

# Alumni for FREE SPEECH

Mr Alastair Merrill,  
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21 February 2023

BY EMAIL: [vpgov@st-andrews.ac.uk](mailto:vpgov@st-andrews.ac.uk)

Dear Alastair,

Thanks for your letter of 7 February 2023 replying to mine to the Proctor of 31 January 2023. AFFS certainly agrees that, given the nature of the issues raised in that letter, you, as Vice-Principal responsible for Governance, are the appropriate person to address them.

As you know, I regard my earlier correspondence with the Principal as private. However, given your reference to not wishing to go over old ground, I do not want there to be any doubt as to whether the issues raised in my letter to the Proctor had already been addressed in that earlier correspondence. They were not. Regrettably, it seems that, like some others with whom we have corresponded about freedom of speech compliance issues, the University lacks any appetite to engage properly with the serious and fundamental issues AFFS has raised, no matter how much time and effort is taken to ensure that they are clearly articulated and particularised.

If, as you acknowledge, the EDI pages on the University's website contain inaccurate information, why not remove such information immediately and state that the relevant pages are under reconstruction? How can it be acceptable for the EDI pages to continue to include incorrect information simply because (despite its considerable size) the EDI department has yet to correct them? You refer to the relevant information as "*outdated*" but, in the several important respects mentioned in my letter to the Proctor, it is simply legally inaccurate and always has been.

You decline to get into "*detailed arguments over numbers of web references or specific job titles*". So far as web references are concerned, you refer to an additional sentence in the University Social Responsibility Statement and a statement of a future intent in a draft Diversity Action Plan (to which I refer further below). Neither begins to address the gigantic disparity in the University's statements about aspects of EDI (some of them highly controversial and contested) and anything it has said (let alone done) in relation to its free speech obligations. So far as job titles are concerned, you do not identify anyone at the University with any specific responsibility for compliance with free speech obligations. In short, you do not, presumably because you cannot, contradict what was said in AFFS's letter to the Proctor i.e.

“St Andrews has: no statement of its legal obligations in relation to freedom of speech or academic freedom (including under the legislation referred to above); no freedom of speech officer (or senior manager specifically responsible for compliance with freedom of speech obligations); no freedom of speech code or statement of principles; no freedom of speech ordinance; no academic freedom statement, code or ordinance; and no formal process for dealing with freedom of speech or academic freedom complaints.”

My letter to the Proctor also referred to the lack of any public endorsement by St Andrews of the best known (and, we would hope, uncontroversial) statements about the importance of institutional neutrality to upholding freedom of speech and academic freedom at universities, like those in the Kalven Report or the Chicago Principles. Among the many issues not addressed in your letter is this crucial requirement of institutional neutrality. Does the University have an official position in relation to this requirement? If it does, what is its official position?

In connection with institutional neutrality, I note that you are yourself identified as a “LGBTQI+ Ally” in the EDI webpages.<sup>1</sup> That concept, as the website page itself makes clear, is one created by Stonewall. On the same page, the University states its expectation that every identified ally “*supports LGBT Youth Scotland Charter and Stonewall Scotland Initiatives*”. The statement of that requirement contains Stonewall-related links to material which advocates the controversial and contested aspects of trans ideology in relation to which Stonewall’s official policy is that there is no room for any debate. With all due respect, we ask how your own self-identification as a Stonewall LGBTQI+ ally is to be reconciled with your also being responsible for all governance issues, including those related to free speech and academic freedom? This position is, in any event, plainly inconsistent with any requirement of institutional neutrality.

My letter to the Proctor addressed a range of specific concerns about the trans ideological content of the EDI website pages. In addition, we note that, in her keynote address to an inaugural Irish conference of Advance HE in July 2021<sup>2</sup>, the Principal herself made public statements touching on certain controversial aspects of race theory which were also inconsistent with the requirements of institutional neutrality.

Speaking about the University’s new “*People Strategy*”<sup>3</sup>, the Principal said, among other things, that:

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<sup>1</sup> <https://www.st-andrews.ac.uk/hr/edi/lgbtiqallies/>

<sup>2</sup> The Principal’s address is replicated in full on the University’s website reiterating, we assume, the fact that they represent the official position of the University: <https://www.st-andrews.ac.uk/about/governance/principal/media-and-speeches/advance-he/>

<sup>3</sup> In relation to this strategy, and others, the University sometimes justifies such innovations on the basis that they reflect what its students and staff have asked for. This justification is also sometimes used to deflect criticism of freedom of speech failures at universities more generally including those which arise from the lack of institutional neutrality on issues of public controversy and debate. In this regard, I note that the Principal told Advance HE that the new “*People Strategy*” was based in part of consultative comments of over 1000 students and staff. On the basis of the Principal’s own figures of 10,000 students and 3,000 staff, even assuming that 1000 different people were responsible for this

“Our Strategy acknowledges that ‘a priority for us in the next phase must be greater racial and ethnic diversity’ by which we ‘we will seek to address the experience of people from black and ethnic minority communities at all levels of the University, in order to make meaningful interventions in respect of recruitment, representation, and curriculum reform.’ Since we wrote that, the Black Lives Matter protests have resonated powerfully with our community and incentivised student and staff engagement with the Strategy, and that has led to some powerful changes.

Further work to support BAME students and staff includes the launch of a student mentoring scheme for BAME students, promotion of the Advance HE Diversifying Leadership programme and the current development of our own internal BAME staff mentoring scheme, and a total overhaul of the mandatory training packages for students and staff...

BAME students told us, in direct response to the protests last summer, that many felt insecure about making reports of microaggressions or discrimination either because they did not know to whom these should be addressed or because they were concerned about their grades being affected. To address this, we introduced last year our new Report + Support webpages, through which any community member can report negative experiences or behaviours, with contact details or anonymously.”

These comments reflect controversial aspects of race theory such as those advocated by groups like Black Lives Matter. The fact that the Principal sought praise from Advance HE (which itself advocates certain controversial race theories, such as so-called “*anti-racism*”<sup>4</sup>) for the University’s creation of an anonymous system for reporting so-called “*micro-aggressions*” (itself a highly controversial and contested concept) in response to BLM protests is itself worrying from a freedom of speech perspective.<sup>5</sup> More fundamentally, as in the case of trans ideology, by taking a side in relation to controversial and contested issues<sup>6</sup> the University

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feedback, it would seem that, in fact, only about 7.5% of those eligible participated in the community consultation exercise relating to the University’s new “*People Strategy*”.

<sup>4</sup> <https://www.advance-he.ac.uk/anti-racist-curriculum-project#overview>. As is clear from links to this page, “*anti-racism*” is a contested race theory which involves the acknowledgment of contested and controversial ideological concepts such so-called “*white privilege*” or “*white guilt*” and the need to decolonise the curriculum taught at universities - <https://www.advance-he.ac.uk/sites/default/files/2021-10/ARC%20Explained.pdf>). It will be noted that, consistent with its formal connections with Advance HE but inconsistent with the requirements of institutional neutrality, the Proctor was herself part of Advance HE’s Executive Group responsible for its “*anti-racism curriculum*”.

<sup>5</sup> As you might already be aware, such anonymous schemes are highly controversial and deeply concerning from a basic due process perspective. Proposals to introduce such a scheme at Cambridge University was withdrawn within days of its introduction following concerns raised by academics.

<sup>6</sup> Including by means of so-called training (<https://www.st-andrews.ac.uk/hr/edi/training/>) in relation to numerous contested theories of a highly one-sided kind, see, e.g. the “training” offered to staff on so-called “*unconscious bias*” <https://www.st-andrews.ac.uk/osds/essentials/mandatory-training-for-employees/> and “*transgender awareness*” <https://www.gires.org.uk/e-learning/>. It would seem from what the Principal told Advance HE, that race training is mandatory for all staff and

necessarily implicitly disapproves of students and staff who, perfectly lawfully, have opposing views to those advocated by the University. This is notwithstanding the fact that the right to hold (or not hold) the views espoused by the University is very likely protected under **Section 10** of the **Equality Act 2010**. This lack of institutional neutrality gives rise to an obvious risk that other students or staff at the University will, illegally, create a hostile environment for students and staff who disagree with, for example, the aspects of the trans or race ideology referred to above, including by discriminating against, harassing or victimising them. In turn, senior managers of the University risk incurring liability under **Section 111** of the 2010 Act for instructing, causing inducing breaches of the 2010 Act. It is also difficult to see how the University could comply with its Public Sector Equality Duty (“PSED”) under **Section 149** of the Act while publicly taking positions which are for (or against) the particular views of different groups of students and staff with different protected characteristics. The PSED risk is especially great if the University formally associates itself with outside lobbyists who maintain that protected philosophical beliefs of students and staff at the University are incontrovertibly wrong and unworthy of debate in civilised society.

It is due to serious governance and compliance issues like those just mentioned, that AFS has been urging UK universities to end their formal associations with lobby groups advocating, often on a so-called “no debate” basis, particular ideological positions which universities are then invited publicly to endorse.

In relation to this, AFS is encouraged by your confirmation that St Andrews (like many other public bodies, including some universities) ceased to be part of Stonewall’s Diversity Champions scheme in the Spring of 2022. That said however, this was news to us.<sup>7</sup> It is also, it would seem, news to the University’s EDI department, which continues to make multiple references on the University’s website to St Andrews being a Stonewall Diversity Champion.<sup>8</sup> It also seems to be news to those departments which include separate EDI pages in their own

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students. Making such training on contested issues mandatory, is, AFS believes, also potentially illegal under the **Equality Act 2010**.

<sup>7</sup> It was not, so far as AFS is aware, the subject of any public announcement or news report. Furthermore, I have repeatedly raised free speech concerns about the University’s continued participation in Stonewall’s Diversity Champions scheme, including with both the Principal (in May and July 2022) and the Proctor (in December 2022). In their respective responses, neither mentioned that the University had, in fact, already left Stonewall’s Diversity Champions scheme.

<sup>8</sup> See, e.g.: <https://www.st-andrews.ac.uk/hr/edi/sexualorientation/stonewall/>. This page contains a direct link to a members only page on the website of Stonewall’s Diversity Champions scheme as last updated in December 2022 (<https://www.stonewall.org.uk/list-stonewall-diversity-champions>). Oddly, Stonewall keeps the list of members of this scheme to itself (and to members). As a result, in the absence of public statements (like those made by UCL and the LSE), it is not possible to verify the departure of universities from the scheme by reference to Stonewall’s own public information.

website entries e.g. the Biology Department (which also continues to have a direct link to the Diversity Champions scheme).<sup>9</sup>

It is also difficult to understand why, according to the Proctor, the University continues to participate in Stonewall's Workplace Equality Index which is identified as an aspect of the Diversity Champions Scheme on Stonewall's own website.<sup>10</sup>

Furthermore, the University's withdrawal from the Stonewall Diversity Champions scheme, while consistent with the requirements of institutional neutrality and the University's free speech obligations, is inconsistent with the University's continued formal association with other outside organisations like Advance HE. Advance HE is, like Stonewall, a politicised lobby group which, via its "*transformed*" Athena Swan Award scheme, now itself formally advocates contested and controversial aspects of trans ideology.<sup>11</sup> As already noted above, Advance HE also now formally advocates the controversial race theory called "*anti-racism*" (including via an Executive Group of which the Proctor is – or was - a member).

Rather than dissociating itself with Advance HE however, the University continues to pursue institutional level Athena Swan awards and to encourage its departments also to seek such awards. This is presented as a central achievement of the University's EDI initiatives on its website.<sup>12</sup> In her keynote address to Advance HE, the Principal referred to the fact that the EDI team includes "*two Awards Advisers, and an Assistant*". Does that mean that three EDI employees devote all their time to seeking awards from outside lobbyists? Professor Catherine O'Leary is a member of the University's governing body, its Court. Her profile states that she is also currently Athena Swan Institutional Chair, working with the EDI team and a

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<sup>9</sup> <https://biology.st-andrews.ac.uk/edi/lgbt/>. Equally troubling, is the completely ideological stance which the Biology Department takes in relation to the, equally controversial and contested, subject of so-called "*decolonisation*". We would invite your attention in this regard to the lecture entitled "*Decolonizing the biology curriculum*" given by Professor Kevin Lala (or, according to another page of the department's website, Laland), in his capacity as the director of the department's EDI committee and "*anti-racism advocate*" as recently as 7 October 2022:

<https://st-andrews.cloud.panopto.eu/Panopto/Pages/Viewer.aspx?id=f8ae1168-522a-4b34-a412-af2700aa0b0b>.

How, it seems obvious to ask, might a biology student who disputed the contents of Professor Lala's lecture likely fare in a department lead in part by Professor Lala (at least if they were to make their own views known)? AFFS has prepared briefing note about the free speech compliance issues arising in relation to so-called "*decolonisation*" of university curricula. I attach a copy for your information.

<sup>10</sup> <https://www.stonewall.org.uk/about-us/news/about-stonewall-and-our-diversity-champions-programme>

<sup>11</sup> <https://www.advance-he.ac.uk/equality-charters/transformed-uk-athena-swan-charter#key-enhancements>

<sup>12</sup> <https://www.st-andrews.ac.uk/hr/edi/diversityawards/>

representative group of colleagues and students to prepare the University's submission for a silver award.

Again, obvious issues of institutional neutrality and the freedom of students and staff to hold (or not hold) and to express (or not express) religious or philosophical views different from those advocated by the University arise from this. The serious impression of the University's lack of concern about these issues is exacerbated by the fact that among the other members of the University Court are: Mr Iain Anderson (since last October, the Chair of the Trustees of Stonewall<sup>13</sup>) and Ms Alison Johns (since 2017, the CEO of Advance HE).

I also note that you say that the University's *"draft Diversity Action Plan includes a specific commitment to 'Develop a set of clear principles around freedom of speech that enables discussion and critique within a culture of tolerance and respect'"*. While AFFS, obviously, welcomes any attempt to articulate relevant free speech obligations and principles in a formal document, it is concerned that this work is being carried out as part of a draft Diversity Action Plan. The worrying tendency of universities to attempt to treat their existing and future free speech obligations as somehow inextricably linked to, or subordinate to, their ever expanding EDI initiatives is one AFFS has already seen at other universities.<sup>14</sup> University EDI departments have troubling records on free speech compliance and (as, I am sorry to say, at St Andrews) often appear to have little appreciation of the free speech compliance issues to which their highly partisan statements and activities give rise. In this context, I can but repeat what was said in my letter to the Proctor about the need to establish an independent free speech compliance function at the University. This needs to be completely separate from its EDI department and have the power to monitor, supervise and enforce legal obligations and best free speech practice across the University, including, and in particular, in its EDI department.

That brings me, finally, to what you say in the last paragraph of your letter. Without, again, myself disclosing the detailed contents of my earlier, and private, correspondence with the Principal, both she and you are aware of why I felt unable to accept her kind invitation given both the limited amount of time I have available for the work I do for AFFS and the extent to which those I might have met are, in my opinion, more likely to be a cause of, rather than a possible cure for, the issues I have raised. Putting the matter another way, AFFS has learned that correspondence which calls for a detailed written response to the specific questions asked, combined with Freedom of Information Requests, is a more efficient means of highlighting the relevant issues and obtaining relevant information than listening to general explanations from people employed to advance the very agenda which inevitably gives rise to the freedom

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<sup>13</sup> <https://www.stonewall.org.uk/about-us/news/stonewall-appoints-iain-anderson-chair-trustees>.

<sup>14</sup> See in this regard, for example, AFFS recent letter to the Vice Chancellor of Sussex University which appears in the news section of its website: <https://affs.uk/free-speech-compliance-issues-at-sussex>

of speech issues. This is all the more the case where, so far from having the expertise to which you refer, such employees are apparently either unaware or heedless of universities existing and future free speech obligations.

Alumni and donors continue, in our experience, to be very concerned about freedom of speech failures at our universities. Their own views about the issues of public debate in relation to which such failures all too often arise will, doubtless, vary. While being frustrated by having repeatedly to address the same issues, AFFS reiterates that it, at least, is non-partisan and institutionally neutral both about such issues and about all other issues of lawful public debate. It has no agenda of its own other than to encourage universities to recognise, understand and comply with their free speech obligations.

I have appended to this letter a Freedom of Information Request in relation to some of the issues mentioned above. That being so, I am copying this letter to the, unnamed, Information Assurance and Governance Officer referred to on the University's website.

Yours sincerely

Andrew Neish KC

### **Alumni for Free Speech**

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**APPENDIX: Request under Section 8 of the Freedom of Information (Scotland) Act 2002**

1. Precisely when did the University leave the Stonewall Diversity Champions scheme?
2. Who made the decision to leave? Please identify all decision makers involved and state in what capacity they were involved and with what authority they acted.
3. Why did the University decide to leave?
4. Without prejudice to the generality of Request 3, to what extent (if any) was the University's decision to leave the Stonewall Diversity Champions scheme influenced or affected by:
  - (1) concerns about institutional neutrality; and/or
  - (2) concerns about compliance with obligations relating to free speech and academic freedom; and/or
  - (3) the fact that other public bodies (including other universities) had already left the scheme?
5. In relation to the above Requests, please provide copies (redacted insofar as may be necessary) of any documents (including minutes of meetings, internal memoranda and internal or external correspondence – including with Stonewall) which contain or refer to the University's decision to leave the Stonewall Diversity Champions scheme.
6. How (if at all) was the University's decision to leave Stonewall's Diversity Champions scheme communicated to:
  - (1) staff;
  - (2) students; and
  - (3) the general public more?
7. To the extent that the answer to Request 6 is that it was not communicated to any of these groups, why was that?
8. At the time the University decided to leave Stonewall Diversity Champions scheme, what (if any) consideration was given to whether the University should entirely dissociate itself with Stonewall, including participation in Stonewall's Workplace Equality Index?
9. At the time the University decided to leave Stonewall Diversity Champions scheme, what (if any) consideration was given to whether the University should also dissociate

itself from other external organisations with an EDI agenda and with which the University has a formal relationship, such as Advance HE (including Athena Swan)?

10. During her keynote address to Advance HE inaugural conference in Ireland on 10 July 2021<sup>15</sup>, the Principal said:

“Whilst I lead Diverse St Andrews, its aspirations demand constant and significant attention, to which end we have overhauled our EDI staff team. We recruited the University’s first Assistant Vice-Principal for Diversity to take ownership of the creation of the People Strategy and the delivery of its outcomes. Our AVP Diversity oversaw the existing EDI team upon her appointment, comprising a Head of EDI, two Awards Advisers, and an Assistant, and has expanded the team since to include a Project Manager in Equalities, a further Project Officer, two Faculty EDI Leads, and a Head of Mediation and Wellbeing. A Deputy Head of EDI is currently being recruited...”

Further work to support BAME students and staff includes the launch of a student mentoring scheme for BAME students, promotion of the Advance HE Diversifying Leadership programme and the current development of our own internal BAME staff mentoring scheme, and a total overhaul of the mandatory training packages for students and staff...”

10.1 In relation to the “*EDI staff team*” referred to, please:

- (1) State whether the various roles referred to in the Principal’s speech still exist within the “*EDI Staff team*”?
- (2) State whether, since the Principal’s speech, further people have been recruited to, or roles created within, the “*EDI staff team*”, including, but not limited to the Deputy Head of EDI then being recruited
- (3) Identify who is currently employed in what role within the University’s “*EDI staff team*”.
- (4) Separately in relation to each such employee, please describe what the role involves explaining in general terms what duties are performed by each of the relevant employees.
- (5) State the combined<sup>16</sup> current annual cost to the University of employing the members of its “*EDI staff team*” (including the cost of pension contributions and other costs in addition to salaries).

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<sup>15</sup> <https://www.st-andrews.ac.uk/about/governance/principal/media-and-speeches/advance-he/>

<sup>16</sup> For the avoidance of doubt, AFFS does not seek any personal or confidential information about individual salaries, only a single figure for the combined, total cost to the University of maintaining its “*EDI staff team*” in the current financial year.

- 10.2 Please identify each of “*the mandatory training packages for students and staff*” referred to by the Principal in her address to Advance HE, stating the title or name of the training and the identity of its provider and supplying copies of the materials produced in relation to such mandatory training.
- 10.3 Please state whether (and, if so, which) of “*the mandatory training packages for students and staff*” identified in answer to Request 10.2. still exist.
11. Does the University employ anyone whose role and duties relate specifically to its compliance with its obligations in relation to the freedom of speech of students, staff and visiting speakers and/or the academic freedom of its staff?
12. In relation to any such employee(s) please:
- (1) identify who they are, state their job titles and describe role and duties; and
  - (2) state the combined<sup>17</sup> current annual cost to the University of employing any such staff (including the cost of pension contributions and other costs in addition to salaries).
13. What steps (if any) has the University taken to identify the existence and extent of self-censorship among its students and staff and/or to address such self-censorship?
14. Please state when:
- (1) Mr Iain Anderson (since October 2022, Chair of Trustees of Stonewall); and
  - (2) Ms Alison Johns (since 2017, Chief Executive of Advance HE)
- became, respectively, a General Council Assessor on and Non-Executive Member of and a Non-Executive Member of the University’s governing body, its Court.
15. Please explain how each of Mr Anderson and Ms Johns became members of the Court stating, insofar as they were nominated for election, who nominated them and, insofar as they were appointed, who appointed them and through what process.

**21 February 2023**

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<sup>17</sup> For the avoidance of doubt, AFFS does not seek any personal or confidential information about individual salaries, only a single figure for the combined, total cost to the University of maintaining any freedom of speech related employees in the current financial year.