect HESA return knowingly being submitted by the University. However we are told (and are satisfied)

that the chain of events was that senior management had a meeting with HEFCE, on 17th October 2007, when it was made clear that the University could not submit a HESA return in accordance with their requirements by the 30th October since it needed to recode its system to use the correct HEFCE completion definition. That meeting resulted in HEFCE offering a compromise which, in effect, allowed the University to submit an overstated HESA return on the basis that it would be resolved at a later date.

## Conclusion

We have seen no evidence that there was any attempt or collusion to manipulate the student records system or to code the software running the system to maximise the number of completions returned to HESES or HESA. We believe the systems were set up in a way that maximised the returns by accident with no thought given to the mismatch of completion and progression definitions between HEFCE and the University in its academic regulations and the impact of that on the coding of the student record systems or the submission of the HESES or HESA returns.

We base this on the following:

- that the system used was acquired in 1999;
- that the HESES functionality part of the system has never been used;and
- that the HESA functionality as supplied by the software vendor did not at any material time include a check on the taking of the final assessment of a module by a student (which is essential to the HEFCE definition).

The only evidence we have seen relating to changes to the system or incorrect HESES or HESA returns dates from 2004 and 2007 respectively. This shows that in 2004 the systems were being changed in a way that maximised the number of students returned as completing; however we understand this was no more than bringing the old UNL and LGU systems into line. The 2007 exchanges show that for good reasons the HESA 2007 return did, with the tacit approval of HEFCE, overstate the number of completions.

### **C. Senior Employee Investigation**

We have reviewed whether there are any grounds to take disciplinary action against any of the senior employees still working at the University who were mentioned in the Deloitte and Melville reports. We have also considered whether action should be taken against any other member of staff who were at the University at the relevant time and are currently at the University including members of the senior management team.

For the purposes of this investigation not only did we talk to the relevant individuals but we have also reviewed documentation supplied by those individuals and some 800 or so emails which have been retrieved from the University's servers, sent to or from those staff relating to the non-completion issue.

There is nothing in those emails to indicate any collusion or attempt to obtain HEFCE monies in an improper way. What those emails do show is that there was some knowledge by some members of the University's senior staff of the difference in the definitions of completion in the University's terms and HEFCE terms but neither the scale nor effect of the incorrect returns appears to have been known or considered. It is also clear that it was thought that the issue to be a sector wide one.

Our conclusion in respect of each of them is that we do not consider that the role of any of them would warrant the taking of any disciplinary action, and moreover we do not consider that there would be any credible legal basis for taking such action. It would not be appropriate to proceed with any disciplinary process.