

Alumni for FREE SPEECH

Sent by email to:

Caroline Wallace, Head of HR - Equality, Diversity & Inclusion

Fiona McClement, University Lead for EDI

James Saville, Director of Human Resources

Rona Smith, Deputy Secretary and Director of Governance & Strategic Planning

8.5.26

Dear Officers,

Legal and compliance problems at the University of Edinburgh (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 in higher education institutions (“HEIs”) to protect freedom of speech.¹

The University is likely to be in breach of its legal obligations as a result of the requirements it places on applicants for jobs (the “**Application Requirements**”) as described below. As you will be aware, we have corresponded with the University about these likely compliance failures, so this letter will come as little surprise.

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

This letter forms part of a larger project which aims to ensure that HEIs’ processes with regard to the hiring and promotion of staff are compliant with their legal obligations to protect free speech.² In May 2025, AFFS published a report of its investigation into EDI recruitment requirements at English and Welsh universities: *University Recruitment, EDI requirements causing compliance failures* (the “**AFFS Report**”). As the report makes clear, a significant number of universities impose requirements in respect of job applications which are likely to

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-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/>.

be legally and regulatorily non-compliant. On the evidence so far available, the University is the only Scottish university where these sorts of compliance failures are present.

While AFFS is aware that there have been a number of recent developments in the obligations on HEIs, particularly as concerns case law under the Equality Act 2010 (the “**Equality Act**”), we believe that enough time – and enough warnings – have passed to allow any prudent, responsible university to ensure that its policies are in order.

A. Relevant facts

Our research as of 29 September 2025, found various advertisements for academic positions at the University which required the applicant to demonstrate a “commitment” to “equality, diversity, and inclusion”.

For example, an advertisement for the position of Teaching Fellow in International Environmental Law listed as an “essential” personal attribute for applicants “commitment to equality, diversity, and inclusion in the workplace”.³ An advertisement for the position of Teaching and Research Fellow in Classical Art and Archaeology listed as an “essential” attribute for applicants “demonstrable commitment to promoting and embedding equality, diversity and inclusion principles and practices”.⁴

These advertisements therefore required applicants to be committed to, and in the latter case to be committed to promoting, certain values, beliefs, and ideas which might be contrary to their own beliefs. By stating that such commitment is “essential”, and in the case of the latter position that it must be “demonstrable”, the advertisements make clear that the University will discriminate between applicants on the basis of their commitments to equality, diversity and inclusion.

We wrote to the University, warning it that these advertisements likely placed it in breach of its legal obligations on 17 November 2025 and subsequently. In its response, while not engaging with the specific matters raised, the University stated that: “We are aware of our various legal obligations and we keep our processes, guidance and materials under review.”

As of 22 April 2026, our research has found further advertisements for positions at the University requiring applicants to be committed to promoting equality, diversity, and inclusion. For example, an advertisement for Quantum Fellowships in Applications of Quantum Computing lists in the job description, under “Knowledge Skills and Experience”, as an “essential” characteristic for applicants “Commitment to supporting and promoting equality and diversity goals within the University.”⁵ Similarly, an advertisement for the position of Professor of Psychosis Research states in the job description under the heading “essential criteria”: “Your application must provide evidence of ALL of the following... 3.

³ Advertisement for the position of Teaching Fellow in International Environmental Law at the Edinburgh Law School, placed on 29 August 2025.

⁴ Advertisement for the position of Teaching and Research Fellow in Classical Art and Archaeology, at the School of History, Classics and Archaeology, placed on 11 September 2025.

⁵ Quantum Fellowships in Applications of Quantum Computing. Job identification: 13998.

Ability in and demonstrable commitment to academic leadership and citizenship... through promoting: equality, diversity and inclusion".⁶

Furthermore, this practice of discriminating between applicants on the basis of their commitment to equality, diversity, and inclusion also appears to be systematically embedded in the University's promotions process. The University's Academic Promotions Policy states that applicants seeking a promotion "are expected to demonstrate commitment to equality, diversity and inclusion".⁷ The policy states that promotion applications will be considered annually based on nine "underpinning principles", one of which is the applicant's demonstrable commitment to and support for EDI. By seeking evidence of support for EDI from applicants for promotion and by discriminating between applicants for promotion based on their commitment to EDI, the University is again likely to be legally non-compliant.

B. Legal and compliance problems with HEIs requiring commitment to contested agendas and ideological positions

While much that is promoted under the EDI flag is uncontroversial and, in a narrow range of cases, may be legally required, various highly controversial beliefs and agendas are also promoted (and indeed effectively enforced) under it. HEIs 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. Consistent with this general concern, the Dandridge Review, discussed further below, cited numerous ways in which EDI requirements and agendas caused problems for free speech at the Open University.

Relevant legal requirements

The legal obligations of Scottish HEIs to protect free speech and academic freedom are extensive and demanding.

- Sub-sections 26(1)-(4) of the Further and Higher Education (Scotland) Act 2005 ("**the 2005 Act**") require Scottish HEIs to aim "to uphold (so far as the body considers reasonable) the academic freedom" of individuals engaged in teaching and research. More particularly, HEIs are also required "[to] ensure (so far as the body considers reasonable) that [appointments held or sought and entitlements or privileges enjoyed] are not adversely affected by the exercise of academic freedom by individuals engaged in teaching and research at the HEI." Subject only to the element of discretion involved in determining what is "reasonable",⁸ the relevant provisions of the 2005 Act impose a legal obligation on HEIs to take action. Compliance with this obligation is not optional.

⁶ Professor of Psychosis Research ("Chair"). Job identification: 14045. The advertisement includes similar requirements for applicants to be committed to promoting equality, diversity, and inclusion for the positions of Clinical Senior Lecturer and Reader.

⁷ See point 4.6 in University of Edinburgh Academic Promotions Policy, 21/01/2020, <https://human-resources.ed.ac.uk/policies-guidance/a-to-z-of-policies-and-guidance>

⁸ Itself an exercise potentially susceptible to judicial review when not conducted appropriately.

- As confirmed in recent case law and further discussed below, viewpoints on many areas of current controversy are protected as religious or philosophical beliefs under Section 10 of the Equality Act. It is unlawful for Scottish HEIs to discriminate against or harass staff and students for holding or expressing all such protected viewpoints.
- Caselaw in the European Court of Human Rights has held that freedom of speech and academic freedom enjoy particular and enhanced protection under Articles 9 and 10 of the European Convention on Human Rights (as directly applicable under UK law by reason of the Human Rights Act 1998 (the “HRA”).

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.

It is now clear that opposition to (and non-belief in) various component agendas and ideas which are advanced under the EDI umbrella are already protected under the Equality Act, for instance both trans ideological and “gender critical” views, and views which challenge aspects of critical race theory.

Moreover, it is now likely that a more general opposition to (and/or non-belief in) EDI as an umbrella under which many controversial viewpoints are promoted and enforced, is itself a protected belief under the Equality Act.⁹ 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 also likely to be unlawful under both the 2005 Act and the HRA.

By way of further information about HEIs’ detailed legal obligations in relation to free speech and academic freedom we attach the following relevant statements issued by our associated campaign Best Free Speech Practice (“BFSP”):

- *Free speech protection at English universities: The law and requirements in practice* (the “**Principal BFSP Statement**”), which sets out details of the relevant legal and regulatory requirements and their implications.
- *EDI considerations and inquiries in the recruitment and research approval process at Scottish universities: Free speech compliance issues* (the “**Scotland EDI Support Information in Recruitment Statement**”).
- *Protected viewpoints under the Equality Act: Risks and necessary actions for employers and others* (the “**BFSP Equality Act Compliance Statement**”).
- *The Cofnas case: opposition to aspects of EDI as protected viewpoints under the Equality Act* (the “**BFSP EDI Opposition statement**”).

⁹ See the BFSP EDI Opposition Statement, and *Cofnas v. Emmanuel College, Cambridge*.

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.¹⁰ 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 violation of the Equality Act.¹¹ The University's Application Requirements are also likely to be unlawful for similar reasons.

Further, like KCL, the University is an active member of both the Athena SWAN Charter and the Race Equality Charter, and is also a member of Stonewall Scotland's Proud Employers membership program.¹² Participation in such schemes, and relationships with the organisations providing them, 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 under the Equality Act 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 – staff 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 HEIs need to work to ensure that the promotion and implementation of EDI agendas does not unlawfully affect free speech.

¹⁰ <https://sex-matters.org/wp-content/uploads/2024/04/KCL-advice-for-publication.pdf>

¹¹ 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." (From paragraph 3.1).

¹² See <https://equality-diversity.ed.ac.uk/inclusion>; and Race Equality Charter at https://equality-diversity.ed.ac.uk/inclusion/race#uoe_featurebox_ebd2519bb90fe4e91ae813571b08b7e34

¹³ Paragraphs 71.2.C and 75-77.

¹⁴ See: <https://www.open.ac.uk/blogs/news/wp-content/uploads/2024/10/Independent-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 Paragraphs 2.10 and 2.35

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 Scottish universities, urging them to introduce this.¹⁷

The University's own policies

The University will also be likely to be at high risk of violating its own publicly stated commitment to upholding freedom of expression if it does not allow – or effectively suppresses – dissent from contested agendas and viewpoints.¹⁸

C. How these requirements apply in this context

The Application Requirements effectively require 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 the University's own Freedom of Expression statement, for the following reasons (which are derived from the Scotland EDI Support Information in Recruitment Statement).

Discrimination in the selection process is likely 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:

- at risk of being unlawful under the obligations to protect academic freedom under Section 26 of the 2005 Act;
- highly likely to be unlawful discrimination (and possibly harassment, depending on the circumstances and the nature of the consequences) under the Equality Act, if the relevant applicant's dissent or non-compliance is as a result of a viewpoint which is protected under the Equality Act; and to indicate a potential breach, depending on the relevant detailed context, of its Public Sector Equality Duty (“**PSED**”) in respect of such person; and/or
- highly likely to be contrary to the HRA.

Seeking relevant information is likely unlawful, and is likely to be preparation to discriminate

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

¹⁸ The University of Edinburgh, ‘Our Commitment to Freedom of Expression’, <https://edwebcontent.ed.ac.uk/sites/default/files/atoms/files/freedomofexpressionstatement.pdf> See also, <https://academic-freedom.ed.ac.uk/what-do-we-mean-by-academic-freedom-and-freedom-of>

The only purpose of seeking information about compliance with and/or demonstrated active commitment to Relevant Agendas and Values (“**EDI Support 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 Support 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 Support Information as part of a job application or promotion process must therefore be:

- at risk of being contrary to the obligations to protect academic freedom under Section 26 of the 2005 Act;
- highly likely to be contrary to the University’s requirements to secure compliance with the Equality Act, and to indicate a potential breach of 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;¹⁹ and
- highly likely to be contrary to the HRA.

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 validly done in limited circumstances described in the EDI Support 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.²⁰ This is also:

- at risk of being contrary to the obligations to protect academic freedom under Section 26 of the 2005 Act;
- highly likely to be 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,

¹⁹ The indirect discrimination provisions in Section 19 are particularly relevant in this context.

²⁰ 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.

depending on the detailed context, to indicate a potential breach of its PSED in respect of people with such viewpoints;²¹ and

- highly likely to be contrary to the HRA as a result of it reducing applicants' willingness (or perceived ability without having their career prospects blighted) to hold or express certain viewpoints i.e., its "chilling effect" on people's freedom of thought and speech.

Exceptions

The EDI Support Information in Recruitment Statement contains information on certain special situations, and on the narrow range of cases in which seeking EDI Support Information or applying criteria in respect of compliance with EDI agendas can be legally justified. As explained, in practice, this category is likely to be very limited in scope.

Involvement of EDI personnel in the review and selection process

We are aware that, at some HEIs, 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 only in their capacities as EDI representatives within departments. 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 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 legally compliant (for instance, non-discriminatory) does not itself create such problems.

D. 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, for example, in the case of Professor Jo Phoenix at the Open University.

HEIs have now had ample opportunity to understand and implement the changes required by recent developments in the law.

For that reason, we have urged 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. We do not know if you have done this.

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

²¹ See: the recent cases under the Equality Act discussed in the BFSP Equality Act Compliance statement, the *Meade* case in particular.

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.

E. What the University needs to do

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

Like our earlier correspondence, this is intended to be a serious letter from an external whistleblower, which we hope provides you with enough information immediately and comprehensively to address the likely legal failures that it describes. This will require 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 Support 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; and
- 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.

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 ADFS Report.

Although we would be delighted to be proved wrong, given the University's failure to engage substantively with our earlier letters and its continued systematic use of EDI requirements in job adverts and its promotions process (see above), we have little reason to think that the University will now take the necessary steps to ensure it is compliant without regulatory intervention.

We will therefore report the University to the Equality and Human Rights Commission, the Charity Commission and the Scottish Funding Council, enclosing a copy of this (and our earlier) letter, recommending that they take appropriate investigative and, if required, enforcement action.

Yours faithfully,

Alumni For Free Speech

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