

Alumni for FREE SPEECH

15 September 2023

Dear Risk Officer(s)/ Risk Committee

Risks for your University in failing to secure free speech: legal and compliance breaches

We are writing to introduce Alumni For Free Speech (AFFS), a recently-founded non-partisan campaign of UK university alumni whose aim is to encourage our universities to protect free speech better. Our website is www.affs.uk. See what we do at <https://affs.uk/campaign-news>.

We are writing about the risks that your university faces if it fails to protect free speech properly. There have been numerous highly public failures in the last decade, and, following material changes to the law, including new rights for people who suffer detriments to sue universities for free speech failures, the risks have just got more serious.

We exist in order to help and if necessary pressurise our universities to get better about this. Our alumni love their universities, so we intend to approach our work in a spirit of co-operation and support if this is reciprocated – but we will need to be tough on defaulters, and have already done so.

Some examples of free speech problems at our universities, and what went wrong, are the following.

- **Sussex: Kathleen Stock** – the University of Sussex’s failure to protect its former academic, Professor Kathleen Stock, against the unlawful campaign of extreme vilification and harassment which ultimately led her to leave is well known, and has permanently damaged Sussex’s reputation.
- **Essex: Reindorf Report** – after a controversy over wrongly cancelled events following activist pressure, the University of Essex commissioned a report from Akua Reindorf (now KC), who found various failures, arising in part from over-close relationships with external pressure groups. Essex emerged with egg on its face from the mistakes, but credit for having faced up to them.
- **Cambridge: failures reported to Office for Students (OfS)** – Cambridge failed over the Helen Joyce affair – see more at <https://affs.uk/campaign-news>. They have not appeared to engage with the issues raised about this and so we have reported them to the OfS.

- **Bristol: failures regarding the attacks on Steven Greer reported to OfS** – Bristol’s failures have been egregious, and, like Cambridge, they have given no evidence of taking them seriously so they too have been reported to the OfS. There is a campaign to have an external investigation into their failures. See more at <https://affs.uk/campaign-news>.

You will see that most of the problems appear to arise from universities not understanding their obligations and not having the willpower to be active and decisive in complying with them and protecting their people.

Now that the **Higher Education (Freedom of Speech) Act** has become law, English universities and other higher education providers (HEPs) – and their colleges and other 'constituent institutions' and student's unions – will need to plan to adjust their policies, practices and requirements to ensure compliance with the new regulatory regime.

Our associated campaign, **Best Free Speech Practice** (www.bfsp.uk), is working to clarify and disseminate what the legal requirements and their implications in practice actually are at UK HEPs. It is clear that there is widespread misunderstanding of how onerous their obligations already are and that, as a result, there are far too many compliance failures. BFSP has produced various detailed Statements for English universities the about the new requirements and their implications in practise, which we are writing to share with you.

These Statements are as follows:

- A **BFSP statement for HEPs of the new legal requirements and their implications** (14 pages) (“**BFSP General Statement**”), a good but not excessively detailed overview of this complex web of requirements.
- A **BFSP statement for students’ unions** of the new legal requirements and their implications.
- **Requirements re Governance and appointing a Free Speech Officer:** the duty to secure free speech means having sufficient management focus.
- **The Equality Act after the *Forstater* case: protected viewpoints.** The recent *Forstater* case has established that gender-critical views are 'protected characteristics' for the purposes of the Equality Act. Logically, views on other matters of political or societal controversy should therefore also be treated as protected characteristics.
- **Introductory EDI courses: potential free speech problems.** Important in helping English HEPs devise courses that avoid free speech pitfalls and controversies.
- **“Decolonising the curriculum”:** potential free speech problems. Again, will help English HEPs avoid mistakes, compliance failures and controversy.
- **Legal and compliance risks of relationships with external campaign groups.** These can lead to enforcing the agendas of these groups pursuant to “no debate” policies and the like, in breach of various legal requirements. These relationships need careful handling,

and a number of organisations, including various UK HEPs, have disassociated from these organisations as a result.

- **Minimum requirements for staff and student behaviour** to ensure English HEPs' compliance with their free speech obligations.

These statements can be found at <https://bfsp.uk/universities-higher-education>. We hope you will find them useful. We are happy to answer questions if that would help.

The BFSP General Statement lists actions which universities should be taking to implement their obligations. If they do these, they will dramatically reduce the risk of free speech problems.

The most important relevant actions that universities should be taking are the following.

- Have a focused **free speech officer** whose job it is to work to ensure the university protects free speech properly. [Here is a study](#) we have made about the relative emphasis and resource allocation that universities give to free speech protection as compared with EDI programmes. Very few of the top 50 we surveyed has a free speech officer. What this says about the lack of focus on free speech protection is clear. Having an officer with the time, focus and knowledge to steer universities to take the right decisions and actions when problems arise will make a huge difference in the future.
- Be **active in enforcing their own rules** when problems arise.
- Stop **activists from attacking people** for their viewpoints and **pressurising universities** to take actions which would themselves contravene their own rules, such as not circulating information on particular events.
- Adopt **institutional impartiality** on matters of public controversy; **avoid enforcing controversial viewpoints** and agendas.
- Restructure and if necessary, terminate **relationships with external pressure groups** to the extent that these require universities to suppress dissent from the ideologies or agendas being promoted.

As you will be aware, a new Director of Free Speech has been appointed in the OfS. The OfS itself has increased duties and is raising its expectations about universities' performance as regards protecting free speech, and will be taking a much more active approach to ensuring that universities perform properly.

You are the risk specialist, but we gently suggest that you might do well to:

- Review BFSP's Statements and assess the types and levels of risks that free speech compliance failures will create, and how, where and why they are most likely to arise.

- Share BFSP's Statements with relevant officers at your university who operate in areas which are significant in the context of these risks. Ask them to review these Statements and give their assessment of the risks and how they might arise in the future.
- Work with relevant officers to assess what needs to be done to reduce those risks, and work with them to ensure that relevant measures are properly implemented and carried into effect, and that relevant staff are properly trained in what they need to do in this regard.
- One risk you have is resistance to being more active about free speech protection within your university. Some of this may be because being better at protecting free speech will be inconsistent with agendas they personally pursue or are responsible for. We appreciate that this may create some internal conflict, but ensuring that free speech is properly protected will be a very significant contribution to risk reduction at your university. You may wish to draw their attention to the risks of personal liability that the Statements describe.

Finally: as we say above, we intend to approach our work in a spirit of co-operation and support where this is reciprocated, and would be very happy to provide advice and clarification on a confidential basis if that would help. We do understand that you may want to be cautious about interacting with us. It would though, be helpful to have a confirmation of receipt.

Yours faithfully

Alumni for Free Speech

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