

Alumni for FREE SPEECH

Professor Charlie Jeffery
Vice Chancellor
University of York
York
YO10 5DD

17 November 2022

Dear Professor Jeffery,

Incident involving William Clouston on 27 October 2022

We wrote to you on 9 November 2022 to introduce AFFS (<https://affs.uk>).

Since then, we have become aware of an incident at the University of York on 27 October 2022 involving William Clouston, the Leader of the SDP. This was reported in Spiked on 10 November (<https://www.spiked-online.com/2022/11/10/students-are-running-scared-from-debate/>) and has, we understand, also been the subject of other media comment.

Based on our understanding of what happened, we would first like to compliment the University on taking necessary steps to ensure that the Free Speech Society event at which Mr Clouston had been invited to speak went ahead. This is consistent with best practice and was very likely legally required as a reasonably practicable step to ensure freedom of speech is secured at the University. This legal obligation under **Section 43** of the **Education (No.2) Act 1986** is recognised in the University's own Freedom of Speech Code.¹ Although this Code does not refer to all of the University's legal obligations in relation to freedom of speech², we very much welcome the fact that one exists at all.

Even though the meeting involving Mr Clouston proceeded, like him we are concerned about the conduct of certain student activists attempting to prevent and disrupt it. These students were, it seems, part of the University's LGBTQ+ Network. That their opinions in relation to certain issues of public debate and controversy are different from the entirely lawful and mainstream views of the SDP on those issues,

¹ <https://www.york.ac.uk/about/organisation/governance/governance-documents/ordinances-and-regulations/regulation-10/>

² There is no reference, in particular, to the Universities obligations under the **Human Rights Act 1998** or the **Equality Act 2010** (including under its Public Sector Equality Duty). The full legal position was summarised in letter to you of 9 November 2022 and attached Briefing Notes.

in no way justifies LGBTQ+ defamatory comments about Mr Clouston as reported in the Spiked article.

It seems that certain student groups believe that feeling strongly about certain issues exempts them from defamation law. This is of course, not the case and we entirely endorse Mr Clouston's reported request for a retraction and a formal apology. The comments seem to us plainly to be a disciplinary matter even under the terms of paragraph 10.2 of the University's existing Free Speech Code. We attach AFS' own Briefing Paper on what we believe to be the minimum requirements in relation to student conduct. The comments made by LGBTQ+ Network also raise a potential pastoral issue for you, in that certain of your students might not themselves understand that failing to curb their enthusiasm about certain beliefs, however passionately they might hold them, could expose them (and, depending on the facts the University) to defamation proceedings.

Finally, we are concerned that the LGBTQ+ Network and other activists, might have been encouraged to behave as they did, by the fact that the University itself appears to take sides on what are highly contested issues, about which lawful view can differ widely. We say this because of the contents of the Equality Diversity and Inclusion ("EDI") sections of the University's website: [Equality, Diversity and Inclusion - About the University, University of York](#).

In common with many other such EDI sections we see on university websites, this comprehensively presents certain concepts and positions as both uncontested and uncontestable. This is reflected, for example, in the Glossary used (which is full of contested concepts stated as fact) and in the section about Gender (which adopts wholesale the highly contested position advocated by Stonewall, but which does not enjoy wide acceptance in society).³ The section on race uncritically espouses aspects of Critical Race Theory.⁴

In our experience, this sort of thought takeover within EDI and HR departments at our universities, is driven in large part by their formal association with lobby groups such as Stonewall, Advance HE, Mermaids and Black Lives Matter. Such associations were the subject of criticism in the Reindorf Report commissioned by the University of Essex after two no-platforming incidents in 2020.⁵ They have subsequently been

³ [Gender - Equality, Diversity and Inclusion, University of York](#). See, for example, the University's statement that: "*The words 'gender' and 'sex' are often incorrectly used interchangeably to mean the same thing. Gender refers to a person's innate sense of their own identity, which may or may not correspond to the sex they were assigned at birth.*"

⁴ [Race and ethnicity - Equality, Diversity and Inclusion, University of York](#)

⁵ <https://www.essex.ac.uk/-/media/documents/review/events-review-report-university-of-essex-september-2021.pdf>

cast off by some universities (and other public bodies including the BBC, Ofcom and the EHRC⁶) due to freedom of speech concerns. They may well become unlawful once the **Higher Education (Freedom of Speech) Bill** completes its passage through Parliament.

In any event, given that the University itself appears to adopt a position in relation to transgender issues hostile to that of the SDP, it is perhaps, unsurprising that its students feel themselves free to behave as they did in relation to Mr Clouston's campus visit. In this regard, the position seems little different from that which has recently caused the disturbing and well-publicised events at Gonville & Caius College, Cambridge.

We believe that best free speech practice, and existing and future law, requires Universities to remain neutral on issues of public debate as to which lawful views can and do widely differ. Instead of doing so, we are increasingly seeing compulsory training imposed on students and staff. This too is deeply troubling and probably unlawful when mandatory. We attach our Briefing Note about such training for students. The legal principles apply equally to staff training.

In light of the above, we urge you to begin the review of the University's Free Speech obligations (including how they are impacted by the activities of the University's EDI and HR departments) which will anyway be necessitated by the new legislation. The appointment of a Free Speech Officer, which will likely soon be legally required, is an obvious, and reasonably practicable, first step.

In the meantime, we look forward to a constructive dialogue with you on free speech issues.

Yours sincerely,

Alumni for Free Speech

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Cc. AFFS Briefing Note on Student Conduct
AFFS Briefing Note on Student Training

⁶ <https://www.bbc.com/news/uk-58917227>