

Alumni for FREE SPEECH

Sent by email to:

Professor Mike Shipman, Deputy Vice-Chancellor and Provost, Durham University

Professor Colin Bain, Pro-Vice-Chancellor (Research), Durham University

Dr Amanda Wilcox, University Secretary, Durham University

Nic Johnston, Chief People Officer, Durham University

Dr Shaid Mahmood, Pro-Vice-Chancellor (Equality, Diversity, and Inclusion), Durham University

1.1.26

Dear officers,

Legal and compliance problems at Durham University (the “University”) with requiring commitment to contested agendas and ideological positions in job applications

As you may be aware, Alumni For Free Speech (“AFFS”) is a non-partisan organisation which aims to encourage high standards of compliance with universities and other organisations to protect freedom of speech.¹

It has come to our attention that the University is likely to be in breach of its legal and regulatory obligations as a result of the requirements it places on applicants for jobs (the “Application Requirements”) as described below.

This letter serves to notify you of our concerns, stating the relevant facts, then an outline of the applicable legal requirements, and concluding with our analysis of how the Application Requirements at your institution are unlawful, non-compliant and violate freedom of speech.

This letter forms part of a larger project which aims to ensure that universities’ processes with regard to hiring and promotion of staff are compliant with their legal and regulatory obligations to protect free speech.² AFFS published, in May 2025, a report of its investigation

¹ More information about AFFS can be found at: <http://www.affs.uk>

² More about this project can be found, in an article by the Committee for Academic Freedom, here: <https://afcomm.org.uk/2025/01/21/new-campaign-to-remove-edi-statements-from-academic->

into EDI recruitment requirements in Russell Group Universities: *University Recruitment, EDI requirements causing compliance failures* (the “AFFS Report”). This report was sent to the University by email at the end of May. As the report makes clear, a significant number of universities impose requirements in respect of job applications which are likely to be legally and regulatorily non-compliant.

While AFFS is aware that there have been numerous changes to the legal and regulatory obligations on universities in this area, we believe that enough time – and enough warnings – have passed to allow any prudent, responsible university to ensure that its policies are in order. Therefore, while we have previously been hesitant to bring offending universities to the attention of the Office for Students (the “OfS”), we now feel we may have no other option. If the University continues to breach its legal and regulatory obligations, we will formally notify the OfS of this compliance failure.

Relevant facts

As you will be aware, AFFS previously found serious potential compliance failures within the University’s job application process. Notably, we found that the University required applicants to academic jobs to provide evidence of their commitment to the values of EDI. We were pleased to see that, after AFFS had written to you about these potentially serious compliance failures, we received confirmation that you were changing your practices to secure compliance.

However, we are disappointed that, whatever steps the University took after our previous correspondence on this issue, it has failed to ensure that advertisements for academic positions do not include requirements to demonstrate commitment to any values, beliefs or ideas.

Our research as of the 17th September, has now found that there are a number of advertisements which require commitment to potentially controversial beliefs, values, and ideas. For instance, the “person specification” of an advertisement for the position of Associate Professor in Sustainable Earth Energy states “You should give evidence of your commitment to EDI principles at appropriate parts of your application.”³ An advertisement for the position of Professor or Associate in Ecological Modelling states “Candidates will demonstrate... their commitment to equality, diversity and inclusion”.⁴

These and other advertisements also refer, in sections dealing with “essential criteria” for their roles to a “demonstrable commitment to equality, diversity, and inclusion” and equivalent formulations.⁵

[job-applications/](#). A recent example of how AFFS is working with universities to prevent compliance and free speech failures can be found at: <https://thecritic.co.uk/bye-bye-edi/>

³ “Associate Professor in Sustainable Earth Energy” (Job Number: 25001213)

⁴ “Professor/Associate in Ecological Modelling” (Job Number: 25000713)

⁵ Advertisements for the positions of Assistant Professor (Research & Education) (Job Number: 25001243), Assistant Professor in Histories of the Islamicate World (Medieval/Early Modern) (Job Number: 25001073), Associate Professor in Sustainable Earth Energy (Job Number: 25001213),

Further, we note that a number of advertisements contain the following:

"We also live by our Purpose and Values and our Staff Code of Conduct... It's important to us that all colleagues undertake activities that are aligned to both our values and commitment to EDI."⁶

This passage suggests that the University may require staff to undertake activities in support of values and ideas with which they do not agree, and may prevent them from undertaking activities which dispute or oppose those values and ideas. We refer to requirements of this sort as "**Alignment Requirements**" which, for the reasons explained below, may also be likely to be unlawful, in which case advertising them will be problematic as well.

Legal and compliance problems with Higher Education Providers ("HEPs") requiring commitment to contested agendas and ideological positions

As an important preliminary point, while much that is promoted under the "EDI" flag may be uncontroversial, and in a narrow range of cases legally required, various highly controversial beliefs and agendas are also promoted (and indeed effectively enforced) under it. For example, as are associated with trans and "critical race theory" ideologies (opposition to both of which has been held to be a "protected viewpoint" for the purposes of the Equality Act). Universities will face compliance issues if, through their policies or processes, they effectively enforce agendas, under the banner of EDI or otherwise, which limit the free speech of staff and students, current or prospective. As an illustrative example, the Dandridge Review, discussed further below, cited numerous ways in which EDI requirements and agendas caused problems for free speech at the Open University.

This section serves to outline the specific requirements placed on universities by law and regulation.

Relevant legal and regulatory requirements

The legal and regulatory obligations of English HEPs to protect free speech and academic freedom are extensive and demanding.

- Sub-sections A1(1)-(2) of the Higher Education and Research Act 2017 ("HERA") require the governing body of an English HEP to take "*the steps that, having particular regard to the importance of freedom of speech, are reasonably practicable for it to take*" to secure freedom of

Professor/Associate in Ecological Modelling (Job Number: 25000713).

⁶ Advertisements for the positions of Postdoctoral Research Associate in Human Geography (Job Number: 25001169), Assistant Professor (Research & Education) (Job Number: 25001243), Assistant Professor in Histories of the Islamicate World (Medieval/Early Modern) (Job Number: 25001073), Associate Professor in Sustainable Earth Energy (Job Number: 25001213), Professor/Associate in Ecological Modelling (Job Number: 25000713)

speech (within the law) for the staff, members and students (“**Participants**”) of and visiting speakers to the HEP.⁷ This is often referred to as the “**Secure Duty**”.⁸

- As confirmed in recent case law, viewpoints on many areas of current controversy are protected as religious or philosophical beliefs under the **Equality Act 2010** (the “**Equality Act**”), including gender-critical views, views which challenged aspects of critical race theory and anti-Zionist ones. The law in this area is still evolving, and it must be highly likely that opposition to EDI (as a wide-ranging agenda which includes a range of contested values and views) is “protected” for the purposes of the Equality Act. Therefore, discrimination against and harassment of staff and students for voicing such opposition will be unlawful.
- Freedom of speech and academic freedom are also protected under the **Human Rights Act 1998** (the “**HRA**”).
- The public interest governance principles with which HEPs are required to comply as an ongoing condition of their registration as HEPs. These are discussed in detail below.

To the extent that requiring support for “EDI” requires support for contested viewpoints and positions, and indeed for any agendas or programmes which are not required to be promoted by law, this creates severe compliance risks:

- there may well be reasoned and principled objections to aspects of them (or indeed to “EDI” as a generic concept) which will turn out to meet the test for protection under the Equality Act; and
- more widely, suppressing dissent from such agendas and programmes, except those which are in that narrow range of being legally justifiable (and “proportionate” for the purposes of the HRA), is an obvious potential failure under the Secure Duty and the HRA.

We attach:

- A Statement by our associated campaign Best Free Speech Practice (“**BFSP**”) titled *Free speech protection at English universities: The law and requirements in practice* (the

⁷ As introduced by the Higher Education (Freedom of Speech) Act 2023 (“**HEFSA**”), with effect from 1st August 2025.

⁸ The duty extends to the recruitment of members, students (and logically employees, although this was not expressly stated) (OfS Guidance, paragraphs 136, 137, and 138). See also: *R. (on the application of Butt) v Secretary of State for the Home Department* [2019] EWCA Civ 256 [2019] 1 W.L.R. 3873 at [171]–[172]. At paragraph [172]: “The point is reinforced by the broad categories of persons whose freedom of speech is protected by the legislation. If the duty only extended to those already invited to speak, then could the same limitation apply to members and students? Could freedom of speech and academic freedom be said to be preserved by granting freedom of speech to existing members and students, while restricting recruitment of members and students on the ground of their political opinions? We think not.”

“Principal BFSP Statement”), which sets out details of the relevant legal and regulatory requirements and their implications.

- BFSP’s Statement *EDI considerations and inquiries in the recruitment and research approval process at English universities: Free speech compliance issues* (the “EDI Information in Recruitment Statement”).
- BFSP’s Statement *Protected viewpoints under the Equality Act: Risks and necessary actions for employers and others* (the “BFSP Equality Act Compliance Statement”).

OfS Guidance

As of the 1st of August 2025, the OfS’s *Regulatory Advice 24: Guidance relating to freedom of speech* (the “OfS Guidance”) outlines both the requirements under HERA and the OfS’s own expectations of HEP actions for compliance.⁹ The OfS Guidance explicitly states that:

“[HEPs] should not require applicants to any academic position to commit (or give evidence of commitment) to a particular viewpoint.”

And;

“Each [HEP] must take reasonably practicable steps to achieve the objective of securing that, where a person applies to become a member of academic staff, the person is not adversely affected in relation to the application because they have exercised their freedom within the law to question and test received wisdom, or to put forward new ideas and controversial or unpopular opinions.”¹⁰

Reindorf Opinion

A very relevant example of the potential legal issues that the University faces by continuing to impose the Application Requirements can be found in the detailed opinion by Akua Reindorf KC.¹¹ This was commissioned by the Sex Matters campaign in response to King’s College London’s (“KCL”) requirement that applicants for promotion demonstrate their support of that university’s “equality, diversity and inclusion ambitions”. Ms Reindorf found that this requirement was likely to amount to indirect philosophical belief discrimination in

⁹ Available at: <https://www.officeforstudents.org.uk/media/1mvnscr/regulatory-advice-24-freedom-of-speech-guidance.pdf>

¹⁰ Paragraphs 139 and 138. And similarly in paragraph 150 in respect of promotions. The law appears to extend more widely, to freedom of speech, and to all job applications, not just academic ones. See also Examples 27, 32, and 34. Example 32 makes explicit that the ideas to which it is unlawful to require candidates to commit or to provide evidence of commitment include EDI.

Example 32 is as follows:

“University A requires all candidates for academic promotion to submit a 500-word statement of evidence of commitment to equality (or equity), diversity and inclusion (EDI). Depending on the circumstances, this requirement may be restricting the lawful expression of certain viewpoints. For instance, a lecturer might be sceptical of some aspects of EDI and may be deterred from applying for promotion, or may be refused promotion, as a result. Removing this requirement from promotion processes is then likely to be a reasonably practicable step that University A should now take.”

¹¹ <https://sex-matters.org/wp-content/uploads/2024/04/KCL-advice-for-publication.pdf>

violation of the Equality Act and would also put KCL in breach of the predecessor of the Secure Duty (and, we note, of the Secure Duty as now written).¹² The University's Application Requirements are also likely to be unlawful for the same reasons.

Further, like KCL, the University has close links to the organisation Stonewall, through, for instance, participating in Stonewall's Diversity Champion's Program, and with the organisation Athena Swan. Such links were found to be problematic in the KCL case and are likely to be so in the University's case as well.¹³

Dandridge review: EDI as a source of free speech problems, institutional neutrality

The Dandridge Review, published in September 2024, is an independent review commissioned by the Open University ("OU") Council following its failure to manage disputes and prevent unlawful harassment of Professor Jo Phoenix over her views.¹⁴ Dame Nicola Dandridge, who led the Review, is a former Chief Executive of the OfS, Universities UK and the Equality Challenge Unit.¹⁵

Some key relevant findings of the Dandridge Review were that there was a culture at the OU: that there were "right" ways of viewing things. This can lead to dissenting views being suppressed, individuals self-censoring – for example, for staff who referred to their "fear of causing offence or professional sanctions" – and an imbalance between EDI and free speech requirements.¹⁶ EDI requirements and agendas causing problems for free speech in this way is, in AFFS' experience, widespread and clearly applies in respect of the University, given the Application Requirements. All HEPs need to work to ensure that the promotion and implementation of EDI agendas does not unlawfully affect free speech.

The Dandridge Review also recommended an "underpinning principle" of institutional neutrality in relation to contentious issues. This is consistent with AFFS having urged for some time that institutional neutrality is the only effective way to avoid legal and compliance failures such as discrimination and harassment as a result of taking sides in contested issues. We, along with other free speech campaigners, have written to all universities, urging them to introduce this.¹⁷

¹² In her words, it is "likely to be unlawful for KCL to place a requirement upon applicants for promotion that they demonstrate their support of the university's "equality, diversity and inclusion ambitions". And "[...] this requirement, when analysed in its context, amounts to indirect philosophical belief discrimination contrary to ss.10 and 19 of the [Equality Act] against potential applicants who hold gender critical beliefs. [...] It is likely that if KCL persists in imposing the requirement in the next academic year it will find itself in breach of the Higher Education (Freedom of Speech) Act 2023." (From paragraphs 3.1 and 3.2.).

¹³ Paragraphs 71.2.C and 75-77.

¹⁴ See: <https://www.open.ac.uk/blogs/news/wp-content/uploads/2024/10/Indpendent-Review-N-Dandridge-09.09.24.pdf>

¹⁵ See BFSP's detailed analysis of the Dandridge Review at <https://bfsp.uk/wp-content/uploads/2025/02/The-Dandridge-Review-re-the-Open-University-Jo-Phoenix.pdf>

¹⁶ Quotation from paragraph 2.7, other examples in Paragraph 2.10 and 2.35

¹⁷ The letter can be found at <https://bfsp.uk/universities-and-free-speech>.

Regulatory requirements: conditions of registration: the Sussex case

English HEPs are required by their conditions of registration with the OfS to have governing documents that uphold (condition E1), and to have in place adequate and effective management and governance arrangements to deliver in practice (condition E2), the public interest governance principles that apply to them. These include principles relating to securing freedom of speech and academic freedom.

“Governing documents” are defined widely for these purposes and will include any of an HEP’s policy documents which describe its “objectives or values”. This is highly likely to include policies which inform or relate to recruitments and selection of candidates. HEPs must ensure that these governing documents are compliant so as to uphold academic freedom and freedom of speech, and that their relevant detailed practices and materials comply with those policies.

In a major recent development, the University of Sussex was found by the OfS to have breached both condition E1, because its “Trans and Non-Binary Equality Policy Statement” contained statements which restricted lawful speech, and condition E2, because university decision-making bodies had made relevant decisions in ways which failed to comply with the university’s governing documents.¹⁸ The OfS fined the University £585,000, while its Director for Freedom of Speech noted that higher fines were possible for future breaches at other universities.¹⁹ This case highlights the stringency of the conditions of registration with respect to freedom of speech, and the seriousness of the OfS in enforcing these conditions.

The University’s own free speech code

The University will also be likely to be at high risk of violating its own free speech code if it does not allow – or effectively suppresses – dissent from contested agendas and viewpoints. The University’s Code of Practice on Freedom of Speech notes that the university has a legal duty to take reasonably practicable steps to secure freedom of speech, a duty with which the job advertisements referred to above are highly likely to be non-compliant. Note that a university’s free speech code will be a “governing document” for the purposes of Condition of registration E1, and a university’s failure to comply with it will therefore indicate a likely breach of condition of registration E2.

How these requirements apply in this context

The Application Requirements ask applicants to provide evidence of their support for certain values, beliefs or ideas. They also make clear that the University applies considerations relating to compliance with EDI expectations in the selection process: why else would it be seeking this information? This raises freedom of speech concerns, and is, or is highly likely to be, unlawful and contrary to regulatory requirements as well as the University’s own free speech code, for the following reasons (which are derived from the EDI Information in Recruitment Statement).

¹⁸ https://www.officeforstudents.org.uk/media/hclzxwx/university_sussex_free_speech_case_report.pdf pages 1-4

¹⁹ <https://www.bbc.co.uk/news/articles/c74k2mpp02go>

Discrimination in the selection process is unlawful: treating an applicant negatively in a job application/assessment because that person holds particular viewpoints, or lawfully dissents from or does not demonstrate support for aspects of the EDI related programmes, agendas and causes or particular values, beliefs or ideas being promoted by the University (“**Relevant Agendas and Values**”) will be highly likely be contrary to:

- the Secure Duty, including the duties relating to academic freedom²⁰;
- the HEP's duty or need to comply with the Equality Act and its PSED in respect of applicants with viewpoints which count as “protected” under the Equality Act, depending on the relevant detailed circumstances and unless there are other overriding factors; and/or
- the HRA,

and will indicate a significant risk of failure to comply with conditions of registration E1 and/or E2.

Seeking relevant information is unlawful, and is likely to be preparation to discriminate: the only purpose of seeking information about compliance with and/or demonstrated active commitment to Relevant Agendas and Values (“**EDI Agreement Information**”), would be to provide information for an assessment process in order to put the University or its relevant staff in a position to discriminate – whether deliberately or unconsciously – against applicants with the “wrong” views. Further, the practical effect of requiring the EDI Information as part of the Application Requirements will, in many cases, be either to compel applicants to profess their agreement with the Relevant Agendas and Values (as to which, see further below) or face being treated less favourably than other candidates. Requiring EDI Information as part of a job application or promotion process must therefore be highly likely to be contrary to:

- the Secure Duty, including the duties relating to academic freedom;²¹
- the university's duty or need to secure compliance with the Equality Act and its PSED in respect of applicants with viewpoints which count as “protected” under the Equality Act, depending on the relevant detailed context and unless there are other overriding factors; and
- the HRA,

and will indicate a significant risk of failure to comply with conditions of registration E1 and/or E2.

The above also applies in respect of conducting investigations (for example, online searches) about a potential applicant's viewpoints and past expressions of them (although this can be

²⁰ This is expressly stated in the OfS Guidance paragraphs 138 and 150, and Example 32: while this is stated there to apply in respect of applicants for academic positions only, the obligations apply more widely, in respect of all applicants. Example 32 describes extremely clearly how requiring applicants for academic positions to provide evidence of commitment to EDI is likely to be unlawful.

²¹ This is expressly stated in the OfS Guidance paragraphs 139, 147 and 151 and Examples 32 and 34: while these focus on academic staff, similar protections should apply in respect of all employment.

validly done in limited circumstances described in the EDI Information in Recruitment Statement).

Compelled thinking and chilling effect: further, creating a situation where people who seek (or are likely to seek) jobs or promotions at the University think they need visibly not to dissent from, or even demonstrate adherence to and actively promote, Relevant Agendas and Values which contain aspects they do not necessarily agree with, both pressurises people into publicly aligning with agendas, values, beliefs and ideas, and reduces people's willingness (or perceived ability without having their career prospects blighted) to hold or express certain viewpoints, and thus creates a "chilling effect" on people's freedom of thought and speech..²² Creating a situation where people who seek jobs or promotion think they need not to dissent from or adhere to Relevant Agendas and Values is highly likely to be:

- contrary to the Secure Duty, including the duties protecting academic freedom;
- unlawful under the Equality Act to the extent that this counts as suppressing (as in discriminating against, or harassing (i.e. creating a hostile environment for) people with) viewpoints which count as protected characteristics; and likely, depending on the detailed context, to be contrary to its PSED in respect of people with such viewpoints²³; and
- contrary to the HRA as a result of the "chilling effect" on people's freedom of thought and speech.

and will indicate a significant risk of failure to comply with conditions of registration E1 and/or E2.

Exceptions: The EDI Information in Recruitment Statement contains information on certain special situations, and on the narrow range of cases in which seeking EDI Information or applying criteria in respect of compliance with EDI agendas can be legally justified. Note that, in practice, this category is likely to be vanishingly small.

Potential unlawfulness of Alignment Requirements and problems with advertising them

While this is not the primary focus of this letter, we need to make very clear that any Alignment Requirement is likely to be unlawful and contrary to the University's conditions of registration, and thus advertising them in connection with job applications is therefore likely to be problematic, for the reasons discussed below.

It is obvious that, in principle, requiring people to undertake activities in support of and to the furtherance of values with which they disagree with is contrary to principles of free speech,

²² In July 2025, Roger Mosey, master of Selwyn College, Cambridge for twelve years, gave a particularly lucid description of the all-too-common "culture of fear" at universities, stating that academics at Cambridge had told him that in recent years that they felt "afraid" and "frightened" of expressing their views, for fear of persecution or social ostracism (The Telegraph, 26th July 2025). The sorts of requirements under discussion here contribute to such cultures.

²³ See recent cases under the Equality Act discussed in the BFSP Equality Act Compliance Statement, the *Meade* case in particular.

and the relevant legal and regulatory requirements. As discussed above, while much that is promoted under the “EDI” flag may be uncontroversial, various highly controversial beliefs and agendas are also promoted (and indeed effectively enforced) under it. This is highly likely to be unlawful in applicable circumstances.

The exception to this is the narrow range of actions which are legally justified, by which we mean actions which are required by (or necessary to secure compliance with) applicable law and satisfy a “proportionality” test for the purposes of the HRA, and in the other circumstances described in the EDI Information in Recruitment Statement. (A good example of the latter would be anti-bullying and anti-harassment rules which go beyond the strict terms of the Equality Act but are carefully constructed so as to be justifiable and “proportionate” for the purposes of the HRA.) To the extent that such duties are legally justified, then the need to take them can override relevant legal requirements for free speech protection. It can be appropriate for employees, to the extent that this is related to the nature of their responsibilities, to be required to promote, implement and enforce legally justified policies. But the range of those legally justified policies is narrow and mainly relates to things like preventing discrimination and harassment under the Equality Act.²⁴ The great majority of what is advanced under the EDI banner goes beyond what is legally justified, so is effectively voluntary.

See the EDI Information in Recruitment Statement for a detailed analysis relevant to these issues, and in particular what will count as legally justified.

We have not reviewed the University’s detailed EDI policies and requirements for whether they are, in their detail, legally or regulatorily compliant. To the extent that they are not compliant, then the Alignment Requirement will be unlawful.

If it is indeed the case that the Alignment Requirement is likely to be unlawful, as contemplated above, then, as well being obviously inappropriate in principle to publicise duties which are unlawful, there is a high risk that publicising them in job advertisements will also be unlawful because they are unjustifiably creating a situation in which people who seek (or are likely to seek) jobs or promotions at the University think they need to visibly not dissent from, or even demonstrate adherence to and actively promote, relevant agendas and stated values of the University which contain aspects they do not necessarily agree with.

While AFFS’s primary concern lies with the University’s Application Requirements, the Alignment Requirement, and advertising it, represents a potentially major free speech failure by the University. It needs to take careful steps to ensure that it is not acting unlawfully in this regard.

Involvement of EDI personnel in the review and selection process

We are aware that, at some universities, people are involved in the information gathering, review and selection process who have primary responsibilities relating to EDI or are from the relevant academic department but are involved wearing an EDI “hat” (and would not be there were academic purposes the sole criterion for participation in those processes). We ask: what, save as contemplated below, can the purpose of the involvement of such people be, except to enable or ensure discrimination between candidates depending on their conformity and/or

²⁴ So as to qualify for protection from liability for employee actions under Section 109(4) of the Equality Act.

demonstrated support (or otherwise) with or for whatever agendas or viewpoints are being promoted under that university's EDI banner? This discrimination and the information seeking processes around it are unlawful, as explained elsewhere. The involvement of such people is therefore wholly inappropriate. We should make clear that the presence of personnel from the HR or EDI functions to observe and ensure that the promotions process is regulatorily compliant (for instance, non-discriminatory) does not create such problems.

Implications of continued unlawfulness and non-compliance

The Application Requirements are a serious compliance failure which, if uncorrected, will have significant financial and reputational repercussions – as seen in the Sussex case.

Universities have now had ample opportunity to understand and implement the changes required by their revised obligations under recent changes to law and regulation. Therefore, while AFFS has previously refrained from formally notifying the OfS of compliance failures of this kind, refraining is no longer our default position. **If we do not see immediate and effective work to rectify the serious issues we have set out in this letter, we will move to formally to notify the OfS of them.**

For that reason, we urge the University, through you as the relevant officers, immediately to consult specialist external lawyers who may advise it on addressing and correcting these likely failures and help it ensure that in future it avoids unlawfulness and the attendant consequences.

In addition to the potential repercussions for the University, you will be aware of the various potential sources of liability for individuals involved with free speech protection failures. Officers of organisations like yourselves who, through default or negligence, cause or allow their organisations to breach the law and thereby suffer loss can be at risk of personal liability for that loss. Under Section 111 of the Equality Act, a personal claim may be brought against anyone who has instructed, caused or induced a contravention of relevant parts of the Equality Act – contraventions which it appears your university may have committed. Failure to rectify these serious compliance failures, when they have been brought to your attention, necessarily creates risk for you as relevant officers.

What the University needs to do

For all of the above reasons, it appears that the Application Requirements and the Alignment Requirement are highly likely to be unlawful, a regulatory failure and contrary to the University's own free speech code; and represent a serious free speech failure.

This is a serious letter from an external whistle-blower, which we hope provides you with enough information to immediately and comprehensively address the likely legal and regulatory failures that it describes. This includes making all relevant changes to policies and requirements, as well as to the Application Requirements specifically, in order to avoid both compliance failures and their serious repercussions, and to uphold freedom of speech.

This is likely to involve:

- ensuring that its recruitment processes are reviewed and revised to make it absolutely clear that applicants' views on political and societal matters, Relevant Agendas and Values, and especially matters of current controversy, are not to be taken into account in the recruitment process, and in assessing candidates' merits or in interviews;

- ensuring that no requirements are imposed for applicants to give any EDI Agreement Information in the application process;
- taking all reasonably practicable steps to avoid a situation where people who seek (or are likely to seek) jobs or promotion at the University think that they need to visibly not dissent from, or even demonstrate adherence to and actively promote, any a Relevant Agendas and Values which contain aspects they do not necessarily agree with;
- ensuring that their EDI functions and staff, policies, values, programmes and other related actions do not give rise to free speech problems in the ways described in the Dandridge Review.
- making it clear to relevant staff that they are required to ensure that the above requirements are complied with.
- ensuring, as a matter of good practice, that all policies relating to admission, appointment, reappointment, promotion and employment contracts include a clear and simple summary of the university's free speech code, stating that in cases of uncertainty, the definitive and up-to-date statement of the institution's approach to freedom of speech is set out in the [university's free speech] code.²⁵

For a full list of the actions which it is likely that the University is required to take to be compliant, see the Conclusion of the AFFS Report.

The University also needs to:

- review the Alignment Requirement to confirm that it is lawful and regulatorily compliant, and change it to the extent that it is not; and
- ensure that it does not refer to such duties in Application Requirements or advertisement, unless those duties are indeed lawful.

Further, HEPs need to avoid taking sides on contested issues, in order to minimize the risks of compliance failures, such as are described in BFSP's statements. We strongly recommend that the University formally introduces institutional neutrality as recommended by the Dandridge Review. It is worth asking itself: had it had such a policy, would it have incurred the legal and regulatory failures we have described? The need to reduce the risk of failures of this kind is one of the reasons why institutional neutrality is essential.

We hope to see the required changes enacted as soon as possible at the University and that the University will avoid unlawfulness and better protect free speech rights going forward.

Yours faithfully,

Alumni For Free Speech

www.affs.uk / info@affs.uk

²⁵ OfS Guidance, paragraph 169.

Alumni For Free Speech is part of DAFSC Ltd, company number 14189200. Registered office: 27 Old Gloucester St, London W1N 3AX.