

Alumni for FREE SPEECH

Professor Julie Sanders
Principal
Royal Holloway, University of London
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TW20 0EX

27 March 2023

By email to: pam.kaur@royalholloway.ac.uk (Executive Officer to the Principal)

Dear Professor Sanders

Cancellation of the invitation to Baroness Fox

We are a non-partisan alumni organisation which exists to improve compliance by UK universities of their existing and future legal obligations to secure freedom of speech and academic freedom at UK universities. We wrote to you to introduce ourselves last year. More information about our work can be found on our website <https://www.affs.uk>.

We have seen a copy of the letter sent to you by the Free Speech Union dated 2 March 2023 concerning the cancellation of an event at which Baroness Fox had been invited to speak by Royal Holloway's Debating Society on 16 February. As the Debating Society made clear when reluctantly withdrawing its invitation, the cancellation was the result of the intervention of the Students' Union and a number of other student societies. Save to say that we agree with the legal analysis in the FSU's own letter, we will not repeat the detailed points it makes.

The treatment of Baroness Fox has received considerable press coverage, none of it casting a good light on the public reputation of the distinguished institution you lead. Baroness Fox also spoke about the treatment she received as a result of the behaviour of a small, if vociferous, number of student activists in last week's House of Lords debate in the about the **Higher Education (Freedom of Speech) Bill ("the new Act")**: <https://twitter.com/SpeechUnion/status/1638344902789545985>

AFFS supports the right of all to express any lawful view at our universities. It has no wish to become embroiled in the so-called Culture Wars. Rather, it wishes to work cooperatively with universities to improve the extent to which they (and their Students' Unions) understand their existing and future legal obligations in relation to freedom of speech. Our experience to date is that the extent of such obligations is not properly appreciated. This fact is usually what gives rise to the breaches of the law which continue to happen all too frequently. As a result, an AFFS sister project, Best Free Speech Practice ("**BFSP**") is

currently drafting detailed guidance for universities which will be freely available on BFSP's own website (<https://bfsp.uk>).

As a reasonable and professional person, we would hope and assume that you will agree that what Baroness Fox has herself said (including in the debate referred to above) makes entirely clear that the allegations made by Students' Union President, Maia Jarvis, (apparently on the basis of nothing more than her retweet of part of a comedy routine) that Baroness Fox is "*an advocate for hate towards trans people and publicly ridicules them*" were absurd and without the slightest foundation. As such, they were also probably defamatory. While any actionable defamation is a matter for Baroness Fox to take up directly with Ms Jarvis, AFFS wishes itself to raise another potential effect of Royal Holloway's failure to take action to prevent, publicly condemn or sanction such extreme and baseless statements.

As you will be aware, one of the most significant aspects of the new Act will be to extend universities' existing duty to take all reasonably practicable steps to secure freedom of speech directly and separately to Students' Unions. This extension reflects the role of the activists who often control Students' Unions in suppressing lawful views with which they happen to disagree. Furthermore, Students' Unions will themselves be subject to actions for damages by people whose free speech rights they infringe pursuant to the statutory tort which will also be introduced by the new Act. Universities might themselves be liable for such damages for failing to take reasonably practicable steps to prevent Student Unions infringing the free speech rights of others. Be that as it may, however, where naivety about or ignorance of the law on the part of their officers causes Students' Unions to incur significant legal liabilities they are then unable to pay, there is a risk that the facilities provided by Students' Union will cease to be available to the wider student body. At the least, where Students' Unions are funded by universities, further funding is likely to be necessary to make up for the money they have to pay in damages.

In short, the new Act will make it all the more important for senior managers at universities to act both in a pastoral role, to prevent over-zealous student activists from exposing Students' Unions to legal sanction for riding roughshod over others' rights, and as the adults in the room more generally when such activists seek to bully other students into cancelling external speakers against their own better judgment. In this regard, you will be aware that even existing obligations under **Section 43** of the 1986 Act requires universities actively to intervene where the free speech rights of others are being suppressed.

Like the FSU, we hope that you will require the relevant officers of the Students' Union to apologise to Baroness Fox for their offensive and untrue allegations. Absent such an apology, disciplinary action for breach of Royal Holloway's Code of Practice on freedom of speech would appear justified (including the recording of this free speech breach on their records for the purposes of any future employment references). However, we also agree with the FSU that, assuming an apology is forthcoming, the better course would be for the university instead to require the relevant officers to undergo appropriate training about freedom of speech. In any event, we assume that you will ensure Baroness Fox can now

come to Royal Holloway to speak about her career and the principles of debating without further interference from student extremists.

Yours sincerely

Andrew Neish KC

Alumni for Free Speech

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